Department of Justice Canada | Ministère de la Justice Canada

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February 20, 2001

BY FAX

Mr. Alan D. Gold
Gold & Fuerst, Barristers
20 Adelaide Street East, Suite 210
Toronto, Ontario
M5C 2T6

Dear Mr. Gold:

Re: U.S.A. v. Harmon Wilfred, Extradition

Further to your letter of June 26, 2000 I have made inquiries and am now in position to respond to the points you have raised.

You have advised in your letter that Mr. Wilfred was arrested and charged in Denver Colorado with offences concerning non-payment or child support which, as these were not among the offences upon which surrender from Canada was ordered, you are of the view are covered by the rule of specialty.

As you have indicated, the applicability of the rule of specialty was litigated in the U.S. courts and was determined to apply in your clients' favour. He was therefore discharged on the non-payment of child support charges. Accordingly, in so far as the proceedings in the United States were taken under a misapprehension as to the applicability of the rule, there is no indication of bad faith by the U.S. authorities. Any non-conformity with the Treaty was rectified by the U. S. Court.

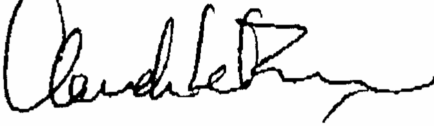
You have also advised in your letter that Mr. Wilfred was billed for the costs incurred in transporting Mr. Wilfred from Canada to Colorado. The U.S. authorities have advised that this took place as a result of a proposal put forward by Mr. Wilfred himself.

I am advised that Mr. Wilfred's counsel sought to obtain lenient bail terms in his conversations with the Colorado prosecutor, to allow, *inter alia*, his client to travel to visit his father who was very ill. The Colorado prosecutor expressed his initial reluctance to consent to counsel's proposal and noted that substantial government resources had been expended in securing extradition, including the expenses related to the transportation of Wilfred back to Colorado from Canada. The prosecutor was concerned that if, in accordance with counsel's proposal, Mr. Wilfred were released and failed to return, the effort and expense attributable to this matter

would be wasted. Ultimately, the prosecutor consented to Mr. Wilfred's counsel's proposal and the presiding judge set the bail terms in accordance with the prosecutor's recommendation.

It was in the context of these negotiations and not "by operation of law" that Mr. Wilfred undertook responsibility for these expenses.

Yours truly,



Claude LeFrançois, Counsel
International Assistance Group

Harmon L. Wilfred

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CONFIDENTIAL FAX TRANSMISSION

March 2, 2001

To: ***Alan Gold***

C/O ***Cheryl***

Company: Gold & Fuerst

Tel: (800) 263-1726

Fax: (416) 368-6811

From: **Harmon L. Wilfred**

Regarding: **Rebuttal To Colorado's Response**

Number of Pages 11

Dear Alan,

I am in receipt of correspondence to your attention from the Counsel of the Canadian DOJ's International Assistance Group, Mr. Claude LeFrancois, dated February 20, 2001 conveying his assessment of Colorado's reply to your letter of complaint on my behalf dated June 26, 2000 with regard to multiple violations of the International Extradition Treaty between the United States and Canada. After considering Mr. LeFrancois's conveyance, I contend that much of the information made available to him by the US Attorney and the El Paso County District Attorney's office in Colorado was either fabricated, misrepresented, or deliberately omitted. The following is a direct rebuttal of the Colorado representations made in the letter as conveyed by Mr. LeFrancois:

Paragraph 2:

"As you have indicated, the applicability of the rule of specialty was litigated in the US courts and was determined to apply in your client's favour. . . . Accordingly, insofar as the proceedings in the United States were taken under a misrepresentation as to the applicability of the rule, there is no indication of bad faith by the US authorities. Any non-conformity with the Treaty was rectified by the US court."

