

SUPREME COURT OF THE STATE OF DELAWARE

Clay v. Johnson

Clay v. Johnson · No. No. 213, 2015 · Decided November 5, 2015

SUMMARY

The Delaware Supreme Court affirmed the denial of James Clay’s petition for a writ of habeas corpus challenging his extradition to Arkansas. The Court held that the extradition documents were facially sufficient, that Clay was arrested under the Governor’s Warrant within the statutory thirty-day period, and that the warrant adequately identified the murder charge.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Holland, Justice; Valihura, Justice; Vaughn, Justice
JURISDICTION	Delaware
DECIDED	November 5, 2015
DOCKET	No. 213, 2015
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court's denial of a petition for a writ of habeas corpus challenging extradition to Arkansas.
STANDARD OF REVIEW	In an extradition habeas proceeding, review is limited to whether the extradition documents are facially in order, whether the petitioner has been charged with a crime in the demanding state, whether the petitioner is the person named in the request, and whether the petitioner is a fugitive.
PRECEDENTIAL VALUE	Published per curiam order
PARTIES	James Clay v. Warden G.R. Johnson

TOPICS

- habeas corpus
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal procedure
- habeas corpus
- extradition
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Arkansas extradition requisition was facially defective because the sheriff's probable-cause affidavit was not notarized.
2. Whether Clay was held in violation of 11 Del. C. § 2515 because his extradition hearing occurred outside the thirty-day period.
3. Whether the Governor's Warrant was ambiguous concerning the Arkansas charges.

HOLDINGS

1. The extradition documents satisfied Delaware's statutory requirements. The sheriff's affidavit, read in context, supported an inference that it was signed in the presence of the circuit judge, and the Arkansas information supported by the prosecuting attorney's affidavit independently cured any alleged defect.
2. Clay was not detained in violation of § 2515 because he was arrested on March 10 and the Governor's Warrant was issued on April 1, within the thirty-day commitment period. The later hearing date, which accommodated counsel, did not invalidate the detention.
3. The Governor's Warrant and accompanying documents clearly identified the charge as first-degree murder, providing Clay adequate notice. The fact that the original bench warrant also referenced kidnapping did not create an actionable ambiguity.
4. Delaware habeas review in an extradition case is limited to facial validity of the extradition documents, whether the petitioner has been charged with a crime in the demanding state, identity of the person sought, and fugitive status; Delaware courts may not review a demanding state's probable-cause determination after a neutral judicial officer has made that determination.

KEY QUOTATIONS

“In the context of extradition, this Court may decide only: (a) whether the extradition documents on their face are in order; (b) whether the petitioner has been charged with a crime in the demanding state; © whether the petitioner is the person named in the request for extradition; and (cl) whether the petitioner is a fugitive.”
((7))

“A governor’s grant of extradition is prima facie evidence that the constitutional and statutory requirements have been met.” ((7))

FACTUAL BACKGROUND

Arkansas authorities sought Clay's extradition for a first-degree murder charge arising from an unsolved 1967 homicide. Delaware police arrested Clay after confirming the Arkansas warrant, and Clay made admissions before and after being advised of his Miranda rights. Arkansas submitted certified extradition documents, Delaware Governor Markell issued a Governor's Warrant on April 1, 2015, and Clay challenged the extradition on defects in the affidavit, the thirty-day detention period, and ambiguity concerning the charges.

PROCEDURAL HISTORY

Arkansas issued a bench warrant for Clay, and Delaware authorities arrested him. Arkansas submitted a requisition, Delaware's Governor issued a Governor's Warrant, and Clay sought habeas relief in the Delaware Superior Court. The Superior Court denied the petition, and the Delaware Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Moore v. [name unclear in source], 2002 WL 31631302, at *1 (Del. Nov. 25, 2002)
- Michigan v. Doran, 439 U.S. 282 (1978)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE JAMES CLAY, No. 213, 2015
Petitioner Below- Appellant, Court Below: Superior Court of the State of Delaware in and v. for
Sussex County WARDEN G.R. JOHNSON, No. 1310017689 Respondent Below- Appellee.
mmmmmmmmmm Submitted: October 7, 2015 Decided: November 5, 2015 Before
HOLLAND, VALIHURA, and VAUGHN, Justices. ORDER On this 5th day of November 2015, it
appears to the Court that: (1) Petitioner-Below/Appellant James Clay ("Clay") appeals from a
Superior Court Order denying his petition for a writ of habeas corpus.

He makes one claim on appeal. He contends that the court below erred when it denied his petition for a writ of habeas corpus because the requisition from Arkansas for his extradition to that state did not comply with certain statutory requirements. Specifically, Clay alleges that the documents received from Arkansas were invalid because: (1) the Arkansas Jackson County Sheriff's affidavit was not notarized; (2) Clay was not arrested under the Governor's Warrant, issued by Governor Markell, within thirty days of being taken into custody in violation of 11 Del.

C. § 2515; and (3) the Governor's Warrant is ambiguous as to the charges Clay will face in Arkansas. We find no merit to Clay's appeal and affirm. (2) On March 9, 2015, the Circuit Court of Jackson County, Arkansas issued a bench warrant for the arrest of Clay for an unsolved murder from 1967. Since Clay resided in Georgetown, Delaware, the Jackson County Sheriff contacted Georgetown Police and requested that Clay be arrested as a fugitive of Arkansas.

