

BARBATO BEATING DENIED.

Whalen Tells of Inquiry—Court Permits Examination of Prisoner.

Commissioner Whalen said yesterday morning that after a careful investigation he is convinced that Joseph Barbato, confessed murderer of Mrs. Julia Musso, was not maltreated by his questioners, and his confession was not extracted under threats. Mr. Whalen said that when Barbato appeared in the headquarters line-up the morning after his arrest he showed no marks of violence. He also said no complaint on this score was made to the police.

A motion by Sol E. Hyman, attorney for Barbato, for permission to take a physician and a photographer into the Bronx County jail to examine and record the condition of his client was granted yesterday by Supreme Court Justice Hatting. Mr. Hyman contends Barbato was beaten by the police till he confessed. Justice Hatting said the defendant was entitled to obtain any evidence bearing on that charge and ordered the admittance of the physician and photographer on two days' notice to the District Attorney and the jail warden.

Barbato Case Is Put Off.

New York Times (1857-Current file); Sep 26, 1929;

ProQuest Historical Newspapers The New York Times (1851 - 2006)

pg. 16

Barbato Case Is Put Off.

The case of Joseph Barbato, charged with killing Mrs. Julia Musso Quintieri, 25 years old, by strangulation, in her apartment at 2,403 Cambrelleng Avenue, the Bronx, on Sept. 15, was adjourned yesterday until Oct. 2 in Bronx Homicide Court. Magistrate Renaud said no further adjournments would be granted. Assistant District Attorney William Keir said that he could not go on because the questioning of witnesses and the gathering of evidence had not been completed.

Barbato to Face Murder Trial

New York Times (1857-Current file); Oct 3, 1929;

ProQuest Historical Newspapers The New York Times (1851 - 2006)

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Barbato to Face Murder Trial.

Joseph Barbato, 35 years old, alleged slayer of Mrs. Julia Musso, 25, was locked in the Bronx County Jail yesterday to await trial for murder in the first degree. In the morning he was arraigned in Bronx Homicide Court before Magistrate Renaud, who dismissed the technical homicide charge when informed that the grand jury had returned an indictment. The prisoner had said the police had wrung a confession from him by beating him. This was denied by Commissioner Whalen.

GUILTY OF KILLING WIFE.

Joseph Barbato Convicted in Bronx of First Degree Murder.

Joseph Barbato was found guilty of murder in the first degree in a verdict returned by a jury in Bronx County Court before Judge James M. Barrett at 2:45 o'clock this morning, for the killing on Sept. 15 last of Mrs. Julia Quintieri, his common law wife, whose body was found in a tenement at 2,403 Cambrelling Avenue, the Bronx.

The jury retired a few minutes before midnight to consider the case. Barbato has been on trial for three weeks.

Both the State and the defense rested their cases yesterday afternoon. Judge Barrett gave the jurors a rest last evening and then began his charge to them at 11 P. M.

Peter L. Sabbatino, the defense counsel, maintained in his summing up that a confession had been obtained from the prisoner under duress.

AUBURN MUTINEERS LOSE FIGHT FOR LIFE

Court of Appeals Upholds Con- viction of Udwin, Thomas and Force.

NEW TRIAL FOR BARBATO

He Said Third Degree Forced Con- fession—Zackowitz Also Wins Another Chance.

Special to The New York Times.

ALBANY, N. Y., July 8.—The conviction of Claude Udwin, Jesse Thomas and William Force, Auburn convicts found guilty of the murder of Henry Sullivan, an inmate, on Dec. 11, during the prison riots, was affirmed in the Court of Appeals today and the prisoners, who now are in Sing Sing, will be taken to the death house in a few days.

Sullivan was one of the ringleaders of the riot. Three other prisoners, Frank Beagan, Albert Cassidy and Leo Lewis were acquitted of the killing.

The court granted a new trial to Joseph Barbato, convicted of the killing of Julia Masso Quintiero, who was found strangled to death in her apartment in the Bronx on Sept. 15.

