

1986

Lowell Cook v. Seymour Stead, Superintendant Utah State Hospital: Appellant's Brief

Utah Supreme Court

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Recommended Citation

Brief of Appellant, *Lowell Cook v. Seymour Stead, Superintendant Utah State Hospital*, No. 860055.00 (Utah Supreme Court, 1986).
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IN THE SUPREME COURT OF THE STATE OF UTAH

LOWELL COOK,

Plaintiff & Appellant,

-vs-

SEMOUR P. STEED,
Superintendant of the
Utah State Hospital,
Defendant & Respondent.

No. 86 0055

Priority # 3

APPELLANT'S BRIEF

Appeal from the Judgment of the Fourth
Judicial District Court of Utah County
HON. RAY M. HARDING, Judge

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STATEMENT OF THE KIND OF CASE

THIS is an action on a Complaint wherein Plaintiff claims that he is illegally detained and deprived of his liberty by Defendant in the Utah State Hospital and seeks release on Habeas Corpus

DISPOSITION OF THE CASE

The case was heard on arguments and a decision rendered in favor of the Defendant denying Defendant release on a Writ of Habeas Corpus from which Plaintiff appeals.

RELIEF SOUGHT ON APPEAL

Plaintiff seeks reversal of ruling in District Court and release from detention from the Utah State Hospital.

STATEMENT OF THE FACTS

The above cause of action arose out a series of connected incidents arising out of the arrest and incarceration of the Misdemeanor of making a terroristic threat (U.C. A. 75-5-107); said arrest being made on a Warrant of Arrest on an Information before the Seventh Circuit Court of Uintah County, Whitney D. Hammond Magistrate. Plaintiff was incarcerated in the Uintah County Jail awaiting appearance before the magistrate on said charge, but was never taken there because he was ordered committed to the Utah State Hospital for an inquiry into his sanity with respect to being able to understand the charges against him and to manage his own defense. The order committing him to the Utah State Hospital was without a Petition being filed as required by law. Plaintiff was held for observation at this institution, and then upon a report being submitted by the examiners, without a hearing being held, the Plaintiff was ordered committed to the Utah State Hospital where he was detained for

eighteen months when still under criminal commitment a Petition for civil commitment was filed. Subsequently the charges on the misdemeanor were dismissed and the Plaintiff was ordered committed to the Utah State Hospital; thereafter Plaintiff filed a Writ of Habeas Corpus Complaint in the Fourth Judicial District Court of Utah County, which was heard before the Hon. Ray M. Hardin, District Judge, on November 1, 1985, and said District Judge denied release on Writ from which order Plaintiff appeals. The original incarceration and arrest on the criminal charge was on April 6, 1984, the commitment for observation was made on April 10, 1984.

SUMMARY OF ARGUMENT

Plaintiff seeks release from the commitment to the Utah State Hospital for the reason that his commitment is illegal.

ARGUMENT

POINT # 1: THAT THE DISTRICT COURT OF UTAH COUNTY DID NOT ACQUIRE JURISDICTION TO COMMIT PLAINTIFF TO UTAH STATE HOSPITAL FOR OBSERVATION.

The law requires that in order to inquire into the sanity of a person charged with a crime that a Petition be filed with the District Court by the Prosecuting attorney or some one having him in custody;¹ and that upon filing such petition the Court may order him committed to the Utah State Hospital for observation.² In the instant case Plaintiff was committed for observation without such a petition being filed. Subsequently Plaintiff was ordered permanently committed without any hearing as is required by law.³ In any matter with respect to an inquiry into the sanity of an individual charged with a crime that,

1. U. C. A 77-15-3 (1), (2)

2. U. C. A. 77-15-5 (2) (a)

3. U. C. A. 77-15-5 (5)

while proofs required are not identical nor the rules of evidence the same as those relating to a criminal trial, nonetheless they must accord the person involved a fair hearing and due process.¹

POINT # 2: THAT COMMITTING PLAINTIFF TO THE UTAH STATE HOSPITAL FOR A PERIOD IN EXCESS OF EIGHTEEN MONTHS WITHOUT ANY HEARING UPON THE SAME OR WITHOUT TAKING THE PLAINTIFF BEFORE A MAGISTRATE WAS A VIOLATION OF LAW AND A DENIAL OF PLAINTIFF OF DUE PROCESS.

