

**Opinion No. 36-1419**

August 3, 1936

**BY:** FRANK H. PATTON, Attorney General

**TO:** Honorable Clyde Tingley, Governor of New Mexico, Santa Fe, New Mexico.

{\*135} We have examined the extradition papers in connection with the requisition of the Governor of South Carolina for Gordon Cyril Lahey, who is now within this state in the custody of the Sheriff of Bernalillo County.

I find the extradition papers to be in proper form and sufficient in that respect for the issuance of a rendition warrant of arrest.

I understand that Mr. Lahey, through his attorney, Mr. Robert W. Botts, has asked for a hearing before you and that such a hearing will be granted at 2:00 P. M. Tuesday, August 4th. At this time the question will come before you for determination as to whether or not the said Gordon Cyril Lahey is a fugitive from justice. This question will depend upon whether or not he was in the State of South Carolina on or about June 1, 1929, the date when he is alleged to have committed the crime of wife abandonment. If the facts presented to you show that he was not in the State of South Carolina on or about June 1, 1929, I think you should refuse to issue an extradition warrant. In this connection see *Drumm vs. Peterson*, 259 N.W. 208; *Keeton vs. Gaiser*, 55 S.W. (2d) 302 (Mo.); *Ex parte Heath* (Mont.), 287 P. 636; *Reo ex rel. Randolph vs. Meyering* (Ill.), 180 N.E. 560; *Ex parte Presley* (Tex.), 27 S.W. (2d) 815; *Ex parte Hague* (Tex.), 17 S.W. (2d) 1047; *Ex parte Hawkins* (Okla.), 255 P. 718; *Taft vs. Lord* (Conn.), 103 Atl. 644.

By QUINCY D. ADAMS,

Asst. Atty. General