

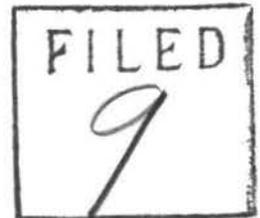
HABEAS CORPUS
AD PROSEQUENDUM:

The appearance of persons imprisoned may be secured by writ of habeas corpus ad prosequendum in order to prosecute them on indictments for a felony in another jurisdiction in Missouri.

March 21, 1944

Mr. Charles T. Bloodworth
Special Prosecuting Attorney
Butler County
Poplar Bluff, Missouri

3/31



Dear Sir:

We acknowledge receipt of your letter of March 16th, 1944, addressed to Honorable Roy McKittrick, Attorney-General of Missouri, requesting an opinion respecting the facts set out in your letter, as follows:

"I wish an opinion and advice on procedure in regard to the following:

"Two men committed a felony in Butler County last year, and at about the same week, also committed a felony in Dunklin County. They were charged both in Butler County, and in Dunklin County, and were convicted in Dunklin County, before they could be tried here, and each sentenced to the penitentiary, and are now in the Intermediate Reformatory for young men. The cases against them here, are pending in the Circuit Court, and we desire to try them, and dispose of the cases at the coming April term.

"We have communicated with authorities, and Mr. Adams, Superintendent of the Intermediate Reformatory advises me that he will be glad to turn them over to the Sheriff upon writs of habeas corpus. I am very much in doubt as to the jurisdiction of the Circuit Court here to entertain habeas corpus proceedings for prisoners in Cole County, though, from the letter

received from Mr. Adams, it appears that that is what he suggests. It would put excessive expense and costs on the State or County to have to go to Cole County to institute habeas corpus proceedings.

"I would appreciate it very much if you would give me your opinion as to what procedure I should pursue to bring these prisoners back here for trial, and as to whether or not the Circuit Court here can issue a writ of habeas corpus against the Superintendent of, or the Intermediate Reformatory for young men."

On consideration of the proposition involved in your inquiry, namely, whether you are entitled as a matter of law to secure the delivery of the bodies of the two men committing the felony in Butler County, as stated by you, so that they can be brought into the Circuit Court of Butler County to answer indictments now perfected and pending against them in said County of Butler, we believe that by the application for and issuance of the writ of habeas corpus ad prosequendum you can lawfully return them to Butler County for prosecution.

The application for the writ of habeas corpus may be properly entertained, and the writ of habeas corpus ad prosequendum issued by the Circuit Court of Butler County, Missouri, if in session, otherwise, by the judge in vacation.

In support of the above, we cite the following authorities: State ex rel. Billings v. Rudolph, 322 Mo. 1163; State ex rel. Meininger v. Breuer, 304 Mo. 381, 13 Corpus Juris, Sec. 14, pages 919, 920.

CONCLUSION

This department is, therefore, of the opinion that you have the absolute right, and can secure the presence and

bodies of the defendants committing the felony you name, by the issuance of the writ of habeas corpus ad prosequendum, in order to procure the attendance of the two defendants for the trial of the cause on the charges preferred against them, in Butler County, Missouri.

Respectfully submitted,

EDGAR B. WOOLFOLK
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

EBW:CP