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Documents from Dimension III: Habeas Corpus as an Instrument of Checks and Balances (article)

Supporting Documents for Making Habeas Work

12-26-1752

Provincial Case File No. 26947 and Judgment Book of Superior Court, Vol. B, Sept. 1750 - Mar. 1754, at 287-88, New Hampshire State Archives - Ebenezer Ayers

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Our Sovereign Low the King against Eleenerer Ayras the hung find that the Said Chenereron orabout the 17 of Sept! Last at a Hace Calle Suncoke withe Township of Bow in, the Townie of New Hampshire may about the his Lawful Burness That he then there Descharg & a Gun upon, the Said James Rogers thanks nother Indichment of thereby que hum, a Mortal wound whereof he Died in about fourteen hours tiflen wardy. that the Said Chenezer Supposed that he shot at a Bean theing a the Said James being in a Shicket of Bushes at the hime of the Lord Ducharge of the Said your they therefore find that the Said Killing was by theiforor by Wilful minder Thoi Seince ferency

to four Widow having Jeveral Children to Maintain without Gerlen any Estate or Sufficient ability to maintain howelf or them that Ta-(752 whe has been a Widowabout nine Months Letter leved with here hus: Son CT band at Regeraforesaid about Lighteen Months before his decease disine pri U about three or four months mostly by the Charity of particular persons Sint who are weary of fortinuing that Charge and the veletinen or over 1750 for of the foor well not afford herany Justinance but vend her man to Portomouth & Sortsmouth will not Receive her because whe has hier se long at here so that your fetitioner canget no shedunance butby begging wherefore the prays that the Court will Consider her (aso & determine whether who is not a legal Inhabitant of hyerafousaid and Entituled to a muntainance from the vaid Place and to pass suchorder thereon asis agreable to law & fastied - Atwhich waid Good Court of General Sopions of the Peace first mentioned Judges onent was rendered that the Trespondents are liable by law to maintain the Congilainant Ther Children - From which Judgement the said Sarish of the appealed to the then nost Superiorer Court of Judicature when the appeal was Entered and the parties being heard by the Mount sell bearned in the law the lase was Committed to the fury decorn Queording to law to try the ffore who made hetern of their Wordist. thereord upon Gath & say the Juny find for the appelled Confirme tion of the former Judgement and Costs - It is therefore Considered that the former Judgement be and hereby is affirmed and that the said Mary Waters Ruover against the said Narish of Prige maintainance for herself & Children & Costs Janed at the vum of Seven Sounds five Shillings New Tennor Brills of Choit The Juron for our Novereign Lord the String upon their Oaths do present that Ebenezer dyres of Jalem in the Province of The Hampshire yeoman on or about the Seventeenthe day of Thelip Habley at a filace (alled Surreno h within the town Joseph Lewist Jeg 1920 years of God before his tyes but being fristigated by the devil with force ? andle su

Und now belonously and of malie for thought made & a founds upon the body of one James Rogers of a place Called Starks town in the Fromine of How Marngohin aforevaid Groman then & there being in the Seaw of God & of our said Lord the ching and that the vaid Cheresen then and there in marine avafered aid Discharge a hand Gun of the Value of two frounds (which he then Ithere held in both his hunder loadenwith Gun powder bleading and expen the body of the said farmer hogers and Shot two bullets into the lower part of the belly of the vaid James Rogers which two bullets entered into the body of the vaid farmes Rogers &thereby gave thewaid fames Rogers Two mortal Wounds of the lingth of three Inches each and the breadth of half an incheach of which moral Wounds the vaid James hogers languished for The space of about fourteen hours and then Ithou died so the furon a fouraid upon their Oallis say that the said Eleneser Ayers in manner as a foresaid then othere felonously hieled Immer dered the same James Mogens against the Peace ofour said Lord the Sing that now is his crown & Dignity to the Evil Example of others in the like last offending and against the law in that Case med expressided The said Elemened diges by ny arrighed upon this Indictment & howing the same Distinctly head unto himpleads not Gully speets himself on Frial by god the Country - The prisoner being Brought to the four & having pleased not quilly of the Indictment a Jung being legally sween between the Ling & the Prisoner for trial the Kings atte neigh bounfell for the prinoner being fully heard upon the loid ence the pery unthorew for trial Whetwon into Court gupontheir cathe say the fing find that thousand thenever on or about the of they of september 1752 at a place latted Juncone in the founday of Bow in the province of This: Hampshine was about his lawfull truping that to Wient there discharged a Gun upon the vaid fames the gers mentioned in the Indutment and thereby you him a mortal wound whereofhe died in about fourteen hours afterwards: that the said Ebenever

Supposed that he shot at a treat the said fames beingina Shicket of trushes at the time of the Discharge of the vaid gun. They therefore find that the vaid hilling was by mis adventure and not of makies for thought orby Willfull murder Theaten Verdiet was read to the said lbenezed the was asked if he had any thing to offer to the Court in acrest of Judgement upon waid verdiet he answered her had nothing to offer in arrest of Judgement - which Virdict being read and the special matter thereof duly considered by the Court the locat is of opposion that the said Ebenever agres hilled the said James Frogers by misadventure only-It is therefore Considered by the court that the said Wenerer ayers be remanded to his majestif's Goal there to Remain till hobe discharged by his majistips Grace Vfavour SH HW HY Mathew Swermow of Sortsmouth in the Province of New Hampshow The Security und Evo Ultomey General for the Province of Soundary Comes into Court Phil Wadleigh Josh Hill Mehemiah Turbu and gives this Court to understandy be informed that Homy Minney of Mingo Domini Ulias Andonio Mingo now resident at Portsmouth for Sperior aforesaid Maining in the learning immediately following the lightenth for Hick ford Joseph Leavit

Eve Ultomey General for the Province of Sunday Pornes and Cought Hadings and gives this Court to understands be informed that Morny Minnay John Hadings and gives this Court to understands be informed that Morny Minnay John Hadings of Mingo Domina Ulias Androne Mengo now resident at Portsmouth for God of a forward Manner in the Poerung invendently following the highest of Deumber 1702 at Portsmouth aforward with forward Unions Joseph least day of Deumber 1702 at Portsmouth aforward with forward Union Joseph Heavy Partin at Portsmouth aforward of one William Clark now President Mongather at Portsmouth aforward maniene and then Wither in anamordas Warrant for Experience of high aforward with Clubs Swords and Mangens and then Wither in anamordas Warrant for Experience of high man of the Sweet World of him the waid William Clark & (aused a manner of blood yother brommitys this When perpetuated does against his majerity frew Court of this sound mathew Sweet on the promise bear in the facility aforward provided when for the said Mathew Sweet on the proving had the world the man of the House of the province the province many that the ward themy Minnay & Minny Domini Whias Antonio Mingo orney that the world the province with pursuant to law-bird the world the forward to fewer the province with pursuant to law-bird the world the forward to fewer the province with pursuant to law-bird the world the forward to fewer the province with pursuant to law-bird pursuant to law-