

(1) The members of the family who were refugees from Israel and entered the United States in 1956, when the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(2) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(3) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(4) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(5) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(6) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(7) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(8) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(9) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(10) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(11) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

(12) When the family entered the United States in 1956, and all of his relatives and friends are in the United States. It was to be sent to a foreign country, he would be punished in every practical sense just as though he were a native born citizen of the United States.

Mr. H. Allen Smith, M.C.
January 17, 1957
Page 2

(4) While it is true that there was a mistake, but without detracting from the seriousness of the crime, it should be noted that circumstances of the offense indicated he was being used as a pawn by other persons. Imprisonment of one year in jail is severe enough without adding the exile from the country which is in fact, if not technically, his home.

(5) The Judge who sentenced Mouir must have felt that he had rehabilitated him and that he could become a good member of the community. Otherwise he would not have been granted probation.

Ms. Sirhan would write to you herself, but she is afraid that you might not understand her English well enough to answer her requests and prayers. On behalf of Mrs. Sirhan, I therefore ask you to make this matter one of personal interest and concern.

Yours very truly,

W. J. PERRY

1700

Memo to file

AIO 711877

Atty Koons, no longer
represents alien. David
Marcus, Esq. retained
by family on Saturday,
7/11/67.

Marcus requested
adjournment of Grease
case and attempt to
reduce period of confine-
ment in prison. S. Co.
granted same.

7/14/67 to set

3-8-67 ready to set
case ready for
county jail

J. H. Brown
TRA, LOS

before
Benjamin J. Myron

The attorney
will say
allegation that
he heard that
the conviction
is automatically
changed to a
juvenile

THIS SUBJECT IS SERVING A SENTENCE
OF ONE YEAR
IN THE L.A. County Jail
UNDER THE NAME SIRHAN, MUHAMMAD B. S.
BOOKING NUMBER 465-666
TANK NUMBER MIRA LOMA
DUE FOR RELEASE ON 8-12-67

Advised via STO
w/o date

U. S. DEPARTMENT OF JUSTICE
IMMIGRATION & NATURALIZATION SERVICE
600 N. WILSON AVENUE, SUITE 200
LOS ANGELES, CALIFORNIA 90012

August 10, 1967

ITAJ/SH

David C. Harlow, Esq.
211 West Fifth Street
Los Angeles, California

Re: Amir Bashara Salameh Elwan

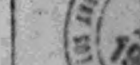
Dear Sir:

Enclosed herewith is a copy of Brief in Response to Motion
to Vacate Decision of Special Inquiry Officer, in the above-
captioned case, wherein you appear as the Attorney of Record.

Sincerely,

R. L. Williams
Acting District Director

Encl
Certified Mail
Return Receipt Requested

POST OFFICE DEPARTMENT OFFICIAL BUSINESS	DONALD H. MONTAGUE LTD. TO ARRIVE REPUBLIC OF GUATEMALA 200
INSTRUCTIONS: Show name and address below and complete instructions on our side, where applicable. Mailing permitted with articles and hold firmly to back of article. Print on front of article RETURN TO OFFICE .	POST OFFICE DELIVERY OFFICE 
NAME OF SENDER	RETURN TO

SIRHAN, MUNIR BISHARA S., DEP.

INSTRUCTIONS TO DELIVERING-EMPLOYEE

Fill in blank and date delivered ☐
Fill in where delivered ☐ ☐

Stamp ONLY ☐ In addition ☐

RECEIPT

Received the number of articles described below:

SIGNATURE OF NAME OF ADDRESSEE (this space may be used as SIGNATURE OF ADDRESSEE'S AGENT, if ANY)

DELIVERY NO. 117007

RECEIVED NO. 117007

DATE WHEN DELIVERED (month & year) 8-21-67

NO. 8-21-67

STEDMAN, Merrit B. S. TRA:JSH

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom and date delivered ☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee
(Additional charges required for these services)

RECEIPT
Received the numbered article described below.

REGISTERED NO. SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

CERTIFIED NO. 116204 Signature of Addressee's Agent, if any

INSURED NO. Name of Addressee

DATE DELIVERED 8-22-67 SHOW WHERE DELIVERED (only if requested)

452-14-71540-9 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE OF THIS SERVICE \$300

POSTAGE BY DELIVERING OFFICE

AUG 3 1967

RETURN TO

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. If no return address is shown, return to back of card. Print on front of article RETURN RELIEF REQUESTED.

NAME OF SENDER _____

U. S. DEPARTMENT OF JUSTICE

STREET AND NO. OR P.O. BOX NUMBER & MAILING SERVICE _____

800 SOUTH LOS ANGELES STREET

POST OFFICE, STATE, AND ZIP CODE _____

LOS ANGELES, CALIFORNIA 90012

PGB Form 3811 Jan 1965

U. S. DEPARTMENT OF JUSTICE
IMMIGRATION & NATURALIZATION SERVICE
400 SOUTH MAIN STREET
LOS ANGELES, CALIFORNIA 90012

August 9, 1967

Dear Mr. Sirhan:

This refers to your letter of January 23, 1967 concerning the certification case of Mr. Sirhan to that our file [redacted] relates.

On July 11, 1967 the Special Inquiry Officer entered his decision finding Mr. Sirhan deportable on the charge contained in the Order to Show Cause, to-wit:

Section 241(a)(1), Immigration and Nationality Act,
as amended, constituted of violation of law relating
to illicit possession of marijuana (Section 11350,
Health & Safety Code, State of California).

It further determined that the respondent is inadmissible for any form of discretionary relief from deportation and ordered his deportation to Jordan.

On July 26, 1967 the Attorney filed a Motion with the Special Inquiry Officer to vacate the decision and for reconsideration of his order, based on certain technicalities involving the interpretation of proceedings in the Superior Court, State of California, relating to the vacating of a final judgment of conviction more than six months after the judgment of conviction was entered, with no intervening Appeal, writ of Error Coram Nobis, or Motion to set aside the judgment. The Special Inquiry Officer has not yet acted upon this Motion.

Mr. Sirhan was released from the County Jail on August 2, 1967, after having completed his period of confinement arising out of the conviction cited above, and was released by this Service under an Order of Release on Recognizance, pending final action in the deportation proceedings. He is required to report to this Service in person each month under the order of recognizance.

