

Virginia To wit

Be it Remembered that on the 25th
day of November in the year 1816 at the Court-house
of Rockingham County John Nisewanger was brought
before me Daniel Smith one of the Judges of the
General Court in compliance with a writ of Habeas
Corpus in the words following to wit. "Virginia to wit
" To the keeper of the Jail of Rockingham County
" Whereas John Nisewanger hath complained to me
" one of the Judges of the General Court of Virginia
" That he is illegally held in custody and imprisoned
" in your Jail under pretext of a sentence of a
" Court Martial which was illegally convened and
" organized and also proceeded illegally & contrary
" to law These are therefore to command you
" that on receipt hereof you do with all convenient
" speed bring before me or some other Judge of this
" Commonwealth duly authorized to proceed in this
" behalf the body of the said John Nisewanger
" together with the cause of his caption and detention
" then and there to do submit to and receive whatsoever
" may be considered in that behalf Witness Daniel
" Smith one of the Judges of the General Court at
" Harrisonburg in the county of Rockingham this
" 25th day of November 1816 DAN Smith

On which writ the Jailor made the following return
" In obedience to the within writ I have here produced
" the body of the within John Nisewanger who was
" committed to my Jail by virtue of an order of
" a Court Martial a copy of the proceedings of
" which said Court is hereto annexed he the said
" John Nisewanger having failed to make payment
" of a fine of \$80 then and there imposed on him
" by said Court and the said John Nisewanger
" having no good and chattles whereof to levy
" the said fine and for this cause and no other
" is he detained William Fletcher Jailor

The copy of the proceedings of the Court Martial

referred to in the foregoing return is in the following words to wit

At a Regimental Court Martial held for the 116 Regiment of the Militia in Rockingham County by order of John Shaver Major and Commandant of the said Regiment on Thursday the 15th day of December 1814 for the trial of sundry non commissioned officers and privates of the said Militia who refused to march when ordered agreeable to the general orders of the Governor of the 26th of August 1814.

Present

Lieut. Col^o George Huston of the 58th Regiment President of said Court and Major John Shaver and Captains James Craig Dorman Lofland James Mallory William Taylor Samuel Moffett and Abraham Rader. The Court being duly organized and qualified as the law directs made choice of Henry I Gambill as their Clerk or Judge advocate who was thereupon sworn faithfully to discharge the duties of said office V.

Commonwealth

against.

John Nisewanger. Deft.

A private in Captain Thomas Hopkins's Company for failing to march or perform his tour of duty agreeable to the general order of the 26th of August 1814.

The said Defendant appearing in Court and being fully heard in his defence and it appearing to the satisfaction of the Court that he had been duly ordered to march as aforesaid it is therefore considered by the Court that he be fined in the sum of \$80. it being the pay of a private in the army of the United States for ten months. And it is further adjudged and ordered that if the said Defendant shall fail to make payment of said fine that he be imprisoned one calendar month for every five Dollars of such fine. A Copy Test. H. I. Gambill Clerk.

And the foregoing return and copy of proceedings therein referred to being seen and inspected and not being advised what order to make in this behalf This case is Continued until the first day of the next Term of the

Superior Court of Law for the said County of
Rockingham. And the said John Nisewanger
may be admitted to bail upon his entering
into a recognizance himself in one hundred
dollars and two good securities in fifty dollars
each conditioned for his appearance.

And thereupon came the said John Nisewanger,
Henry Tutwiler & Charles Clark before me and
acknowledged themselves indebted to his excellency
Wilson C. Nicholas Governor of this Commonwealth
for the time being the said John Nisewanger in
the sum of one hundred dollars, and the said
Henry Tutwiler and Charles Clark in the sum
of fifty dollars each of their several & respective
goods and chattles lands and Tenements to be
levied, and to the said Governor or his successors
in office for the use of the Commonwealth
rendered. - And upon this condition that if
the said John Nisewanger shall make his
personal appearance before the superior
Court of Law for Rockingham County on the
first day of the next term and then and there
abide by and perform such Order as may be
made by said Court on his application aforesaid
to be discharged from imprisonment and not
depart without the leave of the said Court
then this recognizance to be void. -

Dan Smith

(4)

To the Clerk of the Superior Court of Law for
Rockingham County, I do hereby certify that
the foregoing is a true copy of the record & proceedings
on a writ of Habeas Corpus obtained by John
Nisewanger

Nov 25th 1816

Dan Smith

Comma^{to}
27
J. Nisewanger } Record
of
proceedings on Habe. Corp.

1817. Leftw. party
discharged from the keys
and from imprisonment &c.

admitted to bail