1964

Charles Aldridge v. George Beckstead : Brief of Plaintiff and Appellant

Utah Supreme Court

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IN THE SUPREME COURT
of the
STATE OF UTAH

CHARLES ALDRIDGE,

Plaintiff and Appellant,

vs.

GEORGE BECKSTEAD, Sheriff of Salt Lake County, State of Utah,

Defendant and Respondent.

Case No.
10033

BRIEF OF PLAINTIFF AND APPELLANT

Appeal from the Judgment of the
3rd District Court for Salt Lake County
Hon. Marcellus K. Snow, Judge

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STATEMENT OF KIND OF CASE

This is an appeal on a Habeas Corpus proceeding wherein it was sought to extradite Appellant to California.

DISPOSITION OF THE LOWER COURT

The lower court held that a Writ of Habeas Corpus should be denied and Appellant should be extradited.

RELIEF SOUGHT ON APPEAL

Reversal of various trial court rulings.

STATEMENT OF FACTS

Appellant was held in the Salt Lake County Jail pursuant to a Governor's Warrant from the State of Utah (Exhibit D-1) honoring requisition papers (Exhibit D-2) from California which accused Appellant of the crime of Grand Theft and Section 10851, California Motor Vehicle Code. The Appellant petitioned for Habeas Corpus pursuant to Title 77-56-10, Utah Code Annotated (1953), contesting Appellant's detention, (T-1 & 3). Before the Habeas Corpus hearing could be heard, the Appellant submitted to the Respondent's attorney the following documents:

1. Notice of Deposition for the questioning of Gerald R. Hansen, Assistant Attorney General, and Earl Bertleson, Salt Lake County Deputy Sheriff, (T-8).

2. Interrogatories inquiring into the nature and citations of the various crimes for which Appellant was accused, (T-9).

3. Motion for production of the various extradition documents, (T-11).

The Salt Lake County Attorney, acting for Respondent, refused to honor these motions, and made a motion that the Court enter an Order relieving Respondent from complying, (T-12). A hearing was held

December 2, 1963. The Court granted Respondent's motion and relieved him from producing documents, answering Interrogatories, (T-29), or conducting depositions, (T30).

Appellant then made a formal motion that the answer submitted by the Respondent be stricken because it was insufficient, or in the alternative, a more definite statement, (T-30). The Court denied both motions, (T-31). The Court found the extradition papers from California to be in order, and denied Appellant's writ, (T-32).

Appellant made a motion for written Findings of Fact and Conclusions of Law, (T-33 & 34). The Court denied this motion, (T-33). Appellant asked for 30 days in which to perfect an appeal, (T-33). The Court granted him only five days, (T-34).

ARGUMENT

POINT I

THE TRIAL COURT ERRED IN GRANTING RESPONDENT'S MOTION RELIEVING RESPONDENT FROM ANSWERING INTERROGATORIES, NOT CONDUCTING DEPOSITIONS, NOT GIVING A MORE DEFINITE STATEMENT, NOT ALLOWING APPELLANT TO INSPECT DOCUMENTS, AND NOT ALLOWING THIRTY DAYS IN WHICH TO PERFECT HIS APPEAL.

Habeas Corpus proceedings are civil in nature. This being true, and it also being true that the Utah Rules of Civil Procedure provide for such a writ, it is submitted that all of the Utah Rules of Civil Procedure apply to Habeas Corpus prosecutions, defense, and appeals.

If the Utah Rules of Civil Procedure apply, it is conceivable that Appellant could stay his extradition by dilatory use of the Rules. However, one of the purposes of the Rules is to allow one to be completely prepared. By having complete disclosures, it assures that an accused would not be unjustly extradited; and that he be thoroughly acquainted with the facts and laws which he allegedly violated before the hearing.

The Rules changed the wording and procedure for Habeas Corpus by calling the application for a writ (which died when the writ was issued) a complaint, and the response to the writ (which set up the reason for the imprisonment) an answer. By using the terminology of complaint and answer, the writers of the Rules seem to imply that Habeas Corpus is only another way of commencing a legal action, and all the Rules of Civil Procedure apply.

POINT II

THE COURT ERRED IN DENYING APPELLANT'S MOTION TO DISMISS ON THE GROUNDS THAT APPELLANT'S ANSWER (REPLY) DID NOT SET UP TRIALABLE ISSUES AND APPELLANT SHOULD HAVE BEEN RELEASED.

It might be argued for Point I of this brief that the words Habeas Corpus in the extradition section mean something different from the words Habeas Corpus as used in the Rules, (T-23-24). To argue this would mean that the writers of the Rules did not mean it when they stated that the old writs were abolished.

However, if the Court feels that the old writ still exists for extradition purposes, Respondent's answer would be a return and is insufficient; and Appellant should have been released.

In *Jensen v. Sevy,* 134 Pac. 2nd 1081, the Court states that the petition is not a complaint, but rather an application for a writ. Its function is to secure the issuance of the writ; and after is has accomplished this purpose, it dies. The return states why Appellant is being held. If the return is not contradicted, it is taken as true. The petitioner answers the return to set up trialable issues. If the return is insufficient, the better practice is to move for petitioner's discharge. The return in this case was insufficient; hence, a Motion to Dismiss should have been granted.

POINT III

THAT THE TRIAL COURT ERRED IN REFUSING TO GRANT APPELLANT'S MOTION FOR WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The lower court held that the Utah Rules of Civil Procedure did not apply in Habeas Corpus proceedings; hence, it did not have to issue written Findings of Fact and Conclusions of Law. The Utah Supreme Court in *Young v. Ellett,* 146 Pac. 2nd 196, held that it is the duty of the Court to make written Findings of Fact and Conclusions of Law in Habeas Corpus proceedings when requested. The lower court took a consistent position that the Rules do not apply; but in doing so it violated the law as laid down in *Young v. Ellett.* It is submitted that either *Young v. Ellett* should be overruled or that the Court should allow all the Civil Rules to be applicable in Habeas Corpus proceedings.

CONCLUSION

Habeas Corpus, under the new Rules. *Young v. Ellett* and *Jensen v. Sevy,* should be analyzed. Is Habeas Corpus a fast expeditious proceeding where one of the parties goes in half cocked, unable to know the facts and evidence against him and unable to prepare for the hearing? Is Habeas Corpus a proceeding in which dilatory tactics may be used to keep an individual illegally restrained, or to stall extradition? Perhaps the answer is somewhere between.

Respectfully submitted

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