

Raymond Foss v. U.S. Marshal Service, et al., CV 08-1791 CTB

Order

IT IS HEREBY ORDERED:

1. Foss's motion for reconsideration is DENIED for lack of any showing of evidence which could not earlier have been produced through the exercise of due diligence.

2. Foss has not shown facts sufficient to impugn the validity of the waiver of extradition. His only claim the waiver was not voluntary is based on his assertion the South Carolina judge did not inform him of "the nature and charges upon which extradition was to be had." *See* Return to Order to Show Cause, filed April 23, 2010 at 17, lines 14–16.

This claim is plainly belied by the very face of the "Waiver of Extradition" which states that Foss was charged with Child Molestation in California. *See* Complaint, Exhibit I. The Waiver is signed by Foss; his signature is attested to by Dan Malphrus, the South Carolina judge.

3. Foss claims the South Carolina judge did not inform Foss of his "rights" under federal and state law. This might constitute circumstantial evidence that Foss executed the waiver of extradition without knowledge of his rights. But nowhere does Foss claim he did not *know* what his extradition "rights" were. Rather, his Waiver of Extradition states not only that the South Carolina judge did "fully explain" those "rights," but also that he proceeded to sign the Waiver of Extradition "with full knowledge of [his] rights."

4. For the foregoing reasons, Foss's extradition rights-based claims shall be dismissed with prejudice.

Dated: 10/12/2010

/s/ Carlos T. Bea  
Circuit Court Judge