That following arrest and incarceration for a crime, the law requires² and due process demands that the person be brought before a magistrate and be apprised of his rights.³ The District Court could not acquire jurisdiction to commit Plaintiff for observation without a petition being filed.⁴ In making such an illegal commitment, the District Court denied Plaintiff not only his right of appearance, but his right to bail,⁵ and his other rights guaranteed under law; and when this commitment persisted over so a long a period of time, it also amounted to denial of Plaintiff of a Speedy trial.⁶

POINT # 3: THAT A PROCEEDING TO INQUIRE INTO THE SANITY OF A PERSON CHARGED WITH A CRIME STAYS ALL OTHER PROCEEDINGS UNTIL THAT MATTER IS TERMINATED.

The attempt to commit Plaintiff civilly while he was still under Criminal Commitment was a ruse on the part of the prosecution to avoid meeting the requirements of the law.⁷ The law requires that upon commitment for Inquiry into person's sanity all other proceedings with respect to the individual so involved be stayed until the these proceedings are terminated; hence Plaintiff could not be civilly committed while he was still being held under the criminal commitment.

1. People v Bender, 20 Ill2nd 45

2. U. C. A. 77-35-7 (2)

3. Utah Constitution, Art. I, Sec. 12

4. U.C. A. 77-15-3 (1)

5. Utah Constitution, Art. I, Sec. 8

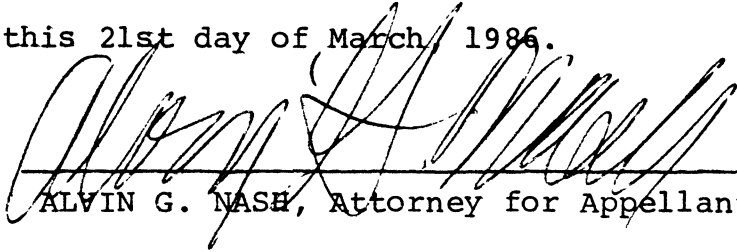
6. Utah Const., Art. I, Sec. 12

7. U. C. A. 77-15-3 (6)

CONCLUSION

The questions posed as issue in this case is the question of whether Plaintiff can be detained in a mental institution without even the rudimentary procedures being followed toward committing him there. Upon arrest and incarceration, Plaintiff had a right to be taken without undue delay before the Magistrate for which the arrest was made. In conflict therewith, the Seventh District Court, without acquiring jurisdiction, ordered him committed to the Utah State Hospital without a Petition being filed granting the Court the jurisdiction to so Order, and subsequently without hearing as required by law, the same Court ordered his commitment there, finally by some palpable ruse, holding the power of the original charge over him, the Court purported to commit him civilly, and finding the Commitment made, dismissed the Criminal charges. All the while Plaintiff was detained, incarcerated for a period longer than would have been his imprisonment were he convicted on the original charge. The Court below ignored these wanton and serious violations of the basic elements of justice and due process for Plaintiff wherein a fair consideration of the facts would have required his release from the Commitment. All the pretexts set forth in explanation and apology does not diminish the invasion of Plaintiff's rights in this regard. For these reasons the Court should remand the matter to the District Court and Order Plaintiff's release.

Respectfully Submitted this 21st day of March, 1986.


ALVIN G. NASH, Attorney for Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed four (4) identical copies of the above brief on this 21st day of March, 1986 to Respondent's Attorney, DAVID L. WILKINSON, Attorney-General of the State of Utah, at 236 State Capitol Bldg., Salt Lake City, Utah 84114, postage prepaid.

