
Post-Trial Proceedings

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

3-18-1971

Notice of Appeal and Sentencing re: Bail Jumping and Unauthorized Use of Motor Vehicle

Lewis M. Steel '63

maurice J. Schwartzberg
349-1790

SUPREME COURT, NEW YORK COUNTY
TRIAL TERM, PART XXXVII

----- X

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

WILLIAM A. MAYNARD, JR.,

Defendant-Appellant.
----- X

NOTICE OF APPEAL

Indictment Nos.
4304-67
4305-67

S I R S:

PLEASE TAKE NOTICE that the defendant, William A. Maynard, Jr., hereby appeals from the judgment of this Court (Birns, J.) rendered on March 1, 1971, convicting him of bail jumping as a misdemeanor, and unauthorized use of a motor vehicle as a misdemeanor, and from each and every part thereof.

Dated: New York, New York Yours, etc.,
March 15, 1971

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

TO: Clerk
New York Supreme Court

Hon. Frank S. Hogan
District Attorney
New York County

2 Copies
FILED
MAR 18 1971
**SUPREME COURT
NEW YORK COUNTY
APPEAL BUREAU**

Sentences

SUPREME COURT : NEW YORK COUNTY

TRIAL TERM, PART XXXVII

----- X

THE PEOPLE OF THE STATE OF NEW YORK

Indictment Nos.

4304-67

-against-

4305-67

WILLIAM MAYNARD,

SENTENCES

Defendant.

----- X

March 1, 1971

Before:

HONORABLE HAROLD BIRNS,

Justice.

Appearances:

TERRENCE O'REILLY, Esq.

Assistant District Attorney

For the People

MRS. GUSSIE KLEIMAN

Attorney for Defendant

Robert Darwick

If your Honor please, Official Reporter charge

Sentence

THE CLERK: William Maynard.

THE COURT: Arraign the defendant.

THE CLERK: William Maynard, you're being arraigned in the presence of your attorney, Mrs. Gussie Kleiman, on two indictments to which you pled guilty, indictment number 4304 of 1967, charging bail jumping as a misdemeanor, and 4305 of 1967, charging unauthorized use of a motor vehicle, also a misdemeanor.

On both of these indictments, have you any legal cause to show why judgment of the Court should not now be pronounced upon you according to law?

THE DEFENDANT: No.

THE CLERK: Mr. Maynard, you or your attorney, Mrs. Gussie Kleiman, or both of you may at this time address the Court, Justice Harold Birns, with regard to this sentence.

THE DEFENDANT: My attorney will address the Court.

MRS. KLEIMAN: If your Honor please, it's been quite a while and I'd like to draw your Honor's attention to the circumstances concerning these two cases.

If your Honor please, the bail jumping charge arises from the fact that the defendant was

Sentence

attempting to be extradited on a murder charge. The defendant says he is not guilty of the murder charge. And at that time, the reason that he fought the extradition is because he was sure that he committed no murder, and that is the reason for fighting the extradition. So that this is simply a technical violation.

Now, on the other charge, your Honor, it has to do with an automobile. May I just put on the record the circumstances surrounding what they call the larceny of the automobile.

This automobile was bought by the defendant's brother-in-law, and the defendant signed as a guarantor. They went to the bank to change over the loans so that the payments would be made by the defendant's brother-in-law, with the defendant guaranteeing it. The car was handed over to them when they paid the \$200. The registration was signed, and everything, and they took a trip.

During the taking of the trip or during some-time thereafter, the bank, without their knowledge, would not approve the loan. Therefore, since they wouldn't approve the loan, they didn't send them the moneys for which to pay for the car.

Sentence

It's my understanding that the defendant was then in Canada with his brother-in-law. They got in an accident. He ended up in a hospital. And even the insurance company approved the fact that he was insured and paid them \$2,500 for the loss of it, which was paid to his attorney, and which my understanding is was supposed to be paid to the person who was supposed to be the complaining witness.

So you see, your Honor, that too is a technical violation. And at the time that we took these pleas, they were considered technical violations, and that was the reason for taking the pleas, and the defendant wished to have the benefit of the taking of a plea in the matter of sentence.

Now, there's one more thing, your Honor.

At the time that this all happened, there was another charge for stealing a coat. Now, at one time, the district attorney had mentioned to me that that charge was dismissed somewhere in the lower court, but to me it appears to be still pending. And I would like to have this Court get rid or expunge or do something about that right now, so that will no longer be pending, and we can clean up all these matters.

