

1956

Joseph Craven Washington and John Joseph Sullivan v. Roy Renouf: Brief of Appellant

Utah Supreme Court

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Joseph Craven Washington; John Joseph Sullivan;

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O F T H E

S T A T E O F U T A H

JOSEPH CRAVEN WASHINGTON,
JOHN JOSEPH SULLIVAN,

Appellants,

Case No's

-vs-

8495,

ROY RENOUF,

Respondent.

8496.

FILED
APR 10 1956

Clerk, Supreme Court, Utah

APPELLANT'S BRIEF

Appeal from Order Denying Writ of Habeas
Corpus, Fifth Judicial District Court,
Washington County; Hon: Will Hoyt, Judge.

JOSEPH CRAVEN WASHINGTON
JOHN JOSEPH SULLIVAN

In Propria Persona,
Box 250, Draper, Utah.

IN THE SUPREME COURT
OF THE STATE OF UTAH.

JOSEPH CRAVEN WASHINGTON,
JOHN JOSEPH SULLIVAN,)
Appellants,) Case No's
-vs-) 8495 ,
) 8496 .
ROY RENOUF,)
Respondent.)

FOREWORD

These two cases being based on the same set of facts, are presented together, and most of the references to the Clerk's and Reporter's Transcripts will be to that of Sullivan, - Case No. 8496, as it is the most complete.

STATEMENT OF THE CASE

Joseph Craven Washington and John Joseph Sullivan were arrested early on the morning of September 28, 1955, in Mesquite, Nevada, by Clark County, Nevada, Deputy Sheriff Oscar Abbot; For an alleged burglary at the Twin Oaks Motel,
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in Clark County, Utah.

Upon the arrival there of Sheriff Roy Renouf, of Washington County, Utah; Washington and Sullivan denied the charges and that they had even been in Utah, subsequently a Utah State Highway Patrolman arrived with one E. R. Sprague and his wife, -the victims of the alleged burglary Mr. E R. Sprague who claimed to have seen the burglar in his room at the Motel, stated that Washington and Sullivan " were not the men ". Upon Washington and Sullivan's refusal to return with the Officers to St. George, Utah, they were removed to the Clark County Jail in Las Vegas, Nevada; on the morning of September 28, 1955, they were arraigned before Mr. Mendoza, Justice of the Peace, Bond set at \$2500:00 each, and hearing date set for November 5, 1955, on the matter; A few days later Washington was released on Bond, whereupon he hired R. Dale Cook, an Attorney in Las Vegas, to represent them. On or about October 18, 1955, Attorney Cook ~~wired Governor Charles Russell of the State~~ **Governor's hearing on**

the matter of extradition (See: Ex. "A-1", Cl. Trans. p.23.) within a day or two Attorney Cook recieved a letter from Governor Russell, acting through his extradition Clerk, Mae N. Morrison, saying that he would grant them a hearing on the matter of extradition and full consideration given them in the case (See: Ex. "A-3", Clerk's Trans.pp. 25-26.) if they would agree to a fugitives hearing,through their ~~Attorn~~ Attorney Mr. Cook, Appellants agreed to these conditions,and notified the District Attorney of Clark County, Nevada, accordingly. Nothing further was heard by them of this matter, until on the afternoon of November 14, 1955, when Sullivan was called out of the Jail tank, confronted by Sheriff Roy Renouf, of St. George, Utah, and told that he was being returned there; Sullivan protested this action and claimed his right to the hearing that Governor Russell of the State of Nevada had promised them,and asked that he be allowed to contact his Attorney,

and file Habeas Corpus Proceedings on the matter, but Deputy Sheriff Frank Holland, of St. George, Utah, told him that he was under arrest, manacled him and removed Sullivan over his vigorous protests to St. George, Utah; Sullivan was never shown any Governor's Warrant or any other legal paper ordering his removal from the State of Nevada. Later Joseph Washington was arrested in his brother's house in Las Vegas, Nevada, without a warrant, simply told they had a Governor's Warrant for his arrest, but was never shown any; Regardless of the fact that he was free on Bond on the charge, the next day he was removed to St. George, Utah, over his protests, and was never shown any Governor's Warrant or any other legal paper ordering his removal to Utah.

On December 2, 1955, Washington and Sullivan had a Preliminary Hearing on a charge of Second Degree Burglary and held to answer to the Fifth District Court of Washington County, Utah.

On December 8, 1955, in Fifth District Court,

Hon: Will L. Moxley, Judge presiding, they made a

Petition for a Writ of Habeas Corpus, by drawing up crude hand-printed Petitions (Cl.Tr. pp.4-7.) knowing no Law, Petitioners were stymied in trying to show that their forced removal from Nevada was in violation of their Constitutional Rights and without Due Process of Law; the Reporter's Transcript in Sullivan's case, shows that the hearings on Habeas Corpu were largel Pro Forma, with no real determination of the actual issues involved (Rep. Tr. pp. 1-16 .) and the Writs issued were discharged.