Georgetown Police Officer Derrick Calloway made contact with Clay at his residence. Clay "openly admitted to [Officer Calloway] about committing [the] homicide[.]" Clay went back to Police Headquarters with Officer Calloway.

(3) After being read his Miranda rights, Clay again admitted to committing the homicide, but then decided to remain silent and requested an attorney. Officer Calloway placed Clay under arrest and

contacted the Delaware State Police in order to confirm that the Arkansas arrest warrant was indeed valid.

After confirming its validity, Officer Calloway appeared before a Justice of the Peace, who issued an arrest warrant for Clay pursuant to 11 Del. C. § 2513. (4) On March 18, 2015, the Governor of Arkansas sent Governor Markell the requisition for Clay's apprehension and extradition.

The request included several ' Appellant's Op. Br. App. at A5. certified documents, including: (1) the Arkansas prosecuting attorney's sworn application to the Governor of Arkansas for a warrant of extradition, together with an accompanying affidavit, signed, notarized, and dated March 13, 2015; (2) the Arkansas Information charging Clay with Murder First Degree, filed on March 13, 2015; (3) an affidavit of Jackson County Sheriff David Lucas, dated March 9, 2015; and (4) a copy of the bench warrant, issued March 9, 2015.

Based on these documents, Governor Markell issued a Governor's Warrant on April 1, 2015, which authorized the extradition of Clay. (5) An extradition hearing was scheduled for April 2, 2015 in the Justice of the Peace Court but was continued until April 10.

The State then requested that the extradition hearing be rescheduled to April 9. Although it appears that Clay was appointed counsel as early as March 13, the Justice of the Peace was unaware of that fact because Clay's counsel entered his appearance through a system not used by the Justice of the Peace Court. Due to this error, the April 9 extradition hearing proceeded without Clay's counsel.

Once notified that Clay had counsel, the Justice of the Peace scheduled a new hearing for April 14. At the April 14 hearing, Clay requested an extension in order to file a petition for a writ of habeas corpus, which the Justice of the Peace granted.

(6) On April 20, Clay filed his petition with the Superior Court. Clay asserted the aforementioned three claims as to why he should be released from custody. A conference was held on April 22, at the conclusion of which the Superior Court denied Clay's petition. This appeal followed.

(7) "Unlike its federal counterpart, the writ of habeas corpus under Delaware 32 law provides relief on a very limited basis.' "Habeas corpus provides an opportunity for one illegally confined... to obtainjudicial review of the jurisdiction of the court ordering commitment."3 In the context of extradition, this Court may decide only: (a) whether the extradition documents on their face are in order; (b) whether the petitioner has been charged with a crime in the demanding state; © whether the petitioner is the person named in the request for extradition; and (cl) whether the petitioner is a fugitive." "A governor's grant of extradition is prima facie evidence that the constitutional and statutory requirements have been met."5 "[W]hen a neutral judicial officer of the demanding state has determined that probable cause exists, the courts of the asylum state are without power to review the determination."6 (8) As to Clay's first claim, 11 Del.

C. § 2503 states, in pertinent part: “No demand for [] extradition... shall be recognized by the Governor unless... 2 Moore v. 51013, 2002 WL 31631302, at *1 (Del. NOV. 25, 2002). 3 1d. 4 Michigan v. Damn, 439 US. 282, 289 (1978). 5 1d. 6 1d. at 290. accompanied by a copy of an indictment found or by information supported by affidavit... or by a copy of an affidavit made before a magistrate...

3’7 The affidavit of Sheriff Lucas, which is, in substance, a probable cause affidavit, is signed by him and followed by a signature block for a notary public on the same page. The notary public signature block is blank.

However, the notary public area is then followed immediately, on the same page, by the following provision: “I hereby find that this sworn affidavit demonstrates reasonable and probable cause for the issuance of a warrant of arrest for JAMES LEON CLAY... 3’8 That line is followed by the signature of the Circuit Judge. From this language and the fact that the Circuit Judge signed the document, one can infer that Lucas signed in the Circuit Judge’s presence.

In addition, even if the Sheriff’s affidavit was viewed as defective, the copy of the information, accompanied by the affidavit of the prosecuting attorney, cures any such defect by independently satisfying the provision that there be a “copy of an indictment or information supported by affidavit... 3’9 (9) Second, Clay was not held in violation of 1 1 Del. C. § 2515, which allows a fugitive to be committed to jail for thirty days pending his arrest under a Governor’s 7 11 Del.

C. §2503. 3 Appellant’s Op. Br. App. at A18. 9 11 Del. C. §2503. Warrant. '0 Clay was arrested on March 10. The Governor’s Warrant was issued on April 1, well within the thirty day commitment period. Clay’s arrest under the warrant was enabled within the thirty day period.

The fact that a new hearing was held outside the thirty day period to allow Clay’s counsel to participate is irrelevant. (10) Third, the Governor’ 5 Warrant and accompanying documents clearly state that Clay has been charged with Murder First Degree.

The original bench warrant charged Clay with both murder and kidnapping. The fact that Clay was ultimately not charged with kidnapping is irrelevant. Clay has notice that the State of Arkansas alleges that he committed murder.

For all these reasons, the trial court acted properly in denying Clay’s petition. NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. BY THE COURT: '0 1 1 Del. C. § 2515 (“[T]he judge or justice of the peace shall, by a wan'ant reciting the accusation, commit the person to jail for such a time not exceeding 30 days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the Governor....”).

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/delaware-supreme-court-of-the-state-of-delaware/2015/clay-v-johnson-ada4aem0>