

ARECO IN THE DECISION OF THE SPECIAL IN COMME 1 the Decides of the Special Is all Officer motions -", . . . The / could indicates that : finingl mass. mening to a dist was not 'perd of on May 25, 4 1907 b - 11 have become a first detiment upon t - of 10 days aft to condition ide is Scalable. Penal Code. personal probables in 11 be record to be a had a completely the latter of the lent, and titution as conditions. o C.1.App.2d 129, 133 145 (45) The second second second from a probation man and the stablished that and the property of the proper and the first percent to the three fact the judgment arosation order In a rootnote directive, Farola v. Kraps, 238 Cal. App.



- 1. The April 27, 1907, Notice of Metion and Motion to Modify Terms of Probation and Sentence, Vacute Finding of Guilt, one Servicy Defendant to Los Angeles County-Javenile Sourt and September of David C. Margas in Support thereof.
- 2. The affidavit of service on the Los Angeles County
- 3. The April 27, 1907, Minute Order of the Superior Court, continuing and proceeding until May 11, 1907.
- 4. The May 18, 1507 Minute Order of the Sugerior Court, referring the patter to Juvenile Court and continuance to May 18, 1507.
- The May 18, 1967, Minute Order or the superior
 Court continuing the matter to May 25, 1967.
- 6. The May 25, 1967, Minute Order of the Superior Court providing that the finding of "Guilty" be vacated and the defendant certified to Juvenile Court.
- 7. Fetition of July 13, 1967, certifying the respondent as a ward of the Juvenile Court.
- 8. Findings and Order of Referee dated July 14, 1967, accepting certification and continuing the matter until July 31, 1967, for disposition.



of respondent and on December 1, 100, proposition summand respondent was placed on probation to the court for the court for the County Jail

court of the Superior Court of Los Angeles County, the declaration of the Juvenile Court of the Indian of the Superior Court of the Angeles County.

Court for further proceedings. County 25, 1507, the finding of the superior Court of the Supe

The matter coming on regularly for hearing on July 14, 1967, before a Reference of the July mile Court who accepted the certification from the Los Angeles County Superior Court of the State of California, was continued for disposition to July 31, 1967.

On January 11, 1 07, an order was issued by the District
Director of the I in ration Department at Los Angeles to 1000 cause
why the respondent should not be deported from the United States, on
the grounds that he had been convicted of the offense of violation
of Section 11030 of the Health and Safety Code of the State of
the Special Inquiry Officer
and on July 11, 1907, the Special

deportation read the United States.



DAVID C. MARGUS Attorney at Lew 11 Pifth Street Los ageles, California 13

Attorner for Res

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This motion is taked whom the errors and conclusion.