It is true that when the Federal charges were challenged by my attorneys in May, 2000, the Treaty violation was confirmed, the charges and case against me were dismissed, and the case file was ordered sealed by the Federal Judge. However, my arrest and three-week detention in a Federal prison upon my return to Colorado on May 11, 2000 to further challenge the original state charges was not immediately terminated, even though the Federal Judge's order confirming the Treaty violation *ordered* my immediate release. The following is an account of the events starting with the date the Federal Judge dismissed the charges and ordered my immediate release:

I was *supposed* to be released by US Federal order on May 26, 2000 when the charges were dismissed for violation of the international Treaty and the case ordered sealed by a Federal Judge. However, instead of releasing me, two US Federal Marshals, with my release order in their hands and with full knowledge that any further incarceration was in violation of the Treaty, picked me up upon my release, placed me in shackles and handcuffs, and deposited me in the Denver City Jail. Why Denver City? The City of Denver has never had anything to do with my case. The Downtown Jail location is commonly known as "The Killing Fields." When I asked the US Federal Marshals why they were arresting me and who would give such an order with the knowledge that they were absolutely violating the very order in their possession, I was told to shut up, they were following orders, and it was none of my business who gave the order. One US Marshal named Eddy, who had become close to me during my trips back and forth to the Federal court, due to our similar religious beliefs, apologised to me as I objected and reminded him that he was breaking the law, but stated that he had to carry out his orders. The man could not look me in the eye. When deposited in the downtown holding cell, I was processed in *with no charges* on a *US Federal Marshal hold* with *no bond* for the duration of a 4-day holiday weekend.

I was placed in two separate holding cells over a period of about 8 hours where the level of hostility was off the charts. The holding cells were no more than 10 feet by 20 feet and contained at least 75 or more prisoners who had just been brought in that evening and arrested for drug dealing, armed robbery, and drug use ranging from alcohol and cocaine to pot and crack cocaine. I know, I talked to some of them. These places were so crowded there was standing room only. During my first 6 hours in these hell holes, I watched the officers in charge regularly and deliberately provoke and challenge prisoners by entering the cell with clubs and weapons and dragging one out of the cell and beating him within full view of the other prisoners. When I did not fall prey to this ploy, I was placed on a 23-hour lock down in a 5-ft by 6-ft cell with a rubber floor mat. During my stay, I was awakened late one night, taken to a holding cell for "finger printing", and repeatedly pushed around and challenged by officers as above. I did not break mentally or emotionally during these altercations as I believe was their intention.

At the end of the 4-day holiday weekend, they transferred me to the Arapahoe County Jail and placed me in another holding cell for over 4 hours before they finally brought me before a Judge in belly chains, handcuffs, and shackles in a condition of absolute filth. When I told the Judge that there was no attorney there to represent me, she demanded that I represent myself or go back to jail. When the Extradition Treaty protection was invoked to the Judge, she was ultimately compelled to release me, but only on condition that I return the following month for a financial examination and agree to a PR bond of $750,000 (see enclosed court transcript dated May 30, 2000). This requirement was later adjudicated by a State Court Judge to be another violation of the Treaty.

I was then released in a filthy jail uniform with no ID and no money, 60 miles and a long distance call from anyone who could help me, and was expected to walk down the street without getting re-incarcerated. Fortunately, I remembered my Canadian long distance pass code and number, found a pay phone, and called my wife who had me transported to Colorado Springs where we then returned home to Canada. Thereafter, as previously indicated, my attorneys challenged the Arapahoe County action and obtained a complete release of all requirements that occurred during the proceeding. However, no one has answered to the US Marshals' actions in re-incarcerating me against the Federal order. By whose authority was I re-incarcerated by the US Marshals against a Federal order for my release to secretly be turned over to Arapahoe County four days

later for an additional (now confirmed) Treaty violation? This action and the above account could hardly be in agreement with Mr. LeFrancois's conclusion with respect to the Federal violation that, *"Any non-conformity with the Treaty was rectified by the US court."*

Paragraph 3:

"You have also advised in your letter that Mr. Wilfred was billed for the costs incurred in transporting Mr. Wilfred from Canada to Colorado. The U.S. authorities have advised that this took place as a result of a proposal put forth by Mr. Wilfred himself."

