Circuit Court for Howard County
Case No.: 13-C-17-113727

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 765

September Term, 2018

COLIN BARRINGTON WILLIAMS

v.

JACK KAVANAGH, WARDEN

Berger,
Leahy,
Shaw Geter,

JJ.

Opinion by Leahy, J.

Filed: May 19, 2020

Appellant, Colin Barrington Williams, appeals from the Circuit Court for Howard County's denial of his petition for writ of habeas corpus and stay of extradition challenging his extradition from Maryland to Virginia. Williams presents several arguments for our review, which we have consolidated and rephrased into a single question: Did the circuit court properly deny Williams's petition for writ of habeas corpus challenging his extradition from Maryland to Virginia?

For the following reasons, we shall affirm the judgment of the circuit court.[1]

BACKGROUND

In accordance with Department of Corrections ("DOC") procedure, a Maryland case worker checked to see if Williams was wanted in any other jurisdiction before his release from the Patuxent Institution in Jessup, Maryland on September 18, 2017. The Sheriff's Office in Stafford County, Virginia responded affirmatively. Accordingly, on September 19, 2017, Maryland State Police filed a "non-criminal charge against fugitive" in the District Court of Maryland for Howard County, alleging that Williams committed the crime

[1] Williams's questions presented were as follows:

> 1. Was it error to order extradition for willful failure to appear in a Virginia court, after it was conceded that Appellant was incarcerated in Maryland, on each occasion?
>
> 2. Did the demanding state, Virginia[,] abuse the extradition process, after declining to seek Appellant's extradition, twice before?
>
> 3. After Appellant was released from a Maryland prison, and before any warrant was issued, was Appellant illegally arrested and held in the county detention center, before proper extradition procedures and documents were completed?

of possession with intent to distribute marijuana in Stafford County, Virginia, and fled from justice from Virginia to Maryland. Williams was charged in the District Court for Howard County as a Fugitive from Justice in Case Number 2T00100249. The district court ordered that Williams be held at the Howard County Department of Corrections pending the issuance of a warrant of extradition.

On September 27, 2017, the Commonwealth of Virginia executed a Requisition Demand to the Governor of Maryland, setting forth that Williams "stands charged with the crimes of Failure to Appear (2 Counts)" in Stafford County, Virginia and had since fled from justice and taken refuge in Maryland. Virginia thereby demanded Williams's return. On November 27, 2017, the Governor of Maryland issued a Warrant of Rendition, recognizing Virginia's demand. The Governor directed law enforcement to arrest and secure Williams, to afford him the opportunity to petition for a writ of habeas corpus under the extradition laws of the State, and to thereafter deliver him back to the State of Virginia.

The Petition

On December 18, 2017, Williams filed a Petition for Writ of Habeas Corpus in the Circuit Court for Howard County, challenging his extradition and seeking a stay of execution as well as his immediate release. Williams alleged generally that the demand for extradition failed to comply with Maryland Code (2001, 2018 Repl. Vol.), Criminal Procedure Article ("CP"), §§ 9-103, 9-104 and 9-105.[2] He further objected to his detention

[2] The code provisions relevant to Williams's claims were enacted in 2001 and have not been amended, substantively or otherwise, since then (though replacement volumes were issued in both 2008 and 2018). Accordingly, although Williams's allegations of error (continued)

in Howard County on the basis that the Governor's warrant did not meet the form and content required under CP § 9-107; that CP § 9-113, governing issuance of a warrant, did not apply to him; that he was not a fugitive from Virginia; and that the warrant was invalid because a certified copy of the underlying charges was not attached as required by CP § 9-113.[3]

On January 18, 2018, after the circuit court issued a show cause order, the State of Maryland, via the State's Attorney's Office for Howard County, Maryland, responded: Williams was a fugitive from Virginia and had been charged in Stafford County with distribution of marijuana, pandering, and two counts of failure to appear on April 7, 2015 and September 29, 2016; that Williams was ordered not to leave Virginia under a pre-trial release order; that Williams was arrested, on August 3, 2016, in Anne Arundel County, Maryland, on charges of unlawful firearm and CDS possession; that he remained detained in Maryland in connection with a Baltimore County case[4]; that Williams's detention, on or

arise out of events that took place in 2017, we refer to the current version of the statute throughout this opinion.

[3] *See* Maryland Code (2001, 2018 Repl. Vol.), Criminal Procedure Article ("CP"), §§ 9-103, 9-104, 9-105, 9-107, 9-113, 9-114.

