

No. 512

STATE PENITENTIARY — SHERIFFS — DELIVERY OF PRISONERS—DOCUMENTS NECESSARY

Held: Only documents necessary to be delivered by sheriff to warden is certified copy of judgment and certified copy of information or indictment.

November 21, 1942.

Mr. Dudley Jones, Warden
Montana State Prison
Deer Lodge, Montana

Dear Mr. Jones:

You have submitted the following question:

What commitment papers are necessary to be delivered by the sheriff to the warden of the penitentiary at the time the sheriff delivers a prisoner to the said warden?

In answering the foregoing question it is only necessary to refer to the statutes and specifically to Section 12090, Revised Codes of Montana, 1935, as amended by Chapter 125 of the Laws of 1941, which is as follows:

“Judgment of Imprisonment—Duty of Sheriff. If the judgment is for imprisonment in the state prison, the sheriff of the county must, upon receipt of a certified copy thereof, take and deliver the defendant to the warden of the state prison. He must also deliver to the warden a certified copy of the judgment, a certified copy of the information or indictment, and take from the warden a receipt for the defendant.”

It will be noted from the foregoing that when the sheriff of a county receives a certified copy of the judgment of imprisonment in the state prison, he must then take and deliver the defendant to the warden of the state prison. At the same time the said sheriff must also deliver to the warden of the penitentiary a certified copy of the information or indictment. The sheriff will then take from the said warden a receipt for the defendant.

The certified copy of the judgment and the certified copy of the information or indictment, as the case may be, is the evidence of the warden's authority for detaining the prisoner.

Sincerely yours,

R. V. BOTTOMLY
Attorney General