This statement by the U.S. authorities in Colorado is a complete misrepresentation of the truth. In fact, although I was initially offered the opportunity to return to Colorado on a PR bond with no money required through negotiations that took place in February, 2000 by the El Paso County District Attorney Robert Harward, the Deputy DA and prosecutor on the case—the final offer of a PR bond with a $10,000 bail was ultimately agreed upon provided I would agree to waive my Canadian extradition appeal hearing and return at my own expense. Along with this offer was the promise of a chance at either a dismissal or at the very least, a deferred judgement. An indication of Harward's favourable approach during these negotiations is shown in his letter to Mr. Peter Lamont of the Canadian Justice Department dated January 25, 2000 (see attached "Exhibit A") requesting *"a brief delay in the proceedings in Canada* [referring to the pending extradition appeal hearing] *to explore the possibility of settlement."* Mr. Harward specifically expressed his expectations and desire to settle the case even to the extent of agreeing with my defence attorney that, *"there is some reasonable expectation that the case might be resolved by agreement of the parties, and that the extradition issues might become moot."*

It was only after I agreed to Harward's bail and return arrangement and waived my appeal *in good faith* as described above that the District Attorney's office, *in bad faith*, reneged on the entire arrangement and insisted that I be re-incarcerated in Canada and returned to Colorado by Federal Marshal to be incarcerated with no bail unless I agreed to a $10,000 bail *and* pay the extradition expenses that would have been unnecessary if the original agreement had been adhered to. It became apparent upon my arrival in Colorado and incarceration on March 5, 2000 that Mr. Harward was unaware that his own office had ordered a Colorado Federal Marshal and a Colorado Springs Police Detective to retrieve and incarcerate me with no bail. Considering their original proposal provided for my unaccompanied return, why include a Colorado Springs police Detective in addition to a Federal Marshal? Of course the Canadian authorities could do no less than co-operate. An indication of the controversy and disagreement with Harward's approach within the DA's office is shown by a rebuttal to Harward's letter by DA's Chief Trial Deputy, David Gilbert, sent also to the US Justice Department and copied to the Canadian Justice Department (see attached "Exhibit B") indicating, contrary to Harward's assessment, in his opinion, the case could not be resolved by settlement. In fact, Mr. Harward indicated privately at that time to my defence attorney, Dale Parrish, that the DA's office would do almost anything to convince me to drop the appeal and move the case out of the international arena in order to avoid further embarrassment and exposure to having overplayed their hand totally on the case. Mr. Harward was so insistent that the case had no substance that he actually submitted the case to the DA for dismissal two times during the course of the extradition proceedings.

His requests were denied, according to his own opinion as expressed privately to Mr. Parrish, because of, again, the DA's potential embarrassment before the US and Canadian Justice Departments.

Paragraph 4:

"I am advised that Mr. Wilfred's counsel sought to obtain lenient bail terms in his conversations with the Colorado prosecutor, to allow, inter alia, his client to travel to visit his father who was very ill. The Colorado prosecutor expressed his initial reluctance to consent to counsel's proposal and noted that substantial government resources had been expended in securing extradition, including expenses related to the transportation of Wilfred back to Colorado from Canada. The prosecutor was concerned that if, in accordance with counsel's proposal, Mr. Wilfred was released and failed to return, the effort and expense attributable to this matter would be wasted. Ultimately, the prosecutor consented to Mr. Wilfred's counsel's proposal and the presiding Judge set the bail terms in accordance with the prosecutor's recommendations."

Of course my counsel sought lenient bail terms upon my arrival and incarceration in Colorado. In fact, he sought the very terms that were reneged upon in the first place. The DA had obtained the *unfair* advantage by reneging on their original agreement and used that advantage to justify requiring the payment of the extradition fees. In fact, thereafter, I returned as ordered on May 11, 2000 to challenge the charges and submit for a dismissal only to find myself arrested by Federal Marshals as described above without an opportunity to present my case. At that time, and during my incarceration, my father died.

Getting to the real motivation for the charges, which the El Paso County DA is determined to cover up at any cost, please see the attached letters requesting an investigation for political corruption as two summaries presented on October 4 and October 25, 2000 to US DOJ Chief of Staff, Michael Horowitz (See attached "Exhibit C" and "Exhibit D"). These requests, along with Mr. Horowitz's attached letter (see attached "Exhibit E") referring the matter to the US DOJ's Public Integrity Section accompanied by an extensive case history and documented evidence, are self-explanatory as to the political motivation of the El Paso County DA having originally charged me with the offences indicated in the Canadian extradition. The stated mission of the Public Integrity Section is to, " *...oversee the federal effort to combat corruption through the prosecution of elected and appointed public officials at all levels of government ...*".

Please forward this letter of rebuttal directly to your contact at the US Justice Department's Public Integrity Section along with our continuing request for an investigation into political corruption.

Sincerely

Harmon L. Wilfred

Harmon L. Wilfred
cc: US DOJ, Public Integrity Section