

Opinion No. [29-29]

January 5, 1929

TO: Office of the Attorney General of New Mexico

EXTRADITION -- Expense incurred in unsuccessful attempt not paid by State.

OPINION

In re: Requisition papers on Governor of Arizona to Waldo Anton, Sheriff of Santa Fe County.

I have your favor of the 3rd inst. submitting to me a voucher signed by Waldo Anton, Sheriff of Santa Fe County in which he seeks reimbursement from the State for an attempted extradition of a prisoner from the State of Arizona, which requisition was not honored by the Governor of Arizona. You asked me whether or not it will be legal for you to pay the same from State funds.

In reply thereto will state that § 2408 of the Code of 1915 provides that the governor is authorized to pay the costs and expenses incurred in the apprehension **and transportation to this State** of the accused from state funds in these extradition cases. Since this was merely an attempted extradition the expenses of the sheriff cannot be paid from state funds.

Incidentally, the intention of the legislature in these matters is fairly clear, because the legislature of 1915 made a special appropriation to reimburse an officer for expenses in an attempted extradition of a man from the State of Texas, under the head of "Reimbursement of C. R. Williamson", page 130 of appendix to Code of 1915.

It is obvious, of course, that Mr. Anton should be reimbursed for his expenses, but he cannot receive the same from the State, unless, of course, the legislature should pass a special law reimbursing him; otherwise his remedy lies with his own county.

I am returning to you herewith Mr. Anton's voucher.

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