[4] The complete chronology of events relating to Williams's history is complex and was pieced together from various records and hearings in this case, as well as the Maryland judiciary website. According to the Maryland Judiciary Case Search, after the aforementioned Anne Arundel County charges were nol prossed, *see* Anne Arundel Circuit Court Case Number C-02-CR-16-001679, Williams was presumably transferred to Baltimore County where he pleaded guilty to first degree assault on June 27, 2017, was sentenced to time served, and was ordered released from commitment that same day. *See* Baltimore County Circuit Case Number 03-K-16-004785. However, prior to his actual release from custody on those charges, on or around June 28-29, 2017, Williams was (continued)

around September 19, 2017, was lawful under CP § 9-113; that, upon Williams's refusal to be extradited, Maryland initiated extradition proceedings; that the Governor of Virginia's Demand for Extradition complies with CP § 9-103; that the Governor of Maryland's Warrant of Rendition complies with CP §§ 9-104, 9-105, and 9-107; that Williams's continued detention complies with the Governor's Warrant; and that, even assuming *arguendo* there was some procedural defect in the Warrant, any defect would not justify release for several enumerated reasons and that the Governor of Virginia is ready, willing, and able to assume custody pending resolution of the Petition for Writ of Habeas Corpus.

March Hearing

On March 5, 2018, a show cause hearing was held on Williams's petition. The State first explained that the charges pending against Williams in Virginia were for possession with intent to distribute, receiving earnings from prostitution, and failing to appear, and carried a possible penalty of up to ten years in prison. Then the State proffered that Williams posted a $15,000 bond in Virginia, fled that state, and was subsequently arrested on new, unrelated charges in Maryland. After pleading guilty to first-degree assault in Baltimore County, Williams ultimately was detained in Maryland in connection with the

informed of the pending charges at issue here from Virginia, declined to waive extradition from Maryland back to Virginia, and was then held on a no bail status. The record further establishes that, as of approximately July 14, 2017, Williams was detained at the Patuxent Institution, apparently pending a probation revocation hearing, until September 19, 2017, the date when he was first detained on the Virginia request for extradition at issue here.

Virginia charges. Following Williams's guilty plea, the instant extradition procedures began to return him to Virginia.

In response, Williams asserted that the demand from Virginia did not comply with CP § 9-103 because Virginia did not attach the charges against him and because he was not a fugitive. Based on this, Williams argued that the subsequent investigation into the demand by the Governor of Maryland did not comply with CP § 9-104. Williams's counsel argued, "[b]ecause the only documentation that was submitted was insufficient, by definition the investigation was insufficient." Defense counsel explained that the record was since supplemented by the State's Attorney, and it was the original documents that were inadequate.

After some discussion concerning the type and nature of the documents that were required, the State asked for a continuance. After a brief recess, and before any continuance was granted, the court stated the following:

> THE COURT: Alright. Now when we recessed before, I thought I understood the State's position to be, and I may be mistaken, I thought I understood the State's position to be since Governor Hogan issued his order -- everything was fine. And I should assume everything was fine. And my concern was always that the document which is the charging document from Virginia was not certified, was not authenticated. That was always my -- and as I said, I may have been mistaken. Cause I thought the State was telling me since Governor Hogan issued the warrant for -- of rendition, that's fine. And if that -- I don't think that's fine, that being said however, § 9-103(b)(2) requires that [Virginia] Governor McAuliffe's -- well includes in the -- in Governor McAuliffe's responsibility that he authenticate all of the underlying documents. So I'm looking at the Requisition Demand and agent authorization, issued by then Governor McAuliffe. In which includes [sic], whereas it appears by the application for requisition and copies of indictment, capias, fingerprints and alike papers, which are [sic] appear to (indiscernible) which I certify to be authenticate and duly authenticated in accordance with the laws of the State. So that satisfies me as to the issue of authenticating the

> warrants and things of that nature. Now to the extent that the Defendant's position was that the -- process has not been -- is doomed because all of the papers weren't provided at the same time. Even though they're all available now and all have been provided. That they weren't provided at the same time, I'm not persuaded by that argument. Are there any other process arguments [Defense Counsel]?

Defense counsel maintained that the record did not show that the required documents accompanied the demand from Virginia and that the warrant of extradition from Maryland was not properly investigated under CP § 9-104. The court accepted the proffer that all the required documents were not attached to the copy of the demand that was sent to the State's Attorney by the Governor of Maryland, and that the only documents provided to the defense were the requisition demand from Virginia, the warrant of rendition from Maryland, and the service of process documents to Williams. The State clarified that it was unaware what documentation was originally provided, along with the original demand, by the Governor of Virginia to the Governor of Maryland.

