

Soering to stand trial in Virginia

Prosecutor can't pursue capital murder charge

BEDFORD — As they did last summer, British officials have agreed to return Jens Soering to Virginia to stand trial for murder, but now they're invoking a U.S.-British extradition treaty that means he'll face charges of first degree, rather than capital, murder.

Britain's Home Secretary Douglas Hurd said Tuesday he granted Soering's extradition to Virginia "to face charges of non-capital murder," after American officials agreed that because of the treaty, Soering, who turned 23 Tuesday, could not be tried for capital murder.

Under a 1972 treaty, the British are allowed to refuse extradition to the United States when a defendant faces the possibility of a death sentence. The treaty also states that if extradition is granted for a non-capital offense, such as first degree murder, once a defendant is returned the local government cannot prosecute him for a capital crime.

Britain refused to extradite Soering on a capital murder charge because the European Court of Human Rights ruled last month that Virginia's "death row phenomenon," including the many years inmates often spend on death row, constitute a violation of the European Human Rights convention, to which Britain subscribes.

But in a prepared statement, the Home office said, "It was implicit in that judgment that no breach of the convention would arise if the possibility of a capital sentence were removed."

A spokesman for the Home office said Soering could be flown back to the United States as soon this week. But Bedford officials said they'd been given no indication when the former University of Virginia student, who has fought his extradition for more than three years, would be returned to the county.

If convicted on two counts of first degree murder, Soering faces a maximum punishment of two life terms, which means he'd serve 20 years in prison before being eligible for parole. Death in the electric chair is an option only for a capital murder conviction.

Soering is accused of stabbing to death Derek and Nancy Haysom, his girlfriend's parents. He was indicted three years ago in Bedford on one capital murder charge and two first degree murder charges, all stemming from the March 30, 1985 killings of the retired Bedford couple.

He's been held in a British prison since his arrest there in 1986 on unrelated charges of credit card fraud. While in prison, the one-time honor student, who is the son of a German vice consul stationed in Detroit, confessed to authorities.

Soering's girlfriend, the Haysom's daughter Elizabeth, pleaded guilty to being an accessory to her

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By Leslie Postal
Staff writer

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parents' murder and is serving a 90-year prison sentence for first degree murder. She fled to Britain with Soering but after an extradition hearing was returned to Bedford for trial.

Commonwealth's Attorney James W. Updike Jr., who has steadfastly sought to try Soering for capital murder, said Tuesday he was disappointed with Britain's decision. But the treaty, which is equivalent to federal law, prohibits him from prosecuting Soering for capital murder.

"I must comply with United States law," Updike said at a press conference.

"England has had the right, the authority to downgrade the charge, so to speak," he added.

Since Soering was arrested, Updike has refused to negotiate with the young man's attorneys, maintaining he would seek the death penalty even when that position seemed to mean the accused would be extradited to and then tried in his native West Germany.

Updike said Tuesday he had not changed his position on wanting to try Soering for capital murder, but that his views had become irrelevant.

"There was no negotiation. I would like to think if I'd negotiated I'd have done a better job on this," he said.

"We got absolutely nothing. We cannot prosecute on a capital murder charge."

Updike said he was asked, through the U.S. Department of State, only to tell the British government he viewed the extradition treaty as binding U.S. law, which he does. The treaty supersedes Virginia's laws.

Soering's Detroit attorney, Richard Neaton, said Tuesday he was pleased with Great Britain's decision not to allow extradition on the capital murder charge but still hoped Soering would be tried in his homeland.

"I would prefer that he be prosecuted in West Germany because I think that's the only place he can get a fair trial," Neaton said.

Germany has abolished the death penalty and would likely try Soering as a juvenile since he was 18 at the time of the murders. The West German government has requested that Soering be returned there to stand trial.

Two Roanoke attorneys, William H. Cleaveland and Raphael E. Ferris, who will help Neaton when the case goes to trial in Bedford, attended Updike's press conference but would not comment on their plans for trial.

Cleaveland would only say, "We're anxious to try this case and we'll try it vigorously."

Updike made the same promise. "I'll prosecute the charges as vigorously as I know how," he said, adding he could be ready for trial fairly soon after Soering was returned.

Soering had exhausted all appeals in Great Britain last August and British officials had already signed his extradition papers when the human rights court agreed to hear his case.

Last year, Britain agreed to return Soering on the capital murder charge after Updike agreed only to tell the Bedford court of Britain's opposition to the death penalty. That's all the human rights court had required in two previous cases involving extradition cases for murder suspects.

British officials didn't expect the court to change its mind for Soering. But after a hearing in France in April, the court ruled in Soering's favor, saying extradition to Virginia would be a breach of his human rights because of "the long time spent on death row in such extreme conditions, with the ever present and mounting anguish of awaiting execution."

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