CRIMINAL

Doc. FOUR No. 22

DISTRICT COURT.

Douglas County, Nebraska.

In the matter
of the Application
of Claus Hubbard
for a
Writ of Habeas Corpus

County Attorney.

Defendant's Attorney.

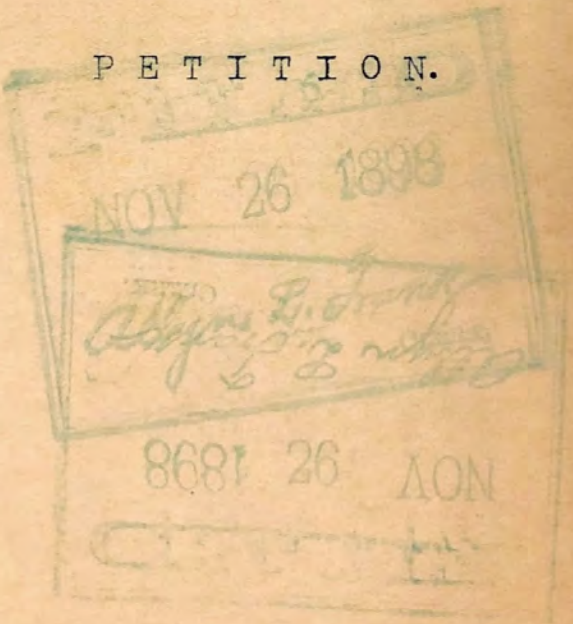
OMAHA PRINTING COMPANY.

4-22

IN THE DISTRICR COURT
OF DOUGLAS COUNTY, NEBRASKA.

IN THE MATTER OF THE APPLICATION OF CLAUS HUBBARD FOR A WRIT OF HABEAS CORPUS.

P E T I T I O N.



Thomas & Nolan.
Attys for Pltff.

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA.

IN THE MATTER OF THE APPLICATION
OF CLAUS HUBBARD FOR A WRIT OF
HABEAS CORPUS.

PETITION.

Your petitioner, Claus Hubbard respectfully represents to Your Honor, a judge of the District Court for the County of Douglas and for the Fourth Judicial District of Nebraska, that he is unlawfully deprived of his liberty by the Chief of Police of the city of Omaha and by the officers of the police force of the said city. That he is now in the city jail of the city of Omaha in Douglas County and State of Nebraska. That on the ~~morning~~ evening of November 28th, 1898, ~~the Captain of Police on duty, one Donohoe sent for your petitioner and locked him in jail when he reported at the jail without explanation or excuse.~~ That no complaint had been filed against the said petitioner and that his cause has not been booked as he is informed and believes on the books of the police department.

2.- ~~That one of the attorneys for the petitioner, Elmer E.~~ Thomas, went to the said city jail on the said 11th day of November and requested that he be allowed to talk to the petitioner concerning ~~the cause of his arrest~~. That this right was denied the said attorney: that the jailer referred the said attorney to the sergeant of police and the sergeant of police referred him to the captain, who he said was not present at the jail. That the said sergeant was in charge of the prison at the time. That the said attorney then applied to the police judge of said city for permission to see the said petitioner, which permission the police judge claimed he had no right to give. That the jailer was evasive about the information he gave the said attorney, first stating that he was arrested on a charge of vagrancy: the said sergeant saying that he was arrested on the charge of being a suspicious character, which is not an offense know to the laws of the state of Nebraska. And the said attor

ney was unable to find out whether any offense had actually been booked against the petitioner or not.

3.- That it is the custom of the chief of police of the city of Omaha to arrest persons and throw them into jail for the purpose of compelling them to leave the city of Omaha. That the petitioner is a negro and that he protested to the chief of police against his throwing other negroes in jail without cause and leaving them in jail for an indefinite length of time without lodging any complaint against them. That this is the system of the said chief of police for compelling people to leave the city whom he suspects of crimes. That the petitioner had a quarrel with the chief of police about this method of procedure and that the chief threatened him, the petitioner, with the same kind of treatment. That he believes that he is now arrested upon the orders of the said cheif of police for the purpose of harassing him and compelling him to leave the city. That he has been a resident of the city of Omaha for a period of 14 years. That he has never been arrested in his life upon any charge of any character. That he has always borne a good reputation. That he is a college bred man having attended Oberlin College, Ohio. That he has been principal of the schoold of several different eastern cities. That he is now in bad health and unable to perform manual labor or other labor of any character on account of the state of his health. That he is not a vagrant but would work if he could and does work at such occupations as he can find which his strength will permit of. That your petitioner has no intention of leaving the city of Omaha. That the methods of the said chief of police are subversive of his liberty and are calculated to harass and annoy him and to prevent him from enjoying his constitutional rights as a citizen of this state. That he believes that if he is confined in jail, owing to the disease from which he suffers, it might even cause his death.

before Nov 11. 1898

4.- The petitioner is unlawfully deprived of his liberty by the unlawful acts of the said chief of police and the said police force.

