

STATE OF NEW YORK : COUNTY COURT

COUNTY OF ERIE : PART 21

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**THE PEOPLE OF THE STATE OF NEW YORK**

-vs-

REQUEST FOR TEMPORARY CUSTODY

**HARVEY WEINSTEIN,**

Defendant.

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Erie County Court Building  
25 Delaware Avenue  
Buffalo, New York  
August 14, 2020

B E F O R E:

HONORABLE KENNETH F. CASE  
County Court Judge

A P P E A R A N C E S:

JOHN J. FLYNN, ESQ.,  
Erie County District Attorney  
By: COLLEEN CURTIN GABLE, ESQ.,  
MATTHEW B. POWERS, ESQ.,  
Assistant District Attorneys,  
Appearing for the People.

NORMAN P. EFFMAN, ESQ.,  
Appearing for the Defendant.

Lynn M. Miller,  
Official Court Reporter

1 MS. GABLE: Good morning, Your Honor. Colleen  
2 Curtin Gable and Matthew Powers appearing on behalf of  
3 the People. The next matter before the Court is the  
4 matter of Harvey Weinstein regarding a request for  
5 temporary custody pursuant to the Interstate Agreement on  
6 Detainers by the state of California, specifically, the  
7 Los Angeles District Attorney. The defendant Harvey  
8 Weinstein appears virtually and his attorney Norman  
9 Effman appears live in court.

10 And, Your Honor, before we get to any of the  
11 substantive issues, I believe that the Court needs to  
12 address the procedure.

13 THE COURT: All right. Thank you. Good  
14 morning, Mr. Weinstein.

15 THE DEFENDANT: Good morning.

16 THE COURT: My name's Ken Case. I'm an Erie  
17 County Court Judge. I'll be presiding over this matter.  
18 As was just stated by the assistant district attorney,  
19 the People and your attorney Mr. Effman are appearing in  
20 court but, sir, you are appearing remotely from the Wende  
21 Correctional Facility, and this matter is being recorded.  
22 Have you had an opportunity to speak privately with your  
23 attorney about appearing remotely for today's proceeding?

24 THE DEFENDANT: Yes, I did.

25 THE COURT: All right. And do you consent to

1 appearing remotely, sir, for this proceeding today?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: All right. And you have a right to  
4 speak privately with your attorney at any point during  
5 this proceeding. If you wish to speak to him, just let  
6 me know and we can make those arrangements, all right?

7 THE DEFENDANT: Thank you, Your Honor.

8 THE COURT: All right. Ms. Curtin Gable.

9 MS. GABLE: Your Honor, just for the record,  
10 arrangements had been made for an in-person appearance by  
11 this defendant. After those arrangements were made, it  
12 was brought to our attention that he would consent to  
13 appear virtually, but I just wanted the record to be  
14 clear that had he insisted on coming in person, we would  
15 have been able to accommodate that.

16 MR. EFFMAN: We would acknowledge that, Your  
17 Honor.

18 THE COURT: Thank you, Mr. Effman.

19 MS. GABLE: Your Honor, it's my understanding  
20 that an agreement has been reached between defendant, his  
21 counsel and the Los Angeles County District Attorney's  
22 office that today's proceedings would be stayed or  
23 continued until December 11th of this year. That in  
24 essence what we were prepared to do today will happen for  
25 a variety of reasons on December 11th instead. And Mr.

1 Effman has something to say about that, obviously he gets  
2 the opportunity, and then there are a series of questions  
3 that we would ask this Court to address to the defendant.

4 MR. EFFMAN: Initially, Your Honor, before we  
5 get into that, I would ask the Court to review the video  
6 process because my understanding is that there is a live  
7 stream to some media outlets that have access to a  
8 separate and distinct Skype-type review of this and I  
9 think there are some limitations as to what they can do  
10 with that. I would ask the Court to advise them as to  
11 those limitations.

12 THE COURT: Thank you for reminding me. So the  
13 folks who are viewing this through a live stream, there  
14 is to be no restreaming, recording or photographing of  
15 the procedures and I know that order was already conveyed  
16 to you. Obviously that's different for folks who happen  
17 to be in the courtroom, but I did want to bring that up,  
18 and I thank you for bringing that to my attention.