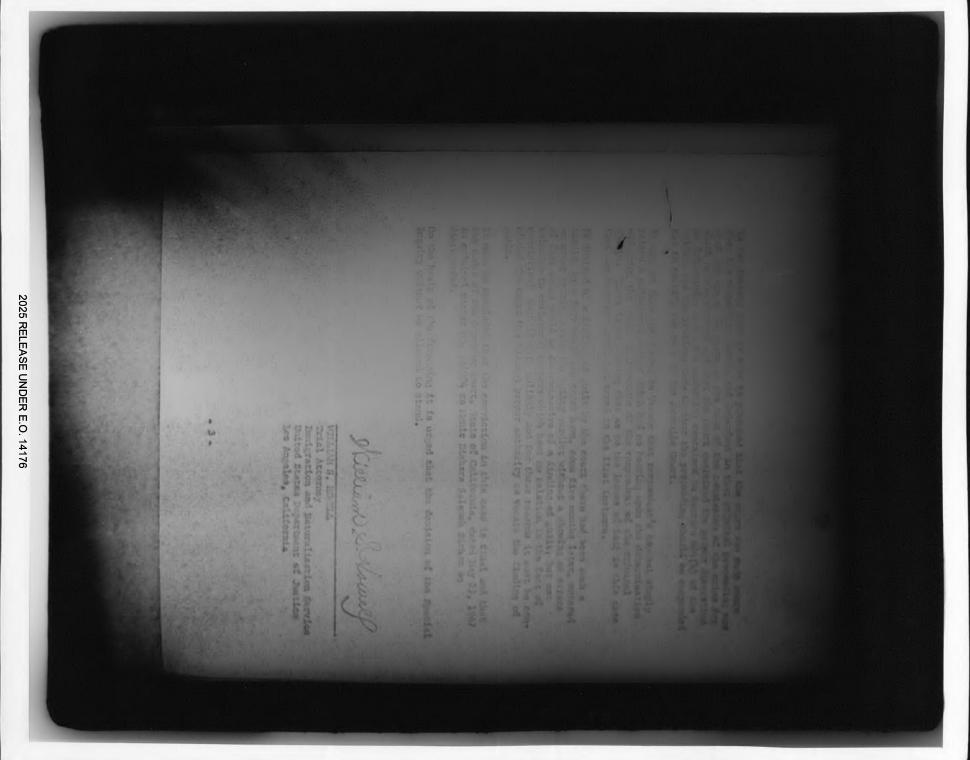
STATES T OF THE CASI

District Attorn Los Angeles Common in the Superior Court of the the Su



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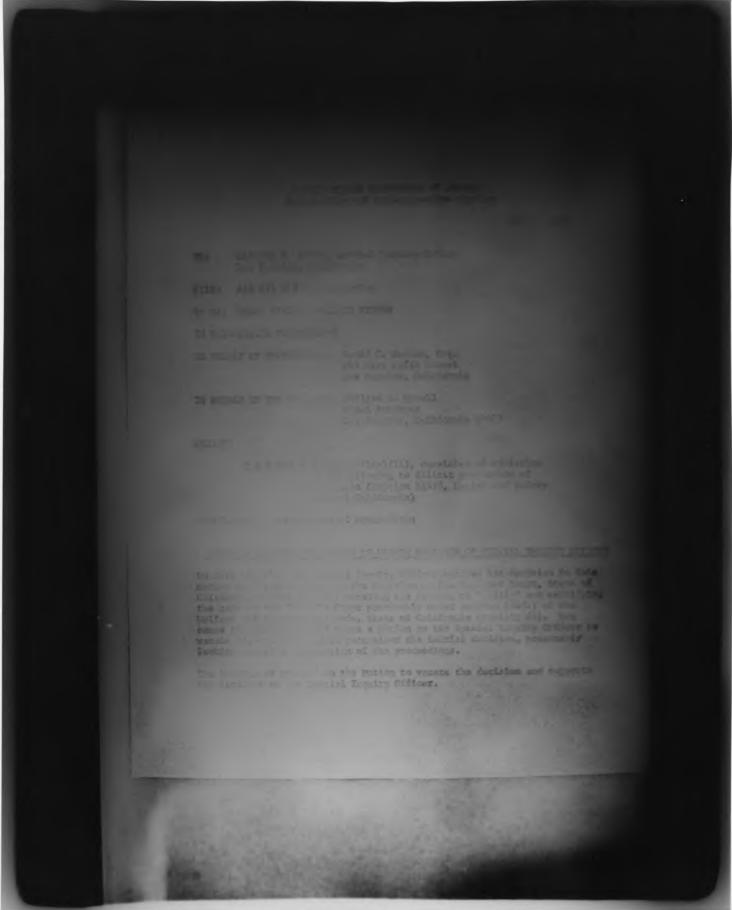
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peither of these cases are in policy to they be not a 1 with probationary sentences where the defendant is to fur the 2 esection of the court. In Stid, Cores Bobis was towned the a 3 sufer land had begun ascended his sentence, attack a more exten-4 NAME OF TAXABLE PARTY OF TAXABLE PARTY. ort; that he was leasn't as the tare The opinion will discless that the and by the court to be "To na merit in defendant's gententi o olde because only a single that and guilty by reason of this live and advice of his attersey as it section that he was ingame the mild not constitute grounds to which were testified under oath not application to the instant Laury buints and cases in support ther of the restance involved a suspended and probation -Pentence. The Friedy of Corem Nobis has been well briefed and are in our second a separated Memorandum to the Hearing Officer. Ho space and that the court was with jurisdiction to vacate the Finding of guilt and to certify the defendant to the Juvenile Com-Respectfully submitted. 31

> DAVID C. MARCUS Attorney for Respondent

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In Estimate, it is consisted beside the point. This, likewise, is not a pricelionary matter and an question is whether the court had authority under the Provisions of all 3 and 1 of the Peral Code in the absence of the defendant to pre-cribe whether a sentence was to run equal cently or consecutively. In raking certain counts upon which the defendant was found guilty to the consecutively the District Court of Appeal held ... That the court and the power to make the modification in the manner it did."

