

8-1970

Notice of Motion - Indictment No. 3937/67

Lewis Steel '63

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

PEOPLE OF THE STATE OF NEW YORK, Indictment #

-against-

WILLIAM MAYNARD,

Defendant.

S I R S :

PLEASE TAKE NOTICE that upon the indictment, the plea of not guilty, the motion for Bill of Particulars and upon such other proceedings had herein on behalf of William Maynard one of the defendants in this cause, the undersigned will move this Court on the 11 day of August, 1970, or as soon thereafter as council can be heard for an order directing the District Attorney of New York County to produce for examination, inspection and copy certain items and evidence concerning the indictment in this cause as hereinafter more particularly requested in order that this defendant will have sufficient information and knowledge in order to permit him to file a Motion to Suppress Evidence, due to the fact that this defendant is not sufficiently apprised by the general allegations in the indictment and has not been furnished with sufficient particular allegations and information of the charges and allegations in the indictment to enable him to prepare an adequate defense and to prepare and present a Motion to Suppress Evidence.

this murder which is my sole knowledge thereof, there were two people present at the time of the killing, one being a white man, and one being a black man. Warner Guy very much resembles me. I have a brother-in-law who is white. On or about of , I was picked up for grand larceny which was lodged against me because my partner in my retail men's shop had left a coat in the shop which belonged to the store and which he had worn. I am advised that the police insisted that he file grand larceny charges against me for the purpose of holding me until they could get evidence concerning this murder, although this coat belonged to me and was part of the stock from my store. This charge was eventually dismissed with no action on my part. Subsequently my brother-in-law purchased an automobile from an individual giving him \$200.00 in cash therefor. We went to a bank to obtain a loan and we took over the previous loan payments on the car. That automobile was in an accident and I was seriously injured, spent days in the hospital, filed a claim with the insurance company and recovered on the same. Subsequently I was arrested with my brother-in-law for theft of that car because unknown to us the bank had refused to accept the loan of my brother-in-law, claiming that his credit was not sufficient. I had signed as a guarantor for him.

I appeared on these charges and insofar as I know my lawyer pleaded not guilty. Thereafter in accordance with my usual custom, I left for Europe after advising my lawyer to let me know when the next court appearance would be. While I was in Europe it seems that some person was shown a photograph of me and I was identified to him as the murderer of the Marine

although the news papers stated that two people were involved and the perpetrator was approximately 18 years old. Only I was indicted and I am 35 years old. The picture was seen seven months after the crime. Thereafter it is my understanding the District Attorney claims there was a photographic line-up at which no lawyer appeared for me in violation of my constitutional rights. While I was in Europe an order was signed in the New York courts ordering my extradition back to the United States claiming I was in violation of my bail bond or that I had missed a court appearance. I was awaiting an attorney's letter advising me of the new date for the case for the larceny of the automobile. I fought the charges which I was advised were for the purpose of requiring my appearance in answer to the charge of murder. I was not a murderer and so fought the extradition charges. On my return to the United States another charge of bail jumping was lodged against me after the extradition was granted.

On the trial in the murder case it was my understanding that my attorney stipulated that the Wade-Gilbert hearing and the motion to suppress and other such motions were heard simultaneously with the trial hearing. There were no separate hearings. My attorney was appointed by the Supreme Court of the State of New York. Subsequent to the trial and the hung jury my attorney Mr. Sidney Lenofsky could not represent me on the new trial because he went into partnership with ^a District Attorney who prosecuted my case Mr. Gino Gallina.

My present new counsel is Gussie Kleiman of 475 Fifth Avenue. She made a motion to dismiss all of the three cases pending against me for failure to timely prosecute. This motion was denied. My attorney further asked the court to permit us to borrow the District Attorney's minutes so that she could prepare the case for trial. Previously the District Attorney had lent his minutes to Mr. Robert Goldman who was my previously appointed

court counsel after Mr. Lenofsky's withdrawal. Mr. Goldman himself withdrew stating that he had heavy commitments in his private practice. Although Judge Vickers of the Supreme Court New York County ordered the District Attorney to lend my attorney Gussie Kleiman the minutes he has not done so. It is my understanding that he further stated he would have the minutes in her office at 2:00 P.M. one day this week. He never did so. Yesterday for reasons best known to the District Attorney's office my case was noticed on the calendar. My lawyer Gussie Kleiman who was on trial in another murder case appeared in court requesting to know why the District Attorney noticed this case when it was agreed that my case would be tried after her present murder case and as soon as she was able to read the minutes which the District Attorney was to produce. Yesterday Mr. Goldman asked to go back into my case. I do not know how a lawyer who has withdrawn from a case can get the case to be back on the calendar simply by advising the District Attorney that he wants to return when both the Supreme Court and the Appellate Division have already replaced him with other counsel after he requested to be permitted to withdraw. This is well known to Mr. Sawyer the District Attorney in the case.

At any event at the present time my attorney still has not received a copy of the minutes of the last trial so that she can proceed on my behalf. As a matter of fact I would say that there has been a deliberate attempt to get my attorney off this case and to further procrastinate in the retrial thereof. One excuse given by Assistant District Attorney Sawyer was that he was new to this case and needed time to study it after Mr. Gallina left the Homicide Department. Further I am being subjected to tremendous harassment. I have been called each day to leave my

cell and go to court regardless of the fact that my case is not on. I believe that the purpose of this is to harass me into taking a plea to a murder which I did not commit. It is almost impossible to convey to the court what it means to constantly day after day leave my cell and to the detention pen waiting all day and return at night. This in itself constitutes cruel and inhuman punishment even before I have been convicted.

It is my opinion that the District Attorney's office never intends to bring this murder case to trial and I am being harrassed beyond endurance for a crime I never committed. I have no record of violence. My only police record outside of the aforementioned is in connection with my civil liberties activities and speeches. There is no question in my mind but what the charge on the coat, the automobile and the bail jumping are or at best highly technical and that they were brought purely to hold me for the crime of murder until some evidence could be found or some person who would connect me. What happened when seven months after a New York Judge signed an order for my extradition I was identified by photographs handed to a witness in violation of my constitutional rights.

I have exhausted my State remedies. Some months ago I brought a writ of habeas corpus to dismiss my action which was denied. I asked that it be treated as a bail application for a reasonable bail. No reasonable bail has been set so that I could have been removed pending a retrial of a case which I believe will never happen.

WHEREFORE, it is respectfully requested that a full hearing be granted concerning the facts and circumstance of my incarceration and review the matters herein set forth and