

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM A. D., 1923.

Henry Lewis,

Petitioner

vs.

David Roberts, Jr., as Trustee in Bankruptcy of the
Montevello Mining Company, a corporation, Bankrupt,

Respondent.

MOTION OF HENRY LEWIS FOR AN ORDER ALLOWING HIM
TO PETITION FOR A WRIT OF HABEAS CORPUS IN FORMA PAUPERIS WITHOUT
A DEPOSIT FOR COSTS AND WITHOUT PRINTED RECORDS.

To the Honorable, the Chief Justice and Associate
Justice of the Supreme Court of the United States:

The Motion of Henry Lewis represents as follows:

First; The litigation which Henry Lewis desires to bring
before this Court involves one clear out question of Federal law.
There is no dispute about the facts. There is no disagreement
as to the legal question raised. The Referee who disallowed Henry
Lewis' claim, the District Judge who confirmed the order of the
Referee, and the divided Circuit Court of Appeals of the Fifth

1177 100-2-24-1910

IN RE: HENRY LEWIS
DEBTOR
AND
TRUSTEE IN BANKRUPTCY OF THE MONTEVALLO MINING COMPANY
CREDITORS

ORDER OF THE COURT

The Trustee in Bankruptcy of the Montevallo Mining Company made a Motion before the Referee to disallow and expunge the claim of Henry Lewis. The Referee was of opinion that a judgment in tort was not provable. He granted the Motion and entered an order expunging and disallowing the claim. The District Judge confirmed the order of the Referee.

Henry Lewis then took an appeal as a poor person, to the United States Circuit Court of Appeals for the Fifth Circuit. That Court likewise decided his judgment was not a provable debt. The Presiding Justice of the Court however, rendered a dissenting opinion. He concluded that the judgment was a provable debt. His opinion ends with these words:

"This conclusion is in harmony with all the reported decisions of the same question of which the writer has been advised."

Fourth; It is believed that this departure from all the reported decisions of all the courts is ~~made~~ due to a misconception of the law. It deprived Henry Lewis of rights given to other citizens of the United States in other circuits of the United States. The decision creates a needless diversity of opinion on the construction of the Bankruptcy Act. Uniformity of decision under this act requires that the Supreme Court of the United States establish the law on this question, either by overruling this isolated decision or by overruling all the other decisions of all the other courts of the United States, both State and Federal.

Fifth; The personal loss to Henry Lewis and the requirements of the public interest make it advisable for the Supreme Court of the United States to determine this question. Henry Lewis is still a convict. He is a pauper. He has no money. He owns no property. He can not raise money to pay for printing copies of the record, nor can he make a deposit of money as required by the rules of the Supreme Court of the United States. These facts are not disputed. They are also shown by the affidavit of Henry Lewis hereto attached. The Acts of Congress of June 25, 1910, Fed. Stat. Ann. p., 647, would seem to authorize an appeal by Henry Lewis as a poor

AND USE PROCEEDS. He also says the money was expended in order
of Henry Lewis. The witness says of course that it is inherent in such
cases a proper fee for the witness to create and execute the same
person. The proper procedure is that of the JONASASIA MINING COMPANY

from the Supreme Court to the Circuit Court of Appeals for the Fifth
Circuit.

Sixth; In view of the fact that the question is so clear
out and the facts are in no way disputed, a stipulation for reducing
the record is hereto attached, signed by the attorneys for Petitioner
and Respondent in the event this Court should grant the order herein
prayed.

WHEREFORE THE PREMISES CONSIDERED Henry Lewis moves this
Honorable Court for an order allowing him to apply for a Writ of
Certiorari to the United States Circuit Court of Appeals for the
Fifth Circuit as a poor person, relieving him of the necessity of
making any deposit of money with the Clerk of the Supreme Court of the
United States and directing that the record in his case be printed at
the public expense in the limited form required by the stipulation
herewith attached reducing the record.

District of Columbia }
City of Washington }
STATE OF ALABAMA

Hugo L. Black
Hugo L. Black, Attorney for Henry Lewis.

JEFFERSON COUNTY

E. Edwin Crookley

Before me, ~~Wesley Ray Motelife~~ a Notary Public, in and for
said State and County, personally appeared Hugo L. Black, known to me

as being by me first duly sworn deposes and says that he is counsel
for Henry Lewis and that the facts stated in the foregoing Motion are
true and correct to his own personal knowledge.

