

IN THE CIRCUIT COURT OF THE UNITED STATES, NINTH CIRCUIT.

To the Honorable William B. Gilbert, Judge of the Circuit Court of the Ninth Circuit.

Ham Hung Wah, by Tom Sing, his Guardian in this behalf respectfully shows, That he the said Ham Hung Wah is now unlawfully detained, confined and restrained of his liberty by Thomas M. Fisher, Chinese Inspector at Port Townsend in the State of Washington in the said Ninth Circuit.

That the said detention, confinement and restraint are illegal in this that Your Petitioner Ham Hung Wah is a ~~xxx~~ native born citizen of the United States, having been born of parents domiciled in the United States and subject to the jurisdiction thereof at three hundred and four (304) Wyoming Street in the City of Butte, State of Montana, Silver Bow County in said Circuit, in 1893. That his parents were then permanently domiciled in the United States as alien residents therein, not appointed, employed or engaged in any diplomatic or other service of any foreign Prince, Potentate, Republic or Government but that the said Tom Sing who is the Father of him the said Ham Hung Wah was then a laborer residing in the United States of Chinese descent and by virtue of having complied with the requirements of the Treaties between the United States and China and the laws in such case made and provided and having the Laborer's Certificate therein required was and is entitled to be and remain lawfully within the United States.

That the said Ham Hung Wah in the year 1900 at the request of his grand parents was sent to China for the purpose of visiting them and entering a Chinese school where he remained until 1904 when he returned to his native country as he well might and where he is entitled to all the rights and privileges of all other American Citizens and your petitioner says that his Father Tom Sing with his wife Na Lay since his birth have resided in Utah and Montana continuously ~~for~~ and now reside at Bozeman, Montana.

And your petitioner further says that upon his return from China in 1904, to Port Townsend in the State of Washington, he was arrested and detained by the Chinese Inspector in Charge at said Port Townsend in the said State of Washington in said Circuit under some pretense of right or authority so to do by virtue of some law of the United States and is now so held, imprisoned, detained and confined unlawfully by him the said Thomas M. Fisher who is now such Chinese Inspector in Charge and acting as such and who assumes by virtue of some pretended authority of the United States to have the right not only to so detain and imprison him ~~but to~~ without bail or mainprise and forcibly and against the will of your petitioner to deport him from the United States to the Chinese Empire as being an alien Chinese person seeking unlawfully to land in the United States whereas in truth and in fact said Chinese Inspector has no such right or authority because your petitioner says he was born in the United States, is subject to the jurisdiction thereof and is a citizen of the same and entitled upon a Writ of Habeas Corpus or otherwise to have his said citizenship judicially determined by due process of law and not arbitrarily by executive or ministerial officers.

And your petitioner says that he is not advised as to what particular inquisition has been made or upon what evidence the said Thomas M. Fisher has arrived at his conclusion that your petitioner was unlawfully seeking to enter the United States nor has he had any opportunity to hear the testimony of or cross examine any witnesses upon that subject nor has any hearing been accorded him before any competent tribunal to establish to its satisfaction his citizenship of and right to enter the United States and the said Thomas M. Fisher is threatening to and will unless restrained by the issuance of the Writ of Habeas Corpus or some other appropriate remedy deport your petitioner from his native land without giving him an opportunity to establish before a competent tribunal his lawful right to enter and remain therein.

1227 IN RE: PETITION of THAM HUNG WAH by TOM SING for WRIT of HABEAS CORPUS

Your Petitioner says that he was informed by the said Chinese Inspector or his assistants that his right to enter the United States was denied and his application therefor rejected and that he had two days in which to appeal, that he was more than eight hundred (800) miles from his home, was detained by the said Inspector, that he telegraphed to his Father at Bozeman, Montana the fact of his rejection but did not receive an answer to his despatch in time to avail himself of such right to appeal within the two days designated and his effort to appeal came too late.

That he was a child twelve years old, without parents, guardian or lawyer by reason whereof his desire to show his right to enter the United States before said Executive officers, came to naught.

Wherefore your petitioner prays that a writ of habeas corpus may be granted, directed to Thomas M. Fisher, Chinese Inspector in Charge at Port Townsend in the State of Washington, ~~xxx~~ as aforesaid, commanding him to have the body of said Ham Hung Wah before Your Honor at a time and place, ^{therein to be specified,} or before a Judge Holding the Circuit Court of the United States for the District of Montana, at Helena, in said District, to do and receive what shall then and there be considered by the Judge hearing the same, concerning said Ham Hung Wah, together with the time and cause of his detention, and said writ, and that he, the said Ham Hung Wah may be restored to his liberty.

