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Extradition - Warrantless Arrest -
Probable Cause

NCIC teletype matching general description of person arrested provides sufficient probable cause for warrantless arrest under Code of Alabama 1975, §15-10-3. Teletype does not have to specify that felony charged is punishable by death or life imprisonment.

Dear Mr. Sorrells:

This office has received your request for an opinion as to whether Code of Alabama 1975, § 15-10-3 authorizes police officers to make a warrantless arrest for extradition purposes on the basis of a National Crime Information Center (NCIC) teletype which matches the general description of the person being arrested. The answer is yes.

That statute provides:

§ 15-10-3. Arrest without warrant - When and for what allowed.

An officer may arrest any person without a warrant, on any day and at any time, for:

(1) Any public offense committed or a breach of the peace threatened in his presence;

(2) When a felony has been committed, though not in his presence, by the person arrested;

(3) When a felony has been committed and he has reasonable cause to believe that the person arrested committed it;

(4) When he has reasonable cause to believe that the person arrested has committed a felony, although it may afterwards appear that a felony had not in fact been committed; or

(5) On a charge made, upon reasonable cause, that the person arrested has committed a felony.

This question was resolved by the Alabama Supreme Court in Daniels v. State, 290 Ala. 316, 276 So. 2d 441 (1973). In that case the court held that a NCIC report that an automobile was stolen supplied the probable cause to arrest the driver of the vehicle, even though the report was later found to be erroneous.

Regarding your second question as to whether police officers are only justified in making an arrest based on a NCIC report in cases where the fugitive stands charged with a crime punishable by death or life imprisonment in the courts of another state, the answer is no. Code of Alabama 1975, § 15-9-41 provides:

§ 15-9-41. Arrest without warrant - When authorized; persons authorized to make arrest; appearance of accused before judge.

The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged with a crime punishable by death or life imprisonment in the courts of another state. When so arrested, the accused must be taken before a district or circuit court judge with all practicable speed and complaint

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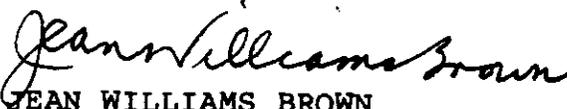
must be made against him under oath setting forth the ground for the arrest as in section 15-9-40, and thereafter his answer shall be heard as if he had been arrested on a warrant.

However, while this statute authorizes warrantless arrests for felonies carrying a sentence of death or life imprisonment, it does not specifically prohibit arrests for felonies carrying a lesser sentence. This finding is indicated by Daniels, supra, for in that case there is no indication whatsoever that the NCIC report of a stolen automobile also stated that this offense was punishable by death or life imprisonment.

We hope that this has answered your questions satisfactorily. If our office can be of further assistance, please call on us.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL
By-


JEAN WILLIAMS BROWN
ASSISTANT ATTORNEY GENERAL

JWB:dpr