

Finding Aid for the New York State Supreme Court of Judicature (Utica) Writs of Habeas Corpus series.

Finding Aid Publication Date: Dec 4th, 2015

Online Finding Aid Record:

<http://iarchives.nysed.gov/xtf/view?docId=ead/findingaids/J0029.xml>

Overview of Records

Repository:

New York State Archives

Summary:

This series consists of writs of habeas corpus, which were orders of the Supreme Court commanding a judge, sheriff, or keeper of a prison or jail to deliver the body of a defendant, witness, or other individual into the custody of the court. It took several forms, the most common being the writ of habeas corpus cum causa. This writ was obtained by a defendant to remove himself from custody.

Creator:

New York (State). Supreme Court of Judicature (Utica)

Title:

Writs of habeas corpus

Inclusive Dates:

1807-1830, 1832

Quantity:

1.5 cubic feet (3 boxes)

Series Number:

J0029

Arrangement:

Chronological by year.

Scope and Contact Note:

These writs ordered a judge, sheriff, or keeper of a prison or jail to deliver an individual into the custody of the court. Each writ includes a statement of the reason for detention of the defendant or prisoner. A writ of habeas corpus was an order of the Supreme Court commanding a judge, sheriff, or keeper of a prison or jail to deliver the body of a defendant, witness, or other individual into the custody of the court. It took several forms, the most common being the writ of habeas corpus cum causa. This writ was obtained by a defendant to remove himself from the custody of a Court of Common Pleas, or a mayor's court into the custody of the Supreme Court (the defendant in custody might either be imprisoned or released on recognizance of bail). Unlike the writ of certiorari, the writ of habeas corpus cum causa usually did not remove the record of a cause into the higher court. Therefore, the proceedings in Supreme Court had to commence anew with a declaration by the plaintiff, if it was a civil case. The writ of habeas corpus was also employed to bring a person already in custody of a court or a prison to testify in the trial of another defendant; or to remove a prisoner from one county to another for trial or sentence; or to produce for trial a prisoner who had been illegally detained (no examples of this last and most famous usage of this writ have been noticed in this series). Each writ of habeas corpus bears a note saying that it was allowed by a justice or a counsellor of the Supreme Court. There is also a certificate by a court clerk, sheriff, or other officer, stating that execution of the writ appears on the annexed schedule. This is the answer or return stating the reason for detention of the defendant or prisoner. It may cite or include a copy of process or other written authority ordering him to be taken into custody (in civil cases, this was the writ of *capias ad respondendum*; in criminal cases, the warrant of commitment or the indictment; and for convicted prisoners, the minutes of conviction and sentence).

Use of Records:

Access Restrictions:

There are no restrictions regarding access to or use of this material.

Related Information:

Access Terms:

New York State Archives - <http://www.archives.nysed.gov>