

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

AUG 13 1967

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

FILE: A10 711 672 - Los Angeles

In re: MENIR BISHARA SALIM 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(c)(11), convicted of violation
of law relating to illicit possession of
explosives (Section 11530, Health and Safety
Code of California)

APPLICABLE Regulations of proceedings

PROCEEDINGS TO MOTION TO VACATE DECISION OF SPECIAL INQUIRY OFFICER

On July 11, 1967 the Special Inquiry Officer entered his decision in this matter in which he rejected the decision of the Superior Court, State of California on May 23, 1967 vacating the finding of "guilty" and certifying the case to the Appellate Court presumably under Section 604(b) of the Welfare and Institutions Code, State of California (Exhibit #4). Now comes the respondent and makes a Motion to the Special Inquiry Officer to vacate his decision and to reconsider the initial decision, presumably looking toward a termination of the proceedings.

The Service is opposed to the Motion to vacate the decision and supports the findings of the Special Inquiry Officer.

ISSUE

Did the Special Inquiry Officer err in his finding that the order of the Superior Court setting aside the judgment of "guilty" be vacated and the defendant committed to Juvenile Court (Case No. 114924, Superior Court, State of California)?

ANSWER

The law in California is that where sentence has been lawfully pronounced and the defendant has begun serving the sentence or has been restricted by reasons thereof the Court is without jurisdiction to vacate, set aside, or in any manner modify the sentence originally pronounced.

It is also a general rule in California that the Court is without power to set aside the judgment of a Justice to Vacate not made on statutory or court-recognized grounds.

Counsel for the defendant is attempting to argue that in effect the exercise of Coram Nobis has been exercised in this matter and that the Court, therefore, possessed with jurisdiction to make such an order vacating the judgment. Assuming for the sake of argument that the counsel's proof that a finding of facts is tantamount to a petition for Coram Nobis is correct, it is not established that Coram Nobis lies only to vacate or correct a judgment not entered on a fact which as known would have prevented the rendition and entry of the judgment questioned.^{1/}

Coram Nobis is available merely to declare as false a fact previously determined to be true.^{2/}

The remedy of Coram Nobis does not lie to enable the court to correct errors of law, allegedly made at the trial,^{3/} or to redress irregularities at the trial that could have been corrected on motion for a new trial or by appeal.^{4/}

1/ People vs McAllister, 15 Cal 2d 519, 102 P 2d 1172; People vs Baumringer, 115 Cal App. 2d 137, 253 P 2d 758

2/ People vs Behrman, 34 Cal 2d 459

3/ People vs Reid, 193 Cal 249, 232 P 457, and People vs McCoy, 115 Cal App. 2d 365, 252 P 2d 371

4/ In re Dyer, 85 Cal App. 2d 394, 193 P 2d 69

5/ People vs Dale, 239 Cal App. 2d 634, and People vs Miller, 219 Cal App. 2d 124

6/ People vs Gatewood, 162 Cal App. 2d 724, 6 Cal Rptr. 447

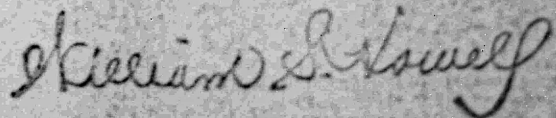
In the instant case it must be presumed that the court was made aware that the respondent herein and defendant in that criminal proceeding was over the age of 18 years at the time of the commission of the crime for which he was charged and that the court exercised its proper discretion in determining under its authority contained in Section 60A(2) of the Welfare and Institutions Code whether the proceeding should be suspended and to certify the case to the Juvenile Court.

It appears from the Motion to Vacate that respondent's counsel simply raised a collateral matter which had no bearing upon the determination affecting the guilt or innocence of the respondent of the criminal charge. There is no showing that as to the issues of fact in this case that the Superior Court had erred in the first instance.

If instead of a finding of guilt by the court there had been such a finding by a jury would the court have, some five months later, entered an order setting aside the guilty verdict without a showing of errors of fact which would be determinative of a finding of guilt, but not relating to collateral matters which have no relation to the fact of conviction? Such is very unlikely and for these reasons it must be concluded the court was without proper authority to vacate the finding of guilt.

It must be concluded that the conviction in this case is final and that the order of the Superior Court, State of California, dated May 23, 1967 in criminal matter No. 324934 re Muir Bishara Salameh Biram be disregarded.

On the basis of the foregoing it is urged that the decision of the Special Inquiry Officer be allowed to stand.



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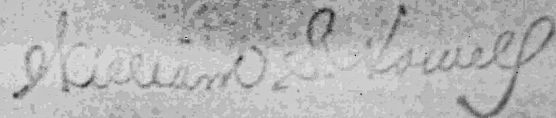
In the instant case it must be presumed that the court was made aware that the respondent herein and defendant in that criminal proceeding was over the age of 18 years at the time of the commission of the crime for which he was charged and that the court exercised its proper discretion in determining under its authority contained in Section 604(b) of the California and Naturalization Code whether the proceeding should be suspended and transferred to the superior court in San Diego.

It appears from the order to vacate that respondent's counsel simply selected a different issue upon which to base its hearing upon the determination affecting the guilt or innocence of the respondent of the criminal charge. There is no showing that as to the issues of fact in this case that the Superior Court had erred in its first instance.

If instead of a finding of guilt by the court there had been such a finding by a jury would the court have, some five months later, entered an order setting aside the guilty verdict without a showing of errors of fact which would be determinative of a finding of guilt, but not relating to collateral matters which have no relation to the fact of conviction? Such is very unlikely and for these reasons it must be concluded the court was without proper authority to vacate the finding of guilt.

It must be concluded that the conviction in this case is final and that the order of the Superior Court, State of California, dated May 23, 1967 in criminal matter No. 224954 to Mark Richard Salama Sirhan be disregarded.

On the basis of the foregoing it is urged that the decision of the Special Inquiry Officer be allowed to stand.

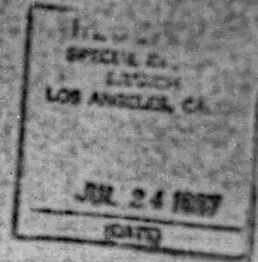


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2 Attorney at Law
3 215 West Fifth Street
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5 Telephones: 628-4788

6 Attorney for Respondent



7
8 BEFORE THE IMMIGRATION AND NATURALIZATION SERVICE

9 UNITED STATES DEPARTMENT OF JUSTICE

10 File: A 10 711 879 - Los Angeles

11 In the Matter of

12 MUNIR BISHARA SALAMEH SIRHAN,

13 Respondent

14 IN DEPORTATION PROCEEDINGS

15 } MOTION TO VACATE DECISION
16 } OF SPECIAL INQUIRY OFFICER
17 } AND FOR RECONSIDERATION

18 COMES NOW the respondent, MUNIR BISHARA SALAMEH SIRHAN,
19 in the above entitled proceedings and does hereby respectfully move
20 the Special Inquiry Officer to vacate and set aside his decision
21 dated July 11, 1967.

