

Chapter 147

Uniform Criminal Extradition Act

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CASE CITATIONS: *Stewart v. State*, (1970) 3 Or App 620, 475 P2d 600, Sup Ct review denied.

ATTY. GEN. OPINIONS: Applicability to paroled "sexually dangerous" person, 1964-66, p 93; source of funds to appeal habeas corpus proceedings testing an extradition warrant, 1966-68, p 291.

147.020

ATTY. GEN. OPINIONS: Extradition of person guilty of violating Motor Vehicle Law, 1922-24, p 346; extradition of a person charged with contempt of court, 1928-30, p 561; extradition of one charged with failure to support family, 1934-36, p 679; duty of Governor to extradite, 1952-54, p 74, 1954-56, p 104.

147.030

NOTES OF DECISIONS

The affidavit is sufficient though it is made on information and belief unless when made by a private individual it is patent on its face that the affiant could not, in all probability, have had personal knowledge of the facts constituting the offense he professes to have. *Ex parte Paulson*, (1942) 168 Or 457, 124 P2d 297.

Technical requirements of criminal pleading need not be met; the affidavit is sufficient if it substantially charges the person demanded with crime. *Id.*

It is sufficient for extradition that the accused was "substantially" charged with a crime. *Frisco v. Clark*, (1966) 243 Or 466, 414 P2d 331.

Whether a person demanded is substantially charged with a crime against the laws of the demanding state is a question of law to be ascertained from the requisition and papers accompanying it. *Id.*

It is not the function of the court in extradition proceedings to examine the motives of those seeking extradition. *May v. Shields*, (1968) 251 Or 168, 444 P2d 949.

A document entitled abstract of judgment with the usual content of a complete judgment met the requirements of this section. *State ex rel. Yarbrough v. Snider*, (1970) 2 Or App 97, 465 P2d 739, Sup Ct review denied.

An affidavit substantially in the language of the statute charging the crime of disposing of mortgaged property, stating the date and place of the offense, the character of the property, the sum for which it was sold and the mortgage holder's name was not defective for failing to include a copy of the mortgage. *Ex parte Paulson*, (1942) 168 Or 457, 124 P2d 297.

The papers were authenticated as required by this section. *May v. Shields*, (1968) 251 Or 168, 444 P2d 949; *State ex rel. Yarbrough v. Snider*, (1970) 2 Or App 97, 465 P2d 739, Sup Ct review denied.

The granting of a writ of habeas corpus because of the insufficiency of the extradition papers was not res judicata to subsequent extradition demand. *State ex rel. Yarbrough*

v. Snider, (1970) 2 Or App 97, 465 P2d 739, Sup Ct review denied.

FUTHER CITATIONS: *State ex rel. Yarbrough v. Snider*, (1968) 252 Or 35, 448 P2d 379; *Gibbs v. Holzman*, (1970) 2 Or App 17, 464 P2d 839.

147.040

ATTY. GEN. OPINIONS: Duty of Governor to extradite, 1954-56, p 104.

147.050

NOTES OF DECISIONS

The only issue to be decided at the hearing is the validity of the arrest. *Storms v. Lambert*, (1960) 224 Or 189, 355 P2d 766.

FURTHER CITATIONS: *State ex rel. Mietzner v. Johnson*, (1965) 240 Or 109, 400 P2d 254.

ATTY. GEN. OPINIONS: Requisites of warrant of extradition, 1934-36, p 417, 1936-38, pp 73, 162, 680, 1940-42, p 574, 1944-46, p 332.

147.060

ATTY. GEN. OPINIONS: Extradition of one who abandons family in this state, 1942-44, p 293; extradition of one who abandons family in another state, 1944-46, p 332; duty of Governor to extradite, 1952-54, p 74, 1954-56, p 104.

147.070

CASE CITATIONS: *State ex rel. Yarbrough v. Snider*, (1968) 252 Or 35, 448 P2d 379.

ATTY. GEN. OPINIONS: Form of executive extradition warrant, 1934-36, p 301.

147.080

ATTY. GEN. OPINIONS: Authority to deliver fugitive to deputy of agent appointed by demanding state, 1928-30, p 378.

