



COUNTY COURT : NASSAU COUNTY  
STATE OF NEW YORK

-----  
PEOPLE OF THE STATE OF NEW YORK,  
Respondent,

Index No. 17483, year 1958

against

FRANCIS E. DEC,  
-----  
Petitioner-Appellant.  
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NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES.

I. Notice is hereby given that Francis E. Dec, the appellant above named, hereby appeals to the Supreme Court of the United States from the final order of the Court of Appeals of New York State, of July 7, 1961, affirming the judgment of conviction of the Nassau County, County Court of Forgery Second Degree (two counts), Grand Larceny Second Degree and Violation of Section 1820 A Sub. 2 of the Penal Law and on December 23, 1958, was sentenced to Sing Sing Prison at Ossining, New York, on each of the Forgery Second Degree convictions and on the Grand Larceny Second Degree conviction to a term of imprisonment the maximum of which was five years and the minimum two and one-half years, all sentences to be served concurrently, and execution suspended and defendant to be placed on probation for the maximum time allowed and sentence suspended on the last conviction.

This appeal is taken pursuant to 28 U.S.C.A. Section 1257, (1), and (3).

Appellant was convicted of the crimes of Forgery in the Second Degree (two counts); Grand Larceny in the Second Degree and Violation of Section 1820 A Sub. 2 of the Penal Law, all in violation of the Penal Law of New York State, appellant was sentenced to Sing Sing Prison at Ossining, New York on each of the Forgery Second Degree convictions and on the Grand Larceny Second Degree conviction to a term of imprisonment the maximum of which was five years and the minimum two and a half years, all sentences to be served concurrently, and execution suspended and

and sentence suspended on the last conviction. Appellant is presently serving probation, appellant has been automatically disbarred because of the said conviction.

II. The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States and include in said transcript the following: All pre-trial motions, namely, Motion to Inspect the Grand Jury Minutes and Dismiss the Indictment, May 13, 1958; Motion to Dismiss Indictment, May 26, 1958; Motion to Resettle Erroneous Demurrer Order, July 8, 1958; Motion to Dismiss Indictment for Lack of Prosecution, October 8, 1958; The Court Reporter's record of the trial and of judgment and sentence (two volumes); Motion to Amend the Fraudulently Altered Official Trial Record, seven hundred and ninety four (794) amendments, 320 typewritten pages, submitted to the Nassau County, County Court on September 14, 1959. Notice of Appeal to the Appellate Division of the Supreme Court for the Second Judicial Department and appeal motions, namely, Motion for an Order Commanding the Trial Stenographers to Produce the Trial Record in Accordance with Section 456 of the Code of Criminal Procedure, February 2, 1959; Motion to Dispense with Printing, February 2, 1959; Motion for an Order of Settlement on March 30, 1959; Motion to Dispense with Printing, April 10, 1959; Motion to Extend Time to Amend the Trial Minutes, May 8, 1959; Motion to Extend Time to Perfect Appeal on October 5, 1959; Motion to Reargue Motion to Dispense with Printing on October 5, 1959; appellant's and prosecution's appeal briefs and Court Order of transference to the Appellate Division of the Supreme Court for the First Judicial Department and Judgment of Affirmance with no opinion of the Appellate Division of the Supreme Court for the First Judicial Department on October 11, 1960. Notice of Appeal to the Court of Appeals of New York and Motion to Dispense with Printing in the Court of Appeals on March 20, 1961; appellant's brief and

answering brief and Order of Affirmance of the Court of Appeals with no opinion of July 7, 1961, and all other papers in this matter.

III. The following questions are presented by this appeal:

1. May a State consistent with the due process of law guaranteed by the Fourteenth Amendment to which guarantee is pertinent the right to a speedy trial, repeatedly adjourn a citizen's criminal trial over a period of nine months in spite of the citizen's duly undertaken repeated demands for a speedy trial as guaranteed by the Constitution.

2. May a State consistent with the equal protection and due process of the law guaranteed by the Fourteenth Amendment deprive a citizen of his statutory right to appellate review by producing a substantially fraudulently altered official trial record; which said trial record is obviously wantonly fraudulently deleted, abbreviated, juxta positioned, hashed together, jumbled and lengthened with substitute material in an obvious attempt to keep secret the restage like farce kangaroo court trial to support an unjust felonious conviction of the citizen, a volunteer Veteran of World War II and a member of the Bar of the State of New York.

3. May a State consistent with the equal protection and due process of law guaranteed by the Fourteenth Amendment uphold the felonious conviction of a citizen brought about through the halting of the gestapo like farce kangaroo court trial of the citizen for a period of approximately one week after the court's ordering the halting of the cross examination of the completely breaking down and confessing perjurous chief prosecution witness, Mrs. Elizabeth Wirschning, wherein she through her sworn, detailed, cross examination testimony disproved the accusations of the false indictment created by and through the gestapo like frauds of the District Attorney and his staff and the Trial Court's further ordering the alternation of said Elizabeth Wirschning's cross examination with that of the near non-existent hearsay

testimony of the near speechless, petrified, aged, perjurous, life long District Attorney's stenographer, namely, Nathan Birchall, and then after halting both said cross examinations in spite of the citizen's objections the court ordered the halting of the citizen's trial for approximately one week during which week the citizen, defendant, was coerced through oral and written messages by Judge Philip Kleinfeld, a Judge of the New York State Appellate Division of the Supreme Court for the Second Judicial Department, the said messages warning the citizen defendant that regardless of the citizen's innocence, the citizen must surrender his Constitutional Rights as a citizen and lawyer and give up trying his own case because both judge and jury were fixed and if the citizen did not retain a "chosen" ex District Attorney, namely, Edward Neary, as his lawyer to plead guilty to the false charges then the citizen's trial would lead only to the citizen's felonious conviction and a severe prison sentence because "the judge and jury are fixed".

4. May a State consistent with the equal protection and due process of law guaranteed by the Fourteenth Amendment uphold a felonious conviction wherein the trial court in collusion with the prosecution and in spite of the citizen, defendant's, objections withheld the contradictory sworn statements of complaint of the prosecution's perjurous only two chief witnesses, namely, Mrs. Elizabeth Wirschning and Dr. Milton E. Robbins, especially when the withheld statements disprove the indictment of the citizen, defendant.

5. May a State consistent with the due process of law guaranteed by the Fourteenth Amendment uphold a felonious conviction of a citizen brought about by a trial wherein repeated statements by the trial judge and prosecutor claim directly and impliedly and through statutory definition that a hearsay, unverifiable copy of the District Attorney's stenographic notes consisting mostly of hearsay conversations of others than the citizen defendant did ~~by the citizen defendant~~ and thereby

through statutory definition of criminal confessions practically convict the citizen defendant; when subsequently through written admissions of the prosecution in the prosecution's appeal brief to the Court of Appeals of the State of New York the said District Attorney's hearsay stenographic notes are stated not to constitute a confession, a contention obviously directly opposite to that taken by the prosecution and trial judge during the citizen's trial.

6. May a State consistent with the right to due process of law guaranteed by the Fourteenth Amendment place in evidence and permit the prosecution to repeatedly read aloud to the jury during the citizen's criminal trial copies of stenographic records of conversations of people other than the citizen who were never made witnesses during the citizen's trial although they were available and two of whom were important members of the judiciary, especially when the District Attorney's stenographer testified that the original stenographic records produced by the said District Attorney's stenographer were written in his own personal secret code of shorthand which can be read and understood only by himself; and in spite of the citizen's repeated objections the trial judge precluded any inspection of the said original stenographic notes and ordered the citizen to accept the veracity of the District Attorney's stenographer's stenographic notes on the say so of the District Attorney's stenographer and further the said hearsay stenographic notes were falsely stressed by trial judge in collusion with the prosecution as a confession by the citizen, in the said citizen's criminal trial that brought about the felonious conviction of the citizen.

7. May a State consistent with the right to equal protection and due process of law guaranteed by the Fourteenth Amendment procure a felonious criminal conviction against a citizen through the fraud and collusion of the trial court in conspiracy with the prosecution.

8. May a State consistent with the equal protection and due process of the law guaranteed by the Fourteenth Amendment deprive a citizen of liberty and property through a felonious conviction and intentionally ignore the explicit statutory protection afforded by Section 456 of the Code of Criminal Procedure for New York State, which said section provides that the trial record upon conviction shall be produced within the maximum time of 12 days after notice of appeal has been served and further intentionally disregard the said statutory rights in spite of the citizen's formal written appellate court motion for an order compelling the trial court stenographers to produce the trial record in accordance with said Section 456 of the Code of Criminal Procedure in order to minimize the time in which court officials would have to fraudulently alter said citizen's trial record, wherein support of said motion detailed sworn facts of other felonious fraudulent alterations of such trial records by jurists was stressed by the citizen.