Dated this 3d day of October, 1904.

Tom Sing

PETITIONER.

United States of America,)
District of Montana,) ss.

Tom Sing, father of the foregoing Ham Hung Wah, and his natural guardian, upon his corporal oath doth say and swear: That he has heard read the foregoing petition, of Ham Hung Wah by this affiant, as his guardian, and knows the contents thereof, and that upon his information

1227
IN RE: PETITION OF HAM HUNG WAH by TOM SING for WRIT of HABEAS CORPUS

~~and belief~~

that
tents thereof, and upon his information and belief so much of the
same as sets forth the unlawful detention and restraint of his liberty
by Thomas M. Fisher, and so much of the same as sets forth the
length of time said Ham Hung Wah resided in China, and so much
of the same as states the law applicable to the rights of the said
Ham Hung Wah, and so much of the same as states the intent to deport
him the said Ham Hung Wah, is true; and as to the other matters set
forth in the said petition, the same is true of his own knowledge,
and that, if an opportunity shall be afforded, he will be able, by
indubitable proof from Anglo-Saxon and Chinese witnesses, to estab-
lish to the satisfaction of the court the right of the said Ham Hung
Wah to enter and remain in the United States.

And further sayeth not.

Tom Sing

Subscribed and sworn to before me this Third
day of October, 1904.

A. D. McPherson
U.S. Commissioner

United States of America,)
District of Washington.) ss.

Ham Hung Wah, petitioner in
the foregoing matter, being first duly sworn, on his oath deposes
and says: That so much of said petition as sets forth the detention,
confinement and restraint of his liberty, and that he was sent from
the United States to China in the year 1900, and remained there until
1904, and so much thereof as relates to his arrest and detention by
the Chinese Inspector at Port Townsend, Washington; and so much
thereof as sets forth his ignorance of any trial or testimony had

1227

IN RE:

PETITION

OF HAM HUNG WAH

BY TOM SING

FOR WRIT OF HABEAS CORPUS

against this petitioner, and that he has had no hearing before any court, and that he is threatened to be deported from the United States, and that his right to enter the same has been denied, and his application rejected, and that he had two days within which to appeal, and that he was distant from his home, and that he telegraphed to his father the fact of his rejection, and did not receive an answer to his dispatch in time to avail himself of such right of appeal, is true, of his own knowledge, and that as to the other matters and things set forth in said petition, the same is true to his best knowledge, information and belief; and if an opportunity shall be afforded, your petitioner, he believes he will be able to establish by competent, credible and conclusive proof his citizenship of the United States, and his right to enter therein, and remain without let or hindrance from any ministerial or executive officer or any other authority or person whatsoever. And further sayeth not.

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Subscribed and sworn to before me this Seventh

day of October, 1904.



--- W. S. Snyder ---

NOTARY PUBLIC IN AND FOR THE STATE OF
WASHINGTON, RESIDING AT POST TOWNSEND

TOM SING for WRIT of HABEAS CORP

United States of America,
Ninth Circuit,

In the matter of the application of
Ham Hung Wah, by Tom Sing, His guardian
for a writ of habeas corpus.

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ORDER granting WRIT.

Upon reading and filing the petition of Ham Hung Wah, duly signed and verified, whereby it appears that he is illegally restrained of his liberty by Thomas M. Fisher, Chinese Inspector in Charge at Port Townsend, in the State of Washington, and stating wherein the alleged illegality consists, wherefrom it appears that a writ of habeas corpus ought to issue;

It is ORDERED that a writ of habeas corpus do issue out of and under the seal of the Circuit Court of the United States, for the Ninth Judicial Circuit, and under the seal thereof, directed to the said Thomas M. Fisher, Chinese Inspector aforesaid, commanding him to have the body of the said Ham Hung Wah before the Judge of the Circuit Court, sitting in and for the District of ^{Washington} ~~Montana~~, on the 25th day of October, 1904, at ~~four~~ o'clock p.m. of that day, to do and receive what shall then and there be considered, concerning the said Ham Hung Wah, together with the time and cause of his detention, and that you have then and there the said writ.

C. H. Hanford

Judge of the Circuit Court.

United States of America,
Ninth Circuit.

In the matter of the application of
Ham Hung Wah for a writ of habeas corpus.

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Upon the petition of Ham Hung Wah, setting forth that he is
a minor twelve years of age, it is

ORDERED that Tom Sing, be and he is hereby appoint-
ed in this behalf, the guardian ad litem for him the said Ham
Hung Wah.

