

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JEFFREY M. SCHREIBER,

Plaintiff,

v.

Columbia County Sheriff STEVE ROWE,

Defendant.  
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ORDER

03-C-178-C

In an order dated May 8, 2003, I allowed plaintiff Jeffrey Schreiber to proceed on a claim that defendant Steve Rowe violated plaintiff's rights under the Interstate Agreement on Detainers by failing to promptly inform him of the source and contents of a detainer lodged against him in Indiana and of his right to make a request for final disposition of the complaint from Indiana. In a letter to the court dated August 27, 2003, defendant notes that the court failed to address one sentence in his complaint: "Also, extradition to Indiana was allowed without an extradition hearing thereby violating the due process clause and procedural protections of the United States Constitution." I construe plaintiff's letter as a motion to reconsider the May 8 order.

Plaintiff does not explain why he did not address this issue in his first motion for

reconsideration, which he filed on May 19, 2003. Nevertheless, a district court has inherent authority to reconsider nonfinal orders at any time before the entry of judgment. Ross v. County of Lake, 764 F. Supp. 1308 (N.D. Ill. 1991); see Marconi Wireless Telegraph Company of America v. United States, 320 U.S. 1, 47-48 (1943); Diaz v. Indian Head, Inc., 686 F.2d 558, 562-63 (7th Cir. 1982). Because I agree with plaintiff that I overlooked his allegation, I will consider his motion.

Although I am unaware of any authority holding that the due process clause requires a pre-extradition hearing before being moved to another state, in Cuyler v. Adams, 449 U.S. 433 (1981), the Supreme Court construed Article IV(d) of the Interstate Agreement on Detainers as incorporating the rights provided in § 10 of the Uniform Criminal Extradition Act, which does require such a hearing when a prisoner is transferred involuntarily. As noted in the May 8 order, the Court also held that violations of the agreement may be remedied by a lawsuit under 42 U.S.C. § 1983.

I will presume at this point that plaintiff was extradited to Indiana involuntarily, although I acknowledge that there may be some tension between this claim and plaintiff's claim that defendant prohibited him from challenging the charges against him in Indiana. At the pleading stage, plaintiff may proceed on inconsistent theories. Therefore, plaintiff will be allowed to proceed on a claim that defendant Rowe failed to provide him with a pre-

extradition hearing in violation of the Interstate Agreement on Detainers.

## ORDER

IT IS ORDERED that

1. Plaintiff Jeffrey Schreiber's motion for reconsideration is GRANTED.

2. Paragraph one of the May 8, 2003 order is DELETED and the following paragraph is substituted in its place:

(1) Petitioner Jeffrey Schreiber's request for leave to proceed in forma pauperis is GRANTED on his claims that respondent Steve Rowe (1) failed to promptly inform him of the source and contents of the detainer lodged against him in Indiana and of his right to make a request for a final disposition of the complaint from Indiana, in violation of Article III(c) of the Interstate Agreement on Detainers and (2) failed to provide him with a pre-extradition hearing when he was moved to Indiana, in violation of Article IV(d) of the Interstate Agreement on Detainers.

3. In all other respects, the May 8, 2003 order remains unchanged.

4. Defendant Rowe may have until September 18, 2003, in which to file an amended answer, if he wishes to do so. If defendant Rowe does not file an amended answer by that

date, his answer filed on July 15, 2003, will remain the operative pleading.

Entered this 3rd day of September, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge