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.

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 100 to 101. The jurisdiction of this Court is invoked under 28 U. S. C. Sec. 1257 (1), (3).

Questions Presented

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, abreviated, 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 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 constitute a confession 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 afford-

ed 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.

Constitutional Provision Involved

The United States Constitution, Amendment XIV, Section 1, Clause 2; to the end of the section:

> " ... nor shall any State deprive any person of ... liberty or property, without due process of law nor deny any person within its jurisdiction the equal protection of the laws."

STATEMENT

The Nassau County Court, New York, on December 23, 1958, after a gestapo like farce trial with dishonest fixed judge, William J. Sullivan, and a fixed jury convicted this defendant, a lawyer, of the false four count indictment, namely, Grand Larceny in the Second Degree (third count): Defendant took, stole from Allstate Insurance Company a certain sight draft for $400 by false and fraudulent representations and pretenses, namely, that Mrs. Elizabeth Wirschning received certain medical treatments from a Dr. Milton E. Robbins, who treated Mrs. Wirschning for her complained injuries of bursitis of her right shoulder and a bruised right thigh and that the general release of Mrs. Wirschning was a good and valid general release. Forgery in the Second Degree (first count): Defendant feloniously offered, uttered and disposed of a forged general release of Mrs. Elizabeth Wirschning above mentioned. Forgery in the Second Degree (second count): Defendant feloniously offered, uttered and disposed of a forged sight draft of Allstate Insurance Company made to the order of defendant and Mrs. Elizabeth Wirschning in the amount of $400. Violation of Section 1820A Sub. 2 of the Penal Law (fourth count): Defendant deceitfully made a certificate upon a general release set forth in the first count of the indictment that Mrs. Elizabeth Wirschning acknowledged that she executed said release, thereby committed a misdemeanor. After the unprecedented near month long trial of this defendant lawyer upon this indictment upon the perjurous complaint of one client this defendant lawyer was automatically disbarred upon conviction and sentenced to 2½ to 5 years in prison, concurrently for each of the three felony counts and sentence was suspended on the misdemeanor count with the execution of sentence suspended and defendant ordered to serve probation for the maximum period allowable under the law, which sentence, of a lawyer upon one complaint of one client is without precedent. The prosecution called 10 witnesses during the trial from November 5th to 20th, 1958, inclusively. I have abstracted

from the 991 pages extant in the Court Reporter's record of my trial and the lengthy criminal prosecution along with related motivating facts and presented these facts in a narrative form coordinating the direct and cross examination of the trial for clarity.

The gestapo like illegal persecution of this defendant has been carried on for over a decade since this defendant made complaints against one Henry H. Meyer, a life long Assistant District Attorney in Nassau County. Over a decade ago, this defendant made complaints of the felonious crimes committed by the impish Henry H. Meyer, who was forging and cashing his son's Veteran's Administration monthly disability payment checks in order to systematically defraud his son of the substantial monthly disability payments and the same Henry H. Meyer thereafter impishly assisted in placing his son in an insane asylum. Convulsive, muddled incoherent, jeering threats of revenge were stated by an Assistant District Attorney, Edward Robinson, Jr., during the two suppositive grand jury hearings in July of 1957, in reference to this and other complaints by this defendant.

Defendant testified in Court during his trial as to the decade long gestapo like persecution of this defendant by members of the Nassau County judiciary and government. Even the impish prosecutor of defendant's trial somewhat summed up defendant's said testimony on page 909 of the trial minutes. The many innumerable written public records proving the said illegal persecution of this defendant cannot all be fraudulently altered to confirm the simple false ravings of trial prosecutor, Arthur Nixon, that, "Yuh bet yuh bottum dolla ... its a pak o' lies, where's 'iz proof". The gestapo mafia like illegal secret persecution of this defendant was carried on to ruin this defendant in revenge because of this defendant's repeated righteous complaints of omnipotent gangsterism and corruption of the judiciary and government. This same gestapo like secret illegal persecution of this defendant by the Nassau

County judiciary was evidenced through the predetermined prejudiced attitude expressed by Judge Henry Uhgetta in the spring of 1958, when Judge Uhgetta was notified of the decade long persecution waged against this defendant and in gestapo like tactics such as, the removal of defendant's name from an approved N. Y. State Police Civil Service employment list and from N. Y. State Police employment without any hearing and without any legal reason by the orders of Judge Joseph Conroy of the Supreme Court of the Second Judicial Department (29-32). Judge Henry Uhgetta was then informed that this defendant was later ordered in gestapo fashion into Police Inspector Kirk's office in the Nassau County Police headquarters in Mineola, N. Y., in January 1955, and was harangued and coerced by three Police Inspectors, namely, Looney, Kirk and "Schufler", the last of whom was an unprosecuted sadistic murderer, with inspector Pinnell present part of the time. The three inspectors informed the defendant that they had to force the defendant to resign from the Nassau County Police Force because of orders from the Nassau County District Attorney's office and high members of the Nassau County judiciary, in spite of their admissions that their detailed records accumulated through unprecedented special gestapo like search of defendant's entire life history produced nothing but a record of an extraordinary good citizen and in spite of defendant's acceptance to the said police force after Civil Service examination. Upon hearing this, Judge Henry Uhgetta tacitly then stated that with the background he had been informed of this defendant, defendant could never have been accepted to any police force. The gestapo like false and prejudicing information supplied to Judge Henry Uhgetta was later set aside by Judge Henry Uhgetta, when in a final message he stated with reference to this defendant's gestapo like persecution, Judge Uhgetta stated, "the reason is someone in Nassau County doesn't like you."

The defendant was subject to repeated persecution in the Nassau County Courts when as a lawyer this defendant tried cases

before dishonest omnipotent judges who made a farce of the trials and later on occasions on appeal defendant suffered further injustice to discover that the trial record was substantially fraudulently altered. As for example, in a case tried before dishonest Judge Kathaleen Kane, she, who after a farce trial wherein she granted judgment to the opposing party despite the confession of said opposing party in open court that his sworn contentions were false, she, Kathaleen Kane, behested the substantial fraudulent alteration of the trial minutes in order to destroy defendant's case. Through the coercion of court officials, the defendand did not stress Judge Kathaleen Kane's behested fraudulent alteration of the said trial minutes when defendant went up on appeal to the Appellate Term of the Supreme Court, but still in the Appellate Term of the Supreme Court, in gestapo like mafia manner, the matter of defendant's complaints of Judge Kathaleen Kane's ordered fraudulent alteration of defendant's trial record was stressed by Judge Walter Hart, who, for over an hour harangued, chastized and coerced defendant because defendant dared to accuse a judge of ordering the fraudulent alteration of any record. Judge Walter Hart's over hour long raving, coercive, harangue was the defendant's "oral argument" on appeal.

The gestapo, mafia like persecution of this defendant became open and notorious throughout the Courts of Nassau County, such as the fanatic illegal persecution of this defendant by Samuel Greason as a District Court Judge, exemplified by his frantic direct and indirect tirades against this defendant whenever this defendant appeared in his Court representing a client on many occasions, earned Samuel Greason the title of "a judge who at certain times is completely raving mad.", which is so unlike his present actions as head of the complete farce Nassau County Judicial Inquiry.

Another unprecedented act of open gestapo like persecution by the District Attorney's office was assigned to Moxey Rigby, another Ass't District Attorney recently elected a Judge, who telephoned

this defendant on one occasion and in raving simple speech tried to coerce this defendant under threat of criminal action, stating that defendant, an attorney at law, could not withdraw from a client's farce and false tort case even after this defendant duly undertook substantial expense and legal works for the dishonest client's false tort claim and this defendant, as the retained lawyer, received no compensation.

The acts of persecution were assisted when circumstances united several would be practising lawyer felons together in one Allstate Insurance Company office all who knew of defendant as a practising lawyer and openly begruged this fact.

It was notorious habitual felonists such as Charles Martino, William Fitzgerald, Gerald Chirello and Joseph Amoru (the last mentioned, Joseph Amoru, who like the small pocked face Assistant District Attorney, Joseph Hennegan, who like other Ass't. District Attorneys sat at or near the prosecution's table during this defendant's trial and sneered at this defendant for hours, as this defendant as attorney pro se defended himself against the false four count indictment) defendant knew Joseph Amoru and Joseph Hennegan from college as simple cheats and defendant told them so in college. These and other habitual felonists, Allstate Insurance Company officers, who knew of this defendant and this defendant's absolute refusal to enter into the usual lawyer bribery and fraud conspiracies with them in the settlement of claims against Allstate Insurance Company. It was these and other felons, officers of Allstate Insurance Company who aided and abetted the gestapo like search of each of this defendant's few claims against Allstate Insurance Company to the extent of questioning this defendant's clients in detail, illegaly, before and after defendant's client's claims were settled by Allstate Insurance Company. These felons, all of whom were eventually discharged from Allstate Insurance Company and their years of habitual felonious crimes, defrauding Allstate Insurance Company, were condoned by all law enforcement agencies to the

extent that only belatedly one or two of these habitual felons received censures as lawyers or civil disbarment. It was this group of habitual felons that rable roused other Allstate Insurance Company officers to complain against this defendant to the Nassau County District Attorney, after singling this defendant out for persecution instead of the many notorious habitual felonious and fraudulent ambulance chasing lawyers they knew of, including themselves. They did so in spite of the fact that the Allstate Insurance Company had written records from both Mr. and Mrs. Wirschning proving that Mr. and Mrs. Wirschning were the actual conspiring felonious culprits who falsely claimed they knew nothing about Mrs. Wirschning's injury claim and never retained the defendant as Mrs. Wirschning's lawyer. These factors together with a sadistic life long omnipotent gangster, District Attorney, Frank Gulotta, who, as head henchman to this defendant's decade long gestapo like secret mafia type persecution brought about the false secret mafia type indictment of this defendant.

Defendant was ordered to the District Attorney's office on July 2, 1957, by Edward Robinson Jr., an Ass't District Attorney. Without reason or justification the said Edward Robinson Jr. then accused this defendant of ambulance chasing fraudulent accident claims and in simple, convulsive, incoherent conversation, Edward Robinson attempted to accuse defendant, based on suppositive knowledge gained from the know nothing about everything Wirschning's, that the defendant was operating a fraudulent ambulance chasing ring on a small scale, similar to the gigantic fraudulent ambulance chasing ring notoriously operated by such habitual gangster lawyers as Sidney and Walter Siben and their gang of lawyers, who are unprosecuted and condoned felonious lawyers. The incoherent ravings of Edward Robinson finally enumerated the complaint of Mrs. Wirschning and her husband, Fred Wirschning, who claimed that they never knew the defendant and only saw the defendant once and never retained defendant as their lawyer for Mrs. Wirschning's

injury claim against Allstate Insurance Company and they never prosecuted or made any injury claim for Mrs. Wirschning against the Allstate Insurance Company. In fact, in simple incoherent ravings Edward Robinson informed defendant that both Wirschnings' swore they knew nothing about the entire injury claim and settlement of it by Allstate Insurance Company; therefore defendant was an ambulance chasing lawyer. Defendant quelled the screaming convulsive Edward Robinson sufficient to point to the Allstate Insurance Company file of Mrs. Elizabeth Wirschning's injury claim on his desk and specifically point out various papers that proved the claims of the both Wirschning's to be false and then demanded to be informed of any Grand Jury hearing on the matter. The defendant's quelling of the convulsive Edward Robinson and Robinson's agreement as to the defendant's demands immediately caused Frank Gulotta's interruption of the discussion with requests that Edward Robinson end the discussion. The defendant, then demanded that Frank Gulotta and Edward Robinson come to his office and see the records on Mrs. Wirschning's injury claim file and Mrs. Wirschning's separation file, in addition to the records they had of the Allstate Insurance Company. Defendant's written records and written signed retainer of both Elizabeth and Fred Wirschning prove their complaints to be false and as defendant stated earlier to Robinson that it was a continuation of a scheme by Fred Wirschning to coerce this defendant out of his fees for defendant's legal works in reference to Mrs. Wirschning's marital difficulties with her wayward, perverted, felonious car thief husband. Defendant then again informed Gulotta and Robinson of his many legal works and services in reference to his retainer by Mrs. Wirschning as her lawyer for her impending legal separation action for which she deposited her share of the injury claim settlement money, namely, $200, in escrow, with this defendant, in order to guarantee defendant the minimum agreed fee of $150 she agreed with defendant for defendant's completed legal services should she decide not to go ahead

go ahead with the legal separation action and also as part payment toward her agreed fee of $450 for the legal separation action.

Edward Robinson Jr. in obvious petrification, convulsive and in hysterics attempted to stop defendant by screaming "level with me" over and over again as he slumped over his desk perspiring and looking up at the District Attorney Frank Gulotta. Defendant informed Robinson and Gulotta, that defendant's records and the Allstate Insurance Company records would prove that defendant was retained by Mrs. Wirschning as her lawyer for an impending separation action and because of this fact the defendant did withdraw from her wayward perverted husband's loss of services claim of her injury claim. Defendant again informed both Gulotta and Robinson of the repeated efforts of Mrs. Wirschning's husband through various coercive schemes to obtain his wife's settlement money she deposited with defendant in escrow, and that recently the defendant put the husband out of his office under threat of arrest, at which time the defendant informed Fred Wirschning that he had coerced his wife, probably through the usual physical abuse of her, into evading the defendant while he coerced the defendant into giving him the $200 she left in escrow, based on his claims of being the husband and head of the family and that therefore the money was actually his and not hers and further that Fred Wirschning attempted to coerce the defendant into a fear of legal prosecution claiming the defendant was not entitled to accept the money in escrow from Mrs. Wirschning regardless of the agreement the defendant made with her. It was up to the defendant to collect from his wife because she had no right to use the husband's settlement money, so claimed Fred Wirschning. Frank Gulotta then gesticulated in a frenzied manner for Edward Robinson to compose himself. Defendant offered to take both Gulotta and Robinson to his office immediately and show them the legal separation file of Mrs. Wirschning and the file with reference to her injury claim, both files with the various papers in them as defendant stated earlier to Edward Robinson. The defend-

ant once again demanded to be notified of any Grand Jury hearing and demanded to be confronted by the perjurous Wirschnings. Both Gulotta and Robinson agreed to call defendant should there be a Grand Jury hearing on the matter. In frenzied movements Gulotta took hold of Robinson while speaking to a detective Becker who was present. Gulotta ordered detective Alva Becker to take this defendant in custody to defendant's office before arresting defendant in order to prove that the defendant had no files on Mrs. Wirschning, because she swore she never retained defendant and saw defendant once in her life.

Defendant went with detective Becker to defendant's office. Detective Becker examined Mrs. Wirschning's injury claim file and her separation claim file, after defendant took both file envelopes out of the locked filing cabinet. Detective Becker examined the various papers in the two files and opened the lattersized titled envelope containing Mrs. Wirschning's $200 escrow money. Detective Becker then took and purloined the defendant's written retainer signed by both Wirschnings and like the simple raving Edward Robinson accused the defendant of ambulance chasing with a "no good" false retainer. Detective Becker refused to give defendant back the written retainer with the Wirschnings and instead stated that by his purloining the retainer made it possible for the District Attorney to finally bring and end to the lengthy investigation of the "dumb polok" defendant and finally send the "dumb polok" to prison.

Thereafter on July 22, 1958, at the District Attorney's non existent Grand Jury hearing to which defendant appeared through illegal subpoena by the gangster District Attorney, Frank Gulotta stood in charge of Edward Robinson while detective Becker sat adjacent to the defendant. Defendant was informed to forget about complaining as to the accusations of Edward Robinson falsely accusing the defendant of running an ambulance chasing ring of fraudulent accident cases. Defendant was informed he had no right to object

and that defendant was in the District Attorney's office subject to immediate arrest and jailing because Mrs. Wirschning had placed new charges against the defendant and these new charges against the defendant were true because she also swore to these new charges. The convulsive Edward Robinson then stated that the new charges did not include ambulance chasing but that defendant negotiated and settled an injury claim for her of which she knew nothing about. The defendant interrupted the raving Robinson and informed him that his accusations were false because detective Becker, who was then sitting adjacent to the defendant, had taken the defendant in custody to defendant's office and had seen the separation file and the injury claim file on Mrs. Wirschning with the various papers in both files along with the $200 escrow money she had deposited with the defendant and also the signed written retainer of Mr. and Mrs. Wirschning. Further, that these two files and the various papers in the said two files corroborated the facts of the Allstate Insurance Company file on Edward Robinson's desk which state in detail that Mrs. Wirschning retained defendant as her lawyer for her injury case and that she repeatedly claimed the injuries to the Allstate Insurance Company doctor and officers for which said injury claim she received her share of the settlement, namely $200, which money she deposited in escrow with defendant as part payment toward an impending separation action and to guarantee defendant's minimum legal fee of $150 for defendant's completed legal services should she decide not to proceed ahead with her separation action. Detective Becker admitted inspecting Mrs. Wirschning's separation file and Mrs. Wirschning's injury claim file. Detective Becker also admitted purloining the written retainer of Mr. and Mrs. Wirschning. Detective Becker then admitted that the titled envelope containing the $200 escrow money was inspected by him along with the other papers in the two files. Only Fred Wirschning and Dr. Milton E. Robbins were then called into the office in defendant's presence. Defendant rapidly questioned Dr. Milton E. Robbins and

then Dr. Robbins admitted that immediately after being informed by the District Attorney's office of the investigation and Mrs. Wirschning's denial of her original claims of injuries and treatments by him; Dr. Robbins telephoned the defendant and begged the defendant to come to his, Dr. Robbins' office in order that Doctor Robbins could get back his, Dr. Robbins' handwritten medical bill for his treatments given to Mrs. Wirschning for injuries stated on the bill. This same hand written medical bill from Dr. Robbins was used by Mrs. Wirschning to state in detail her injuries and doctor treatments for such injuries on May 24, 1956, when the parts of her body she, Mrs. Wirschning, claimed were injured and constituted her entire injury claim, were examined by the Allstate Insurance Company doctor, Dr. Joseph Rosenheck, in order that Allstate Insurance Company evaluate the cash value of her total injury claim. Doctor Robbins then broke down and admitted further that the defendant did not telephone or contact him but that he, Dr. Robbins, through hysterical petitions through his telephone call to the defendant lured the defendant to his, Dr. Robbins' office and then informed the defendant that he, Dr. Robbins, had been informed of the investigation by the District Attorney's office and that he, Dr. Robbins, begged the defendant to get back his hand written medical bill for his, Dr. Robbins', medical treatments to Mrs. Wirschning, which bill defendant sent to the Allstate Insurance Company many months before when settling Mrs. Wirschning's injury claim, as was required by the Allstate Insurance Company in order to settle such injury claim. Dr. Robbins then broke down and admitted he became hysterical while defendant was in his office and attempted to commit suicide in defendant's presence and that the defendant dissuaded him by informing him that Mrs. Wirschning repeatedly claimed the exact same injuries and doctor treatments as her total injury claim to the Allstate Insurance Company representatives. Doctor Robbins then admitted that he in hysterical threats caused the defendant to remove many of Dr. Robbins X-rays from his, Dr. Robbins'

office. Frank Gulotta quelled Dr. Robbins' confession at this point. Still, sufficient incriminating statements were made by Dr. Robbins to confirm the defendant's statement to Gulotta and Robinson, namely, that Dr. Robbins, under hysterical threats of suicide ordered the defendant to cart away and destroy many X-Rays from Dr. Robbins' office because of Dr. Robbins' stated fear that he and his lawyer brother in law, both of whom had their professional offices in New York City, were under investigation by the New York City Arkwright Judicial Investigating Committee (which Committee was investigating New York City lawyers and doctors as to improper professional practices) and that the many X-Rays in his office would prove his, Dr. Robbins', lengthy injury claim business association with his lawyer brother in law. In addition to this Fred Wirschning, the wayward, perverted, felonious car thief husband of Mrs. Wirschning had already admitted the matrimonial troubles with his wife and that he lived with negro prostitutes and that he ran stolen cars down south. During defendant's further rapid questioning of Fred Wirschning in the presence of Dr. Robbins, Fred Wirschning, further incriminated himself and proved the defendant innocent by breaking down and admitting that after defendant's repeated requests of him and his wife, Elizabeth Wirschning, to produce Mrs. Wirschning's medical bill from Dr. Milton E. Robbins, her claimed doctor, for her claimed doctor treated injuries, constituting her injury claim against Allstate Insurance Company, Fred Wirschning, gazing at Dr. Robbins, in the District Attorney's office, admitted that he, Fred Wirschning, did go to Dr. Milton E. Robbins' office and did obtain and did pay for the hand written medical bill from Dr. Milton E. Robbins. Upon hearing Fred Wirschning make this admission, Dr. Robbins acknowledged the truth of said admission by making significant motions of his head and by speech . The said Dr. Robbins' hand written medical bill obtained by Fred Wirschning was used by Mrs. Wirschning to repeatedly state her total doctor treated injury claim to the Allstate Insurance Company doctor.

The defendant then reached accross Robinson's desk and pointed out the pertinent Allstate Insurance Company records of Mrs. Wirschning's medical examination by the Allstate Insurance Company doctor, which confirmed the fact that Mrs. Wirschning's personally stated doctor treated injury claim against Allstate Insurance Company was identical to the injuries listed on the hand written medical bill Fred Wirschning obtained from Dr. Robbins; which both Gulotta and Robinson claimed to be false. After the defendant gained these admissions from Fred Wirschning and Dr, Milton E. Robbins, the life long omnipotent gangster, the District Attorney, Frank Gulotta, quickly, in frenzied movements and speech, while gesticulating and actually seizing and quelling both the convulsive Edward Robinson and Fred Wirschning, Gulotta then ordered all conversation to cease. Frank Gulotta immediately brought the interview with Dr. Robbins and Fred Wirschning to an end quickly ushering Dr. Robbins, his lawyer and Fred Wirschning out of the office. These incriminating admissions of Fred Wirschning and Dr. Robbins, which prove the defendant's innocence were later stressed by this defendant in defendant's pretrial motion to Dismiss the false indictment on October 8, 1958, in County Court. Before ushering out Dr. Robbins, his lawyer and Fred Wirschning, Frank Gulotta obviously stunned, frenzied and frightened after hearing Dr. Robbins' and Fred Wirschning's incriminating admissions, Gulotta, gave no hint that any Grand Jury hearing would be held on the matter but instead assured the defendant that the matter of the complaint was a misunderstanding and it was a small matter that was not important.

This defendant was illegally subpoena by the District Attorney to the above mentioned non existent Grand Jury hearing a few days after this defendant voluntarily appeared at Frank Gulotta's office and this defendant in accordance with his statutory rights repeatedly demanded to be notified of any Grand Jury hearing of the matter and this defendant was assured by both Robinson and Gulotta that if the matter was referred to a Grand Jury, the defendant would be

notified. Instead of notifying this defendant as promised and as required by statute, many months later, in gestapo like secret mafia tactics, Frank Gulotta assembled his approved "upright citizens" for the secret Grand Jury and without this defendant's knowledge and without the required statutory notification of the defendant the many month belated secret gestapo like indictment of defendant was created in violation of this defendant's statutory rights set forth in section 250 of the New York Code of Criminal Procedure. The Nassau County Supreme Court's hashed together, jumbled official record in the said court's record book indicated that the multiple four count indictment took up a few minutes of the Grand Jury's time, with no hesitation to notify this defendant.

An example of the type of "unbiased citizens" chosen to serve as gestapo like secret original judges of all serious crimes is one so called "Arthur Lem", who like many other Grand Jurors depends upon doled out business and high salaried income from government employment, which income is doled out solely at the approval of the omnipotent gangster, the District Attorney. Such people as this newspaper publicized notorious alien Chinese, life long gangster, smuggler, perjurer, defrauder and imposter, "Arthur Lem" make up the rosters of "unbiased, upright citizens", who constitute the original secret gestapo like judges of all serious crimes, namely, the Grand Jury. As an example, this "Arthur Lem" is a friend of and high salaried member of the staff of the omnipotent gangster, Frank Gulotta, life long District Attorney of Nassau County, who recently in dictatorship like farce, fixed unopposed election was elected Supreme Court Judge. This defendant was deprived of his Constitutional Rights under section 250 of the Code of Criminal Procedure by the District Attorney not notifying this defendant of the belated secret Grand Jury hearing as promised by the said District Attorney. Therefore, the defendant was denied the Constitutional right to challenge the validity of the secret gestapo like indictment proceedings of the Grand Jury.

This defendant challenged the false secret indictment in his two pre-trial motions to Dismiss the false indictment in the Nassau County Supreme Court on May 13, 1958, and in the County Court on May 26, 1958. Both motions, both courts illegally refused to entertain and refused to decide. Said second motion Judge Cyril Brown of the County Court improperly deprived this defendant of his Constitutional and statutory rights as set forth by section 313 of the Code of Criminal Procedure by wantonly deciding defendant's motion to Dismiss the Indictment as a Demurrer. This defendant duly made motion to resettle the unjust demurrer order on July 24, 1958, but said Judge Cyril Brown's decision on resettlement once again denied defendant's statutory rights to a Motion to Dismiss the Indictment and again decided defendant's motion as a Demurrer.

The incriminating admissions of Fred Wirschning and Dr. Milton E. Robbins during the July 22, 1957, hearing in the District Attorney's office, which proved the defendant's innocence were stressed by this defendant in his later pre-trial motion to Dismiss the Indictment for Lack of Prosecution on October 8, 1958, in the County Court. Several months passed after the indictment prior to said motion. During this period Judge Philip Kleinfeld and Judge Henry Wenzel of the Appellate Division of the Supreme Court of the Second Judicial Department were informed of the defendant's decade long persecution by members of the Nassau County judiciary and government and the defendant's false indictment. Both Judge Philip Kleinfeld and Judge Henry Wenzel requested that the defendant give them a detailed written statement of the actual facts of defendant's defense to the false indictment. They doubted that the defendant had Dr. Milton E. Robbins' original hand written medical bill, which bill stated the identical injuries and doctor treatments as claimed by Mrs. Elizabeth Wirschning to the Allstate Insurance Company representatives and the Allstate Insurance Company doctor as the total injuries and doctor treatments that constituted her personal injury claim which said injuries and doctor treatments were ident-