9. May a State consistent with the equal protection and due process of the law guaranteed by the Fourteenth Amendment repeatedly coerce a citizen lawyer to surrender his Constitutional Right to defend himself by coercive statements of state court judges and court officials to the extent that the State's Court of Appeals Court Clerk under orders of the justices of said Court of Appeals did in detail letters wantonly with prejudice prejudge the criminal appeal taken by the citizen pro se and the said clerk of the Court of Appeals impliedly completely approved and sanctioned the wanton fraudulently altered almost unintelligible official record of this citizen's trial produced by the lower courts in collusive conspiracy with the District Attorney's office, which said frauds this citizen repeatedly complained of in his appeal brief.

Dated:  
September 21, 1961

*Francis E. Dec*  
Francis E. Dec, Appellant pro se - -  
P.O. Address  
171 So. Franklin St.  
Hempstead, New York

September 22, 1961

Mr. Francis E. Dec  
171 South Franklin Street  
Hempstead, New York

RE: Dec v. New York, No. 558 Misc.,  
October Term, 1961

Dear Sir:

I acknowledge receipt of the petition  
for writ of certiorari in the above-entitled  
case.

This case was docketed      today -----  
as No. 558 Miscellaneous, October Term, 1961,  
and will be brought to the attention of the Court.

Very truly yours,

JAMES R. BROWNING, Clerk

By

Assistant

No. 558 Misc.

OCT. TERM 1961

U. S. Supreme Court

RECEIVED

SEP 22 1961

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

In the Supreme Court of the United States

October Term, 1961

No. \_ \_ \_ \_ Misc.

People of the State of New York,

Respondent,

v.

Francis E. Dec,

Petitioner-Appellant.

~~On Appeal from the Court of Appeals of the State  
of New York Petition for a Writ of Certiorari.~~

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS  
OF THE STATE OF NEW YORK.

FRANCIS E. DEC

Petitioner-Appellant Pro Se

171 So. Franklin Street

Hempstead, New York



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Reasons:

1. New York State denied this citizen due process of law guaranteed by the Fourteenth Amendment to which guarantee is pertinent the right to a speedy trial when the State repeatedly adjourned this citizen's criminal trial over a period of nine months in spite of this citizen's duly undertaken repeated demands for a speedy trial as guaranteed by the Constitution. . . . . 58
2. New York State deprived this citizen of equal protection and due process of law guaranteed by the Fourteenth Amendment when New York State deprived this citizen from his statutory right to appellate review by producing a substantially fraudulently altered official trial record which said trial record is obviously wantonly, fraudulently deleted, abbreviated, juxta-positioned, hashed together, jumbled and lengthened with substitute material in an obvious attempt to keep secret the gestapo like farce kangaroo court trial to support the unjust felonious conviction of this citizen, a volunteer Veteran of World War II and a member of the Bar of the State of New York. . . . . 60
3. The State of New York did deprive this citizen of equal protection and due process of law guaranteed by the Fourteenth Amendment when it halted the gestapo like farce kangaroo court trial of this citizen for a period of approximately one week, after the court's ordering

the halting of the cross examination of the completely breaking down and confessing perjurous chief prosecution witness, Mrs. Elizabeth Wirschning, wherein she, through her sworn, detailed, cross examination testimony disproved the accusations of the false indictment created by and through the gestapo like frauds of the District Attorney and his staff and the trial court's further ordering the alteration of said Elizabeth Wirschning's cross examination with that of the near non-existent hearsay testimony of the near speechless, petrified, aged, perjurous, life long District Attorney's stenographer, namely, Nathan Birchall, and then after halting both said cross examinations in spite of this citizen's objections, the court ordered the halting of this citizen's trial for approximately one week during which week this citizen, defendant, was coerced through oral and written messages by Judge Philip Kleinfeld, a Judge of the Appellate Division of the Supreme Court for the Second Judicial Department of New York State, the said messages warning this citizen, defendant, that regardless of this citizen's innocence, this citizen must surrender his Constitutional Rights as a citizen and lawyer and give up trying his own case because both judge and jury were fixed and if this citizen did not retain a "chosen" ex District Attorney, namely, Edward Neary, as his lawyer to plead guilty to the false charges then this citizen's trial would lead only to this citizen's felonious conviction and a severe prison sentence because "the judge and jury are fixed" . . . .

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4. The State of New York did deprive this citizen of equal protection and due process of law guaranteed by the Fourteenth Amendment by upholding a felonious conviction of this citizen wherein the trial court in collus-

ion with the prosecution, and in spite of this citizen's objections, withheld the contradictory sworn statements of complaint of the prosecution's perjurous only two chief witnesses, namely, Mrs. Elizabeth Wirschning and Dr. Milton E. Robbins, especially when the withheld statements disprove the indictment of this citizen defendant. . . . .