22 This motion is based upon the errors and conclusions of
23 law appearing on the face of the decision.

24 STATEMENT OF THE CASE

25 Respondent was charged in an information filed by the
26 District Attorney of Los Angeles County in the Superior Court of
27 Los Angeles for the State of California, of a violation in Count I
28 of Section 11530 of the Health and Safety Code of the State of
29 California (unlawful possession of marijuana) and in Count II of a
30 violation of Section 11531 of the Health and Safety Code of the State
31 of California (possession of marijuana for sale, transfer or gift of
32 quantity of 1/2 ounce or more, but less than 2 ounces, of any
33 quality of marijuana). An application for protective writs was filed on behalf
34 of respondent. An application for protective writs was filed on behalf

1 of respondent and on December 1, 1966, proceedings were suspended
2 and respondent was placed on probation to the court for a period of
3 five years, one condition being that he spend the first year in
4 the County Jail.

5 On July 13, 1967, respondent, through counsel, filed a
6 motion with the Superior Court of Los Angeles County, supported by
7 the declaration of his attorney, to vacate the finding of guilt and
8 to remand respondent to the Juvenile Court of the Los Angeles Superior
9 Court for further proceedings. On May 25, 1967, the finding of
10 guilt was vacated and the respondent was certified to the Juvenile
11 Court of the Superior Court of Los Angeles County. On July 13, 1967,
12 a petition was filed in the Juvenile Court of the Superior Court of
13 Los Angeles County by the Probation Department of the Superior Court,
14 alleging that Munir Sirhan, a minor of the age of nineteen years,
15 came within the provisions of Section 602 of the Welfare and Insti-
16 tutions Code for the violation of Sections 11530 and 11531 of the
17 Health and Safety Code of the State of California, praying that he
18 be adjudged and declared a ward of the Juvenile Court and dealt with
19 as such.

20 The matter coming on regularly for hearing on July 14,
21 1967, before a Referee of the Juvenile Court who accepted the
22 certification from the Los Angeles County Superior Court of the
23 State of California, was continued for disposition to July 31, 1967.

24 On January 11, 1967, an order was issued by the District
25 Director of the Immigration Department at Los Angeles to show cause
26 why the respondent should not be deported from the United States, on
27 the grounds that he had been convicted of the offense of violation
28 of Section 11530 of the Health and Safety Code of the State of
29 California. A hearing was conducted before Special Inquiry Officer
30 Michael F. Lewis on June 6, 1967, and on July 11, 1967, the Special
31 Inquiry Officer rendered his decision ordering the respondent's
32 deportation from the United States.

1 At the hearing before the Immigration Service, a certified
2 copy of the Order of the Superior Court of Los Angeles County,
3 dated May 25, 1967, vacating the finding of guilt of said court and
4 certifying the respondent to the Juvenile Court was received in
5 evidence. No other documents were filed on respondent's behalf.
6 The respondent does herewith attach to this motion the following
7 certified copies of the record of the Superior Court of the County
8 of Los Angeles and of the Juvenile Court thereof, to supplement
9 the Immigration record on behalf of the respondent:

10 1. The April 27, 1967, Notice of Motion and Motion
11 to Modify Terms of Probation and Sentence, Vacate Finding
12 of Guilt, and Certify Defendant to Los Angeles County
13 Juvenile Court and Declaration of David C. Marcus in
14 Support thereof.

15 2. The affidavit of service on the Los Angeles County
16 District Attorney.

17 3. The April 27, 1967, Minute Order of the Superior
18 Court, continuing said proceeding until May 11, 1967.

19 4. The May 12, 1967 Minute Order of the Superior Court,
20 referring the matter to Juvenile Court and continuance
21 to May 18, 1967.

22 5. The May 18, 1967, Minute Order of the Superior
23 Court continuing the matter to May 25, 1967.

24 6. The May 25, 1967, Minute Order of the Superior Court
25 providing that the finding of "Guilty" be vacated and the
26 defendant certified to Juvenile Court.

27 7. Petition of July 13, 1967, certifying the respondent
28 as a ward of the Juvenile Court.

29 8. Findings and Order of Referee dated July 14, 1967,
30 accepting certification and continuing the matter until
31 July 31, 1967, for disposition.
32

1 **ERRORS IN THE DECISION OF THE SPECIAL INQUIRY OFFICER**

2 The Decision of the Special Inquiry Officer recites:
3 ". . . . The record indicates that the criminal case
4 against the respondent was not 'pending' on May 25,
5 1967 but appears to have become a final judgment
6 upon the expiration of 10 days after the rendition
7 of the judgment, aforementioned, on October 13, 1966
8 without notice of appeal having been filed therein,
9 as provided by Rule 31, Judicial Council (California
10 Penal Code, Section 1247A)."

11 The order suspending the proceedings and requiring the
12 condition of one year's penal servitude is available. Penal Code,
13 Section 1237, provides,

14 "An appeal may be taken by the defendant: 1.
15 From a final judgment of conviction . . . a sentence
16 or Order granting probation shall be deemed to be a
17 final judgment within the meaning of this Section"
18 (Emphasis added.)

19 Pursuant to the foregoing penal provision, the court,
20 in People v. Goldstark, 50 Cal. App. 2d 778, 793 (1955), stated:

21 "Probation having been granted and the proceedings
22 thereupon completed, there was in fact no judgment, and
23 this is true notwithstanding the requirement that defend-
24 ant pay a fine and make certain restitution as conditions
25 of probation. (People v. Wallach, 8 Cal.App.2d 129, 133
26 [47 P.2d 1371]; In re Marquez, 3 Cal.2d 625, 627 [45
27 P.2d 342]). An appeal may now be taken from a probation
28 order (Pen. Code, § 1237), and it is established that
29 where probation has been granted and no judgment entered
30 an appeal which purports to be taken from the judgment
31 may be treated as an appeal from the probation order. . . ."

32 In a footnote directive, People v. Kraps, 238 Cal. App.

1 2d 675, 676 (1965), the court offered an explanation applicable to
2 the instant case:

3 "Defendant purports to appeal from 'the judgment'
4 of the trial court. However, the record discloses that
5 following defendant's conviction the proceedings in the
6 instant case were suspended without imposition of sentence
7 and probation was granted pursuant to defendant's motion.
8 Thus, there was in fact no judgment entered in the instant
9 action. However, under the 1951 amendment to Penal Code,
10 section 1237, subdivision 1, an order granting probation
11 is deemed to be a final judgment for purposes of appeal.
12 Since that amendment it has been held that an appeal
13 which purports to be taken from the judgment may be
14 treated as an appeal from the probation order and that
15 for purposes of appeal the two are interchangeable
16 terms. . . ."

