

# Gold & Fuerst

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## SENT BY FAX

June 26, 2000

Ms. Carol Sheppard  
Department of Justice  
3400 First Canadian Place, Exchange Tower  
P.O. Box 36, Stn. 1st Canadian Place  
Toronto, Ontario  
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Fax #: (416) 973-8253

Dear Ms. Sheppard:

**Re: R. v. Harmon Wilfred**

I was counsel to Mr. Harmon Wilfred on his appeal against extradition on the charges of extortion and violation of a custody order, involving his second wife. Mr. Graham Reynolds was the assigned Crown to this matter. On April 3, 2000, Mr. Wilfred abandoned his appeal against the order of the Honourable Mr. Justice Glithero, dated June 1, 1998 and was returned to Colorado pursuant to this order, and pursuant to our *Extradition Act* and the *U.S.-Canada Extradition Treaty* by which Mr. Wilfred was returned to El Paso County, Colorado. Upon his return, Mr. Wilfred was arrested for non payment of child support and placed into custody. I am writing this letter to take steps to make a formal protest in regards to the conduct of the authorities in the United States.

The following is a chronology of the events that took place following Mr. Wilfred's abandonment of his appeal in Canada on April 3, 2000:

On April 5, 2000, Mr. Wilfred was taken by a U.S. Federal Marshall at the Waterloo detention Centre and transported, via air, to the El Paso, Colorado County jail. Once he arrived in Colorado, Mr. Wilfred was transported to the jail on the extradition matters. On April 6, 2000,

Mr. Wilfred was taken before a Judge and was released on a cash bond of \$10,000 on the condition that he paid the costs for his return to the United States from Canada following the abandonment of his appeal. Please find attached all documentation in relation to this condition. Mr. Wilfred was ordered to return to Court on May 11, 2000 to address the extradition matters. On April 7, 2000, Mr. Wilfred left the United States, and returned to Canada on April 11, 2000. On May 11, 2000, a pretrial hearing was scheduled in order to address the extradition matters. However, prior to the hearing, Mr. Wilfred was arrested on charges previously unbeknownst to him. He was then taken to Denver, Colorado, before a Federal Magistrate, where he learned the charge was non payment of child support for the two years. These charges originated out of Arapahoe County, Colorado which involved Mr. Wilfred's first wife. Mr. Wilfred was ordered released on a \$150,000.00 cash bond, however, as a result of the inability to pay, he was detained in custody. On May 23, 2000, a pre-trial was held before a Federal Magistrate on the federal charges of the back child support issue. At this time, a motion for dismissal was argued on the basis of a violation of the U.S.-Canadian Treaty. This motion was dismissed. The matter was then put over to June 12th for presentation and Indictment before a grand jury. On May 26, 2000, the Federal District Attorney, with the assistance of the U.S. Justice Department, conducted an investigation and discovered that there was, in fact, a violation of the Treaty. As a result, the Federal charge of non payment of child support was dismissed by a Federal Prosecutor on the ground of violation of the U.S.-Canada Treaty. This case was ordered sealed by a Federal Judge.

Mr. Wilfred was then released from the Federal Detention Centre. However, prior to his leaving the jail, Mr. Wilfred was again arrested by two Federal Marshalls, and transported to the Denver jail for four days. Mr. Wilfred was not advised on what grounds he was being arrested, nor were his rights to counsel read to him. On May 30, 2000, Mr. Wilfred was transferred to the Arapahoe County jail. The following day, Mr. Wilfred was released on a ~~\$25,000.00~~<sup>750</sup> bond, non deposit, with the condition that he return on June 29<sup>th</sup> for purposes of a Rule 69 hearing, which is a financial examinations hearing in Arapahoe County. A preliminary hearing date of August 25, 2000 has been scheduled on the extradition matters.

It is my position that based upon Mr. Wilfred's arrest and detention in relation to the charge of non payment of child support, the U.S.-Canada Treaty has been violated. The Rule of Speciality is a recognized Rule of International Law and expressly set out in our *Extradition Act* and also expressly in the *U.S.-Canada Extradition Treaty*, and provides that Mr. Wilfred can only be dealt with in the United States solely for the extradition offences for which he was ordered extradited and cannot be detained or arrested for any other cause, including, but not limited to, any amendments to charges as listed on the Information of the District Court, El Paso County, Colorado. Although this Rule does not apply to those who have waived extradition proceedings, it must be clearly understood that Mr. Wilfred did not waive extradition, but merely submitted himself to the order for extradition as a result of abandoning his appeal against that order.

Furthermore, Mr. Wilfred is now being "billed" for the Marshall's costs involved in returning him to the United States. Mr. Wilfred was quite prepared to get on an airplane (accompanied by someone from my office even) and return to Colorado with minimum fuss. We were told extradition had to proceed in accordance with usual procedures and he had to go into custody and be taken back by the U.S. Marshall representatives. Surely it is completely unfair to now seek to have him "reimburse" for a cost he never asked for and which was made necessary by operation of law for which he had no responsibility.

I look forward to your advice regarding the matter going forth.

Yours very truly,

*COPY*

Alan D. Gold