The circuit court then heard testimony from Williams personally on the question of whether he was a fugitive. Williams testified that he had been incarcerated in Maryland multiple times, and recently, since August 2016. After pleading guilty to first-degree assault in Baltimore County and being sentenced to time served, he was detained immediately on the Virginia charges of failing to appear and transferred to the Patuxent Institution in Howard County. Williams explained that he was not guilty of the failure to appear in Virginia because he was incarcerated in Maryland at the time. The court then indicated that it wanted to review the original documents in this case and continued the show cause hearing until June 20, 2018.

Following the first show cause hearing, and prior to the second, the State's Attorney filed a written response to allegations Williams made in a supplemental petition. The State responded that any defect in the original, "non-criminal charge against fugitive" was rendered moot when the Governor of Maryland issued the Warrant of Rendition. The State also proffered that the Demand for Extradition originally filed by the Governor of Virginia with the Governor of Maryland "was accompanied by supporting documents pursuant to the requirements of MD Code, Criminal Procedure, § 9-103. (See attached: Information supported by affidavit made before a magistrate, copy of grand jury indictment against Petitioner, mugshot of Petitioner, and fingerprints of Petitioner)." The State then averred that the copies provided were sufficient and that Williams did not meet his burden of proof in challenging the presumption of validity attached to the extradition warrant.

The State also responded, *inter alia*, that "considering the accompanying documentation, the fingerprints, mugshot, and indictment provided by the Commonwealth of Virginia, it is beyond dispute that the same Petitioner who appeared before this Honorable Court on March 5, 2018 is the same individual who was indicted in the Commonwealth of Virginia, named in the Governor of Virginia's Demand for Extradition, and who remains wanted. This is not a case of mistaken identity." (footnote omitted). As to the merits of Williams's argument that he was not guilty of failing to appear in Virginia because he was incarcerated in Maryland at the pertinent time, the State responded that the merits were a matter to be resolved by Stafford County, Virginia, and not the courts in Maryland.

June Hearing

As indicated, the second show cause hearing transpired on June 20, 2018. At that hearing, Douglas Dill, a case management manager at the Patuxent Institution, testified that Williams was incarcerated at the Maryland Reception Diagnostic Classification Center ("MRDCC") on April 7, 2015 and September 29, 2016, the two dates that Williams was charged with failure to appear in Virginia. In addition, the court accepted the following exhibits: the Warrant of Rendition from the Governor of Maryland; the Requisition Demand and Agent Authorization from the Governor of Virginia; the service of process of the Warrant of Rendition on Williams on November 27, 2017; Williams's pertinent certified criminal records from Virginia identifying the outstanding charges, including the two failures to appear[5]; an affidavit from the State's Attorney for Stafford County, Virginia to the Governor of Virginia asking for the issuance of a Requisition Demand for Williams's return to the Commonwealth; and, a copy of the indictment from the Circuit Court for Stafford County, Virginia, charging Williams with failing to appear in violation of §§ 19.2-128 (B) and 18.2-10 of the Code of Virginia, a class 6 felony, in the Commonwealth of Virginia.

After hearing argument, the court denied the petition for writ of habeas corpus, finding that Williams was lawfully detained under the original non-criminal charge against fugitive and the Governor of Maryland's Warrant of Rendition. Next, the court found that any question of whether Williams willfully failed to appear in Virginia was "an issue of

[5] The State agreed that the extradition issues before the court, and at issue in this case, related to the failure to appear charges.

evidence in fact for Virginia to deal with." Lastly, the court found that the Warrant of Rendition and supporting documents were in order**,** explaining as follows:

> Under *Michigan v. Doran*, 439 U.S. 282 [(1978)] there is I have to decide four things. The first is whether the extradition documents on their face are in order. The second is whether the petitioner has been charged with a crime in the demanding state. The third is whether the petitioner is the person named in the request for extradition and whether the petitioner is a fugitive. The Governor's act of grant of extradition is prima facie evidence that the constitutional statutory requirements have been met. So we start with presuming that they have been met.
>
> I'm satisfied from the evidence that he's charged with a number of crimes in the state of Virginia. I'm satisfied from the evidence that he's the person named in the request for the extradition. I'm satisfied that he's a fugitive in that these charges are outstanding and warrants for his arrest have been issued and are outstanding. And no matter what you say about anything it's beyond doubt in my mind that warrants for arrest were issued for him and they have yet to be quashed.[6]

We shall include additional detail in the following discussion.