Please do not hesitate to call upon me for any further information you desire in this matter.

Sincerely yours,

R. L. Williams
Acting District Director

Honorable H. Allen Smith
House of Representatives
Washington, D. C.

cc: Commissioner, Washington, D. C.
Attn: Congressional Mail Unit

<: Regional Commissioner, SWRO, San Pedro, Calif.

cc: LOS 93/8.33

TRA:WSH:wb

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

OFFICIAL DETAIL

File: [REDACTED]

Date: 8-1-67

TO : Detention Officer: _____

SUBJECT: Order to Escort Alien SIRHAN MUNIR BISHARA SIRHAN

Beginning at _____ A.M.
P.M., on 8-1-67 19____, you are directed
to perform escort duty in the case of the above-named alien as follows:

Pick up at LA GO JAIL

Deliver to MR NAVIES IR MR CARSON FR

Other instructions: LINE UNDER ORDER CE
RECOGNIZANCE

Upon conclusion of this detail, you will complete your report in the spaces
provided below and account for all time which is chargeable to it, returning
this Order to this office immediately.

(Signature of Supervisor)

REPORT: Date: _____

I hereby certify I have complied
with the above Order exactly as
directed. (If not, explain excep-
tions below.)

TIME ACCOUNTING:

EDD FOR THIS DETAIL AT _____ A.M.
P.M.

RETURNED FROM DETAIL AT _____ A.M.
P.M.

Time charged to:

CONVEYANCE, Productive _____ hrs.

CONVEYANCE, Lost Time _____ hrs.

TOTAL HOURS THIS DETAIL _____

(Signature of Escorting Officer)

G-191 (5-16-59)

ORDER TO DETAIN OR RELEASE ALIEN

To: (NAME and TITLE of person in charge of facility)

SHERIFF

Name of Facility

LOS ANGELES COUNTY JAIL

"A"

Other file numbers

Please

☐ Detain

☒ Release

the alien named below.

Name of Alien

SIRHAN, MUNIR BISHARA SALAMEH

Age

20

Sex

MALE

Race

WHITE

Nationality

JORDAN

Nature of Proceeding

DEPORTATION

Remarks

BOOKING #

Signature of Officer directing action

Title

Detention Officer

Station

Los Angeles Jail

The above named alien was

☐ Detained

☐ Released

on (date)

at (time)

(Signature)

(Title)

Form I-203 (Rev. 11-1-63)

UNITED STATES DEPARTMENT OF JUSTICE Immigration and Naturalization Service

UNITED STATES GOVERNMENT

Memorandum

TO : William S. Howell, Trial Attorney
Los Angeles, California

DATE: July 11, 1967

FROM : Special Inquiry Clerk, Special Inquiry Branch
Los Angeles, California

SUBJECT: Service of SIO decision, MENIR BISHARA SALAMEH SIRHAN

There is served upon you herewith a copy of the decision of the Special Inquiry Officer entered in the above case.

You are hereby granted to July 21, 1967 within which to file an appeal.

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

300 NORTH LOS ANGELES STREET
LOS ANGELES, CALIFORNIA 90018

Date July 11, 1967

David C. Marcus, Esq.
215 West 5th Street
Los Angeles, California

File #

NOTICE OF DECISION

Dear Sir:

MATTER OF **MORTER BISHARA SALAMEN SIDMAN**

- ☒ Attached is a copy of the written decision of the Special Inquiry Officer. This decision is final unless an appeal is taken to the Board of Immigration Appeals by returning to this office on or before July 24, 1967 the enclosed copies of Form I-290A, Notice of Appeal, properly executed, together with a fee of twenty-five dollars (\$25.00).
- ☐ Attached is an information copy of the oral decision of the Special Inquiry Officer made on _____.
- ☐ Attached, as requested, is a transcript of the testimony of record, pages to _____ which is being loaned to you on condition that no copy thereof will be made, that it will be retained in your possession and control, and that it will be surrendered upon final disposition of the case or upon demand by the Service.
- ☐ You are advised that on _____ the Special Inquiry Officer entered an order, which is final, granting the application for adjustment of status to that of a permanent resident under Section _____ of the Immigration and Nationality Act. A Form I-151, Alien Registration Receipt Card will be delivered in due course.

Very truly yours,

Special Inquiry Clerk
Special Inquiry Branch

CONTAINED MAIL
EXAMINER REQUESTED

Form I-291
(Rev. 11-17-61)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

MATTER OF

FILE

MIKE BERNARD GARCIA ALBARI

IN DEPORTATION PROCEEDINGS

TRANSCRIPT OF HEARING

Before Special Inquiry Officer Michael F. Lewis

Hearing held at Los Angeles on 1-11-68

Los Angeles County Central Jail
at Los Angeles, California 90013

Recorded by John J. [illegible]

Transcribed by Ida Polak
Clark-Transcriber

Official
Interpreter ---

Language English

IN BEHALF OF SERVICE:

IN BEHALF OF RESPONDENT:

No one

Jerry Conna, Esq.

Trist Avenue

2700 West 3rd Street

Station

Los Angeles, California 90057

I hereby certify that to the best of my knowledge and belief the following pages numbered 1
through 5 are a complete and accurate transcript of the above-described hearing.

[Signature]
Signature

Special Inquiry Officer

Title

JAN 18 1968

1 THE SPECIAL INQUIRY OFFICER TO RESPONDENT:

2 Q Mr. Sirhan, you are informed that this is a hearing to determine
3 whether you are subject to deportation from the United States as charged
4 by the Immigration and Naturalization Service. Do you understand that?

5 A Yes.

6 Q And does Mr. Coons, who is here with you, represent you as your counsel
7 in this matter?

8 A Yes.

9 Q Through Mr. Coons, you will be given a reasonable opportunity to examine
10 and to object to any evidence offered against you, to question any
11 witnesses that may be presented against you, and to present evidence in
12 your own behalf. Do you understand these rights?

13 A Yes.

14 Q Please stand and raise your right hand to be sworn. Do you solemnly
15 swear that the testimony you will give in these proceedings will be the
16 truth, the whole truth and nothing but the truth, so help you God?