At this hearing none of the matters of evidence of the hearing the Governor of Nevada had duly promised them was presented to the Court, but however, Petitioners wrote their Attorney,- R. Dale Cook in Las Vegas, for advice, and about December 16, 1955, he sent them propseely made ~~em~~ out Petitions for Habeas Corpus, and attached to them Sworn Affidavits; by Exhibit "A", (Clerk's Trans. p. 22.) he showed how Washington and Sullivan were brought to St. George, Utah, in

without Due Process of Law; Also attached to these Petitions (See: Cl. Trans. pp. 9-10.) were Exhibits - "A-1", "A-2", "A-3",; Exhibit "A-1" (Cl. Tr. p. 23.) being a copy of the telegram to Governor Russell of the State of Nevada requesting a hearing on the matter of extradition, and Exhibit "A-3", (CL.Tr, pp.25-26) being a copy of the letter from Governor Russell through his extradition Clerk, Mae N. Morrison, granting them a hearing on the matter of extradition; On December 20, 1955, these Petitions and Exhibits were mailed to the Hon: Will L. Hoyt, Judge, at Nephi, Utah; On or about December 28, 1955, Petitioners were notified by mail that these new Petitions were DENIED without a hearing, upon the assumption that they were "similar" to the first Petitions (See: ORDER DENYING WRIT OF HABEAS CORPUS, Cl. Trans. pp. 11-12.) On January 20, 1956, Petitioners applied to the Hon: Will E. Hoyt, Judge of the Fifth District Court for permission to prosecute

Petition, duly made out in proper form by their Attorney, for the writ of Habeas Corpus; Appellants duly presented an informal 'Notice of Appeal', (Cl. Tr. pp. 14-17.) and duly made application for the Records on Appeal. (Cl. Trans. 2nd sec. pp. 3-4.)

**** ARGUMENTS ****

Appellants submit that, under the laws of both the State of Utah and the State of Nevada, an alleged fugitive must be granted a hearing if he so desires before he is extradited or taken to another State, that he is entitled to institute Habeas Corpus Proceedings to test the legality of the removal procedure, and to be at liberty on Bail pending the outcome of such legal procedures. So also, in each State it is forbidden to without cause arrest a person without a warrant, to conduct unreasonable searches and seizures, or to re-imprison a person at liberty on Bail, without a Court Order.

Also it is forbidden by the Constitution and Laws of the United States to forcibly kidnap and remove from one State to another any person without legal process being shown for such removal, and in the instant case NO such legal authority was ever shown Appellants, and no warrant issued until after they were forcibly brought from the State of Nevada to Utah.

Article One, Section 7, of the Constitution of the State of Utah, provides that:

"

No person shall be deprived of life, liberty or property, without due process of law.

"

And this same guarantee is given by Section One of the Fourteenth Amendment to the Constitution of the United States.

Appellants submit that their 2nd Petition for the Writ of Habeas Corpus, made in proper form by their Attorney, set up a prima facie case of violation of their State and Federal Constitutional Rights, that they were entitled

to a hearing thereupon in Court, and not be Pro Forma DENIED, just because they in person had made a prior insufficient hand-printed Petition which did not present the facts in the 2nd Petition. How high a price must a person pay for his ignorance of Law ?

Just because he has made a poorly prepared and presented petition, should he then be barred thenceforth from any consideration on a good Petition made by competent Counsel ?

The Constitution of the State of Utah, by Article One, Section 5, provides that :

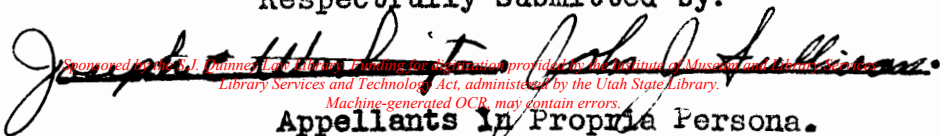
" The privilege of the writ of HABEAS CORPUS shall not be suspended, unless, in case of rebellion or invasion, the public safety requires it. "

And Article One, Section 11, provides that:

" All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party. "

IN CONCLUSION, Appellants reiterate that their forcible abduction from the State of Nevada, without being presented with any legal process, is in violation of their State and Federal Constitutional Rights and should not be tolerated. That there is no excuse for the conduct of the arresting Officers, Sheriff Roy Renouf, et al., The Constitution of the United States and the Acts of Congress passed pursuant thereto, provide for an orderly manner for extradition of persons charged with crime in one State, who are in another State, that the mere passing of Officers over the line into another State does not relieve them of all duties to abide by the Law they serve and does not strip a person charged to be a fugitive of all legal rights. Appellants submit that they are entitled to be returned to the State of Nevada, and most of all, to a hearing on their 2nd Petition for the Writ of Habeas Corpus.

Respectfully submitted by:


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Appellants In Propria Persona.