17 Based on the foregoing, it must be deemed proper to effect
18 an appeal from the Order of December 1, 1966, granting probation,
19 as said Order shall be construed a "Final Judgment."

20 The Declaration in support of the motion to vacate and
21 the motion itself are in the nature of a writ of coram nobis.
22 "The non-statutory motion to set aside the judgment is the equivalent
23 of a writ of error coram nobis." People v. O'Brien, 37 Cal. App. 2d
24 391, 392 (1950). California law permits both the writ of coram
25 nobis and motion to vacate and set aside the judgment to be used
26 interchangeably when there exist matters unknown to the defendant
27 at trial, and which are subsequently asserted, on exercise of "due
28 diligence." People v. Del Campo, 174 Cal. App. 2d 217 (1959).
29 "A motion to vacate a judgment is an application for relief in the
30 nature of a writ of error coram nobis." People v. McCoy, 115 Cal.
31 App. 2d 565, 567 (1953); People v. Wilson, 106 Cal. App. 2d 714,
32 718 (1951).

1 In People v. Harincar, 49 Cal. App. 2d 594, 595-596 (1942),
2 the court said,

3 "Although defendant's motion to vacate the judgment,
4 it is in legal effect under the practice of this state a
5 Petition For a Writ of Error Coram Nobis. In People v.
6 Vernon, 9 Cal. App. 2d 138 (1935), it is held that a
7 Writ of Error Coram Nobis, 'is nothing more nor less than
8 a motion to vacate a judgment,' and that the remedy provided
9 by the Writ could be designated by 'the more simple and appro-
10 priate name of a motion to vacate a judgment.'"

11 A motion in the nature of coram nobis may be made at any
12 time after judgment, or time for appeal has passed, and no such
13 limitation governs the application of said remedy. The court, in
14 People v. Martinez, 88 Cal. App. 2d 767, 773 (1948), instructed,

15 ". . . . an appeal for a Writ of Error Coram Nobis should
16 be made within a reasonable time. Diligence is required.
17 A convicted person is not permitted to allow years to
18 pass during which witnesses die, disappear or forget, and
19 his own imagination grows and expands."

20 The major criteria for determining whether or not the
21 writ has been exercised under the circumstances of "due diligence"
22 includes a showing that the matter was not apparent to the defendant
23 at trial and upon its ascertainment he acted promptly in its
24 assertion.

25 Irrespective of the writ of coram nobis, the court was
26 possessed with jurisdiction to make such order as the cause was
27 still "pending." By virtue of the Order, suspending proceedings
28 and placing the defendant on probation for a period of five years,
29 the court's jurisdiction over the respondent continued during the
30 entirety of probation. The court could, during such time interval,
31 revoke, alter, change, or modify its order of suspension, imposition
32 or execution of sentence.

1 Section 1203.3 of the Penal Code provides, in part,
2 "The court shall have (1) authority at any time during the term of
3 probation to revoke, (2) modify or change, its order of suspension
4 its order of suspension of imposition or execution of sentence."
5 (Emphasis added.) California clearly holds that the court maintains
6 complete and exhaustive jurisdiction over a probation during the
7 term of said probation.

8 ". . . the jurisdiction of the trial court over the pro-
9 bationer is not exhausted when it imposes the original
10 conditions of probation; but on the contrary, at all
11 times during the probationary period, it may exercise
12 control over him. . . ." People v. Roberts, 136 Cal.
13 App. 709, 712 (1934).

14 "The court, during the term of probation may modify its
15 original order." In re Marcus, 11 Cal. App. 2d 359 (1936); People
16 v. McClean, 130 Cal. App. 2d 439, 444 (1955); People v. Marin, 147
17 Cal. App. 2d 625, 627 (1957).

18 In People v. Brown, 111 Cal. App. 2d 405, 408 (1952), the
19 court said, "when the term of probation expired the court lost juria-
20 diction to vacate its former order." (Emphasis added.)

21 The foregoing is settled law of the state, and no collateral
22 attack, by a purely administrative department of the federal govern-
23 ment can impeach, affect, or attack the jurisdiction exercised by a
24 duly constituted court of the state administering its inherent
25 powers and discretion in probationary criminal proceedings.

26 The Special Inquiry Officer concludes in the following
27 solution:

28 "In view of the recency of respondent's conviction, on
29 which he is still confined and serving the aforementioned
30 term of probation, it is concluded that the respondent is
31 ineligible for any form of discretionary relief from
32 deportation. . . ."

The sole issue stressed in the Decision of the Special Inquiry Officer is,

" . . . what effect, if any, was had upon the judgment of conviction entered on October 13, 1966 (Exhibit 2) by the Minute Order entered by another judge of the same Superior Court on May 25, 1967 vacating the finding of 'guilty' and certifying the case to the Juvenile Court, presumably under the provisions of Section 604(b), Welfare and Institutions Code. (Exhibit 4). The said section permits the discretionary certification to the juvenile court 'whenever a case is pending in any court.'"

As stated earlier, his conclusions are clearly erroneous and the Minute Order of May 25, 1967, remains proper under the circumstances herein. The suspension of proceedings and granting of probation maintained the court's jurisdiction, rendering the defendant's case as "pending." Because of the lack of finality, the subsequent certification, on May 25, 1967, to the Juvenile Court, was in conformity and compliance with California precedent.

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."

CONCLUSION

The Superior Court had jurisdiction to vacate its finding of guilt and remand the minor defendant to the Juvenile Court under Section 503 of the Welfare and Institutions Code of the State of California. The adjudication of a minor to be a ward of the Juvenile Court is not to be deemed the conviction of a crime for any purpose nor shall the proceedings in the Juvenile Court be deemed criminal proceedings. It therefore must be determined that the respondent

1 is not a deportable alien.

2 Respondent therefore moves to vacate the Decision of the
3 Special Inquiry Officer and, alleging the foregoing, urges that
4 immediate reconsideration is both necessary and proper.

5 DATED: July 27, 1967.

6
7 /s/ David C. Marcus
8 DAVID C. MARCUS

9 Attorney for Respondent
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1 DAVID C. MARCUS
2 Attorney at Law
3 215 West Fifth Street
4 Los Angeles, California 90013

5 Telephone: 628-4788

6 Attorney for Defendant

FILED
APR 19 4 36 PM '67
WILLIAM G. SHARP
COUNTY CLERK
DEPUTY

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 THE PEOPLE OF THE STATE OF CALIFORNIA,

11 Plaintiff,

12 vs.