ical to the injuries and doctor treatments the indictment claimed false. A typewritten detailed statement as to defendant's defense to the false indictment was given to both Judge Philip Kleinfeld and Judge Henry Wenzel as per their request. In addition in further messages to this defendant Judge Henry Wenzel requested that the defendant insert small typewritten statements pointing out each item of evidence the defendant had which the District Attorney did not have, which request the defendant adhered to. The reason Judge Henry Wenzel stated he wanted the small inserted slips was "so that we know what we have to go against". The defendant suspected the obvious ulterior motive of such request by Judge Henry Wenzel. Thereafter several months passed after the defendant gave the rquested detailed statement to the two said judges. Defendant then made motion to Dismiss the Indictment for lack of Persecution. Nearly two years had passed since the perjurous Mr. and Mrs. Wirschning made their original complaints about knowing nothing about everything. Many months had passed by after Dr. Robbins and Fred Wirschning admitted in the District Attorney's office that they and not this defendant were guilty of the crimes charges to the defendant. In addition several months had passed since the defendant had given his statement to Judge Philip Kleinfeld and Judge Henry Wenzel. Nevertheless defendant was required to remember the many detailed facts that disproved the false but easy to remember know nothing simple stories of Mr. and Mrs. Wirschning and Dr. Robbins for this defendant's eventual trial. The trial of this defendant was repeatedly adjourned by the District Attorney. During such adjournments, repeated coercive efforts were made by the District Attorney and the Court to force this defendant into giving up his Constitutional right to defend himself even though this defendant was a practising lawyer. Defendant's repeated demands for a prompt trial which is guaranteed by the United States Constitution and State statutes were repeatedly ignored and the trial court and District Attorney coerced and harassed the defendant in efforts to force

defendant to give up his right to defend himself to the extent that various lawyers were brought into court to harass and embarrass this defendant into approving them as defense attorney. Defendant's Motion to Dismiss the Indictment for Lack of Prosecution was disregarded and denied even after several months of adjournments by the District Attorney. Finally, during November 1958, a month after the said motion, the day after Frank Gulotta, the District Attorney and several of his Ass't District Attorney's were "elected" court judges, then this defendant's trial was commenced, on November 5, 1958.

During the trial it was obvious that the cardinal count of the indictment was the third count, namely, grand larceny in the second degree, allegedly based on the larceny of $400 from Allstate Insurance Company through false pretenses; actually committed by the admitted felonious culprit, Mrs. Elizabeth Wirschning, in collusive conspiracy with her husband Frederick Wirschning and assisted by Dr. Milton E. Robbins. These facts are definitely proven through the many repeated admissions of Mrs. Elizabeth Wirschning during the trial. Some of which admissions even the fraudulently altered trial minutes still contain. Mrs. Elizabeth Wirschning's testimony confirms that this defendant was her legally retained lawyer and that:

> "By Mr. Dec: Q. But you remember we made preparations to have an appointment set up for you to go to an insurance company doctor for an examination as to your injuries that you claimed in the accident; correct?
> By Mrs. Wirschning: A. Yes. You drove us to the doctor's office. It was during the daytime and I couldn't get a baby sitter for my son so we brought him along and my husband took care of him out in the waiting room and you stayed out in the waiting room, also." (77)
>
> "By Mr. Dec: Q. Do you remember on May 24, 1956 going to the insurance company doctor to examine you for your claim of injuries in the accident wherein I was retained?
> By Mrs. Wirschning: A. Yes." (80)
>
> "By Mr. Dec: Q. At that time you told him your injuries and your treatments as they were fresh in your mind; correct?
> By Mrs. Wirschning: A. I believe I did, yes," (80-81)

In the above testimony Mrs. Elizabeth Wirschning admits that she alone stated to the Allstate Insurance Company doctor, Joseph Rosenheck, her injuries and treatments for such injuries by a doctor, which constituted her entire personal injury claim during her private, personal, detailed medical examination on May 24, 1956, which medical examination was undertaken by the Allstate Insurance Company in order to evaluate Mrs. Elizabeth Wirschning's personal injury claim. Mrs. Elizabeth Wirschning testified during her direct examination that her total injuries were: "my right wrist was hurt."(36) and also to the prosecutor's question whether any doctor treated her:

> "Did he treat you for any injury?
> By Mrs. Wirschning: A. No., he just looked at my wrist. (40)

Thereafter Mrs. Wirschning, during cross examination, admitted that this direst testimony of only a hurt right wrist with no doctor treatments was:

> "in direct contradiction of" ... "at the time the insurance company doctor examined you, you (did) tell him that you had bruises of the right thigh and bursitis of the right shoulder" ... "It would be in direct contradiction of what you said today?
> By Mrs. Wirschning: A. That's correct." (81)