Sentence

Now, the circumstances surrounding the coat are that this man owned a store down in the Village in which he sold coats.

THE COURT: You say "this man". You refer to your client?

MRS. KLEIMAN: Defendant. He had a man who was either associated with him or working for him, who took the coat off the rack and wore the coat. At sometime or other, the defendant took the coat back from this man, and it's my understanding that he put it back on the rack. I'm not quite sure.

In any event, it wasn't a coat that he went into somebody's apartment, broke into an apartment, stole from a restaurant or stole from someone. It was originally property belonging to him in the store, and there was some argument about who was the owner of the coat.

That is the total story surrounding that. So at least, your Honor, there too you can say this is purely a technicality.

Now, the defendant --

THE COURT: The case to which you refer, just for the record, bears docket number 6965 of '67. That's a docket in the Criminal Court, Manhattan,

Sentence

for which a warrant has been issued. I take it from what you've said that you want this Court to take that outstanding case into consideration in imposing sentence on your client this morning?

MRS. KLEIMAN: Yes, sir.

Now, your Honor, the defendant took a plea in this case. He cooperated with the Court to that extent. He spent two and a half years in jail, I think, since the time that he was originally picked up on the original charge for which he was extradited. He spent a great deal of time in jail.

He has suffered many heartbreaks and indignities. He isn't a man who had no motive in life. He's an actor. He was active in civil rights. A lot of his problems with the law have been involved with civil rights and only because of civil rights. He isn't what you would call a deliberate law violator, as you can see from the record, your Honor.

And I ask that your Honor exercise as much leniency as possible in sentencing.

THE COURT: Thank you, Mrs. Kleiman.

I have a recent probation report which was prepared in connection with the defendant.

I understand from the records before me that

Sentence

on February 4, 1971, the defendant was sentenced following a conviction for manslaughter to a term of not less than ten nor more than twenty years.

The matters to which you referred in your plea for your client were before me, I think, on February 18th of last year, at which time Mr. Maynard pleaded guilty to the crime of bail jumping as a misdemeanor and a violation of 1293A of the old Penal Law. Am I correct, it was under the old Penal Law?

MRS. KLEIMAN: That's right.

THE COURT: I held sentence in abeyance at your request pending the determination of the matter which you correctly deem to be more important.

I've gone through the probation report involving your client.

I will take into consideration, as you've requested, the outstanding case to which I referred in the Felony Court.

Under the plea to the bail jumping misdemeanor the sentence of the ~~Courthouse~~ Court is that the defendant receive one year in the New York City Correctional Institute for Men.

With respect to the plea of guilty to the

Sentence

violation of 1293A, the sentence of the Court will be one year in the New York City Correctional Institute for Men. Each one of these sentences are to be served concurrently with each other. And I want it specifically noted that the sentences now being imposed will be concurrent with the ten to twenty year term to which I referred earlier.

And I should call to your attention, as you've asked me to do informally at the Bench, and I'm reading now from the revised Penal Law, Section 70.30, and I think it would be applicable to a plea even under the old Penal Law, subdivision 3(a):

"If sentences run concurrently, the credit" -- meaning credit for time already served -- "shall be applied against each such sentence."

And so I merely state in emphasis to that, that the imposition of the sentences on the charges to which the defendant pleaded guilty before me are concurrent with the sentence heretofore imposed by Mr. Justice Davidson.

MRS. KLEIMAN: One more thing. It's my understanding from counsel in the other case, the homicide case, that he requested credit for time served, and based upon that it's my understanding

Sentence

now, since he's been in jail for two and a half years, that that means, of course, your Honor, that he wouldn't have to serve any more time? That is my understanding.

THE COURT: That may be your understanding and you may be right. I've specified my knowledge of the sentence here, and you can call that to the attention of the appropriate authority in the Correction Department.

MRS. KLEIMAN: Thank you very much, your Honor.

THE CLERK: Mr. Maynard, you have a right to appeal within thirty days from today by filing a written notice of appeal with the clerk of this Court.

MRS. KLEIMAN: I've advised the defendant he has thirty days within which to appeal the sentence.

THE COURT: If this is under the old law and not the Penal Law, I would expect that the defendant receive appropriate credit for time served.

MRS. KLEIMAN: Thank you very much.

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I hereby certify that the above is a true and accurate transcript of the proceedings.

Robert Darwick

Robert Darwick
Official Reporter