

1981

# William Sampley v. Lawrence Morris, Warden, Utah State Prison : Brief of Appellant

Utah Supreme Court

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## Recommended Citation

Brief of Appellant, *Sampley v. Morris*, No. 17177 (Utah Supreme Court, 1981).  
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IN THE SUPREME COURT OF THE  
STATE OF UTAH

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WILLIAM SAMPLEY, :  
 :  
 Plaintiff-Appellant, :  
 :  
 vs. : CASE NO. 17177  
 :  
 LAWRENCE MORRIS, Warden, :  
 Utah State Prison, :  
 :  
 Defendant-Respondent. :  
 :  
 -----

BRIEF OF APPELLANT

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APPEAL FROM THE JUDGMENT OF THE THIRD JUDICIAL  
DISTRICT COURT, IN AND FOR SALE LAKE COUNTY,  
STATE OF UTAH, THE HONORABLE G. HAL TAYLOR,  
JUDGE, PRESIDING.  
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DOUGLAS E. WAHLQUIST  
Attorney at Law  
100 Commercial Club Building  
32 Exchange Place  
Salt Lake City, Utah 84111  
Attorney for Appellant

DAVID WILKINSON  
Attorney General

ROBERT PARRISH  
Assistant Attorney General

236 State Capitol Building  
Salt Lake City, Utah 84114

Attorneys for Respondent

**FILED**

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STATEMENT OF THE NATURE OF THE CASE

William Sampley is appealing the granting of respondent's Motion to Dismiss with Prejudice appellant's Writ of Habeas Corpus.

DISPOSITION IN THE LOWER COURT

The Third Judicial District, the Honorable G. Hal Taylor presiding, ordered that appellant's Petition for Writ of Habeas Corpus is dismissed with prejudice.

RELIEF SOUGHT ON APPEAL

Appellant seeks reversal of the Order Granting Dismissal of Petition for Writ of Habeas Corpus and requests that this Court grant the relief prayed therein.

## STATEMENT OF THE FACTS

Appellant, on December 19, 1969, was convicted of assault with a deadly weapon. He was sentenced on December 24, 1969, to a term of imprisonment not to exceed five years. Appellant had served approximately 15 months of this sentence when he escaped from the Utah State Prison on March 13, 1971. Appellant was apprehended and convicted of the offense of escape from which he was sentenced on December 12, 1972, to one year of imprisonment to run consecutively with the sentence he had been serving. Subsequent thereto, on or about October 1, 1973, appellant again escaped from the Utah State Prison. He fled to Wyoming where he was convicted with assault with a deadly weapon and burglary.

On November 30, 1973, the Wyoming Court sentenced the petitioner to a term of five to eight years in the Wyoming State Prison. Following his incarceration in Wyoming, petitioner escaped from that State institution and fled to Ohio where he was subsequently arrested and convicted of aggravated robbery for which he was sentenced to a term of seven to twenty-five years at the Ohio Penitentiary.

While incarcerated in the State of Ohio, appellant became aware of detainers filed by the State of Utah for an escape offense and for a prison hold. Appellant caused to be lodged with Utah State Prison authorities a 180 day disposition on the detainers filed in Ohio.

On or about the first part of April, 1980, appellant was released to the authorities of the State of Utah following his waiver of extradition proceeding and returned to this State. Upon return to the State of Utah, the pending charge of escape was dismissed when further prosecution thereof was barred by the timely filing of a disposition pursuant to the terms of Interstate Agreement on Detainers.

#### ARGUMENT

##### POINT I

APPELLANT ARGUES THAT THE STATE OF UTAH AND THE BOARD OF PARDONS IS BARRED BY THE INTERSTATE AGREEMENT ON DETAINERS FROM ENFORCING THE BALANCE OF APPELLANT'S UNSERVED SENTENCE PURSUANT TO A UTAH JUDGMENT BASED ON THE STATE OF UTAH'S FAILURE TO TIMELY SEEK RETURN OF APPELLANT AFTER BEING DULY SERVED A DISPOSITION PURSUANT TO THE TERMS OF SAID AGREEMENT.

The law on the foregoing is undisputed. The Detainer Act pertains to pending charges and not convictions or unserved sentences. The State of Utah was not compelled or limited by time to return appellant to this jurisdiction. The filing of the Disposition pursuant to the Agreement has no effect on the State of Utah's rights to detain and return appellant following his release by the State of Ohio.

##### POINT II

APPELLANT ARGUES HE SHOULD BE GIVEN CREDIT TO REDUCE BALANCE OF UNSERVED UTAH SENTENCE BY THE TIME SERVED IN FOREIGN JURISDICTION'S PENAL INSTITUTIONS.

The provisions, agreements and allowance of credit for time served in penal institutions outside the State of Utah is contractual in nature. There is no evidence of the existence of an agreement between appellant and the State of Utah to allow appellant credit for time served in either Wyoming or Ohio.

POINT III

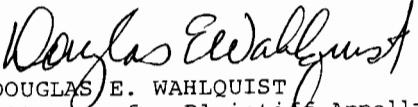
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The Court merely explained the law to appellant. The record indicates counsel from the Attorney General's office was present.

CONCLUSION

Counsel submits the case on the foregoing.

RESPECTFULLY SUBMITTED:

  
DOUGLAS E. WAHLQUIST  
Attorney for Plaintiff-Appellant

CERTIFICATE OF DELIVERY

I hereby certify that I hand delivered a true and correct copy of the foregoing to Robert Parrish, Assistant Attorney General, 236 State Capitol Building, Salt Lake City, Utah 84114, this the 6th day of April, 1981.

  
DOUGLAS E. WAHLQUIST

# THE ATTORNEY GENERAL



STATE OF UTAH  
STATE CAPITOL • SALT LAKE CITY 84114  
(801) 533-5261

• DAVID L. WILKINSON  
ATTORNEY GENERAL  
• PAUL M. TINKER  
DEPUTY ATTORNEY GENERAL

# FILED

April 13, 1981

APR 20 1981

Clk. Supreme Court, Utah

Honorable Richard J. Maughan  
Chief Justice  
Utah Supreme Court  
State Capitol  
Salt Lake City, Utah 84114

Re: William Sampley v. Larry  
Morris, Case No. 17177

Dear Chief Justice Maughan:

The appellant's attorney in the above entitled case, in harmony with Anders v. California, 386 U.S. 738, 87 S.Ct. 1296, 18 L.Ed.2d 493 (1967), stated that it is his opinion that the issues raised on appeal are not sound and has requested that he be allowed to withdraw.

This office feels that it would be futile to respond to a brief of this nature when likely the only assistance we could lend the Court would be to repeat the statements of the appellant's attorney and perhaps give some light as to the broad area of law surrounding the issue raised in the case.

We feel that this would lend no beneficial impact to the Court, but we are willing to respond to any particular issues or do additional research at the Court's direction if requested.

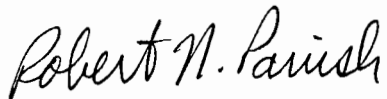
We would appreciate it if you would accept this letter as a formal response in lieu of filing a brief and either proceed to dismiss the appeal on its merits or in



Honorable Richard J. Maughan  
April 13, 1981  
Page 2

harmony with Anders v. California. If the Court is desirous of having additional input from our office in any particular, we would be happy to comply upon direction.

Very truly yours,

A handwritten signature in cursive script that reads "Robert N. Parrish".

ROBERT N. PARRISH  
Assistant Attorney General

RNP/sh

cc: Mr. Douglas E. Wahlquist  
Attorney at Law  
32 Exchange Place  
Salt Lake City, Utah 84111

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