13 MUNIR SHIRHAN,

14 Defendant.

No. 334784

NOTICE OF MOTION

15
16 TO: THE PLAINTIFF ABOVE NAMED AND TO EVELLE YOUNGER,
17 DISTRICT ATTORNEY OF THE COUNTY OF LOS ANGELES

18 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the
19 ²⁷20th day of April, 1967, at the hour of 9:30 a.m. on said date,
20 defendant through his counsel will move the above entitled court
21 to modify the terms of probation and sentence heretofore imposed
22 by the above entitled court, to time served and to permit the
23 defendant's release from custody, and that the finding of guilt
24 be vacated and set aside and the defendant certified to the Juvenile
25 Court of the County of Los Angeles.

26 Said motion will be based upon the files and record in
27 the proceedings and upon the declaration of David C. Marcus,
28 attached hereto.

29 DATED: April 17, 1967.

30
31 David C. Marcus
32 DAVID C. MARCUS

Attorney for Defendant

1 DAVID C. MARCUS
2 Attorney at Law
3 215 West Fifth Street
4 Los Angeles, California 90013

5 Telephone: 628-4788

6 Attorney for Defendant

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

10 THE PEOPLE OF THE STATE OF CALIFORNIA,)

No. 20178

11 Plaintiff,)

MOTION TO MODIFY TERMS
OF PROBATION AND SENTENCE,
VACATE FINDING OF GUILT,
AND CERTIFY DEFENDANT
TO LOS ANGELES COUNTY
JUVENILE COURT AND
DECLARATION OF DAVID
C. MARCUS IN SUPPORT
THEREOF

12 vs.)

13 MUNIR SHIRHAN,)

14 Defendant.)

15 _____
16 DAVID C. MARCUS does hereby certify:

17 That he is the attorney for the defendant in the
18 above entitled proceedings. That he is informed and believes and
19 therefore alleges:

20 That Defendant Munir Sirhan, born July 15, 1947, in
21 Palestine, was charged by an information filed by the District
22 Attorney of Los Angeles County of a violation of section 11530 of
23 the Health and Safety Code of the State of California; that at the
24 time of the commission of the alleged offense, the defendant was
25 a minor, eighteen years of age.

26 In proceedings had before the above entitled court the
27 defendant was found guilty of the charge, and on December 1, 1966,
28 his sentence was suspended and he was placed on probation for five
29 years on the condition that he serve one year in the County Jail.
30 That defendant is presently confined at the Sheriff's Wayside
31 Honor Farm pursuant to the provisions of the judgment of said
32 court.

1.

1 On behalf of defendant Munir Shirhan, declarant further
2 recites:

3 That at the time of the establishment of the Israeli
4 Government, when defendant was eight years of age, defendant, his
5 father, mother and family, consisting of four brothers and one
6 sister, who were non-Jews, were forced to flee, as refugees, the
7 country of their birth and journeyed to Jordan and resided in that
8 country; that while residing in Jordan the Shirhan family was sub-
9 jected to great hardship and deprivation. That on September 24,
10 1956, the United States Consulate at Amman, Trans-Jordan, issued
11 its visas to the Shirhan family, granting them a 3A(4) Non-Quota
12 visa PH203 upon Trans-Jordanian passport for travel purposes.
13 That on January 12, 1957, the Shirhan family was admitted as per-
14 manent residents to the United States of America in New York, New
15 York. Defendant was then nine years of age. That the Shirhan
16 family then journeyed to California, establishing their home and
17 residence in Pasadena, California, where defendant attended grade
18 and high schools. All of the defendant's family are now permanent
19 residents of the United States, residing at 606 East Howard,
20 Pasadena, California.

21 That during the trial proceedings had before the above
22 entitled court, the defendant was represented by an attorney.
23 However, his counsel was not cognizant of the statutes, laws, and
24 regulations of the Immigration and Nationality Act of the United
25 States nor the interpretation of the United States courts of the
26 grounds of deportation as related to one found guilty of the
27 possession of narcotics in any form by an alien.

28 That subsequent to the finding of guilt and during the
29 defendant's incarceration as aforesaid, the Immigration Department
30 ascertained that the defendant was an alien and had been found
31 guilty of the illegal possession of marijuana, and thereupon and
32 on January 11, 1957, caused to be issued its Order to Show Cause

RECORD IN NY OFFICE
THE COURT COPY
FOR THE DEFENDANT
JAN 11 1957
U.S. DEPT. OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
NEW YORK OFFICE
RECEIVED
JAN 11 1957

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RECORD IN NY OFFICE
THE COURT COPY
FOR THE DEFENDANT
JAN 11 1957
U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT
NEW YORK, N.Y.
RECEIVED
JAN 11 1957

1 and Notice of Hearing in Deportation under the provisions of
2 section 242 of the Immigration and Nationality Act, in the matter
3 entitled "In the Matter of Munir Bishara Salameh Sirhan, Respond-
4 ent," bearing number AIG 711 879, charging that the defendant was
5 a citizen of Jordan who last entered the United States in New York
6 on January 12, 1957, and at the time of his entry was admitted
7 as an immigrant; and that on October 12, 1966, in the Superior
8 Court of the State of California for the County of Los Angeles
9 was convicted for the offense of unlawful possession of marijuana
10 in violation of section 11530 of the Health and Safety Code of the
11 State of California; and that on the basis of his alienage and
12 conviction he became a deportable alien pursuant to the provisions
13 of section 241(a)(11) of the Immigration and Nationality Act.
14 That hearings have been conducted before said Immigration Service
15 and the defendant has now become subject to deportation.

16 That defendant stands to be deported and banished from
17 the United States to be separated from his father, mother, and
18 family, to a country strange and unknown to him, and to a penalty
19 and hardship much worse than death.

20 Your declarant has been advised by defendant's attorney
21 of record that if he had known of the provisions of the Immigration
22 and Nationality Act at the time of his representation of the
23 defendant before the above entitled superior court, he would have
24 bought to have the defendant certified to the Juvenile Court and
25 prosecuted as a juvenile.

26 Your declarant alleges that if the defendant had been
27 certified to the Juvenile Court and charged and prosecuted as
28 a juvenile, he would not have become amenable to the harsh and
29 extreme penalties of deportation under the Immigration and
30 Nationality Act as the statute is not applicable to minors when
31 prosecuted as juveniles.

//

1.

RECEIVED
JUL 12 1967
U.S. DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
LOS ANGELES OFFICE
100 N. MAIN ST.
LOS ANGELES, CALIF. 90012

1 Your declarant further alleges that the defendant being
2 subject to this court's jurisdiction by virtue of the nature of
3 the judgment and sentence of this court, this court is possessed
4 of jurisdiction to alleviate the harsh, severe, and drastic provis-
5 ions of the Immigration and Nationality Act and its undue applica-
6 tion to this minor.

7 WHEREFORE, your declarant respectfully requests that
8 this court permit the withdrawal of the finding of guilt and
9 modify the terms of probation and sentence heretofore imposed to
10 time served, and certify the defendant to the Juvenile Court of
11 the County of Los Angeles.

12 Further declarant sayeth not.

13 I declare under penalty of perjury that the foregoing
14 is true and correct.

15 Executed on April 17, 1967, at Los Angeles, California.

16
17 *David C. Marcus*
18 DAVID C. MARCUS

19 Attorney for Defendant
20
21
22
23
24
25

APR 17 1967
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
LOS ANGELES OFFICE
4.

In the above entitled action, I have read the foregoing

and know the contents thereof, (and that the same is true of my own knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters that I believe to be true; (**that I am informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true.)

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

Executed on _____ of _____, California.

(Signature)

*For use when the verification is made by the individual party.
**For use when the verification is made by the attorney for the reason that the parties are absent from the county where he has his office, or for some other cause are unable to verify it, or when the verification is made on behalf of a corporation or public agency by an officer thereof.
Strike out that portion not applicable.

Received copy of the within _____ this _____ day of _____, 19_____

Attorney for _____

Received copy of the within _____ this _____ day of _____, 19_____

Attorney for _____

(PROOF OF SERVICE BY MAIL - 1013a, and 2015.5 C.C.P.)

STATE OF CALIFORNIA,
County of Los Angeles } ss.

I am a citizen of the United States and a resident of the county aforesaid, I am over the age of eighteen years and not a party to the within entitled action; my residence/business address is:

215 West Fifth Street, Los Angeles, California

April 18, 1967, I served the within Notice of Motion and Motion

to modify Terms of Probation and Sentence, Vacate Finding of Guilt, and Certify Defendant to Los Angeles County Juvenile Court and Declaration of David G. Marcus in Support Thereof. plaintiff

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United

mail at Los Angeles, California

as follows:

Los Angeles County District Attorney
211 West Temple Street
Los Angeles, California 90013

I certify (or declare) under penalty of perjury* that the foregoing is true and correct.

Executed on April 18, 1967 at Los Angeles, California.

(Signature)
K. V. ...

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MINUTES

Department No. NORTHEAST A

APR 27 1967

19

Present Hon. H. BURTON NOBLE Judge

Case No. 324984

THE PEOPLE OF THE STATE OF CALIFORNIA

vs

MUNIR BISHARA SALAMEN SHIRHAN

APPEARANCES:

(Parties and Counsel checked if present,
Counsel shown opposite parties represented.)

Evelle J. Younger, District Attorney, by
Deputy

E.J. Hovden, Public Defender, by
Deputy

D Marcus

Continued to May 11, 1967, 9:30 AM for further proceedings on
motion of counsel for defendant. (defendant is in custody).

_____	AUD.	_____	DMV	_____
_____	CSHR.	_____	CYA	_____
_____	JUV.	_____	C. CLK.	_____
_____	PSYC.	_____	MISC.	_____

MINUTES

THIS MINUTE ORDER WAS
ENTERED
MAY 3 1967
WILLIAM G. SHARP, COUNTY CLERK
AND CLERK OF THE SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MINUTES

Department No. NORTHEAST A

APR 27 1967 1967

Present Hon. H BURTON NOBLE Judge

Case No. 324984

APPEARANCES:

(Parties and Counsel checked if present,
Counsel shown opposite parties represented.)

THE PEOPLE OF THE STATE OF
CALIFORNIA

Evelle J. Younger, District Attorney, by
Deputy

vs

E. J. Hovden, Public Defender, by
Deputy

MUNIR BISHARA SALAMEN SHIRHAN

D Marcus

Continued to May 11, 1967, 9:30 AM for further proceedings on
motion of counsel for defendant. (defendant is in custody).

<input type="checkbox"/>	AUD.	<input type="checkbox"/>	DMV	<input type="checkbox"/>
<input type="checkbox"/>	CSHR.	<input type="checkbox"/>	CYA	<input type="checkbox"/>
<input type="checkbox"/>	JUV.	<input type="checkbox"/>	C. CLK.	<input type="checkbox"/>
<input type="checkbox"/>	PSYC.	<input type="checkbox"/>	MISC.	<input type="checkbox"/>

MINUTES

THIS MINUTE ORDER WAS
ENTERED
MAY 3 1967
WILLIAM G. SHARP, COUNTY CLERK
AND CLERK OF THE SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MINUTES

MAY 12 1967

Department No. WORTHINGTON A

Present Hon. H. BURTON NOBLE Judge

Case No. 324924

THE PEOPLE OF THE STATE OF CALIFORNIA

APPEARANCES:

(Party and Counsel checked if present, Counsel shown opposite party represented.)

 Evelle J. Younger, District Attorney, by Deputy

E. J. Herden, Public Defender, by Deputy

 MUHAR DEBHARA SALAMON SIRHAN

 D. Xarcus

On the Court's own motion matter is referred to Juvenile Court.

Present continuance date of May 18, 1967 to remain as is.

COB. <u> </u>	AUD. <u> </u>	DMV <u> </u>
LAPD <u> </u>	CSHR. <u> </u>	CYA <u> </u>
CO. J. <u> </u>	JUV. <u> </u>	C. CLK. <u> </u>
SHER. <u> </u>	PSYC. <u> </u>	MISC. <u> </u>

MINUTES

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MINUTES

MAY 18 1967

Department No. NORTHEAST A

19

Present Hon. H. BURTON NOBLE Judge

Case No. 324984

THE PEOPLE OF THE STATE OF
CALIFORNIA

vs

MUNIR BISHARA SALAMEH SIRHAN

APPEARANCES:

(Parties and Counsel checked if present,
Counsel shown opposite parties represented.)

Evelle J. Younger, District Attorney, by
E. Lewis Deputy

E. J. Hovden, Public Defender, by
Deputy

D. Marcus

Continued to May 25, 1967 at 2 PM for further proceedings, upon the
request of counsel for defendant. Remanded.

PROB. AUD. DMV
LAPD CSHR. CYA
CO. J. JUV. C. CLK.
SHER. PSYC. MISC.

MINUTES

YOM147- Cdb 8-66

THIS MINUTE ORDER WAS
ENTERED
MAY 24 1967
WALTER G. DORR COUNTY CLERK
AND CLERK OF THE SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MINUTES

Department No. NORTHEAST A

MAY 25 1967

Present Hon. H. BURTON NOBLE Judge

Case No. 324984

APPEARANCES:

(Factors and Counsel checked if present,
Counsel shown opposite parties represented.)

THE PEOPLE OF THE STATE OF
CALIFORNIA

vs

Evelle J. Younger, District Attorney, by
S Lewis Deputy

E. J. Hovden, Public Defender, by
Deputy

MUNIR BISHARA SALAMEH SIRHAN

D Marcus

Advanced to 9:30 A M on motion of the defendant. Finding of
"Guilty" is vacated and defendant is certified to Juveniel Court.
Remanded.

THIS MINUTE BOOK WAS
RECEIVED
JUN 1 1967
CLERK OF THE SUPERIOR COURT

PROB. AUD. DMV
LAPD CSHR. CYA
CO. J. JUV. C. CLK.
SHER. PSYC. MISC.

MINUTES

TEMPLEY - Pub 5-66

LOS ANGELES 201

CHY 7 740 70

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
JUVENILE COURT

PETITION

In the Matter of
MUNIR SIRHAN
a minor

Number *P. Sirhan*
343777-0235062-FO-NEW
Dist. Number

New
Active

Petitioner is informed and believes and therefore alleges,
that **MUNIR SIRHAN**, hereinafter called minor, resides
at **696 EAST HOWARD STREET, PASADENA, CALIFORNIA**, and
was **19** years of age on **JULY 15, 1966**, and comes within
the provisions of Section 602 of the Welfare and Institutions Code of California, in that:

PARAGRAPH I - SAID MINOR, ON OR ABOUT JUNE 10, 1966, AT AND IN THE
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DID WILFULLY, UNLAWFULLY
AND FELONIOUSLY HAVE POSSESSION OF A NARCOTIC, TO WIT, MARIJUANA;
THEREBY VIOLATING SECTION 11530 OF THE HEALTH AND SAFETY CODE.

PARAGRAPH II - SAID MINOR, ON OR ABOUT JUNE 10, 1966, AT AND IN THE
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DID WILFULLY, UNLAWFULLY
AND FELONIOUSLY OFFER TO SELL, FURNISH OR GIVE AWAY A NARCOTIC, TO
WIT, MARIJUANA; THEREBY VIOLATING SECTION 11531 OF THE HEALTH AND
SAFETY CODE.

THE FOREGOING UNVERIFIED PETITION IS A REPETITION IN SUM AND SUBSTANCE
OF CASE NUMBER 324984 CERTIFIED TO THE JUVENILE COURT BY THE SUPERIOR
COURT OF THE STATE OF CALIFORNIA, DEPARTMENT NE A.

The name and residence address of each parent and guardian of minor, known to me, is as
follows:

MOTHER: **MARY SIRHAN, 696 EAST HOWARD STREET, PASADENA, CALIFORNIA**
Mother: BISHARA SIRHAN - UNEMPLOYED - ALBANY

The name and residence address of an adult relative residing within the county, or if there is no such
person known, the name and residence address of the adult relative known to me to reside nearest to the
court, is:

Minor was taken into custody by _____
on _____ at _____ M. Minor IS _____ detained. The present
whereabouts of minor is **LOS ANGELES COUNTY JAIL (HONOR RANCHO)**.

THEREFORE, petitioner respectfully requests that this minor be adjudged and declared a ward of the
Juvenile Court and dealt with as such.

LELAND C. CARTER, PROBATION OFFICER, Petitioner

By *W. A. Dickerson*
W. A. DICKERSON
Deputy Probation Officer

I certify under penalty of perjury that the foregoing is true and correct, according to my information and
belief.

Executed on (date)
JULY 13, 1967
Court Date
7-21-67 DEPT. SFV
School
NO
Date filed with Juvenile Court Clerk
JULY 13, 1967

Executed at (city)
LOS ANGELES, California.

Signed

WAD:KMM

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JUVENILE COURT ON DETENTION CALENDAR

In the Matter of

MUNIR SIRHAN a minor
19 years

No. 343777-0215062 FO

FINDINGS AND ORDER OF REFEREE

APPEARANCES:

Minor
Mother, Mary Sirhan
Brother, Adel Sirhan
Atty David C. Marcus, for minor
Deputy Probation Officer Leon
Court Reporter W. Roschman

~~XXXXXXXXXXXXXXXXXXXX~~

This matter came on regularly to be heard on this date before me, a referee of this court, and evidence having been received and considered, I find:

1. That notice of this hearing has been duly given as required by law.
2. That the allegations of the petition (as amended) filed July 13, 1967 are true, as admitted by counsel on behalf of minor and said petition is sustained.
3. That the above named minor comes within the provisions of section 602 of the Juvenile Court Law.
4. That minor was born on July 15 19 47.
5. That minor's counsel represented to the Court that Judge Leopoldo Sanchez agreed to the certification of this matter. The findings of guilty in Superior Court Case Number 324904 were ordered vacated. The case was certified by Judge Noble, Pasadena Superior Court.
6. That minor and mother waive notice of further hearing and request immediate adjudication of the petition.

THEREFORE, IT IS ORDERED AND ADJUDGED THAT:

Case is continued for disposition to the appearance calendar of

July 31, 1967, 1:45 P.M.

Certification of Case Number 324904 from the Superior Court of the State of California, Department 22 A is hereby accepted.

The petition filed July 13, 1967, is amended to show the father's name and address as, "MISHARA SIRHAN - whereabouts unknown."

Minor is detained at the Los Angeles County Jail pending further hearing.

Minor's mother is ordered to return without further notice or subpoena.

Dated: July 24, 1967
BERG:kk


Referee of Juvenile Court

Names and addresses of persons to be notified:

- MINOR: L.A. County Jail
- MOTHER: Mary Sirhan, 676 East Howard St., Pasadena, Calif.
- ATTY: David C. Marcus, 215 W. 9th St., L.A. 13, Calif.