Under Point 2. The trial attorney suggests that the court was without power to set aside the Judgment on motion not made on statutory or court recognized grounds and cites, People vs. Achreson.

34 Cal 2d 459. This case was not a probationary matter in which a sentence was suspended but his authority for the proposition of law that an oral notice of appeal does not comply with hule 31 of Rules On Appeal, though a later written notice of appeal is filed, and the court was without jurisdiction or in the absence of a Motion or showing of facts to support a motion to vacate the Judgment."

In Point 3, he suggests that Coram Nobis lies only to vacate or correct a judgment for errors of fact which if known would have prevented the rendition and entry of the judgment questioned, and cites People vs. Heid, 195 Cal 249, and People vs. HeCoy, 115 Cal App 2d 565.



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APPLICATIONS

Termination of proceedings

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We have consulty examined the Brief In it works. To lot to To Vacate Decision of apecial Inquiry Officer and the same at the lists five proposition of law with cited authority in support of all propositions that the expector Court was without justice that the expector Court was without justice that the proposition is a same desired at a partie of the proposition of the pr

The article propositions decred in the trial attorney's argument are not applicable or appear to the instant proceedings, the authorities which he cite do not support his position. It must resembered that proceedings in the case at bar were suspended after a finding of guilt and the defendant was place on probation. Under his argument, which we shall label Point 1, the trial attorney suggests where the sentence has been pronounced and the defendant has begun Berving the sentence, the court is without jurisdiction to add to or



continue to one of the protection proclade depositions in "proclade and tractions for many or continue of the Bart State State

After careful or reason and upon review of the matic record of these proceeds or an emphasis are forth in respectively possest, matter as weather that, including the addition attached thereto, and of the train and the brief dated August 15, 1967, it is expected that we do not in should be desired and that no clarate about the second of July 11, 1967.

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1967, bear the the decision dated July II, 1967, bear

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Michael F. Leone Special Inquiry Offices

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In the instance of the courts retain authority at any time during the tile of printing to revoke, modify or class, an order of suspension of the court of the large of the large of the faction 1203.3 that jurisdiction of the court to act therewater extends solely to the

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facts are fully set forth in the decision ented a berein - 19 11, 1967, and do not now require repetition.

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4. * Briefly, the reasons for this appeal are:

- 1. The heart' officer erred in bolding that the Superior Court of the following los was without just diction effect a finding of oils of a minor and his writationary order and certified the first to the Juvenile Court of County of John step in a 2 of the Opinion of the Special Inquiry Officer)
- 2. In relite that the stort rust establish his 'innocessed' or produce 'establish his 'innocessed' or produce 'establish in a section 'addressed to the Court that the court did not in fact, commit the crime of which he was considered, which resulted in a miscarriage of justice'. (here to optain a of the openial Inquiry officer).
- 3. The horizontation extend in finding that the motion and appearing and decorate filed in the Superior Court Teams. The appearing to an area of fact which the motion sought to reduce the team of such colely to a discretionary procedural return. The incur of guilt was not raised by the motion and in a factual inter." (Page 2 of the Opinion of the Special Inquiry Officer.)
- 4. The hearing collicer arred in finding that Section 1203.3 limits the jurisdiction of the Court to act thereunder extends solely to reversion, rediffication or change of the terms of the contents intered.
- 5. The hearing efficer arred in holding that "the Superior Court was without jurisdiction to enter its Greek dated Hay 25, 1967 for that coder was not effecting the sentence but court to carrie a court which the court did not then possess, to wit, charact the finding of quilt."
- 6. The hearing officer erced in holding that the respondent is a departable alies under the provisions of Dection 241(a) (11).
- 7. The hearing officer erred in Salling to terminate the proceedings and discharge the respondent.