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5. The State of New York did deprive this citizen of due process of law guaranteed by the Fourteenth Amendment by upholding a felonious conviction of this citizen brought about by a farce kangaroo court trial wherein repeated statements by the trial judge and prosecutor claim directly and impliedly and through statutory definition that a hearsay, unverifiable copy of the District Attorney's stenographic notes consisting mostly of hearsay conversations of others than this citizen, defendant, did constitute a confession by this citizen, defendant, ~~and thereby~~ through statutory definition of criminal confessions practically convict this citizen, defendant; when subsequently through written admissions of the prosecution in the prosecution's appeal brief to the Court of Appeals of the State of New York the said District Attorney's hearsay stenographic notes are stated not to constitute a confession, a contention obviously directly opposite to that taken by the prosecution and trial judge during this citizen's trial. .

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6. The State of New York did deprive this citizen of due process of law guaranteed by the Fourteenth Amendment by placing in evidence and permitting the prosecution to repeatedly read aloud to the jury during this citizen's trial copies of stenographic notes, of conversations of people other than this citizen, who were never made witnesses during this citizen's trial,

although they were available and two of whom were important members of the judiciary; especially, when the District Attorney's stenographer testified that the original stenographic records produced by the said District Attorney's stenographer were written in his own personal secret gestapo like code of shorthand, which can be read and understood only by himself. In spite of this citizen's repeated objections, the trial judge precluded any inspection of the said original stenographic notes and ordered this citizen to accept the veracity of the District Attorney's stenographer's stenographic notes on the say so of the District Attorney's stenographer. Further, the said hearsay stenographic notes were falsely stressed by the trial judge in collusion with the prosecution as a confession by this citizen, in this citizen's criminal trial that brought about the felonious conviction of this citizen.

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7. The State of New York deprived this citizen of equal protection and due process of law guaranteed by the Fourteenth Amendment when the State wantonly procured a felonious conviction against this citizen through the fraud and collusion of the trial court in conspiracy with the prosecution. . . . .

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8. The State of New York did deprive this citizen of equal protection and due process of the law guaranteed by the Fourteenth Amendment by depriving this citizen of liberty and property through a felonious conviction when the State intentionally ignored the explicit statutory protection afforded by Section 456 of the Code of Criminal Procedure for New York State, which said section provides that the trial record upon conviction shall be produced within the maximum time of 12 days after notice of appeal has been served and further, the

state intentionally disregarded the said statutory rights in spite of this citizen's formal written appellate court Motion for an Order Compelling the Trial Court Stenographers to Produce the Trial Record in accordance with Section 456 of the Code of Criminal Procedure in order to minimize the time in which court officials would have to fraudulently alter this citizen's trial record. In support of said motion detailed sworn facts of other fraudulent alterations of such trial records by jurists was stressed by this citizen. . . . .

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9. The State of New York did deprive this citizen of equal protection and due process of the law guaranteed by the Fourteenth Amendment by repeatedly coercing this citizen lawyer to surrender his Constitutional Right to defend himself by coercive statements and warnings of New York State Court Judges and Court Officials, to the extent that the State's Court of Appeals Court Clerk under orders of the Justices of said Court of Appeals did in detail letters wantonly with prejudice, prejudge the criminal appeal taken by this citizen pro se, and the said Clerk of the Court of Appeals impliedly completely approved and sanctioned the wantonly fraudulently altered almost unintelligible official record of this citizen's kangaroo court, farce trial produced by the lower courts in collusive conspiracy with the District Attorney's office, which said frauds this citizen repeatedly complained of in his appeal briefs. . . . .

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Petition for a Writ of Certiorari.

Opinions Below

On appeal from the judgment of conviction of the Nassau County Court of the State of New York on December 23, 1958, to the Appellate Division of the Supreme Court for the Second Judicial Department for the State of New York, said Appellate Division of the Supreme Court for the Second Judicial Department on the hearing date of this appeal, without notice to this petitioner ordered the transfer of this appeal for hearing and determination to the Appellate Division of the Supreme Court for the First Judicial Department for the State of New York. The said Appellate Division of the Supreme Court for the First Judicial Department unanimously affirmed the judgment of conviction with no opinion on October 11, 1960. The Court of Appeals of New York State unanimously affirmed the judgment of conviction with no opinion on July 7, 1961.

Jurisdiction

The judgment of the Court of Appeals of New York was entered on July 7, 1961, and a copy thereof is appended to this petition in the Appendix at pages <sup>100</sup> ~~99~~ to 101. The jurisdiction of this Court is invoked under 28 U. S. C. Sec. 1257 (1), (3).