DISCUSSION

Williams contends, on appeal, that he did not "qualify for extradition" because his failure to appear in Virginia can be explained by his incarceration in Maryland. He argues that his right to due process was adversely affected because Virginia "abused the extradition process" by failing to seek his extradition on prior occasions. Additionally, Williams avers that the circuit court erred in not granting his petition for writ of habeas corpus because, (a) he was not a "fugitive"; (b) the extradition demand from Virginia failed to comply with CP § 9-103, including that he was not properly served with his Virginia

[6] The circuit court also stayed extradition pending appellate review.

charges and was not notified that he could not leave Virginia; and, (c) he was illegally arrested and detained after being released from a Maryland prison.[7]

The State responds that Virginia is not a party to this proceeding and that any defenses Williams may have to the underlying charges in that state are irrelevant to the extradition issue presented. Moreover, claims regarding Virginia's decision of whether and when to seek extradition should be considered in a proceeding in Virginia, not Maryland, because the scope of habeas corpus review in an extradition case is limited. Lastly the State argues that Williams's remaining arguments are meritless because he failed to meet his burden of proof in challenging the extradition.

Extradition Generally

The United States Constitution provides for extradition as follows:

> A person charged in any State with Treason, Felony, or other Crime,

[7] Our summary of the issues presented is based on our review of the entire record, including the several arguments raised in the appellate briefs filed in this case. However, and as noted in Williams's brief, Williams personally made a number of arguments at the show cause hearing, including that: (1) his arrest was based on false information that there was a detainer from Virginia; (2) the arrest was unlawful; (3) he was entitled to a hearing under CP § 2-306 and *Soles v. State*, 16 Md. App. 656 (1973); (4) proper procedure was not followed in this case; (5) he should have been afforded the opportunity to petition for a writ of habeas corpus at the moment he was arrested; and (6) he was not properly served with the Warrant of Rendition. On appeal, Williams's arguments appear to be limited to those as enumerated in the body of our discussion. However, Williams notes that the court addressed his concerns at the show cause hearing, finding that: (1) a detainer was sent by Stafford County, Virginia on or around September 19-20, 2017, and that it includes a warrant for failing to appear; (2) warrants for his arrest were properly issued in this case; (3) CP § 2-306 and *Soles* concerned the doctrine of "fresh pursuit" and were inapplicable to this case; (4) the extradition procedures were properly followed and the warrant complied with the statute; (5) that there had been a hearing in this case and Williams's argument that a hearing should have been conducted sooner relied on cases under the "fresh pursuit" doctrine; and, (6) appellant could be arrested without a warrant and that, in any event, he was timely served with a warrant under CP §§ 9-115 and 9-117.

> who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

U.S. Const. art. IV, § 2, cl. 2; *see also* 18 U.S.C.A. § 3182 (delineating the procedures for extradition).

The Supreme Court has explained:

> The Extradition Clause was intended to enable each state to bring offenders to trial as swiftly as possible in the state where the alleged offense was committed. The purpose of the Clause was to preclude any state from becoming a sanctuary for fugitives from justice of another state and thus "balkanize" the administration of criminal justice among the several states. It articulated, in mandatory language, the concepts of comity and full faith and credit, found in the immediately preceding clause of Art. IV. The Extradition Clause, like the Commerce Clause served important national objectives of a newly developing country striving to foster national unity. In the administration of justice, no less than in trade and commerce, national unity was thought to be served by de-emphasizing state lines for certain purposes, without impinging on essential state autonomy.

Michigan v. Doran, 439 U.S. 282, 287-88 (1978) (internal citations omitted).

The extradition process is principally a function of the executive branch. *Burton v. Mumford*, 219 Md. App. 673, 687 (2014), *cert. denied*, 441 Md. 218 (2015). Accordingly, "[a] *habeas corpus* proceeding under the extradition laws is a very limited one." *Statchuk v. Warden, Maryland Penitentiary*, 53 Md. App. 680, 686 (1983) (discussing *Michigan v. Doran*, 439 U.S. at 289), *cert. denied*, 296 Md. 111 (1983); *accord Burton*, 219 Md. App. at 687. As the Supreme Court explained:

> Whatever the scope of discretion vested in the governor of an asylum state, the courts of an asylum state are bound by Art. IV, § 2, by § 3182, and,

> where adopted, by the Uniform Criminal Extradition Act.[8] A governor's grant of extradition is prima facie evidence that the constitutional and statutory requirements have been met. Once the governor has granted extradition, a court considering release on habeas corpus can do no more than decide (a) whether the extradition documents on their face are in order; (b) whether the petitioner has been charged with a crime in the demanding state; (c) whether the petitioner is the person named in the request for extradition; and (d) whether the petitioner is a fugitive. These are historic facts readily verifiable.

