

Judge dismisses lawsuit on Soering transfer

by Larry O'Dell, Associated Press, July 12, 2012

RICHMOND, Va. (AP) — Virginia Gov. Bob McDonnell acted within his authority when he rescinded his predecessor's request that federal authorities transfer an imprisoned German diplomat's son to his home country to finish serving his sentence for a double murder, a judge ruled.

In an order signed late Wednesday, Richmond Circuit Judge Beverly W. Snukals rejected Jens Soering's lawsuit seeking to overturn McDonnell's action.

Soering is serving two life terms for the 1985 slayings of his ex-girlfriend's parents in Bedford County. Elizabeth Haysom is serving 90 years in prison for participating in her parents' killings.

Days before he left office in January 2010, then-Gov. Tim Kaine asked the Justice Department to transfer Soering to a German prison. Kaine secretly agreed to a plan that would have kept Soering behind bars in Germany for at least two years, but McDonnell revoked that request soon after taking office.

"If Kaine had succeeded, Soering would be getting out right about now and she'd still be rotting in prison for decades and decades and decades — and he's the one who stabbed her parents to death," Attorney General Ken Cuccinelli said in a telephone interview Thursday.

He said the ruling is good news "for people who believe in upholding the rule of law and just punishment."

McDonnell spokesman J. Tucker Martin said the governor was pleased by the ruling.

"Jens Soering committed a heinous and gruesome crime when he killed two innocent Virginians," Martin said in a written statement. "The governor believes he must serve his full sentence in the Commonwealth of Virginia."

Soering could ask the Virginia Supreme Court to review the judge's ruling. His attorney in the case, Mark K. Tyndall, did not immediately return telephone and email messages.

In the lawsuit, Soering acknowledged that he did not have a right to a transfer. Instead, he argued that he was deprived of his right to have his application for transfer continue to the next level — the Justice Department.

Snukals found no merit in that argument.

"The Court notes that the Federal enabling legislation expressly prohibits a prisoner from revoking consent, but it is silent as to whether a state government or the Federal Government is able to revoke consent," she wrote.

She also noted that Attorney General Eric Holder had informed McDonnell in a letter that

there is nothing in federal law or an international treaty dealing with prisoner transfers that prohibited the governor from revoking consent prior to the inmate being moved.

"The law is fairly straightforward," said Cuccinelli, who added that researching the legality of McDonnell's plan to revoke the transfer was the first thing he worked on after being elected attorney general. "The court took a very ordinary reading of the statute, which is what they're supposed to do."