

SUPREME COURT OF THE UNITED STATES

No. 521.—OCTOBER TERM, 1956.

Andrew R. Mallory, Petitioner, v. United States of America.	}	On Writ of Certiorari to the United States Court of Appeals for the District of Co- lumbia Circuit.
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[June 24, 1957.]

MR. JUSTICE FRANKFURTER delivered the opinion of the Court.

Petitioner was convicted of rape in the United States District Court for the District of Columbia, and, as authorized by the District Code, the jury imposed a death sentence. The Court of Appeals affirmed, one judge dissenting. 236 F. 2d 701. Since an important question involving the interpretation of the Federal Rules of Criminal Procedure was involved in this capital case, we granted the petition for certiorari. 352 U. S. 877.

The rape occurred at six p. m. on April 7, 1954, in the basement of the apartment house inhabited by the victim. She had descended to the basement a few minutes previous to wash some laundry. Experiencing some difficulty in detaching a hose in the sink, she sought help from the janitor, who lived in a basement apartment with his wife, two grown sons, a younger son and the petitioner, his nineteen-year-old half-brother. Petitioner was alone in the apartment at the time. He detached the hose and returned to his quarters. Very shortly thereafter, a masked man, whose general features were identified to resemble those of both petitioner and his two grown nephews, attacked the woman. She had heard no one descend the wooden steps that furnished the only means of entering the basement from above.