Doran, 439 U.S. at 288-89 (internal citations omitted). The Court of Appeals has expressly echoed these requirements.[9] *See Utt v. State*, 293 Md. 271, 285 (1982).

This Court has also instructed:

> [T]he Governor's issuance of a Warrant of Rendition, "raises [the] presumption that the accused is the fugitive wanted and [the warrant] is sufficient to justify his arrest, detention[,] and delivery to the demanding state." And, as this Court has stated, there is a presumption that when the Governor grants extradition, the Governor's Warrant of Rendition and all documents accompanying the original demand are in order. To rebut the presumptions that the constitutional and statutory requirements have been met, and receive habeas corpus relief, the accused must "prove beyond a reasonable doubt either that he was not present in the demanding state at the time of the alleged offense or that he was not the person named in the warrant

[8] The Maryland General Assembly has adopted the Uniform Criminal Extradition Act. *See Burton*, 219 Md. App. at 686 n. 7 (2014); *see also* Nolan H. Rogers (revised by Edward O. Siclari), *Maryland Extradition Manual* 4 (2017 ed.).

> [9] A Governor's grant of extradition is prima facie evidence that the constitutional and statutory requirements have been met. Thereafter, a court considering release on habeas corpus can do no more than decide whether the extradition documents on their face are in order, whether the petitioner has been charged with a crime in the demanding state, whether the petitioner is the person named in the request for extradition, and whether the petitioner is a fugitive.

Utt, 293 Md. at 285.

> . . . ." This requires "'overwhelming evidence,'" not mere contradictory evidence.

Burton, 219 Md. App. at 687 (internal citations omitted).

This Court's standard of review is mixed. Legal issues are reviewed *de novo*. *See Puerto Rico v. Branstad*, 483 U.S. 219, 228 (1987) ("[W]ith respect to extradition, the law has remained as it was more than a century ago. Considered *de novo*, there is no justification for distinguishing the duty to deliver fugitives from the many other species of constitutional duty enforceable in the federal courts."). Factual determinations made by the habeas courts are subject to the clearly erroneous standard. *See Doran*, 439 U.S. at 289 ("[A] court considering release on habeas corpus can do no more than decide [on four delineated factors, which are] historic facts readily verifiable[.]"); *see also Miller v. Warden, Baltimore City Jail*, 14 Md. App. 377, 382 (1972) ("[W]e have no difficulty in concluding that [the judge] was not clearly in error in finding that the appellant had failed to rebut the presumption that he was the fugitive wanted in the rendition warrant[.]").

A petitioner challenging extradition bears a heavy burden of proof. *Clark v. Warden, Baltimore City Jail*, 39 Md. App. 305, 309 (1978), *cert. denied*, 283 Md. 732 (1978). "But this arises legitimately from the nature of an extradition proceeding, since essentially the court is reviewing the factual determination of the governor as to the presence of the accused in the demanding state, and the guilt or innocence of the accused is not in question[.]" *Id.*

Both parties cite *Burton v. Mumford*, 219 Md. App. 673 (2014), so a brief synopsis of that case is instructive. Burton, a Delaware resident, was charged in Maryland with the

murder of Nicole Bennett near the Maryland-Delaware border. *Id.* at 679. In the course of the proceedings against Burton, the Governor of Maryland applied for a requisition to the Governor of Delaware for Burton's extradition, and the Governor of Delaware issued a Warrant of Rendition for Burton. *Id*. Pursuant to that warrant, Burton was apprehended in Delaware and transported to Worcester County, Maryland. *Id*. at 679-80. Thereafter, the State's Attorney for Worcester County, learning that Delaware wanted to indict Burton and charge him with a capital offense, made a plea offer to Burton, which he subsequently rejected. *Id*. at 681. Following Burton's rejection of the Maryland plea offer, all charges in Maryland were nol prossed. *Id.*

Burton was then criminally charged by a grand jury in Delaware on two counts of first-degree murder and one count of first-degree rape. *Id.* The Governor of Delaware then requested extradition of Burton back to Delaware and the Governor of Maryland signed a Warrant of Rendition directing that Burton be returned to Delaware for further proceedings. *Id*. at 681-82. Burton challenged his extradition from Maryland back to Delaware by filing for a Writ of Habeas Corpus in Worcester County, which was denied, and the circuit court stayed the extradition pending appeal in this Court. *Id*. at 682-84.