THEREFORE your petitionerprays that a writ of habeas corpus may be issued forthwith and that he may be discharged from said unlawful imprisonment.

Thomas Nolan
attys

STATE OF NEBRASKA)
County of Douglas) SS

ELMER E. THOMAS being first duly sworn deposes and says that he has read the foregoing petition that he prepared the same that the facts therein stated are within his knowledge. That said ~~petitioner~~ Husband is confined in jail and I have been unable to communicate with him and for that reason I make this affidavit. That I believe the facts stated in the foregoing petition to be true.

Elmer E Thomas.

Subscribed in my presence and sworn to before me this 25th day of November, A.D. 1898.

Cunningham R Scott
Notary Public.

Judge

~~Upon reading the foregoing petition it is ordered that a writ of Habeas Corpus~~

4-22

Re Chas Hubbard

Habeas Corpus

2 (2)

Order

58-589

Scott (2)

Recorded

Journal 58 Page 569

E.T. APP. DEP.

In District Court of Douglas County

In re application of
Chas Hubbard for a Writ
of Habeas Corpus } Order.

This cause coming for hearing
on this 26 day of November 1898.
and it appearing to the Court that
the petitioner should be discharged

It is therefore ordered by the
Court that said applicant be dis-
charged from custody and restored
to his rights and that the prayer of
said petition be allowed. The said
proceedings to be at the cost of
said Martin White and petitioner
Judgment accordingly

Judge

4—22

3 8 3 6 9

1

Lease

NOV 26 1898

NOV 20 1898

Recorded

Journal 58 Page 569

OF OMAHA, NEBRASKA.

AND TO THE CLERK OF THE CITY OF
THAT THIS SHEET OF CAN
TO DETAIL WHETHER THE LEASE
IN THE DISTRICT COURT OF DOUGLAS COUNTY,

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA.

TO MARTIN WHITE CHIEF OF POLICE,
AND TO THE JAILER OF THE CITY JAIL
OF OMAHA, NEBRASKA.

YOU ARE HEREBY COMMANDED to have the body of Claus Hubbard by you unlawfully deprived of his liberty as is alleged together with the cause of his detention before Cunningham R. Scott Judge of the District Court at ~~the Court House in~~ Omaha ~~forthwith~~ on the 26 day of November at 9 o'c. am of said day at court room No 6 then and there to be dealt with according to law and have then and there this writ.

WITNESS Cunningham R. Scott, Judge of the District Court of Douglas County ~~and the seal of said court affixed hereto~~ this 25th day of November, 1898.

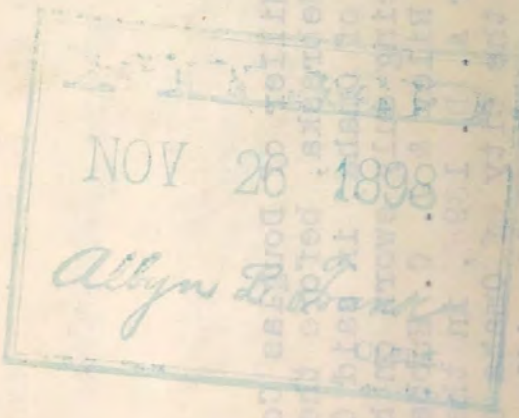
Cunningham R. Scott
~~Clerk of the Dist. Court~~
Judge

4 - 22

Re Hubbard

Return

Arrest



IN THE DISTRICT COURT, DOUGLAS COUNTY, NEBRASKA.

In the matter of the application)
of Claus Hubbard for a writ) R E T U R N .
of habeas corpus.)

Come now Martin White as chief of police of the city of Omaha, and _____ as city jailer, of the city of Omaha, and in the matter of the above named application of Claus Hubbard for a writ of habeas corpus show to the court and allege

First, That the said Claus Hubbard is in the lawful and just custody of said jailer of said city jail.