Allstate Insurance Company's procedure for evaluating the monetary value of any injury claim is based only upon the typewritten report of Doctor Joseph Rosenheck, of Allstate Insurance Company, who evaluated his medical examination of Mrs. Wirschning's claimed injuries, "bruises of the right thigh and bursitis of her right shoulder, for which she claimed she was treated by a doctor eight (8) times at the doctor's office" in his typewritten report of her medical examination; this report determines what the cash reserve was for Mrs. Wirschning's injury claim. (448) (Dr. Joseph Rosenheck's report is Defendant's Exhibit I in Evidence). Mrs. Wirschning further testifies that she "may have, I probably did have" a copy of Doctor Joseph Rosenheck's report of her medical examination shown to her by defendant during the prosecution of her injury claim in 1956 and that it was correct (79).

After an approximate week long interruption of this defendant's trial, the prosecution's witness, Charles Martino, who because of his many felonious frauds against Allstate Insurance Company was dishonorably removed from his position as an Allstate Insurance Company officer, he, did confirm Mrs. Wirschning's incriminating testimony wherein she made her contradictory injury claims. Charles Martino testified that he undertook all the works in settlement of Mrs. Wirschning's injury claim for the Allstate Insurance Company. He further testified that the Allstate Insurance Company complete up to date of trial file on the Elizabeth Wirschning injury claim, which file included Mrs. Elizabeth Wirschning's signed complaining statements of February 1957, wherein she confirmed her original doctor treated injury claim; was the basis of his testimony (440). Charles Martino then testified that the repeated and confirmed claims of doctor treated injuries stated by Mrs. Wirschning throughout the settlement of her injury claim and during her later complaining statements of 1957, wherein she confirmed her original personally stated doctor treated injuries as, namely, "number one, bursities of the right shoulder; number two, bruises of the right thigh." (456) Further, that these were the total doctor treated injuries claimed by Mrs. Elizabeth Wirschning during her medical examination by the Allstate Insurance Company doctor, Joseph Rosenheck on May 24, 1956. Charles Martino confirmed the fact that Mrs. Wirschning's total injury claim for which she stated she was treated by a doctor was recorded and evaluated in the detailed typewritten report of Dr. Joseph Rosenheck, the Allstate Insurance Company doctor and that Mrs. Wirschning's personally stated and confirmed injuries she claimed were treated by a doctor did duplicate and were identical with her injuries found in Doctor Milton E. Robbins' hand written medical bill to her stating the same treatments of her, (363-364 and Defendant's Exhibit H and I in Evidence) and Mrs. Wirschning stated the identical injuries that are claimed to be false in this defendant's indictment, namely, busities of the right shoulder and

bruises of her right thigh. Charles Martino further testified that in examining the up to date of trial file of the Allstate Insurance Company on the Mrs. Wirschning injury claim (440) he found that Mrs. Wirschning never contradicted her original claims of injuries and that Mrs. Wirschning never made any claim of any wrist injury (459-461).

The prosecution produced Dr. Milton E. Robbins, who admitted that he is a perjurous liar (385), and that he, Dr. Robbins, gave a formal statement to the District Attorney of Nassau County completely based upon falsehoods in reference to the defendant and the issues being tried. (388-389, 392) This perjurer, Dr. Robbins, testified that when he was first called to the Nassau County District Attorney's office, early in July 1957, he, Dr. Robbins, went to the District Attorney's office alone immediately (390) and that he "absolutely" gave his first statement off hand without any consultation with any lawyer, (391) and Dr. Robbins stated in his first statement to the District Attorney "that he had treated Mrs. Wirschning for the injuried claimed" in the indictment (954). Dr. Robbins also testified that after he was notified by the District Attorney's staff about Mrs. Wirschning's complaint, he, Dr. Robbins, called and begged this defendant to come to his medical office in order to recover his hand written medical bill for his teatments of Mrs. Wirschning's injuries and that this defendant informed him that several months earlier his, Dr. Robbins', medical bill was sent to the Allstate Insurance Company for purposes of settling Mrs. Wirschning's injury claim (344-345). Dr. Robbins in further testimony admitted the following:

> "he (Mr. Dec) was angry at Mrs. Wirschning. There was something to do with a separation or other and that he (Mr. Dec) decided to retain some money in this particular case." (345)

Thereafter, during the interim of two weeks, after Dr. Robbins gave the above mentioned original sworn unpremeditated and offhand statement to the District Attorney, Dr. Robbins consulted his brother in law, who is a lawyer, and then for unexplained reasons Dr. Robbins