

1968

Jackie Lee Syddall v. John W. Turner, Warden Utah State Prison : Motion For Rehearing

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IN THE SUPREME COURT OF THE STATE OF UTAH

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JACKIE LEE SYDDALL,

Appellant,

vs.

Case No. 10950

JOHN W. TURNER, Warden
Utah State Prison,

Respondent.

MOTION FOR REHEARING

JACKIE LEE SYDDALL
Appellant in pro se
Draper, Utah

PHIL L. HANSEN
Attorney General
State Capitol Building
Salt Lake City, Utah

FILED
FEB 6 - 1968

Clara, Secretary Court Clerk

POINT ONE

APPELLANT IS ENTITLED TO A REHEARING OF THE MERITS OF HIS CASE FOR REASONS THAT THE COURT HAS ERRONEOUSLY RULED THAT NOTHING WAS SHOWN TO SUGGEST THAT APPELLANT WAS IMPROPERLY INDUCED TO ENTER A PLEA OF GUILTY TO THE CRIME IN QUESTION

POINT TWO

APPELLANT IS ENTITLED TO A REHEARING ON THE MERIT OF HIS CASE FOR REASONS THAT DEPRIVATION OF COUNSEL AT THE TIME APPELLANT WAS BOUND OVER TO THE DISTRICT COURT FROM JUVENILE COURT, JURISDICTION CEASED AND SUBSEQUENT ACTS WERE VOID. THE DISTRICT COURT WAS WITHOUT JURISDICTION TO ARRAIGN, ACCEPT A PLEA, OR TO RENDER JUDGMENT ON THE INSTANT CASE.

ARGUMENT POINT ONE

The record in the instant case, as well as the original petition for writ of habeas corpus itself clearly reveal that appellant has assumed the position that his plea of guilty was induced through promises of probation by defense counsel. In fact appellant produced witnesses to this effect and who testified to this effect under oath at the hearing in the Third District Court in regard to his original petition for writ of habeas corpus.

ARGUMENT POINT TWO

The record in the instant case clearly reveals that appellant (at the time a seventeen year old boy) did not have, nor was he offered counsel in and by the Juvenile Court at which time appellant waived preliminary hearing and was bound over by the Juvenile Court to stand trial in the District Court.

It is well recognized throughout the United States that counsel in a criminal case is a necessary requisite of due process of law, unless counsel is

explicitly, competently and intelligently waived.

When a Court of Law denies a defendant in a criminal case any element of due process, jurisdiction ceases and it's acts are void.

It is respectfully submitted that appellant was not competent to understand the meaning of an intelligent waiver, let-a-lone make one.

No competent jail-house lawyer as the attorney for the respondent would have the Court believe of this appellant would waive counsel on or in any stage of the proceedings against him. Nor would anyone with any knowledge of law what-so-ever wait until he had served no less than thirteen (13) years in the penitentiary before filing a writ.

It is obvious that appellant herein is and was at the time of his hearing in the Juvenile Court totally ignorant of matters of law. This and all other action written in behalf of appellant was not written by the appellant, but by a friend who is and was serving time in prison with the appellant.

The appellant having been bound over to District Court from Juvenile Court in disregard of due process, the District Court was without jurisdiction. The

Arraignment in the District Court, the plea, the judgment rendered thereon, in fact the binding over to District Court from Juvenile Court itself in disregard of due process are void. From the time appellant was allowed to stand before the bar of justice in a criminal case without counsel and without the offering by the Court to appoint counsel, all proceedings henceforth are void for lack of due process.

CONCLUSION

Plaintiff is deprived of his liberty without due process of law; the decision of the lower court should be reversed and a new trial ordered.

Respectfully submitted,



JACKIE SYDDALL

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