
Post-Trial Proceedings

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

8-17-1972

**Motion for Authorization of Reasonable and Necessary Experts,
Investigatory and Other Services / D.A.'s Letter for Extension to
Expand Size of Brief**

Lewis M. Steel '63



FRANK S. HOGAN
DISTRICT ATTORNEY

DISTRICT ATTORNEY
OF THE
COUNTY OF NEW YORK
155 LEONARD STREET
NEW YORK 13, N. Y.
RECTOR 2-7300

ADDRESS ANSWER TO THE DISTRICT ATTORNEY,
ATTENTION OF THE SIGNER OF THIS LETTER AND
REFER TO NUMBER _____

HAND DELIVERED

C O P Y

August 17, 1972

Hon. Harold A. Stevens, Presiding Justice
Appellate Division, First Department
27 Madison Avenue
New York, N. Y. 10010

Attention: Joseph J. Lucchi, Esq.

Re: People v. Maynard -

~~Dear Presiding Justice Stevens:~~

~~I am writing in behalf of respondent to request permission to file a brief of 163 pages in the above-captioned case. Our request is necessitated for the following reasons.~~

The instant appeal is from a judgment convicting the appellant of Manslaughter in the First Degree and sentencing him to a term of ten to twenty years in State Prison. The record on appeal consists of the minutes of the trial, which are almost 4000 pages long; these minutes contain testimony of more than twenty witnesses called by both sides. The record on appeal also includes more than 100 exhibits which were either introduced at trial or marked for identification. Additionally, on October 19, 1971, this Court enlarged the record to include selected portions of a previous trial in the present case which resulted in a mistrial following a hung jury.

Because of the enormous size of the appellate record, respondent's summary of the trial evidence is 58 pages long. By contrast, appellant's brief deals with the facts in only twenty-seven pages.

Additionally, appellant has raised 175 claims of error in fifteen separate points. Almost all of these arguments, it may be also noted, are factual in nature and can be answered satisfactorily only by reference to the pertinent portions of the record from which appellant's claims are derived. This circumstance, coupled with the number of appellate arguments offered by appellant, has contributed unavoidably to the length of our brief.

DISTRICT ATTORNEY COUNTY OF NEW YORK
COPY

Hon. Harold A. Stevens, Presiding Justice

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Beyond this, it should be also noted that appellant's brief, though only 125 pages long, contains 108 textual footnotes. Further, §5529 of the CPLR and §600.10 of the rules of this Court provide that in the case of printed briefs, the printed matter on each page must occupy an area no larger than seven and one-sixth by four and one-sixth inches. The rules further provide that the size of the print used in the brief shall not be smaller than "11-point" type. Appellant's brief ignores both of these requirements, and it is estimated that, if printed according to the rules, the brief would be forty pages longer.*

Finally, the present case is one of vast importance as is apparent from the diligent manner in which the appeal has been handled by counsel for the People and the appellant. The respondent has spent considerable time in preparing its brief and has made enormous efforts to condense the brief's size without sacrificing quality and usefulness to the court. Nevertheless, we have been unable to restrict the length below 163 pages.

I therefore respectfully ask this Court to permit respondent to file the brief in the present size.

Sincerely,

MICHAEL R. JUVILER
Assistant District Attorney
In Charge of Appeals Bureau

cc: Ms. Gretchen White Oberman
di Suvero, Meyles, Oberman & Steel
351 Broadway
New York, N. Y. 10013

* A brief printed according to the rules normally contains thirty-two lines per page. Appellant's brief contains an average of forty-four lines per page -- or 1200 lines of text -- requiring an additional forty pages to comply with the legislative and court rules.

CMS

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

PEOPLE OF THE STATE OF NEW YORK

-against-

WILLIAM A. MAYNARD, JR.,

Defendant.

Indictment No.
3937-67

MOTION FOR AUTHORIZATION
OF REASONABLE AND NECES-
SARY EXPERT, INVESTIGA-
TORY AND OTHER SERVICES
AND COMPENSATION

SIR:

PLEASE TAKE NOTICE that upon the annexed affidavit of Lewis M. Steel, attorney for the defendant, verified the 4th day of October, 1970, and all the prior proceedings, the undersigned will move this Court at a time to be set by the Court for an order, pursuant to Article 18-B, Section 722-c of the County Law, authorizing expenditures for the employment of reasonable and necessary experts, investigatory and other services, to wit, a lighting expert, a handwriting expert, investigative services, and process service, and for such other and further relief as to this Court may seem just and proper in the case of the People of the State of New York against William A. Maynard, Jr., in which the defendant is charged with Murder in the First Degree.

Dated: October 5, 1970

New York, New York

Respectfully submitted,

Lewis M. Steel
diSuvero, Meyers, Oberman &
Steel
350 Broadway
New York, New York 10013
Attorney for the Defendant

TO: HON. FRANK S. HOGAN
District Attorney
New York County

CLERK
Supreme Court
New York County

Daniel L. Meyers
diSuvero, Meyers, Oberman &
Steel
350 Broadway
New York, New York 10013
Of Counsel

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

-----X

PEOPLE OF THE STATE OF NEW YORK,

Indictment No. 3937-67

-against-

WILLIAM A. MAYNARD, JR.,

Defendant.

ORDER AUTHORIZING SERVICES OTHER THAN COUNSEL UNDER ARTICLE 18-B OF THE COUNTY LAW, SECTION 722-c

-----X

CHARGE: Murder in the First Degree

After an appropriate inquiry of defendant's financial status and being satisfied that the above named defendant is financially unable to obtain investigative, expert or other services necessary to an adequate defense in his case,

IT IS ORDERED that Counsel shall be authorized to obtain the necessary and reasonable services required herein in accordance with Article 18-B, Section 722-c of the County Law, to wit, Lighting expert, Handwriting expert, Investigative services, and Process Service, and

IT IS FURTHER ORDERED that such persons upon rendition of such services shall be authorized to present to the Court a claim for compensation.