In this Court, Burton alleged that the circuit court erred in considering the pertinent requirements because the extradition documents from Delaware contained numerous errors, including, but not limited to: misstating his precise location in Maryland; indicating that there had been no prior proceeding in the case; and, providing that there was no delay in the prosecution of the underlying crimes. *Id*. at 688. He also alleged that his due process rights and rights against cruel and unusual punishment were violated. *Id*. We addressed

these and Burton's other claims.

We first concluded that Burton failed to meet his burden to prove that any typographical or clerical errors in identifying his location in Maryland destroyed the validity of the pertinent documents. *Id*. at 690. We also rejected Burton's claim that Maryland's failure to conduct a "live fingerprint examination" undermined the extradition documents. *Id*. at 694-95 ("The law requires nothing more than enough evidence, which was clearly provided, to support a finding that Burton is the person sought in the application for requisition." (citation omitted)).

We further opined that there was no requirement in the Maryland statute that the requesting authority certify that there were no former related transactions for the fugitive in question. *Id.* at 692. And, there was also no reason to preclude extradition back to Delaware just because Burton was originally brought to Maryland, under the circumstances in this case, involuntarily, despite Burton's contention that he was not a "fugitive" on that basis. *Id*. at 696-97.

We also addressed Burton's claim that Delaware did not have proper jurisdiction over a criminal case involving Mrs. Bennett's death. *Id.* at 693. We held that this claim was meritless, stating "[a] Delaware grand jury has now indicted Burton, and upon that indictment, a Delaware judge has issued a warrant for Burton's arrest. It is not for Maryland courts to question Delaware's grand jury indictment or its arrest warrant." *Id.*; *see also Doran*, 439 U.S. at 288 ("The [Extradition] Clause never contemplated that the asylum state was to conduct the kind of preliminary inquiry traditionally intervening between the initial arrest and trial."). And further, we noted that the Court of Appeals had

stated that "'[s]ince the only purpose of extradition is the return of the fugitive to the place of the alleged offence, his constitutional rights, other than the present right to personal liberty are not involved.'" *Burton*, 219 Md. App. at 699 (citations omitted). Moreover, any claim that Burton was denied his constitutional rights to a speedy trial or against cruel and unusual punishment were best left to the courts of the demanding State, in that case, Delaware. *Id.* at 699-701. Finally, we rejected Burton's claim that he was denied due process of law by an alleged vindictive prosecution by the State's Attorney for Worcester County and by the Governor's issuance of the Warrant of Rendition. *Id.* at 701-708.

With these underlying principles in mind, we return to the case before us.

Willful Failure to Appear

Williams first maintains that, because he was incarcerated in Maryland at the time he failed to appear in Virginia, he does not qualify for extradition. The State responds that this is an affirmative defense that needs to be decided by Virginia.

In *New Mexico, ex rel. Ortiz v. Reed*, the Supreme Court stated that:

> In case after case we have held that claims relating to what actually happened in the demanding State, the law of the demanding State, and what may be expected to happen in the demanding State when the fugitive returns are issues that must be tried in the courts of that State, and not in those of the asylum State.

524 U.S. 151, 153 (1998); *see also Utt v. Warden, Baltimore City Jail*, 48 Md. App. 486, 496 (1981) ("[N]either the executive nor the judiciary of the asylum state may so much as consider not to mention decide matters touching upon the accused's guilt or innocence. Rather, the inquiry is confined to whether the alleged fugitive is in fact the one requested by the demanding state."), *aff'd sub nom. Utt v. State*, 293 Md. 271 (1982).

As explained above, the judiciary plays a limited role in assessing the validity of extradition proceedings. *See, e.g.*, *Burton*, 219 Md. App. at 687. Maryland courts are not permitted to inquire into whether or not Williams's failures to appear were willful. The circuit court's inquiry was confined to whether Williams was, in fact, the fugitive requested by Virginia. *See Utt*, 48 Md. App. at 496. And, accordingly, our inquiry is confined to whether the circuit court's finding on that point was clearly erroneous. *See Miller*, 14 Md. App. at 382. Therefore, we conclude that Williams's claims—that he failed to appear in Virginia because he was incarcerated in Maryland and that the State was required to show that his failure to appear was "willful"— must be resolved by the Virginia courts.

