
The Role of Politics in the Soering Case

1989

Precedent-setting Extradition Ruling

Jens Soering was arrested in London, England, on April 30, 1986. After he gave his false confession on June 8, Bedford County Commonwealth's Attorney James Updike indicted him on two counts of capital murder on June 13. Those charges carried the death penalty in the electric chair.

Up to this time, murder suspects arrested in Europe were simply extradited to the U.S. and executed. Jens's lawyers filed an appeal against his extradition to the European Court of Human Rights to prevent this from being done to him.

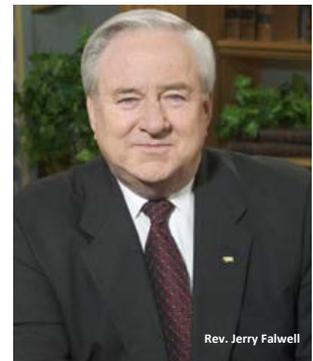
It was this case -- called "[Soering v United Kingdom](#)," decided in July 1989 -- that changed international law. It set a legal precedent, forbidding the extradition of suspects if they faced execution.

In international human rights law, this new principle -- established through Jens's case -- is called "refoulement," which is related to extraterritoriality. It means that the extraditing country is responsible for ensuring that the suspect's human rights are not violated in the receiving country.

To this day, "Soering v United Kingdom" is frequently cited in other cases, specifically those involving so-called "extraordinary renditions" of terror suspects to Guantanamo Bay. In 2014, there were a number of articles and events in Europe celebrating the 25-year-anniversary of the decision.

When the court ruling was announced in July 1989, it was reported in leading media outlets across the world. The notorious U.S. Senator from New York, Alfonse D'Amato, held a speech in Congress, attacking the court ruling on the grounds that "socialist Europeans" had no right to criticize the greatest justice system on earth.

Moral Majority leader Rev. Jerry Falwell also commented negatively on the court ruling. Video of his criticism was used in A & E's program on Jens's case, for the series "City Confidential," produced in the late 1990s. Falwell considered Jens's case to be his responsibility because Derek and Nancy Haysom lived in Boonsboro. That area lies in Bedford County, but it is actually a suburb of Lynchburg, and Falwell's organization was headquartered in Lynchburg.



1990

Historical Factors

Bedford County's main claim to fame is the so-called "Bedford Boys," a group of soldiers from Bedford who all died together during the D-Day landings in Normandy. Bedford lost more men per capita on D-Day than any other town or city in the United States. That is why the national D-Day Memorial is located in Bedford County.

According to Jens, when he was extradited from England to Bedford in January 1990, one member of the local law enforcement greeting party actually said to him, "**We're going to give you a fair trial, even though you're German.**" Jens says that he had no idea what this man was talking about. Later on, it was explained to him. Bedford was probably the single worst place in the entire United States for a German citizen to go on trial.

2010

Reversed Repatriation

In November 2005, Tim Kaine (D) was elected Governor of Virginia, and Bob McDonnell (R) was elected Attorney General. Throughout the next four years, the two men clashed politically and personally.

In the fall of 2009, Virginia experienced a state budget crisis, so Kaine closed the public restrooms on state highways to save money. McDonnell was now running for Governor and promised voters he would re-open the restrooms.

On January 12, 2010, Kaine sent a letter to U.S. Attorney General Eric Holder, consenting to Jens's transfer from a Virginia prison to a German prison. This kind of international transfer is called "repatriation," and many states in the U.S. do this more or less automatically.

After all, why should American tax payers pay for the incarceration of foreign inmates? Also, by returning foreigners to their countries, the U.S. creates the good will necessary to repatriate American citizens imprisoned abroad.

Kaine went so far as to obtain a written guarantee from the German government that Jens would be imprisoned for another two years in Germany before his release would even be considered. Obtaining this guarantee was the reason why Kaine delayed sending the letter to Holder until January 12.



By the time Governor Bob McDonnell was sworn in on Saturday, January 16, all Richmond was abuzz

with outrage that Jens would be "freed" after "only" 24 years in prison. Newspapers and TV were covering this "scandal."

On Monday, January 18 -- Martin Luther King, Jr. Day -- McDonnell held the traditional opening speech before the joint session of the General Assembly. One of his campaign themes in the fall had been that he would be the "second chance" Governor: he would reform the correctional system to facilitate the reintegration of released prisoners into society. So, during his speech on January 18, McDonnell pointed to a released prisoner in the gallery, whom McDonnell had met in the Richmond City Jail during the campaign.

The next day -- Tuesday, January 19 -- was McDonnell's first working day in office. He used this auspicious occasion to take two actions that were little more than petty political revenge against his predecessor Kaine: McDonnell re-opened the public restrooms that Kaine had closed. And he sent a letter to Holder, withdrawing Virginia's consent to Jens's repatriation.