DATED: October , 1970

Justice of the Supreme Court of the
State of New York

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

- - - - -X

PEOPLE OF THE STATE OF NEW YORK,

Indictment No. 3937-67

-against-

AFFIDAVIT

WILLIAM A. MAYNARD,

Defendant.

- - - - -X

Lewis M. Steel, an attorney duly admitted to practice law in the State of New York, being duly sworn deposes and says:

1) I am an attorney for the defendant in the above titled action, which is an indictment for murder in the first degree, and make this affidavit in support of a motion to have this Court issue an order pursuant to Article 18-B, Section 722-c of the County Law authorizing counsel to employ the services of reasonable expert, investigatory and other services, to wit, a lighting expert, investigative services, handwriting expert, and process service, necessary to the preparation and presentation of an effective defense in the instant matter. I formally became involved in the case as counsel on September 28, 1970.

2) The defendant has been indicted and charged with the crime of murder in the first degree. The charges arose out of an incident involving the shooting of a Marine in Greenwich Village, New York County, in April of 1967. The shooting occurred on West Fourth Street at or about 4:00 A.M. on the morning of April 3, 1970. The defendant's first trial, which resulted in a hung jury, took place in May and June of 1969. The defendant has been in jail, unable to raise the bail of \$50,000 and has thus been prevented from participating in any meaningful way in the preparation of his case for retrial.

3) The defendant has, prior to my participation in the case, had court appointed counsel, and therefore his status of total indigency is a matter of record. I am serving without fee and know of no new facts which would alter the defendant's status. It is thus essential for this Court, pursuant to the authority granted to it by Article 18-B, Section 722-c of the County Law, to author-

ize counsel for the defendant to obtain the services of those experts without whose aid no real defense will be possible in the instant case.

4) I accordingly request the Court's authorization to obtain the services of the following personnel: a lighting expert, a handwriting expert, a private investigator, and a process server.

5) At the defendant's first trial, which took place in 1969, the State introduced testimony of a lighting expert in order to demonstrate that there was adequate lighting at the scene of the shooting. The defense requires the services of a lighting expert in order to effectively rebut the State's expert testimony on this matter, should such testimony again be introduced, and to affirmatively establish the impossibility of eyewitness identification at the scene of the crime.

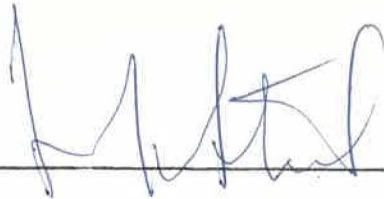
6) Defense counsel has already employed the services of a handwriting expert for purposes fully set forth in my annexed affidavit made in support of a motion for a new Huntley hearing. Counsel seeks, pursuant to Article 18-B, Section 722-c of the County Law, authorization of and an order directing compensation for these services nunc pro tunc, as well as authorization to arrange for in court expert handwriting testimony.

7) The passage of time since the defendant was first arrested and charged in this matter makes it imperative to engage the services of a private investigator to help locate several witnesses, whose testimony is crucial to the defense and whose whereabouts are currently unknown, despite the efforts of counsel to locate them.

8) Defense counsel requires authorization for the employment of a process server to ensure the presence at trial of all defense witnesses.

9) Upon information and belief, no previous application for the relief sought and requested herein has been made.

WHEREFORE, you affiant respectfully asks that an order directing the employment of said expert witnesses to assist in the preparation of defendant's case be entered by this Court.



Lewis M. Steel

Sworn to before me this
4 day of October, 1970.

Notary Public, State of New York
No. 24-265010
Qualifies in Kings County
Comm. expires March 30, 1971

NOTARY PUBLIC

HAND DELIVERED

August 16, 1972

Hon. Harold A. Stevens, Presiding Justice
Appellate Division, First Department
27 Madison Avenue
New York, N. Y. 10010

Attention: Joseph J. Lucchi, Esq., Clerk

Re: People v. Maynard

Dear Justice Stevens:

I am writing to request an extension of time in which to file the respondent's brief in the above-captioned case.

The brief was due to be filed on August 16, 1972, but it has become necessary to seek an extension for the following reasons. Michael R. Juviler, in charge of the Appeals Bureau, is editing the brief but was unable to examine the original proofs until August 11, upon his return from vacation; he has worked on the case despite being ill. The major editing problem confronting respondent thus far is that the manuscript proofs are 180 pages long. Realizing that this length must be shortened, we have made a number of alterations in the proofs, which has made it necessary for us to request revised proofs from the printer.

Revised proofs will also enable us to determine precisely the length of the brief to be filed, which is of utmost importance in this case, since respondent is certain that, prior to filing the brief, it will be necessary to obtain the Court's permission to file an oversized brief. The revised proofs are also essential because, as this Court has always required, printers proofs must accompany any request to file an oversized brief.

I have been informed by the printer that the original proofs, which were delivered to the printer on Tuesday, August 15, will not be returned to the office until Friday, August 18. We expect that the revised proofs will be edited and delivered to the printer for final printing by Monday, August 21. The printer has also informed me that final printing will consume

Hon. Harold A. Stevens, Presiding Justice

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two full business days, thus making August 23 the earliest date on which respondent can file and serve its brief.

I therefore respectfully ask the Court to extend the filing date in the present case to August 23.

Thank you for your past courtesies.

Sincerely yours,

HERMAN KAUFMAN
Assistant District Attorney

cc: Gretchen White Oberman, Esq.
351 Broadway
New York, N. Y. 10013