147.100

NOTES OF DECISIONS

The decision on a writ of habeas corpus would not be res judicata as to issues in an action for false arrest or malicious prosecution. *Storms v. Lambert*, (1960) 224 Or 189, 355 P2d 766.

The only issue to be decided at the hearing is the validity of the arrest. *Id.*

The prisoner has no right to a jury trial at a hearing on a writ of habeas corpus to test a warrant of extradition. *Id.*

In a habeas corpus proceeding testing validity of attempted extradition, plaintiff must establish by conclusive evidence that he is not a fugitive from justice. State ex rel. Zitek v. Clark, (1966) 244 Or 111, 416 P2d 3.

Petitioner could not complain that he was not granted a reasonable time after arrest to apply for habeas corpus writ where the court granted 24 hours and the petition was filed within that time and no attempt was made to take advantage of deficiencies, if any, in the petition. Ex parte Paulson, (1942) 168 Or 457, 124 P2d 297.

FURTHER CITATIONS: Knowles v. Gladden, (1961) 227 Or 408, 362 P2d 763; Stewart v. State, (1970) 3 Or App 620, 475 P2d 600, Sup Ct review denied.

147.190

CASE CITATIONS: Carpenter v. Lord, (1918) 88 Or 128, 171 P 577, LRA 1918D, 674.

ATTY. GEN. OPINIONS: Authority of Governor to refuse to surrender a fugitive, 1930-32, p 554, 1932-34, p 10, 1936-38, p 14, 1938-40, p 702; duty of Governor to extradite, 1952-54, p 74.

147.200

NOTES OF DECISIONS

The only issue to be decided at the hearing is the validity of the arrest. Storms v. Lambert, (1960) 224 Or 189, 355 P2d 766; Stewart v. State, (1970) 3 Or App 620, 475 P2d 600, Sup Ct review denied.

The Governor or trial court may refuse to inquire into the guilt or innocence of the accused when the demand for extradition is sufficient in legal form. In re Defoe, (1946) 179 Or 334, 170 P2d 383.

The prisoner has no right to a jury trial at a hearing on a writ of habeas corpus to test a warrant of extradition. Storms v. Lambert, (1960) 224 Or 189, 355 P2d 766.

FURTHER CITATIONS: Ex parte Paulson, (1942) 168 Or 457, 124 P2d 297; Frisco v. Clark, (1966) 243 Or 466, 414 P2d 331.

147.210

ATTY. GEN. OPINIONS: Duty of Governor to extradite, 1954-56, p 104.

147.220

CASE CITATIONS: State v. Fox, (1966) 245 Or 440, 421 P2d 977.

ATTY. GEN. OPINIONS: Authority of agent to appoint deputy, 1928-30, p 378; payment of expenses of agent, 1938-40, p 169.

147.230

NOTES OF DECISIONS

Filing with the Secretary of State is not required with respect to extradition papers coming to Oregon from another state. Ex parte Paulson, (1942) 168 Or 457, 124 P2d 297.

FURTHER CITATIONS: State v. Fox, (1968) 250 Or 83, 439 P2d 1009.

ATTY. GEN. OPINIONS: Requisites of application for extradition, 1932-34, p 717, 1934-36, p 699, 1936-38, p 300, 1944-46, p 358, 1946-48, p 365; duties and discretion of Governor regarding extraditions, 1952-54, p 74.

147.235

ATTY. GEN. OPINIONS: Agency responsible for sheriff's travel expenses under Agreement on Detainers, (1969) Vol 34, p 863.

147.253

ATTY. GEN. OPINIONS: Necessity of presence of judge when fugitive's waiver is executed, 1952-54, p 260.

147.290

CASE CITATIONS: State v. Chadwick, (1882) 10 Or 465, 525.

ATTY. GEN. OPINIONS: Necessity for issuance of requisition for return of fugitive in order to authorize payment of expenses, 1936-38, p 483, 1944-46, p 22; payment of expenses of agents, 1938-40, p 169, 1944-46, p 61; source of funds to appeal habeas corpus proceedings testing an extradition warrant, 1966-68, p 291; agency responsible for sheriff's travel expenses under Agreement on Detainers, (1969) Vol 34, p 863.