



U.S. Department of Justice

Criminal Division

Jaffe

DLJ:RMO:MRS:mst
95-100-2230

Office of the Assistant Attorney General

Washington, D.C. 20530

SEPTEMBER 24, 1982

Honorable Harry F. Byrd, Jr.
United States Senate
Washington, D. C. 20510

Re: Timm Johnsen and Daniel Kear

Dear Senator Byrd:

This letter is in further response to your letter of August 19, 1982, to Assistant Attorney General McConnell and his subsequent response which related to correspondence from Mr. Charles E. Wiggins on Timm Johnsen and Daniel Kear.

As you are aware, Sidney Jaffe was successfully prosecuted by the State of Florida upon his return and received a sentence of 35 years, which we understand he is now appealing. Any further information desired concerning the proceedings against Mr. Jaffe should be directed to the State Attorney for Putnam County; and further information desired concerning the actions or intentions of the Canadian government should be directed to its Embassy in Washington.

As to Timm Johnsen and Daniel Kear, the Department of Justice is representing the Government of Canada in extradition proceedings relating to both of them pursuant to the request of the Department of State and our solemn treaty obligations.

Timm Johnsen is contesting the finding that he is extraditable through a petition for a writ of habeas corpus to the United States District Court in Orlando, Florida. He has been released on bond pending the outcome of his petition. A hearing on his petition was held on June 4, 1982, and the court reserved decision. Daniel Kear also filed a habeas corpus petition to challenge the finding of extraditability entered against him; it was dismissed by the United States District Court in Alexandria, Virginia. Mr. Kear is on bond pending his appeal to the Fourth Circuit. As in all extradition matters, the alleged fugitives have the availability of the courts of the United States.

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Since the extradition proceedings are under active consideration by those courts, it would be inappropriate for me to comment in depth at this time. Simply stated, Timm Johnsen, as an employee of a bonding company, and Daniel Kear, who assisted him, located Sidney Jaffe in Toronto, Canada, who had violated the conditions of a bond granted by Mr. Johnsen's employer. Both Mr. Johnsen and Mr. Kear are charged by the Canadian government with kidnapping Mr. Jaffe. Specifically, they allegedly took him out of Canada against his will and without authorization in violation of the Canadian Criminal Code. The victim of the kidnapping was a fugitive from the State of Florida at that time. However, no attempt was ever made by this Government to seek his extradition. The Governor of Florida was prepared to request his extradition but local prosecutors, who submitted some papers, never perfected extradition documents.

The main legal issue facing the Federal judiciary is whether private persons representing bail bondsmen can cross international borders in order to bring back individuals who have violated conditions of their bond without the requisite authorization of our courts and the Secretary of State. The United States Government has naturally taken the position that such action is illegal.

Sincerely,

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By:

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