Abuse of the Extradition Process

Williams next argues that Virginia abused the extradition process by not extraditing him on earlier occasions.[10] During the second hearing on Williams's petition, the circuit court noted that Virginia declined to extradite Williams on earlier occasions (before his incarceration for first-degree assault in Baltimore County). The State maintained that this was of no consequence because, as it argues on appeal, "[t]he State of Maryland is in no position to vindicate the decisions made by Virginia prosecutors, nor is it required to do so" and that "such matters must be addressed in the courts of the demanding state."

[10] According to Mr. Dill, Williams's case file indicated that Virginia initially declined to extradite him in July 2015, but subsequently changed its mind in favor of extradition some time in September or October 2016. The record corroborates this testimony, including a letter from the Stafford County Sheriff's Office to the Patuxent Institution, dated October 13, 2016, indicating that the letter was to serve as a detainer and that, "[w]hen [Williams] has completed his sentence notify us and we will extradite him back to Stafford Virginia."

We agree with the State that the alleged motivations of Virginia prosecutors, in failing to extradite Williams on previous occasions, are outside of our purview. *See Burton*, 219 Md. App. at 702 ("[W]e should not consider any claims that require this Court to determine the motivations and actions of [the demanding state's] prosecutors in bringing charges against [the petitioner]."); *see also New Mexico, ex rel. Ortiz v. Reed*, 524 U.S. at 153-54 ("To allow plenary review in the asylum state of issues that can be fully litigated in the charging state would defeat the plain purposes of the summary and mandatory procedures authorized by Article IV, § 2.") (quoting *Michigan v. Doran*, 439 U.S. at 290).

Unlawful Arrest and Detention

We next turn to Williams's assertion that he was unlawfully arrested and detained on the Virginia charges in this case. Here, the circuit court found that the non-criminal charge against fugitive, that formed the basis of Williams's original detention in connection with this case, was filed and executed on or around September 19-20, 2017. That document indicates that Williams was currently within Maryland and that he did commit a crime in Stafford County, Virginia, namely "marijuana: PWI sell/give/dist," and that he "fled from justice[.]" The court concluded that this detention was lawful under CP § 9-114(a), which provides: "[t]he arrest of a person may be lawfully made also by any law enforcement officer without a warrant upon reasonable information that the accused stands charged in a

court of a state with a crime punishable by death or imprisonment for a term exceeding 1 year."[11]

The court also found that the Warrant of Rendition from the Governor of Maryland was served on Williams on November 27, 2017. The court noted that, during that time frame, from September 19 to November 27, Williams appeared for two bail hearings, on September 21, 2017 and October 24, 2017, and ultimately was held on a "no bail" status. In addressing whether this period of detention of approximately 69 days, from September 19 to November 27, was reasonable under the Criminal Procedure Article, the court first observed that CP § 9-115 permits a period of detention of up to 30 days, prior to service of the Governor's warrant, and that CP § 9-117 permits a period of detention of up to 60 more days.

Looking at the plain language of those statutes, CP § 9-115 permits the detention under "a warrant reciting the accusation" if "it appears that the person held is the person charged with having committed the crime alleged and, . . . that the person has fled from justice[,]"for a term "specified in the warrant but not exceeding 30 days," unless the person gives bail or is "legally discharged." Further, CP § 9-117 provides that

> If the accused is not arrested under warrant of the Governor within the time specified in the warrant or bond, a judge or District Court commissioner may discharge the accused or recommit the accused for a further period not to exceed 60 days, or a judge or District Court commissioner may again take bail for the accused's appearance and surrender, as provided in § 9-116 of

[11] Pursuant to § 19.2-128(B) of the Virginia Code, willful failure to appear is a Class 6 felony in Virginia. Va. Code Ann. § 19.2-128(B). Section 18.2-10(f) provides that Class 6 felonies are subject to, *inter alia*, imprisonment between one and five years. Va. Code Ann. § 18.2-10(f).

> this title, but within a period not to exceed 60 days after the date of the new bond.

As the circuit court observed, taken together, CP § 9-115 and CP § 9-117 authorize a period of detention of not to exceed 90 days, prior to the individuals' arrest under the Governor's warrant of rendition. Williams was detained for 69 days, and, during that time frame, he was granted bail hearings and ultimately held on a no bail status. Williams was not held in excess of the 90 days allowed by statute prior to his arrest under the Governor's Warrant of Rendition. Consequently, these procedural statutes were not violated in this case.[12]

Doran Factors

This leads us to the final and ultimate issue before us, whether the Warrant of Rendition issued from the Governor of Maryland was lawful. Both parties recognize that this requires consideration of the aforementioned factors outlined in *Michigan v. Doran*:

> Once the governor has granted extradition, a court considering release on habeas corpus can do no more than decide (a) whether the extradition documents on their face are in order; (b) whether the petitioner has been charged with a crime in the demanding state; (c) whether the petitioner is the person named in the request for extradition; and (d) whether the petitioner is a fugitive. These are historic facts readily verifiable.

