

# Is Europe a Sanctuary for U.S. Fugitives? Extradition Practice in Portugal and the European Union

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## 1. The Soering Case

- The story

- *Soering* was a German immigrant

- Met a Canadian girl in College

- Allegedly killed her parents 1985

- *Soering* and Haysom Went to England 1985

- where they where arrested for cheque fraud





## 1. The Soering Case

- The story

- 1986 indicted with capital murder and the US requested extradition
- 1988 The UK granted extradition
- *Soering* presented a complaint to the European Commission of Human Rights and later to the European Court of Human Rights (ECtHR)
- 1989 The ECHR decided that the UK could not extradite him if the death penalty would be applicable





# 1. The Soering Case





## 1. The Soering Case

- The decision of the ECtHR
  - Breach of Article 3 ECHR due to “death row phenomenon”
    - “No one shall be subjected to torture or to inhuman or degrading treatment or punishment”
  - Application of Article 3 to Extradition Cases if there is a real risk that a person will be subject to consequences that would fall under Art. 3 – “extraterritorial application” of the ECHR
  - Applicable if the conduct proscribed by the ECHR would take place in a foreign country following extradition





## 1. The Soering Case

- The decision of the ECtHR
  - Art. 3 makes no provision for exceptions and permits no derogations. It is an absolute prohibition
  - Third Party States may not be subject to ECHR obligations
  - BUT States Party to the ECHR may be held responsible for that violation if he extradites the person where there is a real risk of violation of Art. 3 (substantial grounds for believing that the persons concerned, if extradited, faces a real risk of being subject to torture or to inhuman or degrading treatment”)





## 1. The Soering Case

- The decision of the ECtHR
  - there was a real risk that the death penalty could be imposed (the Commonwealth's Attorney had stated that he would request the death penalty)
  - “death row phenomenon” = “inhuman or degrading?”

**“it depends on all the circumstances of the cases, such as the nature and context of the treatment or punishment, the manner and method of its execution, its duration, its physical or mental effects and, in some instances, the sex, age and state of health of the victim”**



## 1. The Soering Case

### – Length of detention prior to execution

*“just as some lapse of time between sentence and execution is inevitable if appeal safeguards are to be provided to the condemned person, so it is equally part of human nature that the person will cling to life by exploiting those safeguards. However well mentioned [the post-sentence procedures] ... the consequence is that the condemned prisoner has to endure for many years the conditions on death row and the anguish and mounting tension of living in the ever-present shadow of death”*







## 1. The Soering Case

### – Conditions on death row

Stringency of the custodial regime together with the length of time (average 6 to 8 years).

### – Soering's age and mental state

18 years old

Suffering from abnormality of mind as substantially impaired his mental responsibility for his acts (*folie à deux – shared psychosis*)





# – Possible extradition to Germany

Relevant because it balances the interest in criminal punishment and protection against inhuman or degrading treatment and contributes for assessment of proportionality of the extradition decision.





## 1. The Soering Case

- The decision of the ECHR - Conclusion

“having regard to the very long period of time spent on death row in such extreme conditions, with the ever present and mounting anguish of awaiting execution of the death penalty, and to the personal circumstances of the applicant, especially his age and mental state at the time of the offence, the applicant’s extradition to the United States would expose him to a real risk of treatment going beyond the threshold set by Article 3”



## 1. The Soering Case

- CASE OF SOERING v. THE UNITED KINGDOM, 07.07.1989, *Application no. 14038/88*  
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57619>  
Art. 3 ECHR

### Developments:

- CASE OF OTHMAN (ABU QATADA) v. THE UNITED KINGDOM, 17.01.2012, *Application no. 8139/09*  
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-108629>  
Art. 3 and 6 ECHR





## 1. The Soering Case

- Outcome

- The U.K. government obtained further assurances from the U.S. regarding the death penalty before extraditing *Soering* to Virginia. He was tried and convicted of the first degree murders of the Haysoms and, on 4 September 1990, sentenced to two consecutive life terms. He is serving his sentence Virginia.
- Haysom did not contest her extradition from the U.K. and pleaded guilty to conspiring to kill her parents. On 6 October 1987, the court sentenced her to 45-years-per-count to be served consecutively.





