

MSA SC 5463-5-1

Petition for the  
writ of Habeas Cor.

The Spouse file this  
petition &c.  
H. J. Arnold.

Filed 19 Nov 1841  
Writ issued, returnable  
inmediately—  
Prayer of the Petitioner  
granted, and the Petitioner  
discharged from Imprisonment

To the Honorable the Judges of the Circuit  
Court of the United States in and for  
the District of Maryland.

The petitioner of George McAttee respectfully  
represents to this Honorable Court, that he is  
~~now~~ a resident of Allegany County, in the State  
of Maryland, and that he ~~was~~ <sup>was</sup> called to Baltimore  
in obedience to a subpoena, requiring  
him to be present and testify in a cause  
then pending in your Honorable Court -  
and in which Michael Mc Langlin and  
John Dangers were plaintiffs and Fitz-  
hugh and others defendants - That on the  
18<sup>th</sup> day of November <sup>1841</sup> while he was waiting  
for the earliest opportunity, after having dis-  
charged his duties as a witness in said cause,  
for leaving this City in the cars for his home,  
he was apprehended on a warrant issued  
by John Walter, a magistrate of this City, at the  
instance of one Patrick Durfee, on a civil  
demand - that a judgment was forthwith  
rendered against your petitioner, execution  
issued on the same, and your petitioner, not  
withstanding, he pleaded his privilege from arrest

as a witness as above stated, was, illegally com-  
mitted under said execution to the custody  
of the Warden of Baltimore City & County  
jail - where he now remains a prisoner -  
your petitioner now states and charges that  
his said arrest and imprisonment is  
unjust and contrary to law -

wherefore your petitioner humbly prays  
that the writ of Habeas Corpus may issue  
directed to the said Warden, James Disney  
commanding him to produce before  
your Honors at such time as this Hon-  
orable Court may appoint the body of  
the said George Mc Attee, together with  
a copy of the writ of execution under which  
the said Mc Attee is detained, in order  
that he may be discharged from im-  
prisonment, unless cause to the contra-  
ry be shown -

Henry F. Fessenden  
attorney for  
Petitioner.

State of Maryland, City of Baltimore Oct;

On this 19<sup>th</sup> day of November, in the year  
eighteen hundred and forty one, before the  
undersigned, a Justice of the Peace of said State  
in and for said City personally appears  
~~Michael M. Connelly~~ <sup>Michael M. Connelly</sup> and makes oath on the  
Holy Evangelists of Almighty God, that  
the matters and things contained in the  
aforesaid petition are true to the best  
of his knowledge and belief but that  
deponent can not swear positively to the place  
of residence of said petitioner further than  
said petitioner resides either in Allegany  
County, in the State of Maryland or in the State  
of Virginia bordering on said County.

Sworn before Wm. Hanson J.P.

The United States of America

District of Maryland to wit  
To James Disney Warden of the Jail of Baltimore  
City and County Greeting

You are hereby enjoined and Commanded  
immediately to be and appear before  
the Circuit Court of the United States  
for the fourth Circuit in and for the  
Maryland District at the Sessions

Hall in the City of Baltimore, and that you have with  
you the body of George McCuttee, now in your Custody  
and that you certify and make known the day and  
cause of the Captions and detentions of the said George  
McCuttee, and that you there and there do submit  
to and receive whatsoever the said Court shall  
determine upon concerning you in this behalf  
and have you there and there this writ.  
Witness the Honorable Roger B Taney Chief  
Justice of our Supreme Court the second Monday  
in January in the Year of our Lord one thousand  
Eight hundred and forty one.

Spued 19<sup>th</sup> Nov 1841

Thos. Spiering Clerk  
Circuit

In the Matter of the Petition of George  
McAttee for a Habeas Corpus -

It appearing in this matter that George McAttee the  
Petitioner is a Citizen of the State of Maryland  
and a resident of Allegany County, that a Subpoena  
issued from the Circuit Court of the United States for the  
fourth Circuit in and for the District of Maryland  
to the said McAttee, and was served upon him  
requiring him to appear before said Court at the  
November Term 1841 as a witness to testify in a Cause  
in said Court pending, wherein Michael McLaughlin  
and John Dougherty were Plaintiffs, and William  
H. Fitzhugh and others were Defendants; It  
appearing further that the said McAttee did attend  
and testify as a witness in said Cause in obedience  
to said Subpoena, and was discharged by said Court  
from his further attendance as a witness therein  
only the 18<sup>th</sup> day of November 1841, and that on  
the same day, and before he had an opportunity  
of returning to his said home in Allegany County  
in Maryland, the said McAttee was arrested  
in a plea of Debt, and was committed to the  
Jail of Baltimore County where he is now impri-  
soned under and by virtue of a Capias ad Satisfaci-  
endum issued by John Walter Esquire a Justice of  
the Peace of the State of Maryland; and it  
appearing to the Court here that the said Arrest

and imprisonment are illegal.

It is thereupon this 19<sup>th</sup> day of November 1841 by  
the said Circuit Court ordered and adjudged that  
the said George McCutcheon be and he is hereby  
discharged from said Imprisonment

R. B. Taney  
W. M. Beach

Balt City & Co Jail  
Nov 19/41

I hereby certify that George McAttee  
was committed to Jail on the 18<sup>th</sup> day of  
November 1841, by John Walter Esq, one  
of the Justices of the Peace of the State of  
Maryland for the City of Baltimore, at the  
the suit of Patrick Duffee for a debt of  
\$11.25 with costs.

For J Disney, Warden  
T. O. Collier, Clerk,  
to the Warden & visitors of  
Baltimore City & Co Jail