

1961

Gordon S. Little v. George Beckstead : Appellant's Petition for Rehearing and Brief in Support Thereof

Utah Supreme Court

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Clark & Clark; Attorneys for Plaintiff and Appellant;

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**IN THE SUPREME COURT
OF THE STATE OF UTAH**

FILED

FEB 6 - 1961

Clerk, Supreme Court, Utah

GORDON S. LITTLE

Plaintiff and Appellant

vs.

**GEORGE BECKSTEAD, Sheriff
of Salt Lake County**

Defendant and Respondent

Case

No. 9216

**APPELLANT'S PETITION FOR REHEARING
AND BRIEF IN SUPPORT THEREOF**

CLARK & CLARK

**Attorneys for Plaintiff
and Appellant**

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IN THE SUPREME COURT OF
THE STATE OF UTAH

GORDON S. LITTLE, :
Plaintiff and Appellant, : Case
vs. :
GEORGE BECKSTEAD, Sheriff : No.
of Salt Lake County, :
Defendant and Respondent. :

APPELLANT'S PETITION FOR REHEARING
AND BRIEF IN SUPPORT THEREOF

Plaintiff and Appellant petitions the
Honorable above-entitled Court for a rehearing
in the matter of Gordon S. Little vs. George
Beckstead, Sheriff of Salt Lake County, for the
following reasons:

ARGUMENT

THAT THE PLAINTIFF WAS DENIED THE RIGHT TO
TEST THE LEGAL SUFFICIENCY OF THE EXTRADITION

PROCEEDINGS GRANTED BY STATUTE.

The Utah Code clearly allows a person arrested under a writ of extradition to test the legality of his arrest. Title 77, Chapter 56, Section 10, Utah Code Annotated, 1953. The proper process for testing the legal sufficiency and validity of plaintiff's arrest and detention is a habeas corpus proceeding. Johnson vs. Mathews, 182 Federal 2nd 677; Moreaux vs. Ferrin, 98 Utah 450, 100 P. 2nd 560; Little vs. Beckstead _____ Utah 2nd _____.

By the cases above referred to as well as the Utah statute it clearly gives a person arrested the right himself to test the documents and records as to their legal sufficiency in a habeas corpus proceeding in the District Court. This right was not allowed the plaintiff in the habeas corpus proceedings. Although the documents were examined later by the Honorable Supreme Court, it appears that the arrested person should have the right in the District Court proceeding.


Since the District Court in the habeas corpus

proceeding did not allow the plaintiff himself
to test the validity of his arrest it committed
error. The plaintiff should have a right to
challenge the sufficiency of the documents in
a habeas corpus proceeding in the District Court
rather than make his initial challenge before
the Honorable Supreme Court on an appeal.

CONCLUSION

The proper process for testing the legal
sufficiency and validity of plaintiff's arrest
and detention is a habeas corpus proceeding.
The only place where the plaintiff has been able
to challenge the legal sufficiency of the validity
of his arrest has been in the Honorable Supreme
Court. Since this is a right that the plaintiff
is in a habeas corpus proceeding and this right
has been denied, petition is hereby made for a
hearing of this matter before the Honorable
Supreme Court.

Respectfully submitted,
CLARK & CLARK

By 
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Salt Lake City, Utah

Served two copies upon Richard Dibblee by
mailing to the County Attorney's Office, City and
County Building, Salt Lake City, Utah, this 3rd
day of February, 1961.

Calvin E. Clark

