
Witnesses

People v. Maynard, 80 Misc. 2d 279 - NY:
Supreme Court, New York 1974

1970

Paul G. Chevigny

Lewis M. Steel '63

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK

-against-

WILLIAM A. MAYNARD

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Ind. No. 3937-67

State of New York) ss.:
County of New York)

PAUL G. CHEVIGNY, being duly sworn, deposes and says:

1. I am an attorney with offices at 84 Fifth Avenue, New York, New York. During the year 1966, I met Gino Gallina, Esq. in connection with his duties as an Assistant District Attorney in the Criminal Courts Bureau of Mr. Hogan's office.

2. During the fall of 1966, I represented two defendants named Ruth Charney and John Berry. They were charged with the misdemeanor of interfering with an officer under the old Penal Law. It was alleged that they had interfered with the arrest of one Richard Berzine, who was charged with disorderly conduct and resisting arrest. Mr. Berzine was represented by Moses Kove, Esq. Gino Gallina was the prosecutor of Mr. Berzine's case.

3. During February, 1967, I conducted discussions with John Collins, Esq., on information and belief then the deputy chief of the Criminal Courts Bureau of Mr. Hogan's office. As a result of those discussions, the cases against Ruth Charney and John Berry were dismissed. It developed that the two had not physically interfered with Mr. Berzine's arrest, but had merely protested it verbally. Full releases were given after the dismissal.

4. The case against Mr. Berzine was continued. Miss Charney and Mr. Berry were not personally acquainted with Mr. Berzine, but they were witnesses to his arrest. They were, on information and belief, prepared to testify that Mr. Berzine had not been disorderly, but had merely been handing out leaflets in favor of the Civilian Review Board, and speaking in support of it. I myself took statements to that effect. At the request of Mr. Kove, when Mr. Berzine went to trial in the middle of March, 1967, Miss Charney and Mr. Berry appeared as defense witnesses. I also appeared at the trial.

5. On the first day of Mr. Berzine's trial, Mr. Gallina spoke to Miss Charney and Mr. Berry outside the courtroom, but out of my hearing. Mr. Berry reported to me that Mr. Gallina had said that if Mr. Berry and Miss Charney testified for the defense, he would reinstitute the criminal charges against them. Mr. Berry appeared both frightened and angry. I did not hear this first exchange, but later that day, I asked Mr. Gallina if he had said that he would reinstitute criminal charges if my clients testified. Without answering the question directly, he said that he might. Mr. Kove and I discussed what ought to be done and as I recall, we decided to do nothing until the issue should arise.

6. During the course of the People's case after one or two days of trial, and after a bench conference, the case against Mr. Berzine was dismissed with the consent of the People. Miss Charney and Mr. Berry had no occasion to testify.

Paul D. Charney

Sworn to before me this
day of _____, 1970

LEWIS M. STEEL
Notary Public, State of New York
No. 31-916162590
Qualified in New York County
Commission Expires March 30, 1972

SUPREME COURT: NEW YORK COUNTY

Indictment No. 3937-67

PEOPLE OF THE STATE OF NEW YORK,

Index No.

Calendar No.

against

Plaintiff

JUDICIAL SUBPOENA

WILLIAM A. MAYNARD, JR.

Defendant

The People of the State of New York

TO PAUL CHEVIGNY

GREETING:

WE COMMAND YOU, *That all business and excuses being laid aside, you and each of you appear and attend before the HON. IRWIN D. DAVIDSON, SUPREME COURT, New York County, Part 43, 100 Centre Street, New York City*

on the 30th day of November 1970 at 10:30 o'clock, in the fore noon, and at any recessed or adjourned date to give testimony in this action on the part of the defendant.

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

WITNESS, Honorable Irwin D. Davidson
of said Court, at 100 Centre Street, NYC the 27th day of November 1970. *one of the Justices*

LEWIS M. STEEL

DANIEL L. MEYERS, of counsel

Attorney(s) for Defendant

Office and Post Office Address

350 Broadway, Room 310
New York, New York 10013

SERVICE ON INDIVIDUAL

State of New York, County of _____ ss.:

being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at

that on the _____ day of _____ 19____
at No. _____

deponent served the within subpoena on

the witness therein named, by delivering a true copy thereof to witness personally and at the same time paying (or tendering) in advance \$ _____, the authorized travelling expenses and one day's witness fee: deponent knew the person so served to be the witness described in said subpoena.