17 A I do.

18 Q What is your name, sir?

19 A Mimir Bishara Salameh Sirhan.

20 Q Would you please repeat that for me again?

21 A Mimir Bishara Salameh Sirhan.

22 Q I have before me and I present through your counsel, Mr. Coons, for your
23 inspection an Order to Show Cause and Notice of Hearing in deportation
24 proceedings, dated January 11, 1967, addressed to Mr. Mimir Bishara
25 Salameh Sirhan, and I ask you if you are the respondent so named in this
26 Order?

- 1 -

1/24/67

1 A Yes.

2 THE SPECIAL INQUIRY OFFICER:

3 The said Order is entered in evidence as Exhibit No. 1.

4 THE SPECIAL INQUIRY OFFICER TO MR. COONS:

5 Mr. Coons, does the respondent waive formal reading and explanation
6 of the contents of the Order to Show Cause?

7 MR. COONS:

8 We waive formal reading.

9 THE SPECIAL INQUIRY OFFICER:

10 And how does he plead to the truth of the five allegations of fact as
11 stated in the Order, Mr. Coons?

12 MR. COONS:

13 Taking them one by one, he admits that he is not a citizen or national
14 of the United States.

15 THE SPECIAL INQUIRY OFFICER TO MR. COONS:

16 You may refer to the paragraph by number, sir. In other words, he
17 admits allegation No. 1?

18 MR. COONS:

19 He admits allegation No. (1). He denies allegation No. (2).

20 THE SPECIAL INQUIRY OFFICER:

21 Both parts?

22 MR. COONS:

23 Both parts. He admits allegation No. (3). He denies allegation No. (4),
24 and admits allegation No. (5). With respect to allegation No. (4), he
25 does not deny that he came in in a technical immigrant status. And the
26 point on that is merely that he claims that he came in as a refugee

1 immigrant.

2 THE SPECIAL INQUIRY OFFICER:

3 Very well. And how does the respondent plead to the charge of deporta-
4 bility as contained in the Order to Show Cause? Does he admit or deny
5 deportability as charged?

6 MR. COONS:

7 With regard to the allegation of deportability, the respondent denies
8 deportability.

9 THE SPECIAL INQUIRY OFFICER TO RESPONDENT:

10 Q Mr. Sirhan, in the event that you are finally found to be deportable
11 and ordered deported, to what country do you desire to be sent?

12 A At this time I decline to name any country.

13 Q Of what country are you a citizen?

14 A I have no personal knowledge of what country I am a citizen of, as I
15 don't know what country I will choose or what will be chosen. Of what
16 country I am a citizen, I don't know.

17 Q Mr. Sirhan, I have before me a certified court record of the Superior
18 Court of California for the County of Los Angeles in the matter of
19 The People of the State of California, Plaintiff, v. MUHAMMAD SIBHANA
20 SALAMAH SIRHAN, and I present this through your attorney. And upon the
21 basis of your admission of allegation of fact No. (5), I ask you if this
22 is the record covering that same conviction which you have already ad-
23 mitted. In other words, are you the defendant in this record of pro-
24 ceedings, and does it relate to the conviction stated in allegation of
25 fact No. (5), and I present it through your attorney, Mr. Coons?

26 BY MR. COONS:

- 3 -

1/24/67

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 The respondent is the person named in this court record. This appears
2 to be a true copy of the court record, and it is so stipulated.

3 THE SPECIAL INQUIRY OFFICER TO MR. COONS:

4 Any objection, Mr. Coons, to the receipt in evidence of the said court
5 record?

6 MR. COONS:

7 No objection to the receipt in evidence.

8 THE SPECIAL INQUIRY OFFICER:

9 The said receipt is collectively entered in evidence as Exhibit No. 2.
10 In view of the respondent's denial of the allegations contained in
11 paragraph No. 2 of the Order to Show Cause and his denial of the de-
12 portation charge, it will be necessary to request the appearance of
13 a Trial Attorney in this matter to represent the Immigration and Natural-
14 ization Service. Therefore, the matter will at this time be continued
15 by us without date certain but subject to my further call, and it is
16 suggested that counsel confer with the Government's Trial Attorney as
17 to a date, place, and time that is mutually satisfactory and permitted
18 by my calendar. Is that agreeable, Mr. Coons?

19 MR. COONS:

20 That's agreeable.

21 THE SPECIAL INQUIRY OFFICER:

22 Any evidence desired to be submitted on behalf of the respondent at
23 this time?

24 MR. COONS:

25 Not at this time, but at the further hearing we may submit evidence.

26 THE SPECIAL INQUIRY OFFICER:

- 4 -

1/24/67

1 Very well, then, the hearing in this matter is hereby continued.

2 HEARING ADJOURNED

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1/24/67

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

MATTER OF

FILE

- Los Angeles

DOMER BISHARA SALAMON SIRHAN

IN

DEPORTATION

PROCEEDINGS

Respondent

TRANSCRIPT OF HEARING

Before Special Inquiry Officer Benjamin G. Hyman

CONTINUING

Hearing held on January 18, 1967

Los Angeles County Jail
at Los Angeles, California

Recorded by Gregory Raymond Hoffman

Transcribed by Ida Polak
Clerk-Transcriber

Official

Interpreter

Language English

IN BEHALF OF SERVICE

IN BEHALF OF RESPONDENT

Sam I. Feldman
Lead Attorney

David C. Marcus, Esq.

Los Angeles, California
Station

215 West 5th Street

Los Angeles, California 90013

I hereby certify that to the best of my knowledge and belief the following pages numbered 6
through 8 are a complete and accurate transcript of the above-described hearing.

Signature

Special Inquiry Officer

JAN 22 1968

1 THE SPECIAL INQUIRY OFFICER TO RESPONDENT:

2 Q Mr. Sirhan, you speak and understand English, do you not?

3 A Yes, I do.

4 Q This is a continued hearing in deportation proceedings for the purpose
5 of giving you an opportunity to show cause why you should not be de-
6 ported from the United States. Do you understand?

7 A Yes, I do.

8 Q There is presently with you at this hearing Attorney David C. Marcus.
9 Is it your desire that Mr. Marcus represent you at this proceeding?

10 A Yes.

11 Q Now I note from the file that you were previously represented by
12 Attorney Jerry Coons. Does Mr. Coons still represent you?