Second. That said Claus Hubbard was on the evening of the 25th day of November, 1898, duly arrested by one _____ a police officer of said city duly appointed, qualified and acting as such, as being a vagrant, and as such inimical to the peace and dignity, safety and good order of the city of Omaha; that said Claus Hubbard is and was in fact a vagrant without visible means of support; that said Claus Hubbard is a constant frequenter of disreputable places in said city of Omaha; that he engages in no occupation and performs no work and has not for five years last past done or performed any work or labor or done anything whatever toward the earning of an honest livelihood; that he is and has been a constant aider and abettor of criminals, and disreputable persons and is a constant menace to the good order and an interferor with the enforcement of the misdemeanor ordinances of said city; that a complaint in words and figures as set forth in the copy hereto attached marked "Exhibit A" was duly prepared and filed in the police court of the city of Omaha by J. S. Miller, city prosecutor of the city of Omaha on the morning of the 26th day of November, 1898; that the J. C. Hubbard in said complaint named is familiarly known as Claus Hubbard, and is the petitioner in this proceeding; that the facts set forth in said complaint with reference to said Hubbard are true; that it is the invariable custom and practice of said J. S. Miller, the city prosecutor, to prepare and file complaints and informa-

tions each morning against persons arrested charged with the commission of offenses and brought to the jail during the night or the previous evening, and that the same practice and procedure with reference to the preparation and filing of a complaint was had in this case as in others of a similar character; that all of said proceedings with reference to this matter by these and other officers of said city in the matter of making said arrest and preparing and filing said complaint were in the interests of the good order of the community and in the furtherance of duties imposed upon said officers by virtue of the ~~provisions~~ positions by them held.

Martin White

Exhibit A.

IN THE POLICE COURT OF THE CITY OF OMAHA, DOUGLAS COUNTY, NEBRASKA.

State of Nebraska,)
County of Douglas,) ss
City of Omaha.)

The State of Nebraska,)
vs.)
Chas Hopkins,) FOR VAGRANCY.
Jas. Caswell,)
Ed. Riley and)
J. C. Hubbard.)

The complaint and information of J. S. Miller of Douglas County aforesaid, made in the name of the State of Nebraska, before the Judge of the Police Court, within and for the City of Omaha, in said County, this 26th day of November, A. D. 1898, who being duly sworn on his oath says, that Chas. Hopkins, James Caswell, Ed. Riley & J. C. Hubbard, Defendant, on or about the 25 day of November A. D. 1898, in the County aforesaid and within the corporate limits of the City of Omaha aforesaid, then and there being, were then and there unlawfully idle persons not having visible means of support and maintenance, and who live without employment and wander abroad and live in taverns, beer houses, sheds, barns and open air, and cannot give a good account of themselves and is a suspicious characters and vagrants contrary to the ordinances of the City of Omaha and the form of the statutes in such cases made and provided, and against the peace and dignity of the State of Nebraska.

J. S. Miller,

Subscribed in my presence and sworn to before me this 25 day of November A. D. 1898.

S. I. Gordon,

Police Judge of the City of Omaha

Endorsed as follows:

No. _____

Davis & Kiser.

State Complaint.

State of Nebraska

vs.

Chas. Hopkins, Jas Caswell,
Ed. Riley & J. C. Hubbard

Filed this 26 day of November
A. D. 1898
S. I. Gordon,
Police Judge of the City of Omaha,

26--2 P. M.

Witnesses for the State.

Davis & Dunn

Whenan & Heelan

Heelan, Kissane.

Barnes.

W Nielan

No. Davis & Kinn

State Complaint.

STATE OF NEBRASKA,

vs.

Chas Hoffmeister

Jas Caswell

Ed Riley &

J. C. Hubbard

Filed this 25 day of

Nov. A. D. 1898

By Anderson

Police Judge of the City of Omaha.

24 - 9 - One

Fine, $

FILED
NOV 26 1898
Albyn L. Frank
CLERK

OMAHA PRINTING COMPANY

WITNESSES FOR THE STATE:

Davis & Dunn

Wheelan & Heelan

Heelan Kilkane

Barnes

STATE COMPLAINT.—Form 8. OMAHA PRINTING COMPANY

STATE OF NEBRASKA, } ss.
County of Douglas, City of Omaha, }

In the Police Court of the City of Omaha, Douglas County, Nebraska

THE STATE OF NEBRASKA,

vs.

Chas Hopkins
Jas. Caswell +
Ed. Riley +
J. le Hubbard

FOR VAGRANCY.

The complaint and information of D S Miller of Douglas County aforesaid, made in the name of the State of Nebraska, before the Judge of the Police Court, within and for the City of Omaha, in said County, this 26 day of November A. D. 1898 who being duly sworn, on his oath says, that Chas. Hopkins James Caswell Ed Riley & J le Hubbard Defendant, on or about the 25 day of November A. D. 1898, in the County aforesaid and within the incorporate limits of the City of Omaha aforesaid, then and there being, ~~was~~ were then and there unlawfully ~~an~~ idle person not having visible means of support and maintainance, and who lives without employment and wanders abroad and lives in taverns, beer houses, sheds, barns and open air, and cannot give a good account of themselves and is a suspicious character &

and ~~is a~~ vagrant contrary to the ordinances of the City of Omaha and the form of the statutes in such case made and provided, and against the peace and dignity of the State of Nebraska.