NSTRUCTIONS

- On motive of appeal made by accompanied by the prescribed bear the appeal forms in the surface of the prescribe proceeding \$55, focus appeal form my tree of \$500 a stage of the made by paid if two or more personal and converse detections, which is more than the first paid if it was a made and the "Intelligible and the stage of the tree of the tree is the "Intelligible and the many made of the tree of the tree is the "Intelligible and the made on the personal contract of the first form in the contract of the first first point and in not returnable regardless of the action.

- In Shard may they and upper and aspectably disclosed proceeding in which (4) are party concerned fields to specify its review, a day of the face, (4) the endy remove specified appear anywhy is find a per face, or one during of the many, or (44) the specified in the process of the content of
- of hypers. The Nesses of Applial, in Engagener, which the required feet and better the public and Nettralization Service policy where the case is also of Applial to ago to be forwarded singlety to the Equat of instignation



696 East Howard St., Pasadona, Calif IMPORTANT: SEE INSTRUCTIONS ON REVERSE SIDE OF THIS NOTICE



Memorandum

10 Williams, Swall, Trial Attorney,

Alo 711 STP NETS

Ion West , coler,

Minjer: Service of notice of appeal, Munic Bishara S. Sirhan.

There is served upon you herewith a copy of Form I-290 A, notice of appeal, filed in the above case by counsel.

You are granted to September 26, 1967 to answer the anneal



DONO WITH AND SATISALIZATION SERVICE

IN REPORTATION PROCEEDING

IN THE MATTER OF:

A- 10 711 679

MINER RESIDEA SALORE STEEM,

TO THE SPECIAL DEQUEY OFFICER:

I waive my right to file a brief in the above-entired proceeding.

Dated at Los Angales, Calif. this Sth day of Hovember 196_4.

Trial Attorney

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UNITED STATES COVERNMENT

Memorandum

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Regional Comissioner, Santhwest Region, San Pedro, Colifornia A10 711 879 DATE November 29, 1967

PREM

George K. Roserter, District Director,

BURJECT:

Hinir Bishara Toleran Mirhan - Request for Oral Ar, mane

Attention: Registral Comment

This can present the court question of whether the Service can ignore a court action which it is believed is outside the jurisdiction of the court but which was intended to set aside a conviction up a which an order of deportation is larged.

The Special Inquiry Officer in this case has supported and upheld the Government's contention that the Superior Court had acted in properly in setting aside a finding of milit and remanding the case to the Juv mile Court.

For the reasons set forth above, it is urged that the set last the Attorney should represent the Service in the appeal before the Board of Immigration Appeals.

Attached is a copy of the record of proceeding for use of the Appellate Trial Attorney.

Attachment



Appendix of the control of the contr

Handr Bishara Selama (irlan, Alo 711 879.

The respondent in accepting, and is requesting oral argument. In

The issue involved is whether the respondent may circumsent Matter of A-F-, 8 12d t.e. h.), by an order of the sentencing court decreased that the large finding is being wheated and defendant continue to the sentencing that the Service by the Special Inquiry Officer adversely to the respondent. The issue is a novel one, and it is requested that the Service be represented a oral argument.

Enclosed is a copy of record of proceeding.

m. F. Fargion

Attachment

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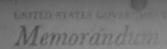


Dere January 29, 1968 ------ Appeals PROM A rink Attorney - al Coursel - al relization Service SUBJECT: ALAM 4 SIRHAN, A10 711 879 Attacked to a "few locatory communication concerning the case of the case of mained alien. ' a copy of the order entered by the Board in the above. It is requested that it be designated for publication as -im decision. It - - d that the Poard expedite the subject case, The in and Naturalization Service desires to be represented t of this case, Please advise date set for oral argument, at thanges thereof. Remarks: Mork Folder Deportal Log

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With respect to the above listed case, the hearing less been colondered for oral argument at 2:00 p.m. on Als S. Dinucare





A. A. Vielluber, appellate Trial Attorneys January It, 1965 Immigration & determination Service

Thos. G. Finnesse, Chairman Board of Ismifration Appeals

Manual Bishara School Sirhan - A-10711879

The above listed case has been recalendared for orol argument at 2:00 p.m. on Tuesday, February 27,