Dated this 7th day of October, 1904.

C. H. Hanford
U. S. Circuit Judge.

United States of America.

IN THE CIRCUIT COURT OF THE UNITED STATES,

Ninth Judicial Circuit--District of Washington.

Northern DIVISION.

IN THE MATTER OF

Ham Hung Nah

ON HABEAS CORPUS.

The President of the United States of America,

To *Thos. M. Fisher, Chinese Inspector*
in Charge, Port Townsend, Wash.

Greeting:

You are Hereby Commanded, *That you have the body of**Ham Hung Nah*
by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name he shall be called or charged, before the Honorable the Circuit Court of the United States, for the Ninth Judicial Circuit, District of Washington, at the Court-room of said Court, in the City of *Seattle*
on the *25th* day of *October* 1904-189
at *9* o'clock *P*. M., to do and receive what shall then be considered in the premises.
And have you then and there this Writ.

Witness, the Honorable MELVILLE W. FULLER,

Chief Justice of the Supreme Court of the
United States, and the seal of said Circuit
Court, this *8th* day of *October*
in the year of our Lord one thousand ~~eight~~ *nine*
hundred and ~~ninety~~ *four*, and of our Inde-
pendence the *129th**A. Reeves Ayres*
Clerk.By *P. M. Hopwood*
Deputy Clerk.

United States of America,)
District of Montana.)

ss.

In the matter of the petition of
Ham Hung Wah, for a writ of habeas corpus.

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And now come *Sister S. Willson, Merchants. Charles W. Jackson, Merchants,
Robert M. Donaldson, Pastor First Church, Joseph H. Baker, Clerk, Bozeman
Nab Bank, E. M. Gardner, Real Estate agent.*

and being severally duly sworn, upon their corporal oath, doth de-
pose and say, each for himself, and not one for another, that he is
and has been for more than ten years last past a resident of Boze-
man, Gallatin County, Montana. That he knows the Chinaman Tom Sing
and his wife Na Lay, who, during a large portion of said period of
time have resided in said Bozeman; that when they first came to
Bozeman, they were reputed to be husband and wife, and lived and co-
habited together as such. That after residing in said City some time,
they adopted the habits of western civilization as to dress, abandon-
ed the religion generally believed and practised by their countrymen,
and became members in good standing of the Presbyterian Church, which
membership they now maintain. That they are persons of exceptional
intelligence and propriety of demeanor, the Mother speaking the Eng-
lish language with a fluency and propriety equal to that of almost
any native born American. That when they joined said church, in con-
firmation of their status of husband and wife, they were married ac-
cording to the forms of the Presbyterian Church, having, as it was re-
puted, been theretofore married in the Empire of China. That the said
Tom Sing is a credible witness, whose reputation for truth and ver-
acity entitles him to be believed.

PEITION of HAM HUNG WAH by TOM SING for writ of

That his statement, with that of his said wife, as to the place and circumstances of the birth of said Ham Hung Wah, comports with what we know of it by reputation, and we believe the same to be true, and that if an opportunity shall be afforded to take the testimony of producable witnesses, and have it examined judicially, it will be made to appear that the said Ham Hung Wah was born in Montana, subject to the jurisdiction of, and a citizen of the United States, and that in the matter of the attempted entry of him the said Ham Hung Wah, no attempt is being made to impose upon the authorities or to obtain an unlawful entry of a Chinese person within the United States.

And further affiants say not.

Ernest Wilson, Merchant

Charles W. Jackson, merchant

Robert M. Dowdson
Pastor, Presbyterian Church since Oct 1st 1902

Joseph H. Baker Asst Cash Bgman Nat Bank

EM Harmer, Real Estate

Subscribed and sworn to before me this Third
day of October, 1904.

A. L. McPherson
Not. Commissioner

PETITION of HAM HUNG WAH by TOM SING for WRIT of HABEAS CORPUS

In the Circuit Court of the United States for the District of
Washington, Northern Division.

In re: Application of Ham Hung Wah
for a Writ of Habeas Corpus.

No. 1227.

On this 25th day of October, 1904, on application and motion of
I. D. McCutcheon, Esq., attorney for the petitioner herein, it is
ordered that the above entitled cause and and petition be, and the same
is hereby, dismissed.

C. H. Hanford
Judge.

27 IN RE: PETITION of HAM HUNG WAH by TOM SING for WRIT of HABEAS CORPUS