# 1. The Soering Case



## 2. The George Wright Case

- **STORY**

- **Robbery/  
Murder 1962**

- 15-30 years  
imprisonment**



## 2. The George Wright Case

- **STORY**
- Escape 1970**
- Hijack Delta Airlines 1972**

MHP073101-7/31/72-MIAMI, FLA: An FBI agent, clad only in swim trunks, gives a signal to an unidentified man sticking his head out of the door of a hijack Delta Airlines, to pull in a trunk which is said to contain ransom money for the hijackers. The passengers on the flight were freed after the delivery of the money and the jet took off. (UPI)-ps/PKS







## 2. The George Wright Case

- **STORY**

- Met Portuguese Wife 1978
- Asylum Guinea Bissau 1980
- Marriage Portuguese Wife 1990 (2 children)
- Arrest in Portugal 2011
- Refusal by Portugal to extradite to USA 2012





## 2. The George Wright Case

# **EXTRADITION PROCEEDINGS IN PORTUGAL:**

- **FUNDAMENTAL PRINCIPLES**
  - **DEATH PENALTY (ABOLISHED IN PT)**
  - **NO EXTRADITION FOR POLITICAL REASONS**
  - **LIFE SENTENCE**
  - **NON-EXTRADITION OF NATIONALS**
  - **JUDICIAL PROCEEDINGS**
- **ADMINISTRATIVE STAGE/JUDICIAL STAGE**



## 2. The George Wright Case

### **THE COURT'S DECISION**

**PROCEEDINGS NO. 759/11.OYRLSB-3 – LISBON COURT OF APPEALS – 3RD SECTION – JUDGMENT OF 17.11.2011**

[WWW.DGSI.PT](http://WWW.DGSI.PT)

#### **1. Portuguese Citizenship**

#### **2. Time elapsed since the events not compatible with**

- a. the statutory limitation period in the PT Crim. Code
- b. principle of fair proceedings and the requirement for legal certainty under Portuguese Constitution



## 2. The George Wright Case

### **3. Incompatibility with the constitutional principles of Portugal concerning criminal sanctions:**

- a. criminal sanctions must be for the purpose of deterrence and social integration and not for retribution
  - i. Over 40 years since the crime
  - ii. Person totally integrated in the community of the requested State
  - iii. No connection to the country requesting extradition
  - iv. Crime committed when the defendant was eighteen years old
  - v. Severe consequences that extradition would have for such an elderly person





## 2. The George Wright Case

**“... it makes no sense to extradite a man (who’s health has deteriorated and who is socially integrated in Portugal, where his family lives; who needs permanent caretaking from his family and who has worked and has participated in social volunteer projects) in the *winter of his life* in order to highly likely see him die incarcerated (in a country from which he was absent for 40 years) and far away from his family, all of this because of a crime that he committed when he was a young 18 year old boy”**

## 2. The George Wright Case

**2011**





## 2. The George Wright Case

**Curious about the story?**

**Check out the movie “Nobody knows my name”:**

**<http://www.youtube.com/watch?v=Uijm8nHtdUs>**

**Check out these articles:**

**“uncatchable”, in GQ May 2012**

**<http://www.gq.com/news-politics/newsmakers/201205/george-wright-fugitive-capture-story>**

**“The untold story of a N.J. fugitive's multi-continent life on the lam”, in NJ.com November 2011**

**[http://www.nj.com/news/index.ssf/2011/11/the\\_untold\\_story\\_of\\_a\\_nj\\_fugit.html](http://www.nj.com/news/index.ssf/2011/11/the_untold_story_of_a_nj_fugit.html)**



## 2. The George Wright Case

**George Wright is still** wanted by the US authorities

- Red Notice:

<http://www.interpol.int/notice/search/wanted>

- Other charges?







[Back to Search result](#)



2005/30989 WRIGHT GEORGE EDWARD

**WRIGHT, GEORGE EDWARD**

WANTED BY THE JUDICIAL AUTHORITIES OF UNITED STATES FOR PROSECUTION / TO SERVE A SENTENCE

**IDENTITY PARTICULARS**

Present family name : **WRIGHT**  
 Forename : **GEORGE EDWARD**  
 Sex : **Male**  
 Date of birth : **29/03/1943 (71 years old)**  
 Place of birth : **HALIFAX / VIRGINIA, United states**  
 Language spoken : **English**  
 Nationality : **United states**

**PHYSICAL DESCRIPTION**

Height : **1.825 meter**  
 Weight : **76.755 Kg**  
 Colour of hair : **Black**  
 Colour of eyes : **Brown**

**CHARGES** Published as provided by requesting entity

Charges : **MURDER**  
**ESCAPE**  
**AIR PIRACY**

**PHOTOS**



2005/30989 WRIGHT GEORGE EDWARD



**IF YOU HAVE ANY INFORMATION PLEASE CONTACT**

Your national or local police  
[General Secretariat of INTERPOL](#)