13 A No.

14 Q Then Mr. Marcus is representing you now in place of Mr. Coons. Is that
15 correct?

16 A Correct.

17 THE SPECIAL INQUIRY OFFICER TO MR. MARCUS:

18 Very well. Mr. Marcus, as you are aware, you will have a reasonable
19 opportunity to examine and to object to the evidence against the re-
20 spondent, to present evidence in his behalf, and to cross-examine any
21 witnesses that may be presented by the Government. Are you ready to
22 proceed?

23 MR. MARCUS:

24 I am not ready to proceed, sir.

25 THE SPECIAL INQUIRY OFFICER:

26 And why are you not ready to proceed, Mr. Marcus?

1 MR. MARCUS:

2 I was retained on Saturday last. This is my first interview with the
3 respondent. I intend to take certain proceedings in the Superior Court
4 relating to the charges upon which the Order to Show Cause is predicated.
5 I would ask that the matter be placed off calendar at this time until
6 I have completed the proceedings that I intend to take in the Superior
7 Court.

8 THE SPECIAL INQUIRY OFFICER:

9 How long do you anticipate that those proceedings will take, Mr. Marcus?

10 MR. MARCUS:

11 Within the next 30 days.

12 THE SPECIAL INQUIRY OFFICER:

13 Well, I will not take the case off calendar, but I will adjourn it
14 without date and the case will be notified for hearing the next time
15 hearings are held at the County Jail here. I anticipate that that will
16 be a matter of several weeks or possibly a month or more.

17 MR. MARCUS TO THE SPECIAL INQUIRY OFFICER:

18 Sir, may I inquire as to whether or not there is a warrant on this case?
19 Is there a bail set on the warrant?

20 THE SPECIAL INQUIRY OFFICER:

21 Well, Mr. Marcus, that is outside the province of the hearing. You may
22 discuss that with the Trial Attorney after the hearing.

23 THE SPECIAL INQUIRY OFFICER TO MR. FELDMAN:

24 Mr. Feldman, there is nothing you want to present at this time is there?

25 MR. FELDMAN:

26 No, sir.

TRANSCRIPT OF HEARING

1 THE SPECIAL INQUIRY OFFICER:

2 There being nothing further, I will at this time adjourn this hearing
3 without date. The parties will be advised as to the date for the
4 continued hearing.

5 HEARING ADJOURNED

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

MATTER OF

FILE [REDACTED] - Los Angeles

MARIA BERTHA SALAZAR SUTAN

IN DEPORTATION PROCEEDINGS

Respondent

TRANSCRIPT OF HEARING

Before Special Inquiry Officer Michael T. Loebe

CONTINUED
Hearing held on April 11, 1957

Los Angeles County Central Jail
at Los Angeles, California 90012

Recorded by Gray Receptor Machine

Transcribed by Ida Polsky
Clerk-Transcriber

Official
Interpreter ---

Language English

IN BEHALF OF SERVICE:

William S. Howell
Trial Attorney

Los Angeles, California
Station

IN BEHALF OF RESPONDENT:

David C. Marcus, Esq.

213 West 5th Street

Los Angeles, California 90013

I hereby certify that to the best of my knowledge and belief the following pages numbered 8
through 12 are a complete and accurate transcript of the above-described hearing.

[Signature]
Special Inquiry Officer
Title

1 THE SPECIAL INQUIRY OFFICER TO MR. HOWELL:

2 Mr. Howell, are you today appearing as Trial Attorney in this matter
3 in place of Sam I. Feldman?

4 MR. HOWELL:

5 Yes, sir.

6 THE SPECIAL INQUIRY OFFICER:

7 For your information, in pleading to the Order to Show Cause through
8 his/counsel, Jerry Coons, the respondent, on January 24, 1967, ad-
9 mitted the truth of allegations numbered (1), (3) and (5) as stated
10 in the Order to Show Cause; denied both parts of allegation number (2)
11 and number (4); and, as to number (6), admitted that he was admitted
12 at the time, but denied that it was as an immigrant and asserts that
13 it was as a refugee and denied the deportation charge. The respondent
14 testified that he had no personal knowledge as to his citizenship
15 and declined to name a country for deportation; and, for lack of
16 evidence of such citizenship or admission of any citizenship by the
17 respondent, no country was specified by me, as Special Inquiry Officer,
18 at that original hearing. At a continued hearing held on February 14,
19 1967, in my absence from duty, before Special Inquiry Officer
20 Benjamin G. Myron, the hearing of the matter was, upon the request of
21 respondent's present counsel, David C. Marcus, continued for the
22 purpose of affording Mr. Marcus an opportunity to familiarize himself
23 and prepare the respondent's defense.

24 THE SPECIAL INQUIRY OFFICER TO MR. HOWELL:

25 You may proceed, Mr. Howell.

26 MR. HOWELL TO RESPONDENT:

- 9 -
TRANSCRIPT OF HEARING

4/11/67

1 Q For purposes of identification, Mr. Stahan, I show you an immigrant
2 visa and the application that are combined as one here, relating--
3 (interrupted)

4 BY MR. MARCUS:

5 I will stipulate that it relates to him.

6 MR. HOWELL TO THE SPECIAL INQUIRY OFFICER:

7 I have showed this to counsel and he stipulates that this visa re-
8 lates to the respondent herein, and so I offer it in evidence to be
9 marked as an Exhibit next in order.

10 MR. MARCUS:

11 No objection.

12 THE SPECIAL INQUIRY OFFICER:

13 There being no objection, the said immigrant visa together with its
14 application and supporting attached documents is received in evidence
15 as Exhibit No. 3.

16 MR. HOWELL:

17 That completes all the evidence that the Government wishes to submit.
18 There are no questions at this time.

19 MR. MARCUS:

20 At this time on the record I am respectfully requesting a continuance
21 of this matter. I have prepared a motion to the Superior Court of
22 the County of Los Angeles at Pasadena, requesting a vacation of the
23 trial proceedings had in the Superior Court for the purpose of
24 certifying this matter to the Juvenile Court and because of the age
25 of the respondent at the time of the alleged commission of this offense.
26 I have noted the hearing for April 26th, in Department A of the

1 Superior Court before the Honorable Judge Noble. I would ask,
2 therefore, that these proceedings be continued until that date
3 because, in conversations that I have had with the Court and with
4 the District Attorney, it is my impression that the motion will be
5 granted and it will render these proceedings moot.

