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Brown In and For First Judicial Dist., Jefferson County v. District Court In and For First Judicial Dist., Jefferson County

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NOV 30 1977

Thomas Gilman

C O M P L A I N T

(For Relief in
Nature of
Mandamus)

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AS GROUNDS for requesting that an order to show cause issue the Petitioner states the following:

[2]. That Defendant, Stanley Brown, was charged in Criminal Action Number 6715 by informa-

tion with the offenses of Second Degree Forgery, C.R.S. 1973, 18-5-103, as Amended, Criminal Impersonation, C.R.S. 1973, 18-5-113, as Amended and Midemeanor Theft, 1973 C.R.S. 18-4-401, as Amended.

- [3]. That on March 31, 1975, Defendant was advised of his rights, waived a reading of the information and plead not guilty in Division 4 of the District Court.
- [4]. That on April 4, 1975, preliminary hearing was held and Defendant was bound over for trial.
- [5]. That on May 23, 1975, Defendant requested a new attorney because he said he could not communicate with his public defender. The trial date of May 29, 1975, was cancelled at the Defendant's request.
- [6]. That on October 30, 1975, Defendant's Motion to Dismiss was granted on the two felony charges. Defendant waived his right to speedy trial.
- [7]. That the People filed an appeal of the District Court's Order of Dismissal.
- [8]. That on April 18, 1977, the Supreme Court of the State of Colorado reversed the judgment of the District Court and remanded the cause for trial.
- [9]. That on May 5, 1977, the remittitur was received by the Jefferson County

District Attorney's Office and
the District Court Clerk's Office.

[10]. That on this date, May 5, 1977, there was communication between the District Attorney's Offices of Jefferson and El Paso Counties, whereby Jefferson County was informed that the El Paso County Grand Jury had indicted the Defendant, Stanley Brown, on the charge of First Degree Murder and that El Paso County had instituted proceedings on April 21, 1977, to bring the Defendant from the Federal Penitentiary in Leavenworth, Kansas to Colorado through the Inter-State Compact. El Paso County stated to Jefferson County that they would advise when Defendant Brown was in Colorado and that Jefferson County should then file a Writ of Habeas Corpus Ad Prosequendum with El Paso County.

[11]. That on May 23, 1977, Defendant arrived in the State of Colorado and appeared before the El Paso County District Court.

[12]. That on July 6, 1977, Defendant appeared in Division 4 of the Jefferson County District Court having been brought here from El Paso County by the means of a Writ of Habeas Corpus Ad Prosequendum. That on this date, the Public Defender's Office was appointed to represent the Defendant Brown and a trial date of August 30 and 31, 1977, was set to which the Defendant and his attorney consented.

Hearing on Motions was set for July 26, 1977.

- [13]. That on July 26, 1977, Defendant's Motion to Dismiss for lack of speedy trial and Motion to Dismiss for lack of jurisdiction was heard.
- [14]. That on August 4, 1977, Judge Anthony Vollack ruled that Defendant's Motion to Dismiss on speedy trial grounds was without merit as to the felony charges. Counts One and Two, but dismissed Count Three on this basis. The Court further ordered that Defendant was not properly before the Court as to Counts One and Two under the provisions of C.R.S. 1973, 24-60-501, as Amended, and ordered that the trial date of August 30 and 31, 1977, be vacated.
- [15]. That it is from this ruling the People seek relief from this superior court by way of a Writ of Mandamus ordering the District Court to take jurisdiction of the person over the Defendant, Stanley Brown.
- [16]. That the case law is well established that the manner by which the Defendant reaches Court is immaterial. Frisbee v. Collins, 342 U.S. 519 (1952).
- [17]. That the Defendant appeared in Court on July 6, 1977 and consented to a trial date of August 30 and 31, 1977.
- [18]. That the Hon. Anthony Vollack and the

District Court in and for the First Judicial District, County of Jefferson, State of Colorado, erred in ruling there was no personal jurisdiction over the Defendant, Stanley Brown.

WHEREFORE, Petitioner prays as follows:

- [1]. That this Court forthwith issue a Citation to the respondents to show cause why the relief herein should not be granted.
- [2]. That this Court declare that Division 4 of the District Court in and for the First Judicial District, County of Jefferson, State of Colorado, and the Honorable Anthony Vollack acted unlawfully and improperly in refusing to take jurisdiction over the person of the Defendant, Stanley Brown.

NOLAN L. BROWN
District Attorney

By

Joseph Mackey
Joseph Mackey, Reg. No. 6046
Deputy District Attorney
Hall of Justice
Golden, Colorado, 80419
279-6511, Ex. 242

CERTIFICATE OF MAILING

I hereby certify that I have this
24th day of August, A.D. 1977, placed in the
United States mails, postage prepaid, a true and
exact copy of the above and foregoing Complaint for
Relief in Nature of Mandamus, properly addressed to:

Peter Schild, Esq.
Deputy Public Defender
607 Tenth Street
Golden, Colorado, 80401

James E. C. Chapell