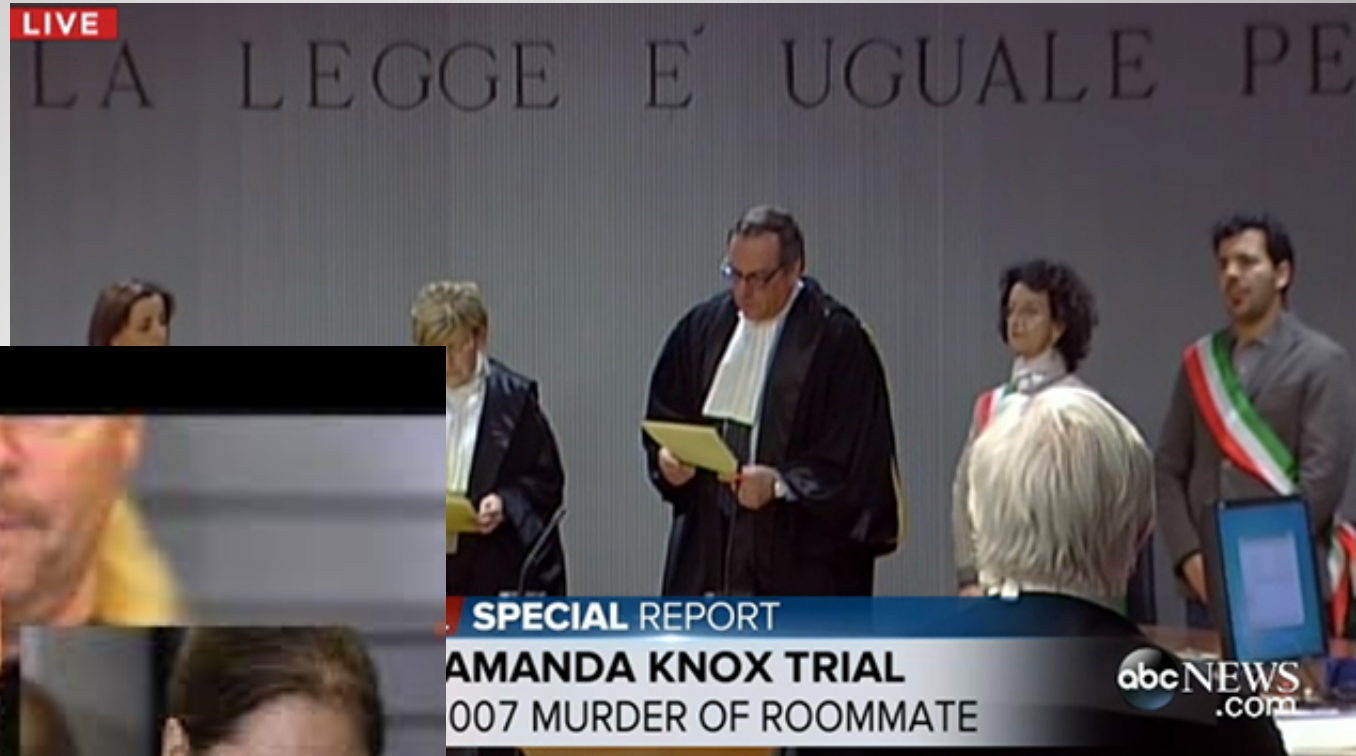
## 2. The George Wright Case

**Is it difficult to understand the Portuguese Position in the view of the different legal traditions?**

**Then try to see it from the perspective of another case...**

## 2. The George Wright Case

2014



Mixed jury. Appeal after acquittal. Character Evidence. Etc. Etc....



## 2. The George Wright Case

- Did the fact that there are other charges pending against George Wright have an influence in the outcome of his extradition proceedings?
- Would Portugal extradite him for prosecution for the escape and air piracy offenses?
- If not, would Portugal try him for those offenses?
- Is Portugal a “safe haven” for U.S. fugitives?



### 3. The Joe Pereira Case?

**GRÁTIS** BARALHO DE CARTAS EDUCATIVO PARA CRIANÇAS

ALEXANDRA SOLNADO NO TOP DE VENDAS "JESUS DIZ-ME: 'ESCREVE DE FORMA SIMPLES'"

ENTREVISTA DE VIDA A JORGE CORDADO "OFERECERAM-ME MENINAS MAS RESISTI SEMPRE"

# SÁBADO

Ten ações

www.sabado.pt  
N.º 000 - 3.4.9.000.000 (DE 2014 - €3.000)

**PROCURADO NA AMÉRICA**

## O FUGITIVO LIGADO À MÁFIA QUE VIVE EM FÁTIMA

**EXCLUSIVO**

A SÁBADO descobriu o genro português de um dos líderes mafiosos de Nova Iorque: é acusado de ter mantido uma rede de imigração ilegal e agora vende velas junto ao santuário

João Pereira foi fotografado na semana passada, em sua casa



Vânia Co



Thank you for your attention!

Questions?

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