Sworn to before me this _____ day of _____ 19____

SERVICE ON CORPORATION

State of New York, County of _____ ss.:

being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at

that on the _____ day of _____ 19____
at No. _____

deponent served the within subpoena on

a _____ corporation, the witness therein named, by delivering a true copy thereof to

personally, whom deponent knew to be the _____ of said corporation, and at the same time paying (or tendering) in advance \$ _____, the authorized travelling expenses and one day's witness fee: deponent knew the corporation so served to be said corporate witness.

Sworn to before me this _____ day of _____ 19____

Index No.

**Indictment No. 3937-67
Supreme Court: New York County**

PEOPLE OF THE STATE OF NEW YORK,

Plaintiff

against

WILLIAM A. MAYNARD, JR.

Defendant

Judicial Subpoena

**Lewis M. Steel
Daniel L. Meyers, of Counsel**

Attorney(s) for Defendant

Office and Post Office Address

**diSuvero, Meyers, Oberman &
Steel
350 Broadway, Room 310
New York, New York 10013**

It is stipulated that the undersigned witness is excused from attending at the time herein provided or at any adjourned date but agrees to remain subject to, and attend upon, the call of the undersigned attorney.

Dated:

Witness

Attorney(s) for

*Received
Paul J. Cherny 11/21/70*

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
----- X

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

Indictment No.
3937/67

AFFIDAVIT

WILLIAM A. MAYNARD, JR.,

Defendant.

----- X

STATE OF NEW YORK)
 SS.:
COUNTY OF NEW YORK)

STEPHEN M. NAGLER, being duly sworn, deposes and says:

1. I am Executive Director of the American Civil Liberties Union of New Jersey, with offices at 45 Academy Street, Newark, New Jersey.

2. Before taking my present position I was Associate Counsel to the Scholarship Education and Defense Fund for Racial Equality, with offices at 164 Madison Avenue, New York, N. Y., hereinafter referred to as SEDFRE, Inc.

3. I am a member of the bar of the State of New York.

4. While I was employed at SEDFRE, Inc. I was asked in September, 1966 to represent a group of welfare recipients charged with five offenses in the Criminal Court of the City of New York. The charges varied from defendant to defendant. The case was entitled People v. Lessie Freeman, et al.

5. One of the Assistant District Attorneys assigned to present the case was Gino Gallina, Esq. On attempting to discuss the charges with Mr. Gallina, I asked why so many had been presented. Mr. Gallina informed me in angry tones that the charges had initially been proliferated in order to coerce the

defendants to plead guilty to several charges. During the entire course of the pendency of the case he indicated a personal hostility and vindictiveness toward the defendants. uncharacteristic of Assistant District Attorneys whom I had had occasion to meet in the course of other cases in the Criminal Court.

6. Mr. Gallina specifically opposed release of the defendants on their own recognizance or to low bail, although that practice in similar cases was usually followed by Assistant District Attorneys in New York County.

7. In October, 1966 I was retained to represent another group of individuals, all of whom were members of the Civil Service Employees Union, in a criminal case entitled People v. Judith Mage, et al. The defendants were charged with entering on real property, public nuisance, and disorderly conduct.

8. In this case, as in the case mentioned previously herein, Mr. Gallina was for a time assigned as Assistant District Attorney. As in the previous case he displayed unusual hostility towards the defendants. On one occasion in November, 1966 he indicated to me his feeling that the defendants were totally irresponsible, were law breakers, that they should be jailed, and that the Court should, "Throw away the key."

9. On several occasions I discussed Mr. Gallina's unusual behavior with several attorneys practicing before the Criminal Court in other cases, as well as other Assistant District Attorneys with whom I was familiar. Most of the lawyers with whom I discussed Mr. Gallina found that he was frequently hostile and particularly vindictive in certain types of cases.

10. On information and belief, Mr. Gallina was transferred to another bureau of the District Attorney's office and gave up responsibility for prosecuting the case of People v. Mage, et al. Shortly after his departure the charges against all of the defendants were dismissed.

Stephen M. Nagler
STEPHEN M. NAGLER

Sworn to before me this
30th Day of November, 1970

[Handwritten Signature]

NOTARY

LEWIS M. STEEL
Notary Public, State of New York
No. 31-916162590
Qualified in New York County
Commission Expires March 30, 1973

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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