

5 Rapp no. 7 (1938)

MURPHY V. NEW YORK

HEADNOTE

by Ira Brad Matetsky

Source: Papers of Harlan Fiske Stone, Box 79, Manuscript Division, Library of Congress, Washington, D.C.

Opinion by: Harlan Fiske Stone (stated in source).

Opinion date: March 29, 1938 (stated in source).

Citation: *Murphy v. New York*, 5 Rapp no. 7 (1938) (Stone, J., in chambers), 1 J. In-Chambers Practice 306 (2016).

Additional information: This opinion was typewritten on a plain sheet of paper. It does not bear a caption, but the name of the case is given in a letter from counsel for the petitioner, located in the same folder.

OPINION

In this case I do not find that the record shows that the action of the trial court in denying the motions made at the close of the state's case, and at the close of the whole case, necessarily involved any ruling on the constitutional question. For all that appears, the denial of the motions may have been on the ground that there was sufficient evidence to go to the jury without the aid of the statutory presumption. There seems to be no specific exception to the court's charge to the jury that it should consider the presumption, and no request on constitutional grounds to charge otherwise.

I deny the application for leave to appeal, without prejudice to appellant's application to another Justice.

Harlan F. Stone
Associate Justice, Supreme
Court of the United States

Washington, D.C.

March 29, 1938