



July 7, 1969

OPINION LETTER NO. 102

Honorable John Crow
Prosecuting Attorney
Greene County Courthouse
Springfield, Missouri 65802

Dear Mr. Crow:

This is in response to your opinion request asking whether or not a Missouri judge can extend the discharge date beyond the periods authorized by Sections 548.151, RSMo 1959, and 548.171, RSMo 1959, when the delay in receiving the Governor's warrant results from the fugitive's own action in requesting the Governor's hearing.

Section 548.151 authorizes the judge or magistrate to commit such person for a period of time not exceeding 30 days pending the issuance of the Governor's warrant and Section 548.171 permits an extension of the time of commitment in the event that such person is not arrested under the warrant of the Governor for an additional period not to exceed 60 days. The applicable Supreme Court Rules of procedure are Rules 34.02 and 34.04. The interpretation of the rules and statutes given by Christopher v. Tozer, App. 263 S.W.2d 864, and subsequently Lombardo v. Tozer, App. 264 S.W.2d 376, indicate that the detention of the person beyond those periods of time is illegal and the person is entitled to discharge regardless of the reason for delay.

Very truly yours,

JOHN C. DANFORTH
Attorney General