6 **THE SPECIAL INQUIRY OFFICER:**

7 Before acting upon the motion for continuance I wish to comply with
8 the requirements of the regulations and designate a country for de-
9 portation in the event that the respondent is finally ordered deported.
10 The respondent has, I believe I mentioned before, declined to name
11 a country for deportation at the original hearing held on January 24,
12 1967.

13 **THE SPECIAL INQUIRY OFFICER TO RESPONDENT:**

14 Q Mr. Sirhan, you are informed that if you are finally ordered deported
15 your deportation will be directed to Jordan, the country of nationality
16 shown in the application for your immigrant visa executed by your
17 father before the American Vice Consul at Amman, Jordan, September 22,
18 1956, which is Exhibit 2 in evidence. Do you understand?

19 A Yes, sir.

20 Q Do you claim that you would be subject to persecution in Jordan if
21 deported to that country by reason of your race, your religion, or
22 political opinion?

23 A I wouldn't know what would happen at the time.

24 Q You and your attorney, Mr. Marcus, are informed that if you claim that
25 you would be subject to persecution by reason of your race, religion,
26 or political opinion in Jordan if you are finally ordered deported

1 to that country you will be required to file a written application
2 claiming the benefits of Section 243(h) of the Immigration and Nation-
3 ality Act within ten calendar days following the next hearing.

4 THE SPECIAL INQUIRY OFFICER TO MR. MARCUS:

5 Is that understood and satisfactory, Mr. Marcus?

6 MR. MARCUS:

7 It is, sir.

8 THE SPECIAL INQUIRY OFFICER TO MR. HOWELL:

9 And Mr. Howell?

10 MR. HOWELL:

11 Yes, sir.

12 THE SPECIAL INQUIRY OFFICER:

13 Now, Mr. Howell, do you wish to be heard upon the request for a
14 continuance previously made by Mr. Marcus?

15 MR. HOWELL:

16 I will not object to one more continuance for this purpose.

17 THE SPECIAL INQUIRY OFFICER:

18 The hearing in this matter will be continued without date certain
19 at this time and subject to my further call on some date subsequent
20 to April 26, 1967. Hearing continued.

21 HEARING ADJOURNED

UNITED STATES GOVERNMENT

Memorandum

CO 649-C
DATE: March 28, 1968

TO : Regional Counsel
San Pedro, California

FROM : Irving Appleman
Appellate Trial Attorney

SUBJECT: MUNIR BISHARA SALAMEH SIPHAN. [REDACTED] your SW 3.2 dtd
January 25, 1968

Attached for your information is a copy of the order entered by the Board of Immigration Appeals on March 27, 1968.

Also attached is the following :

☒ Material transmitted with subject memorandum.

☒ Relating correspondence and memoranda.

☐

The record of proceeding has been sent to the Los Angeles office.

Joe

Attachments



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

[REDACTED]

Respondent is a 20-year-old single male alien, a native of Palestine and a citizen of Jordan, who entered the United States at New York on or about January 12, 1957 at which time he was admitted as an immigrant. Respondent denies that he is deportable as charged.

The record establishes through a certified copy of information, Minutes of October 13, 1966 and Minutes of December 1, 1966 that a criminal action was instituted against the respondent by the filing of an information in the Superior Court of the State of California, for the County of Los Angeles in which the respondent was accused of the crime of violation of Section 11530, Health and Safety Code, committed on or about June 10, 1966 for unlawful possession of marijuana (Count 1) and a violation of Section 11531, Health and Safety Code of California committed on the same day, for unlawfully offering to sell, furnish and give away marijuana (Count 2). The Superior Court on October 13, 1966 found respondent guilty as charged on both counts. On December 1, 1966 the Superior Court suspended the proceedings and the respondent was granted probation for five years, a condition of which was that he spend the first year in the county jail (Exhibit 2).

On May 25, 1967 the court entered a "Minute Order" in the aforementioned criminal action which stated as follows: "Finding of 'Guilty' is vacated and defendant is certified to Juvenile (sic) Court. Remanded" (Exhibit 4).

After the Superior Court certified and remanded the case to the Juvenile Court as aforesaid, the Probation Department on July 13, 1967 filed a petition with the Juvenile Court to have respondent adjudged and declared a ward of the court and dealt with as such. On July 14, 1967 the Juvenile Court in a "Findings and Order of Referee" accepted the certification to it of this case and granted the Probation Department's petition to have respondent declared a ward of the Juvenile Court. Neither of these two documents is a part of the record of this case.

UNITED STATES DEPARTMENT OF JUSTICE
Board of Immigration Appeals

Att 1: 100

File: [REDACTED] - Los Angeles

In re: MONIR BISHARA SALAMEN SIRHAN

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: David C. Marcus, Esq.
215 West Fifth Street
Los Angeles, Calif. 90013
(Case scheduled for oral
argument on February 27,
1968 but counsel failed
to appear)

CHARGES:

Order: Section 201(a)(11), INA Act (8 USC 1251
(a)(11)) - Conviction of violation
of law relating to illicit posses-
sion of marijuana in violation of
Section 11530 of the Health and
Safety Code of the State of Cali-
fornia

Lodged: None

APPLICATION: Request for consideration of termination
of proceedings

The case comes forward on appeal from the denial by the
special inquiry officer of respondent's motion to reopen
the proceedings and vacate his decision of July 11, 1967,
under which respondent was found deportable as charged,
denied the privilege of voluntary departure, and was
ordered deported to Jordan.

Section 503 of the Welfare and Institutions Code of the State of California provides:

"An order adjudging a minor to be a ward of the Juvenile Court shall not be deemed a conviction of a crime for any purpose, nor shall a proceeding in the Juvenile Court be deemed a criminal proceeding."

Thus, if the legal position of the respondent is that of a ward of the Juvenile Court pursuant to the aforementioned proceedings he would thus not be amenable to deportation under Section 241(a)(11), Immigration and Nationality Act because under the above quoted Section 503 there could be no conviction for a crime by the Juvenile Court.