[12] Even had Williams's detention exceeded the time allowed by statute, this does not render the Warrant of Rendition invalid, as the circuit court observed:

> Now, he -- even if he was not though, even if he had been held say for 100 days before he was served, the question to me then would be [what] was the appropriate remedy? And it seems to me the appropriate remedy is on Day 91 he gets out, but the appropriate remedy is not the Governor's warrant is dismissed. If he doesn't get out and the Governor's warrant is served, then we move forward from that.

439 U.S. at 288-89.

With regard to the *Doran* factors, Appellant contends principally that the documents were not "in order" because of the "casualness" Virginia displayed in presenting them to the Governor of Maryland, and that he is not a fugitive because he was never told that he could not leave Virginia.

To determine whether the documents are "in order," CP § 9-103 provides as follows:

> (a) A demand for the extradition of a person charged with crime in another state may not be recognized by the Governor unless it is:
>
> > (1) in writing and alleging, except in cases arising under § 9-106 of this title, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter the accused fled from the state; and
> >
> > (2) accompanied by:
> >
> > > (i) a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a justice of the peace or magistrate there, together with a copy of any warrant which was issued thereupon; or
> > >
> > > (ii) a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of the person's bail, probation, or parole.
>
> (b) (1) The indictment, information, or affidavit made before the magistrate or justice of the peace must substantially charge the person demanded with having committed a crime under the law of that state.
>
> > (2) The copy of indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

Looking to the certified records entered at the June 20, 2018 show cause hearing, the Requisition Demand and Agent Authorization from the Governor of Virginia was in writing, and alleged the following:

> Whereas, It appears by the application for requisition and copies of **Indictment, Capias, Fingerprints, and allied papers** which are hereunto annexed and which I certify to be authentic and duly authenticated in accordance with the laws of this State that **Colin Barrington Williams** stands charged with the crimes of **Failure to Appear (2 Counts)** which I certify to be crimes under the Laws of this State committed in the **County of Stafford** in this State, and it has been represented to and satisfactorily shown to me that the accused was present in the State of Virginia at the time of the commission of said crimes and thereafter fled from the justice of this State and may have taken refuge in the **State of Maryland**.

Accompanying that request is a set of authenticated charging documents from the Commonwealth of Virginia, charging Williams with the underlying crimes of "Marijuana: PWI Sell/Give/Dist 1/2 oz – 5 lbs.; Prostitution: Receive Earnings (Pandering)" and failure to appear on September 29, 2016 and April 7, 2015, which are all crimes under the laws of the Commonwealth of Virginia. The documents also include an affidavit from the State's Attorney for Stafford County authenticating the charges.

The documents provided further include a copy of the Direct Grand Jury Indictments, entered in the Stafford County Circuit Court, setting forth that Williams failed to appear on the two aforementioned dates and that these failures were: "in violation of §§19.2-128(B); 18.2-10 of the Code of Virginia (1950) as amended"; constituted Class 6 felonies; and were subject to a range of punishment, including, but not limited to "[c]onfinement in the penitentiary for not less than one (1) year nor more than five (5)

years[.]" Identifying information also accompanied the indictments, including Williams's photograph/mug shot and his fingerprints.

Based on the information provided in the entire record, we cannot say that the circuit court's findings of fact, pursuant to *Doran*, were clearly erroneous. Despite any "casualness" displayed by Virginia in prosecuting this matter, the requirements of CP § 9-103 were met. Consequently, the record supports a finding that the extradition documents, on their face, were in order. Turning to the remaining factors, it is also clear that Williams was charged with a crime in the Commonwealth of Virginia. There were sufficient facts to conclude, and indeed Williams does not challenge, that he was the person named in the request for extradition. Lastly, Williams's contention that he is not a fugitive, because he was not told that he could not leave Virginia, is without merit. *See Burton*, 219 Md. App. at 696 ("[W]here one commits an offense in the demanding state and thereafter goes or is taken into another or asylum state, his motives in leaving or reasons why he has left the demanding state are immaterial[.]" (citation omitted)). That Williams was not expressly told to remain in Virginia does not preclude his extradition to answer the charges against him. Accordingly, we affirm the circuit court's denial of Williams's petition for writ of habeas corpus.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.