

2002 NWTCA A2

Date: 2002 02 21  
AP 2001 000016

IN THE COURT OF APPEAL OF THE NORTHWEST TERRITORIES

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THE COURT:

THE HONOURABLE MR. JUSTICE R. HUDSON  
THE HONOURABLE MADAM JUSTICE C. HUNT  
THE HONOURABLE MADAM JUSTICE V.A. SCHULER

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BETWEEN:

WALTER LOTHAR EBKE

Appellant

- and -

THE FEDERAL REPUBLIC OF GERMANY

Respondent

APPLICATION TO VARY AN ORDER OF  
RICHARD, J.A. DATED 18 DECEMBER 2001

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UNANIMOUS DECISION  
DELIVERED ORALLY FROM THE BENCH

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Counsel for the Appellant: A. Wright  
Counsel for the Respondent: B. Schmaltz

**HUNT, J.A. (for the Court):**

[1] In the matter of *Walter Lothar Ebke and The Federal Republic of Germany*, we are all of the view that the order sought on Mr. Ebke's behalf by Mr. Wright, as set out in the Notice of Motion dated January 15, 2002, ought to be granted. In coming to this conclusion, we have been influenced by a number of specific factors that are pertinent to this matter.

[2] Firstly, is that the Federal Republic of Germany has given its consent to the granting of the order sought.

[3] Secondly, we have taken account of the possibility that, should the Minister not grant the surrender order, an appeal on the committal order would be rendered moot.

[4] Thirdly, we are persuaded that there is overlap between the appeal and the potential judicial review application as regards the factual context of these matters, and that there is the strong possibility of overlap on at least some of the legal issues to be considered on the appeal.

[5] Fourthly, we have taken into account that, in this case, there is a definite schedule put into place by the order of the Minister, which requires the submissions on surrender application to be made within a specific time frame.

[6] Fifthly, we note that s.57(9) of the *Extradition Act* specifically contemplates the joining of the appeal and, if there is one, a judicial review application related to the surrender decision by the Minister.

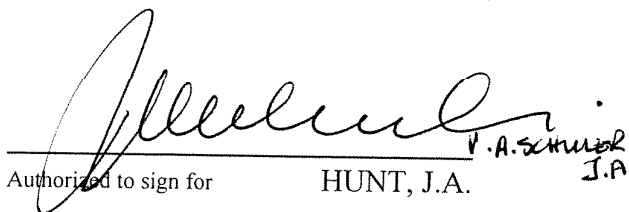
[7] Lastly, we are persuaded by the argument that, in the circumstances of this case, the proposed order would result in a more efficient use of the Court's resources.

[8] Accordingly, the order sought by Mr. Wright is granted.

[Discussion re Mr. Ebke's bail terms concludes that he is required to report to the registrar at the list scheduling for the Court of Appeal's June sittings and to abide by any further orders made at that time.]

APPEAL HEARD January 23, 2002

MEMORANDUM FILED at Yellowknife, NT,  
this 21st day of February 2002.

  
Authorized to sign for HUNT, J.A. P.A. Schmier J.A.

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MEMORANDUM OF DECISION

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