The Immigration and Naturalization Service contends that the Superior Court was without authority to enter its Minute Order of May 25, 1967 in which the finding of guilty was vacated and the case certified to the Juvenile Court for further action. It is contended that when the Superior Court found respondent guilty on October 13, 1966, and an appeal was not taken within the time stipulated by law, the verdict of guilty became final and could not be vacated or changed some six months later by the Superior Court simply certifying the case to another court. The Service contends that this being the case respondent is deportable as charged.

After careful consideration of the premises we will reopen the proceedings in order to have introduced into the record the recent proceedings of the Juvenile Court relative to the case certified to it and also to afford the Immigration and Naturalization Service an opportunity to establish that the Superior Court acted without authority when it vacated the finding of guilty and certify the case to the Juvenile Court.

██████████

ORDER: It is ordered that the proceedings be referred to the special inquiry officer for the purposes stated in the foregoing opinion.

Chairman

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

879

Memorandum

TO : R. A. Vielhaber, Appellate Trial Attorney: January 31, 1968
Immigration & Naturalization Service

FROM : Thos. G. Finucane, Chairman
Board of Immigration Appeals

SUBJECT: Munir Bishara Salameh Sirhan - [REDACTED]

The above listed case has been recalendared for
oral argument at 2:00 p.m. on Tuesday, February 27,
1968.

Thos. G. Finucane

FTA

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : R. A. Vielhaber, Appellate Trial Attorney: January 30, 1968
Immigration & Naturalization Service

FROM : Theo. G. Finucane, Chairman
Board of Immigration Appeals

SUBJECT: Munir Bishara Selamoh Sirhan - [REDACTED]

With respect to the above listed case, the hearing has been calendared for oral argument at 2:00 p.m. on Tuesday, February 20, 1968.

Theo. G. Finucane

879

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

Date January 29, 1968

TO : Chairman
Board of Immigration Appeals

FROM : Appellate Trial Attorney
Office of General Counsel
Immigration and Naturalization Service

SUBJECT: MUHIR EL HARA SALAMEH SIRHAN, [REDACTED]

- ☐ Attached is a self-explanatory communication concerning the case of the above-named alien.
- ☐ Attached is a copy of the order entered by the Board in the above-mentioned case. It is requested that it be designated for publication as an interim decision.
- ☐ It is requested that the Board expedite the subject case.
- ☐ The Immigration and Naturalization Service desires to be represented at oral argument of this case. Please advise date set for oral argument, and any subsequent changes thereof.

Remarks:

Handwritten signature/initials

- ☒ File
- ☒ Work Folder
- ☐ Special Log
- ☐ General Log
- ☐ _____
- ☐ _____

UNITED STATES GOVERNMENT

Memorandum

TO : General Counsel
Attention: Appellate Trial Attorneys
Board of Immigration Appeals
323 HOLC Building, Washington, D. C.

FROM : M. F. Fargione, Deputy Regional Commissioner
Southwest Region

SUBJECT: Munir Bisham Salameh Sirhan, [REDACTED]

SN 3.2
DATE: January 25, 1968

The respondent is appealing, and is requesting oral argument. He was found deportable under Section 241(a)(11).

The issue involved is whether the respondent may circumvent Matter of A- F-, 6 I&M Dec. 429, by an order of the sentencing court declaring that the "guilty" finding is being vacated and defendant certified to the Juvenile Court. The issue was resolved by the Special Inquiry Officer adversely to the respondent. The issue is a novel one, and it is requested that the Service be represented at oral argument.

Enclosed is a copy of record of proceeding.

M. F. Fargione

Attachment

file 1/29

*Report CA
RAV*

68-29-68

UNITED STATES GOVERNMENT

Memorandum

TO: Regional Commissioner, Southwest Region,
San Pedro, California

FROM: *SKH* George K. Rosenberg, District Director,
Los Angeles, California

SUBJECT: Munir Bishara Salameh Sirhan - Request for Oral Argument

Attention: Regional Counsel

DATE: November 29, 1967

This case presents the novel 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 upon which an order of deportation is based.

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

For the reasons set forth above, it is urged that the Appellate Trial 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

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

IN DEPORTATION PROCEEDINGS

IN THE MATTER OF:

MINIR BISHARA SALAMER NEMAN,

Respondent

TO THE SPECIAL INQUIRY OFFICER:

I waive my right to file a brief in ^{answer to Appeal} the above-entitled
proceeding.

Dated at Los Angeles, Calif. this 8th day of November 1967.

Trial Attorney

UNITED STATES GOVERNMENT

Memorandum

TO : William S. Eckert, Trial Attorney,
Los Angeles, Calif.

DATE: September 21, 1967

SEN

Wick
FROM : Special Inquiry Clerk,
Los Angeles, Calif.

SUBJECT: Service of notice of appeal, Munir 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 appeal.

File No. A 10 711 879 810

RECEIVED
SPECIAL INVESTIGATION
FEB 20 1960
LOS ANGELES, CALIF

SEP 20 1957

CAFD

1. I hereby appeal to the Board of Immigration Appeals from the decision, dated September 7, 1967,
in the above entitled case.
2. I _____, being a writer or of a written statement with the above

3. I _____ before the Board of Immigration Appeals
in Washington, D.C.
4. Finally, state reasons for this appeal.
(See attached page)

HEER B. GILMAN

Signature of Appellant (or attorney or representative)

Munir B. Arkan
(Print or type name)

September 16, 1967

Date _____

696 East Howard St., Pasadena, Calif.

Address (Number, Street, City, State, Zip Code)

IMPORTANT:

SEE INSTRUCTIONS ON REVERSE SIDE OF THIS NOTICE

INSTRUCTIONS

1. Fees. This notice of appeal must be accompanied by the prescribed fees for appeal from a decision in an exclusion or deportation proceeding \$25; for an appeal from any other decision \$10. (Only a single fee need be paid if two or more parties are covered by a single decision.) A cash money order or check, payable to the "Immigration and Naturalization Service, Department of Justice," Do NOT send cash. If this form is filed in Guam, make remittance payable to the "Insular Government, Guam;" if filed in the Virgin Islands, make remittance payable to "Commissioner of Finance of the Virgin Islands." The fee is required for filing the appeal and is not refundable regardless of the action taken thereon.
2. Counsel. In prosecuting and prosecuting this appeal the appellant may, if he desires, be represented at no expense to the Government by counsel or other duly authorized representatives.
3. Briefs. A brief in support of or in opposition to an appeal is not required, but if a brief is filed it shall be in triplicate and submitted to the office of the Immigration and Naturalization Service having administrative jurisdiction over the case within the time fixed for the appeal or within any other additional period designated by the appeal inquiry officer or other service officer who made the decision. Such officer, or the Board for Good Cause, may extend the time for filing a brief or reply brief. The Board in its discretion may utilize the filing of briefs directly which it, in which event the opposing party shall be allowed a specified time to respond.
4. Oral argument. Oral argument in any case should not extend beyond fifteen (15) minutes, unless arrangements for additional time are made with the Board in advance of the hearing.
5. An appellant will not be released from detention or permitted to enter the United States to present oral argument to the Board but may make arrangements to have someone represent him before the Board, and unless such arrangements are made at the time the appeal is taken, the Board will not consider the case for argument.
6. Summary dismissal of appeals. The Board may deny oral argument and summarily dismiss any appeal in any deportation proceeding in which (i) the party concerned fails to specify the reason for his appeal on the reverse side of this form, (ii) the only reason specified by the party concerned for his appeal involves a finding of fact or application of law which was conceded by him at the hearing, or (iii) the appeal is from an order that grants the party concerned the relief which he requested.
7. Filing of Notice of Appeal. The Notice of Appeal is triplicate, with the required fee, must be submitted to the Immigration and Naturalization Service office where the case is pending. The Notice of Appeal is not to be forwarded directly to the Board of Immigration Appeals.

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

1. The hearing officer erred in holding that the Superior Court of the County of Los Angeles was without jurisdiction to effect a finding of guilt of a minor and his probationary order and certifying the minor to the Juvenile Court of the County of Los Angeles (Page 2 of the Opinion of the Special Inquiry Officer)

2. In holding that the minor must establish his "innocence" or produce "evidence" in support of the motion "addressed to the Court that the defendant did not in fact, commit the crime of which he was convicted, which resulted in a miscarriage of justice". (Page 2 of Opinion of the Special Inquiry Officer).

3. The hearing officer erred in finding that the motion and supporting records and documents filed in the Superior Court "cannot therefore be assimilated to a Writ of Coram Nobis for it was not addressed to an area of fact which the motion sought to redress but was addressed solely to a discretionary procedural matter. The issue of guilt was not raised by the motion and is a factual matter." (Page 2 of the Opinion of the Special Inquiry Officer.)

4. The hearing officer erred in finding that Section 1203.3 limits the jurisdiction of the Court to act thereunder extends solely to revocation, modification or change of the terms of the sentence imposed.

5. The hearing officer erred in holding that "the Superior Court was without jurisdiction to enter its Order dated May 25, 1967 for that order was not effecting the sentence but sought to exert a power which the court did not then possess, to wit, change the finding of guilt."

6. The hearing officer erred in holding that the respondent is a deportable alien under the provisions of Section 241(a)(11).

7. The hearing officer erred in failing to terminate the proceedings and discharge the respondent.

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

SEP - 7 1967

File: [REDACTED] - Los Angeles

In The Matter Of)
MIRIR BISHARA SALAMEH BISHAM,) IN DEPORTATION PROCEEDINGS
Respondent)

CHARGE:

18A Act - Section 241(a)(1), convicted of viola-
tion of law relating to illicit posses-
sion of marijuana (Section 11330, Health
and Safety Code of California)

APPLICATION: Motion by respondent to vacate decision dated
July 11, 1967

ON BEHALF OF RESPONDENT:

David G. Marcus
Attorney at Law
215 West 5th Street
Los Angeles, California 90013

ON BEHALF OF SERVICE:

William S. Howell
Trial Attorney
Los Angeles, California 90013

DECISION OF THE SPECIAL INQUIRY OFFICER

UPON RECONSIDERATION

The facts of this case are fully set forth in the decision en-
tered herein on July 11, 1967, and do not now require repetition.
Respondent now asks, by his motion dated July 24, 1967, to have
the aforementioned decision vacated and set aside and the finding
of deportability therein reconsidered, presumably for examination
of those proceedings. In support of the present motion, the re-
spondent has submitted copies of the moving papers filed with
the Superior Court in support of the Minute Order of that Court

dated May 23, 1967 (Exhibit 4) in which the court stated that the finding of "guilty" in the criminal proceedings was vacated and the defendant (respondent) was certified to the Juvenile Court.

In his present motion, respondent's counsel states that his declaration in support of the motion to vacate and the motion itself are in the nature of a writ of coram nobis. Close study of the declaration dated April 17, 1967 in support of the motion to modify terms of probation and sentence, vacate finding of guilt, and certify the defendant (respondent) to the Juvenile Court discloses that nowhere therein is there any assertion of the innocence of the defendant, nor is there any other evidence attached to the motion addressed to the court that the defendant did not in fact commit the crime of which he was convicted which resulted in a miscarriage of justice. The said motion in the criminal proceedings cannot therefore be assimilated to a writ of coram nobis for it was not addressed to an error of fact, which the motion sought to redress, but was addressed solely to a discretionary procedural matter. The issue of guilt was not raised by the motion as a factual matter.

In the instant motion, respondent's counsel correctly points out (top, page 7) that California courts retain authority at any time during the time of probation to revoke, modify or change an order of suspension of imposition or execution of sentence (Calif. Penal Code, Section 1203.3). It is clear from the language of Section 1203.3 that jurisdiction of the court to act thereunder extends solely to the revocation, modification or change of the terms of the sentence imposed.

and not the finding of guilt.

The Order to Show Cause herein was issued on January 11, 1967 upon the basis of respondent's conviction on October 13, 1966 in the Superior Court. The motion to the Superior Court for withdrawal of the finding of guilt and modification of the terms of probation and sentence and certification to the Juvenile Court was prepared on April 17, 1967. The Superior Court acted upon the said motion on May 23, 1967, as aforementioned (Exhibit 4). Respondent's present motion attaches a copy of a petition executed on July 13, 1967 by the probation officer and order dated July 16, 1967 of the Referee of Juvenile Court seeking to establish the pendency of an action in the latter, that is, Juvenile Court. The said petition and order add nothing to the Superior Court's Minute Order dated May 23, 1967 (Exhibit 4) in fact, the said Minute Order was invalid for lack of jurisdiction of the Superior Court to reconsider and set aside the finding of guilty entered on October 13, 1966 (Exhibit 2). It is concluded that the Superior Court was without jurisdiction to enter its order dated May 23, 1967 for that order was not affecting the sentence but sought to exert a power which the court did not then possess, to wit, change the finding of guilt.