19 MR. EFFMAN: Thank you, Your Honor. With  
20 respect to the stipulation, what has happened in the past  
21 twenty-four hours is that we, Mr. Weinstein's attorneys,  
22 have been in touch with the Los Angeles County District  
23 Attorney's office with respect to their request for  
24 temporary custody and the issues that would come out  
25 under normal circumstances regarding that request in

1 today's world. In any event, a stipulation was reached I  
2 would guess about 9:00 o'clock our time last night and  
3 the stipulation was transferred electronically to the  
4 Erie County D.A.'s office. I've reviewed the  
5 stipulation, I've reviewed it with Mr. Weinstein, and we  
6 are prepared to go forward with that.

7 My basic understanding is that the stipulation  
8 will in a sense begin the process of the Interstate  
9 Agreement on Detainers on December 11th. And my  
10 understanding, at least my reading of the statute  
11 indicates that on that date that there's no waiver of  
12 extradition because Mr. Weinstein is not giving up any of  
13 his rights at this point, that we can address the issue  
14 to the governor who would then have thirty days to either  
15 do nothing, deny the request or grant it.

16 MS. GABLE: And my understanding, Your Honor, is  
17 that there is some variations on when that thirty days  
18 start, whether it is the date that we are first in court  
19 or the date that the defendant is served, but I don't  
20 think that's going to be a major hurdle here. I'm just  
21 not conceding that that's when the thirty days starts,  
22 but I don't think that's going to be an issue.

23 THE COURT: All right. Just in light of the  
24 circumstances and the current pandemic and so forth, why  
25 don't we say that the thirty day period will begin then

1 at our December 11th arraignment date, and just so  
2 everybody's on the same page, and of course --

3 MR. EFFMAN: That is my request, Your Honor, and  
4 I thank you.

5 THE COURT: Okay. Granted. Anything else I  
6 need to cover?

7 MS. GABLE: Just the stipulation as counsel  
8 referred to or the series of questions that the LA County  
9 D.A.'s office is asking to be addressed to this  
10 defendant.

11 THE COURT: All right. So Mr. Weinstein, we are  
12 moving this proceeding, adjourning it from today until  
13 December 11th at 9:30. Again, for simplicity I guess  
14 I'll keep the case, so it will be in County Court Part 7.

15 But I just want to run through a couple of  
16 things with you. Let me know if you're having any  
17 difficulty hearing me, all right?

18 THE DEFENDANT: I can hear you, Your Honor.

19 THE COURT: Great. Thank you. Sir, you have a  
20 right to a speedy trial under the Sixth Amendment of the  
21 U.S. Constitution, and you understand that, sir?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: All right. Do you give up this  
24 right for purposes of continuing today's extradition  
25 proceeding only and continuing the hearing until December

1 11th of this year?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: All right. Have you been advised by  
4 your counsel of your right to be brought to trial within  
5 one hundred and twenty days of your arrival in Los  
6 Angeles pursuant to Article 4 of the Interstate Agreement  
7 on Detainers?

8 THE DEFENDANT: Yes, I have.

9 THE COURT: All right. And do you consent to a  
10 continuance of today's hearing until December 11th, 2020  
11 thereby delaying your return to Los Angeles?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Thank you. Anything further from  
14 the People?

15 MS. GABLE: I guess the only thing is closer to  
16 that date we will see what posture we're in in the  
17 courts, whether we are still doing things virtually,  
18 which we can all hope we are not in that position any  
19 more, and I'll be contact with counsel and the Court  
20 regarding how the proceeding is going to proceed.

21 MR. EFFMAN: Judge, I don't know whether it  
22 makes any sense to set a status date sometime before the  
23 11th, but I leave that to the Court's discretion.  
24 Certainly I would be available for any type of conference  
25 to discuss where we are at that point.

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THE COURT: So we'll plan on the 11th for now, but feel free to contact me. We can have a conference call or an in-person pretrial prior to that date. I'll certainly make myself available.

MS. GABLE: Great. Thank you, Your Honor.

MR. EFFMAN: Thank you.

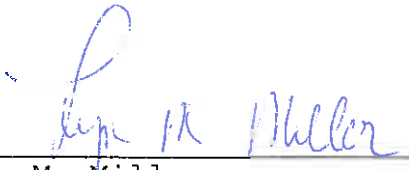
THE COURT: Thank you.

MR. EFFMAN: Thank you, Mr. Weinstein. Take care.

THE DEFENDANT: Thank you, sir.

C E R T I F I C A T E

I, Lynn M. Miller, do hereby certify that I acted as the official reporter at this proceeding herein and at the time and place set forth in the heading; and I do further certify that the foregoing transcript, consisting of 8 typewritten pages, is a true and correct transcript of my said stenographic notes.

  
Lynn M. Miller,  
Supreme Court Reporter