FINDINGS AND ORDER OF REFEREE (no Judge's signature required)

ADJUDICATION HEARING

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

JUL 11 1957

File: A 10 711 879 - Los Angeles

In the Matter Of)

MUNIR BISHARA SALAMER SIRHAN,) IN DEPORTATION PROCEEDINGS
Respondent)

CHARGE:

IAN Act - Section 241(a)(11), convicted of violation
of law relating to illicit possession of
marijuana (Section 11530, Health and Safety
Code of California)

APPLICATION: Termination of Proceedings

ON BEHALF OF RESPONDENT:

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

ON BEHALF OF SERVICE:

William S. Howell
Trial Attorney
Los Angeles, California

DECISION OF THE SPECIAL INQUIRY OFFICER

Respondent is a 19-year-old native of Palestine and a citizen of Jordan. He entered the United States at New York, New York on January 12, 1957, when he was admitted as an immigrant. Respondent is charged herein with being subject to deportation under the provisions of Section 241(a)(11) of the Immigration and Nationality Act on the ground that he at any time has been convicted of a violation of any law or regulation relating to the illicit possession of marijuana in violation of Section 11530 of the Health and Safety Code of the

State of California. This charge is denied by the respondent who also denies that he was on October 12, 1966, convicted in the Superior Court of the State of California, for the County of Los Angeles for the offense of unlawful possession of marijuana in violation of Section 11530 of the Health and Safety Code of the State of California.

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 I) 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 II). The case was submitted to the court by stipulation on the testimony contained in the transcript of proceedings had at the preliminary hearing and the Superior Court on October 13, 1966 found the respondent guilty as charged as to both counts. On December 1, 1966, the proceedings were suspended 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, a Minute Order was entered in the aforementioned criminal action which states as follows: "Finding of 'Guilty' is stated and defendant is certified to Juvenile (sic) Court. Remanded."

State of California. This charge is denied by the respondent who also denies that he was on October 12, 1966, convicted in the Superior Court of the State of California, for the County of Los Angeles for the offense of unlawful possession of marijuana in violation of Section 11530 of the Health and Safety Code of the State of California.

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 I) 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 II). The case was submitted to the court by stipulation on the testimony contained in the transcript of proceedings had at the preliminary hearing and the Superior Court on October 13, 1966 found the respondent guilty as charged as to both counts. On December 1, 1966, the proceedings were suspended 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, a Minute Order was entered in the aforementioned criminal action which states as follows: "Finding of 'Guilty' is stated and defendant is certified to Juvenile (sic) Court. Remanded."

(Exhibit 4). The Government's Trial Attorney objected to the receipt in evidence of this latest court order on the ground that the Superior Court was without any authority to enter it and it therefore constitutes an invalid order. Respondent's counsel has represented that, pursuant to the aforementioned certification, the Juvenile Court has accepted jurisdiction of the matter.

Article VI, Section 5, Constitution of California provides that "The superior courts shall have original jurisdiction in all criminal cases amounting to felony and cases of misdemeanor not otherwise provided for."

Section 737 of the Penal Code of California provides that "All public offenses triable in the superior court must be prosecuted therein by indictment or information, except as provided in the Government Code, the Juvenile Court Law and Section 859a of this code." Section 794 of the California Penal Code provides that "Where an offense is within the jurisdiction of two or more courts, a conviction or acquittal thereof in one court is a bar to a prosecution therefor in another."

The present Juvenile Court Law is found in the Welfare and Institutions Code of California, Sections 550, et seq. Section 602 thereof provides as follows:

"Any person under the age of 21 years who violates any law of this State or of the United States or any ordinance of any city or county of this State defining crime or who, after having been found by the Juvenile Court to be a person described by Section 601, fails to obey any lawful order of the juvenile court, is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court."

The Court exercises the jurisdiction of the juvenile court sitting as such is known as the juvenile court (Sec. 550,

W and I Code) No criminal offense charged against a person under the age of 18 years at the time of the alleged commission thereof may be tried by any court "unless the matter has first been submitted to the juvenile court by petition as provided in Article 7 (commencing with Section 650), and said juvenile court has made an order directing that such person be prosecuted under the general law. (Section 603, W and I Code). This respondent was born on July 15, 1947 and accordingly, was not under the age of 18 years at the time of the alleged commission, on June 10, 1966, of the aforementioned offenses. The respondent did not, therefore, come under the mandatory certification to the juvenile court provisions of Section 604(a) of the Welfare and Institutions Code.

Section 604(b), Welfare and Institutions Code of California, provides as follows:

"(b) Whenever a case is pending in any court upon an accusatory pleading and it appears to the satisfaction of the judge that the person charged is under the age of 21 years, the judge may certify the case to the juvenile court of his county in manner prescribed by subdivision (a) of this section." (emphasis supplied)

Section 604(c) of the Welfare and Institutions Code of California provides as follows:

"(c) When a court certifies a case to the juvenile court pursuant to subdivision (a) or subdivision (b), it shall be deemed that jeopardy has not attached by reason of the proceedings prior to certification, but the court may not resume proceedings, nor may a new proceeding under the general law be commenced in any court with respect to the same matter unless the juvenile court has found that the minor is not a fit subject for consideration under

Juvenile Court law and has ordered that proceedings under the general law resume or be commenced."

The problem in this case is what effect, if any, was had upon the judgment of conviction entered on October 13, 1966 (Exhibit 2) by the Minute Order entered by another judge of the same Superior Court on May 25, 1967 vacating the finding of "guilty" and certifying the case to the Juvenile Court, presumably under the provisions of Section 604(b), Welfare and Institutions Code. (Exhibit 4). The said section permits the discretionary certification to the juvenile court "whenever a case is pending in any court." (emphasis supplied). The record indicates that the criminal case against the respondent was not "pending" on May 25, 1967 but appears to have become a final judgment upon the expiration of 10 days after the rendition of the judgment, aforementioned, on October 13, 1966 without notice of appeal having been filed therein, as provided by Rule 31, Judicial Council (California Penal Code, Section 1247k).

The California Evidence Code provides the following rebuttable presumption:

"Section 666. Judicial Action Lawful Exercise of Jurisdiction. Any court of this state or the United States, or any court of general jurisdiction in any other state or nation, or any judge of such a court, acting as such, is presumed to have acted in the lawful exercise of its jurisdiction. This presumption applies only when the act of the court or judge is under collateral attack."

The question of whether a court has jurisdiction to make an order may be raised in any forum (Matter of H-, 9 I&N Dec. 460, Board of Immigration Appeals, 1961). Prior to the enactment of the California Evidence Code, effective January 1, 1967, it was held in one

California case that a void order or judgment is subject to collateral attack at any time and in any place by any interested party. (Carter v. Carter, 1957, 148 C. A. 2d 845, 307 P. 2d 630). Even prior to the enactment of Section 666, California Evidence Code, aforementioned, the Board of Immigration Appeals held that lack of judicial jurisdiction by a court must be affirmatively established by the Service. (Matter of O'Sullivan, 1963, 10 I&N Dec. 320). Section 242(b)(4) (8 U.S.C. 1252(b)(4)) requires that "no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence."

