

**OPINION**  
**45-150**

August 13, 1945           (OPINION)

INSANE PERSONS

RE: Residents of this State - Found in Other States

Your letter of August 10 addressed to this office has been received and contents noted.

You state that the insanity board of your county, of which you are a member, has before it an information filed under section 25-0312 of the North Dakota Revised Code of 1943, and that the board is of the opinion that the alleged insane person should be brought before it under the provisions of section 25-0312.

The alleged insane person, though a resident of your county and this state, is temporarily in another state. The question you present is whether or not the sheriff of your county, under a warrant issued by your board, may legally go beyond the state border to return the alleged insane person, and if not, whether such person may be returned under the provisions of section 29-3001.

A warrant issued by the insanity board would not authorize or empower the sheriff to go beyond the boundaries of this state, since the board of insanity has no extra-territorial jurisdiction. Furthermore, there is no proof as yet that the alleged insane person is insane or is a proper subject for treatment and observation at the state hospital.

Section 29-3013 provides that the governor of this state, in any case authorized by the constitution and laws of the United States, may demand of the executive authority of any other state or territory within the United States, any fugitive from justice, or any person charged with the commission of treason, felony, or other crime in this state, and may appoint agents to receive such persons for and on behalf of this state.

Since the person alleged to be insane does not come within the classifications enumerated in section 29-3013, it is clear that he could not be returned under the statutes relating to fugitives from justice.

We might suggest that if the person in question is mentally deranged he may, of course, be taken before the proper board in the county and state where he happens to be, and if found by such board to be a proper subject for treatment and observation at a state hospital, he could be returned to this state.

NELS G. JOHNSON

Attorney General