Barbato contended that the confession he had made was obtained after the police had given him the "third degree." He confessed, he asserted, only to escape the punishment inflicted upon him. Judge Cuthbert W. Pound wrote the court's opinion. The police denied that they had mistreated the prisoner, but the evidence was that his body was covered with bruises and that his eyes were blackened.

Arata Decision Is Delayed.

Decision in the case of Peter Arata, convicted of the murder of James Tsemadis in New York in July, 1928, was withheld until the Fall session of the court. Arata was sentenced to be executed during the week of March 10.

With Arata was Dominick Rossi, James Woodbury and another man indicted as John Doe. Rossi pleaded guilty to manslaughter and received a twenty-year sentence, and Woodbury received a similar term.

Arata and the others had planned to hold up a restaurant in Long Island City, but abandoning the idea, returned to New York and went to a restaurant at 810 Sixth Avenue, which they held up.

The conviction of Hyman Hirsch, convicted in January of killing Dr. Jacob Cross, a New York City dentist, in 1927, was sustained. Hirsch, with Samuel Glotze, entered the dentist's office with the intention of robbing him. The dentist put up a fight and was shot down. Glotze escaped and is still at large. Another indictment found against Solomon

Goetz was dismissed. Alfred E. Smith Jr. was Goetz's attorney.

The Court of Appeals granted to Anthony Mortellite, an Auburn prison inmate convicted of the murder of Principal Keeper Edward B. Beckwith in March, until Oct. 5 to make his appeal.

New Trial for Zackowitz.

A new trial was ordered for Joseph Zackowitz, convicted of the killing of Frank Coppola in Brooklyn Nov. 10. A previous trial had resulted in a mistrial owing to the illness of a juror.

Coppola and two companions were repairing an automobile in Devoe Street, Brooklyn. One of the men got under the car and Coppola said he would "be right with" him. Mrs. Zackowitz was passing at the time and told her husband that she had been insulted. Zackowitz returned to the spot and ordered the men to move on. When they refused, an argument arose and Coppola was fatally shot.

ALBANY, N. Y., July 8 (AP).—The Court of Appeals, having affirmed the conviction of four men awaiting electrocution at Sing Sing prison, tonight fixed the dates for their executions.

Claude Udwin, Jesse Thomas and William Force, Auburn prison convicts, will die during the week of Aug. 25 unless Executive clemency intervenes.

The week of Aug. 18 was fixed as the time for execution of Hyman Hirsch.

Harold Marcley, sentenced to Sing Sing prison for life as a fourth offender, was found eligible by the Court of Appeals for resentence as only a second offender.

Receiving a life sentence in Nassau County after being convicted of grand larceny, first degree, for the theft of an automobile, Marcley sought a court order for his return to Nassau County to be resented, on the ground that two suspended sentences against him did not count as convictions, and that he was wrongfully sentenced as a fourth offender.

Marcley's claim was upheld by the Appellate Division.

ONCE DOOMED TO DIE, FREED

Barbato, Whose Conviction for Murder Was Reversed, Is Released.

Joseph Barbato, 38 years old, who spent six months in the death house at Sing Sing after being convicted as the murderer of Mrs. Julia Musso Quintieri, was freed on his own recognition yesterday by Judge James M. Barrett in Bronx County Court. Last July the Court of Appeals reversed the conviction when evidence was introduced showing coercion had been used by the police in obtaining a four-word confession from Barbato, and a new trial was ordered.

Assistant District Attorney Solomon Boneparth made the motion for Barbato's release because additional evidence for a new trial was unobtainable at present. Mrs. Quintieri's son, Joseph, 6 years old, returned from church on Sunday, Sept. 15, 1929, and found the strangled body of his mother. The police said she had roomed at one time in Barbato's lodging house, at 3,215 Fifth Avenue, but moved to 2,403 Cambreling Avenue, the Bronx, where she was killed after rejecting his advances.

"Tomorrow is Thanksgiving Day," Judge Barrett said, "and you ought to pray to God. You have much to be thankful for."

It was Judge Barrett who sentenced Barbato to death last December after a jury had returned a verdict of guilty. Barbato thanked the court and his attorneys, Peter L. F. Sabatino and David Slade.