D S Miller

Subscribed in my presence and sworn to before me this 26 day of November A. D. 1898

Ingham

Police Judge of the City of Omaha.

PRÆCIPE.

DISTRICT COURT

DOUGLAS COUNTY.

Doc. 4 *Page No.* 72

Plaintiff

vs.

Defendant

Præcipe for ISSUED

Filed NOV 26 1898 *189*

Attyn Fuhrer

Clerk.

CLERK

By _____ *Deputy.*

Atty. for _____

ENT. APP. DOC.

ISSUED

Form No. 50.
PRÆCIPE.

Klopp & Bartlett Co., Printers, Omaha

In re Application for
Habeas Corpus of
vs.
Chas Hubbard

District Court, Fourth Judicial District of Nebraska, in and for Douglas County.

TO THE CLERK OF SAID COURT:

Please issue Subpoenas *in the above entitled cause, and deliver same to the Sheriff of said County.* ~~forthwith~~

Judge Gordon - police Court
Martin White chief of police
Captain Donohoe - police Station
City jailer - John Doe - (Duces Tecum) To
have with him jail record
#6 Foothworth

Thomas F. Nolan
Attorney for Applicant

4-22

Witness List

FILED
DEC
6
1898
Geo. L. Fraser
CLERK

Esq

ENT. AFF. COR.

In the Matter of the
Application of Claus
Stubbard for a Writ of
Habeas Corpus.

For Applicant:
L. L. Gordon
J. Claus Stubbard
W. W. Cox

For Respondent:
Martin J. White

CHARGE

4 — 22

RECORDED
DEC 1898
Record Page

FILED
DEC 12
1898
Clerk

John W. McDonald
Miles Mitchell

State of Nebraska } ss.
Douglas County }

Received the original writ on the 26th day of November 1898, and served the same on the 26th day of November, 1898, on the within named Martin White Chief of Police, by delivering to him the original writ of which this is a true and duly certified copy, with all the endorsements thereon, personally in Douglas County Nebraska, at the hour 8:55 o'clock. A.M.

Fees 1.00 John W. McDonald Sheriff.
Mileage 10
1.10 By Louis Grebe
Deputy.

Copy

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA.

TO MARTIN WHITE CHIEF OF POLICE,
AND TO THE JAILER OF THE CITY JAIL
OF OMAHA, NEBRASKA.

YOU ARE HEREBY COMMANDED to have the body of Claus Hubbard by you unlawfully deprived of his liberty as is alleged together with the cause of his detention before Cunningham R. Scott Judge of the District Court at ~~the Court House in~~ Omaha ~~forthwith~~ on the 26 day of November 1898 at 9 o'c Am. of said day at Court Room No 6 then and there to be dealt with according to law and have you then and there this writ.

WITNESS Cunningham R. Scott, Judge of the District Court of Douglas County ~~and the seal of said court affixed hereto~~ this 25th day of November, 1898.

(Signed) Cunningham R Scott
~~Clerk of the Dist. Court~~
Judge

CHARGE

IN DISTRICT COURT,

DOUGLAS COUNTY,

State of Nebraska.

Doc. 4 No. 22

Returned and filed _____ 189

SUBPŒNA.

Klopp & Bartlett Co., Printers, Omaha.

FILED
DEC
12
1898
Clerk

State of Nebraska, } ss.
Douglas County, }

Received this writ on the 26" day of Nov 1898 and served the same on the 26 day of Nov 1898 by delivering to each of the within named Judge Gordon, Martin Welch, City Jailer whose first and real name is W.T. Marshall

personally in Douglas County, Nebraska, a true and duly certified copy of this writ with all the endorsements thereon.

After diligent search the within named Captain Donohoe

not found in Douglas County, State of Nebr.

John W. McDonald
SHERIFF.

By Miles Mitchell
DEPUTY.

Fees $ 1.75
Mileage $ .40
2.15

NOV 26 1898

6

SUBPŒNA.

STATE OF NEBRASKA, } ss.
DOUGLAS COUNTY.

THE STATE OF NEBRASKA.

To Judge Gordon, Police Court, Martin White, Chief of Police Captain Donohoe, Police Station, City Jailer, John Doe, (To have with him jail record),

You are hereby commanded to appear before the District Court of Douglas County, at Court Room No Six in the Bee Building, , in the City of Omaha, on the 26th day of November 189 8, at 9 o'clock A M., to give evidence on the part of In Re Application of Claus Hubbard in a certain action pending in said Court wherein for Writ of Habeas Corpus is plaintiff, and defendant.

Hereof fail not under penalty of the law.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said Court this 26h day of November 189 8

Albyn L. Frank
Clerk of the District Court.
By A. Steen Jr. Deputy.