E. Edwin Crookley

Sworn to and subscribed before me on this
the 31st day of December 1925.

E. Edwin Crookley
Notary Public, NOTARY PUBLIC,
DISTRICT OF COLUMBIA

I hereby certify that I have served a copy of the foregoing
Motion and Affidavit of Henry Lewis on Messrs. Nesbit & Sadler, Attor-
neys of Record for David Roberts, Jr., as Trustee in Bankruptcy of the
Montevallo Mining Company, a corporation, Bankrupt Respondent.

Hugo L. Black
Hugo L. Black, Attorney for Henry Lewis.

EXHIBIT PA R COURT REPORTERS' SERVICES ARE AVAILABLE ON THE MOUNTAIN
STREET THE OFFICE OF THE CLERK OF THE SUPREME COURT
MEMPHIS.

PRINTED AND BOUND BY THE CLERK OF THE SUPREME COURT OF ALABAMA

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM A. D. 1923.

Henry Lewis,

Petitioner,

vs.

David Roberts, Jr., as Trustee in Bankruptcy
of the Montevalle Mining Company, a corporation,
Bankrupt, Respondent.

Affidavit of Henry Lewis in support of his motion to
be allowed to file a petition for certiorari in Bankruptcy in the
Supreme Court of the United States in forma pauperis without the
necessity of depositing money to cover costs of court and without
filing thirty (30) copies of the printed record as required by the
rules of the Supreme Court of The United States.

Before the undersigned authority in and for the State of
Alabama, County of Elmore, personally appeared Henry
Lewis, personally known to me who being by me first duly sworn,
deposes and says:

1. I, Henry Lewis, am a convict of the State of Alabama
confined in the penitentiary of Alabama at Speigner, Ala.
2. The State of Alabama leased me, along with other con-
victs to the Montevalle Mining Company to work in the mines of the
Montevalle Mining Company at Aldrich, Alabama. As a convict I
entered the coal mines of the Montevalle Mining Company and worked

for them. I received grievous bodily injuries as a result of the negligence of the Montevalle Mining Company. I brought suit for damages in a complaint that charged simple negligence only. I recovered a verdict and judgment for Four Thousand Dollars (\$4000.00) damages in the District Court of the United States for the Southern Division of the Northern District of Alabama. No appeal was ever taken from that judgment.

Jan 25th 1922
3. ~~My judgment was rendered Nov. 29th 1921. On~~
~~and a few days before my judgment was four (4) months~~
The Montevalle Mining Company filed its voluntary petition in Bankruptcy in the same District Court of the United States.

4. I filed my claim on that judgment as a creditor in bankruptcy against the estate of Montevalle Mining Company. The Referee in Bankruptcy, on motion of the Trustee expunged and disallowed my claim.

5. The district judge overruled my petition for review and entered an order confirming the order of the Referee expunging and disallowing my claim.

6. I made affidavit and appealed in forma pauperis to the United States Supreme Court of Appeals of the Fifth Circuit. That court in a divided opinion, with the presiding judge dissenting affirmed the judgment of the District Court. My lawyers are preparing the proper papers to carry my case to the Supreme Court of the United States. In support of their motion for an order allowing me to petition for a writ of certiorari in forma pauperis I make the following statement.

7. I am still serving time as a convict in the Alabama Penitentiary. I am broken in body and health as a result of my injuries. Those injuries destroyed my earning capacity. I will never be able to work and earn a living. I have no money. I own no property. I have no way of earning money. I could not work and earn money even if any way were open to me. I have no income. I have no relatives or friends on whom I could call for help. It is impossible for me to pay any costs of court or make any deposit to cover them or to pay for printing briefs or records. ~~Unless I can~~

allowed to prosecute my petition for a writ of certiorari, as a pauper, as provided by the Acts Of Congress, Act of June 25th 1910- I will be unable to get my just and lawful compensation out of the estate of the bankrupt wempany that injured me so grievously.

I am a negro, without education. I can figure out no way to get money for any purpose.

11:-- Henry Lewis
Henry Lewis

Sworn to and subscribed before me
this the 29, day of December, 1923.

W. L. Suddeth
Notary Public.