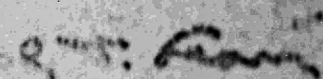
It is well settled that the sentence in a criminal case is a final judgment of conviction (cf. Matter of T-, 6 I&N Dec. 835). The aforementioned Minute Order of May 25, 1967 (Exhibit 4) does not recite any section of law or other authority for its exercise. It does not appear to constitute the granting of a writ of error coram nobis or the granting of a motion to set aside the judgment within the period of time permitted for such a motion. There is no provision known to me in California law which permits the vacating of a final judgment of conviction more than 6 months thereafter, with no intervening appeal, writ of error coram nobis or motion to set aside the judgment. It must be and is concluded that the Minute Order of the Superior Court entered on May 25, 1967, aforementioned, was entered when the proceedings herein were no longer "pending", therefore, entered without jurisdiction over the subject matter and of no force or effect. The respondent's motion for termination of these proceedings must and will be denied.

The allegations of fact and charge of deportability contained in the Order to Show Cause herein are hereby adopted by me as my findings of fact and conclusion of law.

In view of the recency of respondent's conviction, on which he is still confined and serving the aforementioned term of probation, it is concluded that the respondent is ineligible for any form of discretionary relief from deportation. His deportation must and will be ordered.

ORDER: IT IS ORDERED that the respondent's application for termination of these proceedings be and it is hereby denied.

IT IS FURTHER ORDERED that the respondent be deported from the United States to Jordan on the charge contained in the Order to Show Cause.



Michael F. Leona
Special Inquiry Officer

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

MATTER OF

FILE A 10 711 879

MIRIE MIRARA SALAZAR SIBAN

IN DEPORTATION PROCEEDINGS

Respondent

TRANSCRIPT OF HEARING

Before Special Inquiry Officer Michael F. Lucas

Hearing held on January 24, 1967

Los Angeles County Central Jail
at Los Angeles, California 90012

Recorded by Gay Kayoung Hobbs

Transcribed by Ida Polsky
Clark-Transcriber

Official
Interpreter

Language English

IN BEHALF OF SERVICE

IN BEHALF OF RESPONDENT:

No one

Jerry Coons, Esq.

2700 West 3rd Street

Los Angeles, California 90057

I hereby certify that to the best of my knowledge and belief the foregoing numbered 1
through 1 are a complete and accurate transcription of the above hearing.

Signature

Special Inquiry Officer

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. Cozas, who is here with you, represent you as your counsel
7 in this matter?

8 A Yes.

9 Q Through Mr. Cozas, 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 Munir Bishara Salamah Sirhan.

20 Q Would you please repeat that for me again?

21 A Munir Bishara Salamah Sirhan.

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

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.

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12 your own behalf. Do you understand these rights?

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17 A I do.

18 Q What is your name, sir?

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23 inspection an Order to Show Cause and Notice of Hearing in deportation
24 proceedings, dated January 11, 1967, addressed to Mr. Munir Bishara
25 Salamah Sirhan, and I ask you if you are the respondent so named in this
Order?

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 He 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, so 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 BISHARA**
20 **SALAMEH 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:**

A 10 711 979

- 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 its receipt in evidence.

8 THE SPECIAL INQUIRY OFFICER:

9 The said record 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 me 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.

THE SPECIAL INQUIRY OFFICER:

Evidence desired to be submitted on behalf of the respondent at

at this time, but at the further hearing we may submit evidence.

THE SPECIAL INQUIRY OFFICER:

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any will, also, the hearing in this matter is hereby continued.

HEARING ADJOURNED



A 10 711 379

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1/25/61

FORM 1-309
(9-28-64)

TRANSCRIPT OF HEARING
United States Department of Justice — Immigration and Naturalization Service

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

HEARING ADJOURNED

A 10 711 879

- 5 -

1/26/67

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

MATTER OF

FILE A 10 711 879 - Los Angeles

MEHIR BISHARA SALAMEN SIRHAN

IN DEPORTATION PROCEEDINGS

Respondent

TRANSCRIPT OF HEARING

Before Special Inquiry Officer Benjamin G. Moran

CONTINUED

Hearing held on February 14, 1967

at Los Angeles County Jail
Los Angeles, California

Recorded by Gray Kayeater Machina

Transcribed by Ida Palaty
Clerk-Transcriber

Official

Interpreter ---

Language English

IN BEHALF OF SERVICE:

Sam I. Feldman

Trial Attorney

Los Angeles, California

Station

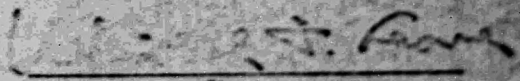
IN BEHALF OF RESPONDENT:

David G. Marcus, Esq.

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?

A 10 711 879

- 6 -

2/14/67

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.

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2/14/67

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

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THE SPECIAL INQUIRY OFFICER:

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

HEARING ADJOURNED

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

MATTER OF

FILE A 10 711 879 - Los Angeles

MUNIR BISHARA SALAMEH SIRHAN

IN DEPORTATION PROCEEDINGS

Respondent

TRANSCRIPT OF HEARING

Before Special Inquiry Officer Michael F. Leona

CONTINUED

Hearing held on April 13, 1967

Los Angeles County Central Jail
at Los Angeles, California 90012

Recorded by Gray Kaye-ray 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.

215 West 5th Street

Los Angeles, California 90013

I hereby certify that to the best of my knowledge and belief the following pages numbered 9
through 12 are a complete and accurate transcript of the above-described hearing.



Signature

Special Inquiry Officer

Title

JAN 22 1968

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 then
9 his/counsel, Jerry Coons, the respondent, on January 26, 1967, ad-
10 mitted the truth of allegations numbered (1), (3) and (5) as stated
11 in the Order to Show Cause; denied both parts of allegation number (2)
12 and number (4); and, as to number (4), admitted that he was admitted
13 at the time, but denied that it was as an immigrant and asserts that
14 it was as a refugee and denied the deportation charge. The respondent
15 testified that he had no personal knowledge as to his citizenship
16 and declined to name a country for deportation; and, for lack of
17 evidence of such citizenship or admission of any citizenship by the
18 respondent, no country was specified by me, as Special Inquiry Officer,
19 at that original hearing. At a continued hearing held on February 14,
20 1967, in my absence from duty, before Special Inquiry Officer
21 Benjamin G. Myron, the hearing of the matter was, upon the request of
22 respondent's present counsel, David C. Marcus, continued for the
23 purpose of affording Mr. Marcus an opportunity to familiarize himself
24 and prepare the respondent's defense.

25 THE SPECIAL INQUIRY OFFICER TO MR. HOWELL:

26 You may proceed, Mr. Howell.

MR. HOWELL TO RESPONDENT:

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TRANSCRIPT OF HEARING

4/11/67

1 Q For purposes of identification, Mr. Sirhan, 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

A 10 711 879

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4/11/67

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service