

FERGUS, PETITIONER.

*Circuit Court, D. Massachusetts.*

March 22, 1887.

EXTRADITION—INTERSTATE—SECOND WARRANT—HABEAS CORPUS.

In extradition proceedings, where the first warrant of arrest is of questionable regularity, and no order is entered upon the first complaint and warrant, the district judge has power, under Rev. St. § 5270, to issue a second warrant, the arrest of the defendant upon which will not be held void on *habeas corpus*.

*Habeas Corpus.*

*John W. Corcoran*, for petitioner.

*Owen A. Galvin*, Asst. U. S. Atty., for the United States.

COLT, J. I find no sufficient ground on which to grant this petition. The first warrant directed the marshal or his deputies to arrest the petitioner if found within their district. He was arrested by a deputy-marshal on this warrant in New York state. The evidence is that, after his arrest in New York, the petitioner came voluntarily into Massachusetts. Under the form of the first warrant, there being a question whether the petitioner could be held upon it, a second warrant was issued by the district judge upon a second complaint, and no order was made upon the first complaint and warrant. It is contended that the court had no power to issue a second warrant under the circumstances. We are here dealing with a case arising under the extradition law; and it has been held that a warrant may run throughout the United States, and may be executed by any marshal or deputy-marshal in any district. The fugitive is not apprehended for any crime committed against the United States, for which he is amenable to trial in any particular district. His extradition is not sought from any district as such, but from the United States. *In re Henrich*, 5 Blatchf. 414; *Spear*, Extr. 254. Upon the state of facts presented in this petition, I think the court had power, under section 5270 of Revised Statutes, to issue a second warrant.

The other objections raised are immaterial. Petition dismissed.