

1960

# Gordon S. Little v. George Beckstead : Brief of Respondent

Utah Supreme Court

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IN THE SUPREME COURT  
of the  
STATE OF UTAH

FILED

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GORDON S. LITTLE,

*Plaintiff,*

—vs.—

GEORGE BECKSTEAD, Sheriff of  
Salt Lake County,

*Defendant.*

Supreme Court, Utah

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BRIEF OF RESPONDENT

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# IN THE SUPREME COURT of the STATE OF UTAH

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GORDON S. LITTLE,

*Plaintiff,*

—vs.—

GEORGE BECKSTEAD, Sheriff of  
Salt Lake County,

*Defendant.*

Case No. 9216

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## BRIEF OF RESPONDENT

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### STATEMENT OF FACTS

Parties will be referred to as they appeared in the lower court.

The statement of the case in appellant's brief is correct as to the facts therein recited, but we believe these additional facts developed by the evidence have a bearing on the case:

On the 20th day of February, 1943, plaintiff was indicted by the Grand Jury of the County of Marion, State of Oregon, for the crime of Knowingly Uttering and Pub-

lishing a Forged Bank Check. (Ex. D-2) Plaintiff was convicted of said crime and committed to the Oregon State Prison for the term prescribed by law. While incarcerated therein, he was indicted and convicted of the crime of Being an Habitual Criminal and was sentenced to serve a term for the balance of his natural life. (Ex. D-3). Plaintiff appealed this sentence to the Supreme Court of the State of Oregon which reversed the sentence and conviction of Being an Habitual Criminal. See *Little v. Gladden*, 202 Ore. 16, 273 P. 2d 443.

Pursuant to the instructions contained in the foregoing decision, plaintiff was re-sentenced under the original conviction of Knowing, Uttering and Publishing a Forged Bank Check to a life term. Plaintiff appealed this sentence to the Oregon State Supreme Court which affirmed the action by the court. See *State v. Little*, 205 Ore. 659, 288 P. 2d 446.

During the pendency of the latter appeal, plaintiff was admitted to bail. While released on bail and before the decision was rendered by the Supreme Court, plaintiff fled the state of Oregon to Utah, where he committed a crime and was sentenced to the Utah State Prison. (R-18).

Upon termination of the sentence at the Utah State Prison, the State of Oregon initiated extradition proceedings. A governor's warrant was issued by the State of Utah and pursuant thereto plaintiff was placed in the custody of defendant. While in custody of defendant, plaintiff secured a Writ of Habeas Corpus alleging his

restraint to be illegal on the grounds and for the reasons that no crime had been committed in the State of Oregon and the extradition papers did not meet the statutory requirements. (R-1) Defendant denied these allegations. (R-5).

At the hearing, the court denied the writ and this ruling is the subject of this appeal.

## STATEMENT OF POINTS

### POINT I

THE COURT DID NOT COMMIT ERROR IN DISMISSING THE WRIT OF HABEAS CORPUS.

## ARGUMENT

### POINT I

THE COURT DID NOT COMMIT ERROR IN DISMISSING THE WRIT OF HABEAS CORPUS.

The plaintiff in this action secured a Writ of Habeas Corpus pursuant to the provisions of Title 77, Chapter 56, Section 10, Utah Code Annotated, 1953. This portion of the code permits the issuance of a Writ of Habeas Corpus in extradition proceedings to test the legality of his arrest.

At the hearing on the writ, defendant introduced exemplified copies of the original incitement of plaintiff by the Grand Jury of the County of Marion, State of Oregon, (Ex. D-2) and an exemplified copy of the judgment sentencing plaintiff to serve a term in the Oregon

State Prison for the balance of his natural life. (Ex. D-3) Defendant also introduced the authorization from the State of Oregon, and the warrant from the State of Utah. (Ex. D-1)

These documents were introduced into evidence without objection. The plaintiff contended, that even in view of these exhibits, to properly test the legality of his arrest the Utah Court should examine and review the actions taken by the Oregon courts and determine the criminal status of plaintiff. The court did not concur with plaintiff and stated the following:

“THE COURT: No. I think here I determine only is this the defendant, was he in Oregon at the time of the alleged commission of the crime, and has he fled therefrom.” (R-12)

Defendant respectfully submits this is a proper statement of the scope of the inquiry to be made in this type of a Habeas Corpus proceeding.

In *Johnson v. Matthews*, 182 F. 2d 677, 679, cert. denied, 340 U.S. 828, 71 S. Ct. 65, 95 L. Ed. 608, the court stated the following:

“Habeas corpus is the proper process for testing the validity of the arrest and detention by the authorities of the asylum state for extradition purposes. But a petition for a writ for that purpose tests only that detention; it does not test the

validity of the original or the contemplated incarceration in the demanding state. The Supreme Court has established the scope of the extradition inquiry and the issues which are presented by it. The state cases and other federal court cases upon the subject are myriad. In essence the rule is that the court may determine whether a crime has been charged in the demanding state, whether the fugitive in custody is the person so charged, and whether the fugitive was in the demanding state at the time the alleged crime was committed."

See also Scott on Interstate Rendition, Sections 2, 59.

In the case of *Harris v. Burbidge*, 58 Ut. 392, 397, 199 P. 662, this court in a similar proceeding ruled:

"So, too, in these proceedings the question is not one of the guilt or innocence of the accused. That question, both under the federal Constitution and the act of Congress appertaining to matters of extradition of fugitives from justice, is to be determined by the demanding state. The surrendering state has no legal right to take evidence or attempt to inquire into the facts constituting the crime by going behind the positive statements of the requisition affidavits nor to question the sufficiency of the requisition papers in any way when it appears upon their face that they meet the requirements of the statutes of the demanding state." (Citing cases.)



## CONCLUSION

It is the position of the defendant that the evidence clearly establishes the identity of plaintiff as the fugitive sought by the State of Oregon, that his arrest was proper, and that all legal requirements for an effective extradition have been met.

Respectfully submitted,

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