

MSA SC 5463-5-4

Petition for
Habeas Corpus
in the Case
of
Samuel T. Cummings

To the Honorable U S Health Judge of the United
States District for the District of Maryland.

The petition of Samuel J. Cummings respectfully
represents

That your petitioner is under arrest of an officer
of the state of Maryland by the name of David H. White
under ^{several} ^{& warrants} commitments issued by Alonzo B. Wolf Esq. a
Justice of the Peace of the State of Maryland in and for the
City of Baltimore and that he is detained against his will
and contrary to law. Wherefore he prays that the writ of
Habeas Corpus of the United States may be issued to
the said David H. White compelling him to produce before
your Honor the body of your petitioner and show the
Cause of his capture and detention -

And he will pray &c.

Wm. J. Hall
Atty for Petr.

District of Maryland
City of Baltimore

Before the subscriber a Justice of
the Peace of the State of Maryland in and for the
City of Baltimore on this 20th day of February 1847
Personally appears Samuel J. Cummings and
swears with an Oath Evangelically of Almighty
God that the facts set forth in the foregoing
petition are true to the best of his knowledge and
belief.

Wm. J. Hall
Atty for Petr.

Thomas Saurable Captain & Justice Judge
of the District ^{County} of the United States for the Maryland
District

The Petition of William R. Sangston mer-
chant of Pruton Caroline County and State of Maryland
respectfully sheweth unto your Honor that he is now in illegal

In the matter of the Petition of
Samuel T. Cummings, for a Writ
of Habeas, Corpus &c. - The Case stated
would seem to be one over which I
have no control, and which could
not be reached or affected by the Writ of
Habeas, Corpus, if it were issued. The Petitioner
avows, "that he is under arrest of an
officer of the State of Maryland, under
several commitments and warrants
issued by a Justice of the Peace of the ^{same} State.
He is, then in Custody under and by virtue
of the State authority - for what he is, in
Custody, the Petition does not state, and
I am left to infer that the different kinds
of process were issued for debt, due &c.
Be this as it may he is in Custody under
State authority. The 14th Sec. of the Act of Con-
gress of 1789 c 20, which gives the power to
the Judges of the United States, to issue
Writs of Habeas, Corpus, contains this
proviso, that the Writ of Habeas, Corpus
shall in no Case extend to Prisoners
in Prison unless where they are in Custody
by order or by virtue of some of the au-
thority of the United States, or are wanted
for trial before a Court of the same, or
to testify there as a Witness. If the Party is
in Prison he falls directly within the very
letter of the Provision - and I suppose
to be the fact - If however it be otherwise
he is within the spirit & object of the proviso.
The Petition is otherwise very defective

It states no fact upon which the issuing
of the writ could rest - such as his being
wanted for Trial ^{or} as a witness - or that
he is an enlisted Soldier or Seaman
of the United States - nothing of the kind
is asserted. It is true he states that the
arrest and detention are illegal
and against his will - how illegal
or why is not shown - It being against
his will is nothing - Every Boy is confined
in School against his will - but it would
be no ground for a Habeas Corpus.

I would respectfully suggest that a
Petition be prepared stating the facts
as they may exist - signed by the Party
sworn to and that it be presented
to one of the State Judges -

W. H. Smith
Feb 22 1847

In the matter of the
Petition of
Saml. T. Brumby
for a writ of
Habeas Corpus