Upon its finding of "guilty" on October 13, 1966, the Superior Court on December 1, 1966, ordered that the proceedings be suspended and that respondent was granted probation for five years, a condition of which was that he spend the first year in the county jail. It is noted both administratively and judicially that the judg-

ment of a California court, after a finding of guilt, that the proceedings be suspended and probation granted, constituted a "conviction" within the meaning of Section 241(a)(11) of the Immigration and Nationality Act. Letter of A. F., 6 MAY Dec. 429, Attorney General, 1959; Arrellano-Viora vs Rosenberg, 9 Cir. 1958, 263 F. 2d 667, cert. denied 363 U. S. 821, 1960).

After careful consideration and upon review of the entire record of those proceedings and the matters set forth in respondent's present motion to vacate decision, including the exhibits attached thereto, and of the Trial Attorney's brief dated August 18, 1967, it is concluded that respondent's motion should be denied and that no change should be made in the decision heretofore entered on July 11, 1967.

ORDER: IT IS ORDERED that the respondent's motion dated July 24, 1967 to vacate and set aside the decision dated July 11, 1967, be, and the same is hereby, denied.

Michael F. Lorne

Michael F. Lorne
Special Inquiry Officer

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

TO: Michael F. Leone, Special Inquiry Officer
Los Angeles, California

FILE: [REDACTED] - Los Angeles

In re: Munir Bishara Salameh Sirhan

IN DEPORTATION PROCEEDINGS

IN BEHALF OF RESPONDENT: David C. Marcus, Esq.
215 West Fifth Street
Los Angeles, California

IN BEHALF OF THE SERVICE: William S. Howell
Trial Attorney
Los Angeles, California 90012

CHARGE:

I & N Act - Section 241(a)(11), convicted of
violation of law relating to illicit possession
of marijuana (Section 11350, Health and Safety
Code of California)

APPLICATION: Termination of proceedings

We have carefully examined the Brief In Response To Motion To Vacate Decision of Special Inquiry Officer and the argument which lists five propositions of law with cited authority in support of his proposition that the Superior Court was without jurisdiction to vacate the defendant's plea of guilty and certify the proceedings to the Juvenile Court.

The general propositions quoted in the trial attorney's argument are not applicable or apropos to the instant proceedings, and the authorities which he cite do not support his position. It must be remembered that proceedings in the case at bar were suspended after a finding of guilt and the defendant was placed 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 serving the sentence, the court is without jurisdiction to add to or

1 in any manner modify the sentence originally pronounced and cited,
2 People vs. McAllister, 15 Cal 2d 519, and People vs. Reisinger, 116
3 Cal App. 2d 332. Neither of these cases are in point. In McAllister
4 the defendant was convicted of a felony and the court imposed a fine
5 payable in monthly installments. Later in the day the court, in the
6 presence of the defendant and his attorney provided that in the event
7 the installment payments were not paid, defendant was to be confined
8 in the County Jail. The Supreme Court held that the modified sentence
9 was proper. It is to be noted that this was not a probationary sent-
10 ence and the change was proper and effected on the same day the origin-
11 al fine was imposed.

12 In Reisinger, it is completely beside the point. This,
13 likewise, is not a probationary matter and the question is whether
14 the court had authority under the Provisions of §1193 Sub 1 of the
15 Penal Code in the absence of the defendant to prescribe whether a
16 sentence was to run concurrently or consecutively. In making certain
17 counts upon which the defendant was found guilty to run consecutively
18 the District Court of Appeal held ... "That the court had the power to
19 make the modification in the manner it did."

20 Under Point 2, the trial attorney suggests that the court
21 was without power to set aside the Judgment on motion not made on
22 statutory or court recognized grounds and cited, People vs. Behrman,
23 34 Cal 2d 459. This case was not a probationary matter in which a
24 sentence was suspended but his authority for the proposition of law
25 that an oral notice of appeal does not comply with Rule 31 of Rules
26 On Appeal, though a later written notice of appeal is filed, and the
27 court was without jurisdiction or in the absence of a "Motion or
28 showing of facts to support a motion to vacate the Judgment."

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

1 Neither of these cases are in point as they do not deal
2 with probationary sentences where the defendant is under the jurisdic-
3 tion of the court. In Reid, Coram Nobis was invoked long after
4 defendant had begun serving his sentence, after a conviction on a
5 charge of murder. After imposition of the death penalty the court
6 held that the matters sought to be raised in Coram Nobis could not
7 have been raised by appeal or on motion for a new trial, and that the
8 denial of the Writ was proper. This was no probationary matter.

9 In Reid vs. McCoy, the defendant in this case filed a
10 motion to vacate the judgment committing him by reason of insanity to
11 the Mendocino State Hospital on several grounds, after trial and he
12 was found guilty by the court; that he was insane at the time of the
13 commitment of the offense.

14 An examination of the opinion will disclose that the grounds
15 of the motion, as determined by the court to be "In the nature
16 of a Coram Nobis, there was no merit in defendant's contention that
17 the judgment is to be set aside because only a single trial was had
18 on his plea of not guilty and not guilty by reason of insanity; and
19 that this testimony given on the advice of his attorney may have
20 influenced the court's determination that he was insane; and although
21 the doctors were unverified did not constitute grounds to vacate the
22 judgment, and that no doctor testified under oath at the trial was
23 in error. This case has no application to the instant matter.

24 The remaining points and cases in support thereof are like-
25 wise without merit as none involved a suspended and probationary
26 sentence. The remedy of Coram Nobis has been well briefed and argued
27 in our previously supplied Memorandum to the Hearing Officer. We
28 again reiterate that the court was with jurisdiction to vacate the
29 finding of guilt and to certify the defendant to the Juvenile Court.

30 Respectfully submitted.

31
32 DAVID C. MARCUS
Attorney for Respondent