No one on McDonnell's staff even attempted to speak to Jens's lawyers about the reasons for the repatriation: Jens's perfect prison record; his four published books (at that time -- now ten); and the need for reciprocity, so Americans imprisoned overseas would be returned. Jens's lawyers later learned that McDonnell's staff also did not consult Kaine's staff -- whom they considered political enemies.

So McDonnell really had no substantive information about the decision he had just made. This was a purely political decision, with no investigation of the facts or the law (the international treaty that regulates repatriations).

In addition to his dislike of Kaine, McDonnell's ambition may also have motivated him. At precisely this time -- mid-January 2010 -- he was chosen to give the Republican response to President Barack Obama's State of the Union address. The G.O.P. saw McDonnell as a potential presidential contender for 2012 before he had even taken office.

It is exceedingly rare for an incoming Governor to reverse an executive action of an outgoing Governor. The normal political procedure is for the incoming Governor to criticize the outgoing Governor and to promise to do things differently in future -- but to respect his predecessor enough not to change decisions after the fact.

There is an underlying reason to show such respect: the public has to have confidence in the reliability of state government. Once a decision is made, the public must be able to trust that the decision stands and will not simply be reversed after the next election.



As far as McDonnell's January 19 letter to Holder is concerned, any lawyer can confirm that it had no legal basis. When Kaine sent his January 12 letter to Holder, this completed a legal act authorized by a specific Virginia statute governing international prison transfers. Consequently, the matter at hand - the repatriation -- had left Virginia and was now situated in Washington. McDonnell had no authority to withdraw Virginia's consent, once it had been given. Jens's lawyer Steve Rosenfield (seen in the documentary film "[Killing for Love](#)") later filed a lawsuit in which he used the analogy of a football: once it leaves the quarterback's hand, you can't call the ball back.

Of course Rosenfield lost that later lawsuit: no sane Virginia judge would rule against a very popular governor, and for a much-hated prisoner. In Virginia, judges have to be re-appointed by the Republican-controlled General Assembly every six years. It would have been career suicide for any judge to rule against McDonnell and for Jens.

However, being a lawyer, McDonnell knew even in January 2010 that he was on shaky legal ground when he "withdrew" Virginia's consent to Jens's repatriation. So he took steps to improve his legal position vis a vis Holder.

The international treaty regulating repatriations contains a clause that allows denying a repatriation request if there is strong public sentiment against it. So the Republicans in the General Assembly did their best to generate public sentiment against Jens's transfer to Germany.

In the midst of a significant state budget crisis (see above), Republican state Senators and Delegates took the time to launch a [joint resolution](#), asking McDonnell to ensure that Jens would spend the rest of his life in a Virginia prison. Sadly, all Democratic members of the General Assembly joined their Republican colleagues, so in the end the vote was unanimous: 92 to 0 against Jens. This was the first and only time in the (then) 234-year history of Virginia that the General Assembly passed a resolution like this: directed against one individual person, not against a systemic problem affecting a number of people.

This resolution remains a major problem for Jens to this day. Many of the General Assembly members who voted against him in 2010 are still in office. But the resolution was not the only additional measure the Republicans took to stop Jens's repatriation in 2010.



In March or April, U.S. Attorney General Eric Holder was called before Congress to testify on an unrelated matter. A Republican member of the House of Representatives from a Virginia district, Bob

Goodlatte, took this opportunity to grill Holder about Jens's repatriation.



On July 6, Holder decided he had had enough: he issued [a letter](#) stating that he would not proceed with Jens's repatriation until Virginia had given clear consent or the courts had ruled on Rosenfield's lawsuit (see above).

You can find more information about all this on the [Repatriation page](#) of Jens's website.

2011 U.S. Senate Race

In the spring of the following year, 2011, U.S. Senator Jim Webb unexpectedly announced his decision not to run for office again. On April 5, 2011, Kaine announced that he would seek the Democratic nomination for the soon-to-be-open Senate seat at the 2012 election.

His expected opponent was former Republican Governor of Virginia George Allen. In the mid-1990s Allen had made a name for himself with especially "tough on crime" policies, including the abolition of parole (for prisoners convicted after 1995).

Allen's campaign team decided to attack Kaine immediately as a typically "soft on crime" Democrat -- because he had agreed to Jens's repatriation at the end of his term in 2010. With the help of state Republicans, they now launched an investigation to discover the "real" reasons for Kaine's decision on the repatriation: suggestions were made that Jens's father had paid off Kaine.

At this time, Republicans always described Jens's

father Klaus Soering as a shadowy figure in German politics who had immense power and influence. In reality, Jens's father had been a mid-level bureaucrat: Vice Consul at the Consulate General in Detroit. Also, Jens's father had broken off all contact with Jens in 2001, ten years earlier.

There are excellent articles about the Republicans' investigation on the Repatriation page of Jens's website.

After one month of these repatriation-related attacks, Kaine gave an interview on this troublesome topic to a friendly reporter, Bob Lewis of the A.P. Kaine told Lewis that Jens was an unsympathetic character, and that he (Kaine) would have never granted Jens a pardon. Lewis's article can be found on the Repatriation page of Jens's website.

In 2011, the Allen campaign and state Republicans continued to exploit the repatriation issue for the remainder of the year. The subject was even raised during the first televised debate between Kaine and Allen on December 8, 2011. You can find the video of that part of the debate on the Senate Race page of Jens's website.



On that page you will also find articles about significant events related to this subject in 2012.

On January 19, state Republicans organized a conference call with reporters to celebrate the two-year anniversary of McDonnell's letter, withdrawing Virginia's consent to Jens's repatriation. What is extraordinary about this is that Ricky Gardner participated in this partisan political event, using the Haysom murders to advance Allen's campaign.

You will also find an article, published in the Lynchburg newspaper, by the current Sheriff of Bedford County Mike Brown. (In 1985 and 1990, Carl Wells had been the sheriff. Brown was elected in the mid-1990s.)



Like Gardner, so too did Brown use the Haysom murders in this article to attack Kaine and promote Allen. The somewhat surprising thing is that, unlike Gardner, Brown had no connection at all to the case; in 1985 and 1990, he had been a D.E.A. agent. So Brown's article was pure politics.

Then, oddly, the Allen campaign dropped the repatriation issue entirely. After Allen was defeated in November 2012, two newspapers published articles that discussed this puzzling decision; you can find these articles on the [Senate Race page](#) of Jens's website as well.

2015

Attorney General Nomination

In November 2013, Democrat Terry McAuliffe was elected Governor of Virginia and, in January 2014, took office. Jens's supporters immediately relaunched his repatriation request, hoping that McAuliffe, as a Democrat, would be more receptive than McDonnell. By the end of 2015, it appeared that a decision from McAuliffe might be near.

And then The New Yorker published its unfortunately misleading article "Blood ties" on November 9, 2015, which mentioned the pending second repatriation attempt. This inspired a Republican member of the General Assembly, Rob Bell of Charlottesville, to launch his own bid to become his party's nominee for the office of

Attorney General. His main campaign issue: ensuring that Jens would not be repatriated Bell gave no less than seventeen TV and newspaper interviews about Jens's second repatriation attempt, some of which you can find on the [Politics page](#) of Jens's website.

On December 22, McAuliffe caved to the pressure and announced that he would not repatriate Jens; killers like him needed to serve their sentences in Virginia prisons, he said. Just like McDonnell in 2010, so too did McAuliffe make his decision without ever having met with Jens's lawyers.

Ironically, in 2016, Bell announced that he was ending his campaign for his party's nomination for Attorney General "for personal reasons." So his vendetta against Jens gained him nothing.



2016

Vice-Presidential Campaign

In the summer of 2016, Hillary Clinton chose Kaine as her vice-presidential candidate. In the ensuing weeks, a number of political blogs published posts attacking Kaine over the 2010 repatriation attempt. Then Politico published an article. And finally, so did the *Virginian Pilot*. These articles are not on Jens's website; you will have to find them yourself.

Until this point, Rosenfield and Jens had been planning to submit Jens's pardon petition without any public announcement. However, when they saw the gathering political and media storm, they decided to hold a press conference on August 24, 2016, to announce the new DNA evidence and the pardon request. Interestingly, this strategy

succeeded: after their press conference, the Trump campaign dropped the repatriation issue entirely.

2017

Presidential Ambitions

In October 2017 Governor Terry McAuliffe gave an interview to Virginia public radio in which he discussed Jens's pardon petition. He claimed that wrongful convictions were very important to him -- he couldn't imagine anything worse -- and he promised that he would make a decision on Jens's pardon before leaving office in January 2018.

By December 2017, Virginia media reported that McAuliffe was considering a run for the presidency in 2020. McAuliffe fueled this speculation with carefully-worded semi-denials.



And then he announced that he would not be making a decision on Jens's pardon, after all. Supposedly, the investigation of the case had not been completed in time, even though the petition had been submitted one and a half years earlier.

No doubt McAuliffe feared that, if he were to grant Jens a pardon, Donald Trump would use this as a campaign issue in 2020 to paint McAuliffe as "soft on crime." You can find more articles about this matter on the [Pardon page](#) of Jens's website.

2018/2019

No parole, no pardon, no explanation

In January 2018, Governor Ralph Northam took office. Throughout 2018 and into 2019, his

administration took no action on Jens's pardon petition.



On January 29, 2019, Jens was denied parole for the 14th time.

You can find the Virginia public radio report "[No parole, no pardon, no explanation for Jens Soering](#)" on the homepage of Jens's website.