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TELEGRAM

RELEASE

PAGE 01 STATE 215493
ORIGIN L-03

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INFO	FILE-01	PPC-02	DCEN-01	ES-01	/005 A3	RD				
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FM SECSTATE WASHDC
TO AMEMBASSY SAN SALVADOR PRIORITY

LIMITED OFFICIAL USE STATE 215493
FOR CONGEN, POL, AID - FIGUEREDO

E.O. 12356: N/A
TAGS: CJAN, CIVS, PTER, PGOV, ES SARAVIA-MERINO, ALVAI
SUBJECT: EXTRADITION: SARAVIA TO EL SALVADOR

REFS: (A) VAKY/FIGUEREDO 8/27 TELCON
(B) STATE 139719 (C) STATE 132481 AND RELATED

1. AS DISCUSSED REFTELCON A, EXTRADITION HEARING IN SARAVIA CASE HAS BEEN POSTPONED UNTIL AUGUST 17, 1988, IN LARGE PART BECAUSE OF MAGISTRATE'S SCHEDULE. DEFENSE'S RESPONSE TO USG'S BRIEF IS EXPECTED THIS WEEK.

2. INFORMATION REQUESTED REFTEL B IS STILL NEEDED. PLEASE ADVISE. WHITEHEAD

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PAGE 01 STATE 233562 5673 AR43073
ORIGIN L-03

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FM SECSTATE WASHDC
TO AMEMBASSY SAN SALVADOR PRIORITY

LIMITED OFFICIAL USE STATE 233562

FOR AID - FIGUEROA, POL; CON;

E.O. 12356: N/A
TAGS: CJRN, CVIS, PTER, PGOV, ES (SARAVIA-MERINO, ALVA)
SUBJECT: EXTRADITION: SARAVIA TO EL SALVADOR

REFS: STATE 132481 AND RELATED

1. (U) SARAVIA'S COUNSEL SONNETT FILED A PRE-HEARING MEMORANDUM IN OPPOSITION TO EXTRADITION EARLIER THIS MONTH. MEMORANDUM BASICALLY ARGUES THAT: SARAVIA HAS NOT BEEN "FORMALLY CHARGED" BY A SALVADOR COURT; THAT THERE IS NOT SUFFICIENT SPECIFICITY TO THE CHARGE AGAINST SARAVIA (I.E. THAT HE IS "PROVISIONALLY" CHARGED WITH HOMICIDE); THAT THE DOCUMENTS FAIL TO ESTABLISH "PROBABLE CAUSE" AND THAT THE "POLITICAL OFFENSE" EXCEPTION TO EXTRADITION IS APPLICABLE. IN ADDITION, DEFENSE HAS FILED ANOTHER DISCOVERY MOTION, A MOTION TO UNSEAL THE PORTIONS OF THE GOES'S DOCUMENTS SEALED BY COURT ORDER AND A MOTION TO CONTINUE THE EXTRADITION HEARING FOR ONE WEEK.

2. (U) DOJ HAS SENT COPY OF DEFENSE'S FILINGS TO EMBASSY VIA DHL ATTN. AID R. FIGUEROA. DOJ/OIA ATTORNEY VAKY WILL TRY TO CALL MR. FIGUEROA BY SECURE PHONE THIS WEEK TO DISCUSS USG GOES RESPONSE TO DEFENSE'S FILINGS. DOJ EXPECTS TO FILE RESPONSES OPPOSING DEFENSE'S MOTIONS AND DEFENSE'S ARGUMENTS IN THE PREHEARING BRIEF PRIOR TO HEARING. HEARING IS PRESENTLY STILL SCHEDULED FOR AUGUST 17. WHITEHEAD

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ORIGIN OFFICE ES-02

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 TO AMEMBASSY SAN SALVADOR PRIORITY

C O N F I D E N T I A L STATE 242400

E. O. 12356: DECL: OADR
 TAGS: PGOV CJAN KJUS ES
 SUBJECT: ROMERO CASE: NO INFORMATION LINKING ZAPATA
 REF: (A) SAN SALVADOR 9374

1. CONFIDENTIAL - ENTIRE TEXT.
2. REVIEW OF DEPARTMENT FILES AND CHECKS WITH APPROPRIATE USG AGENCIES TURNED UP NO INFORMATION LINKING FORMER SENIOR INVESTIGATOR ZAPATA TO THE ROMERO ASSASSINATION. DEPARTMENT POUCHING COPIES OF RETRIEVED CABLES TO POLITICAL SECTION, ATTN: PETER SCHMEELK. SHULTZ

Department of State IS/FPG/CDR El Salvador SF Date 9/21/93

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 portions withheld () (), deliberative ();
 law enforcement (), privacy (), statutory ();
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TO AMEMBASSY SAN SALVADOR IMMEDIATE
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EXDIS FOR AID - FIGUEROA: CONGEN AND POL
E.O. 12356: DECL: OADR
TAGS: CJAN, KJUS, PHOM, PGOV, ES
SUBJECT: SARAVIA EXTRADITION CASE: WITNESS PROTECTION

CASC 1-1
EA
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cen

1. THE UNITED STATES MARSHALS' SERVICE HAS ASKED THE DEPARTMENT TO PROVIDE AN ASSESSMENT WHETHER OR NOT AND TO WHAT DEGREE ROSA MELIDA CHAVEZ DE GARAY (WIFE OF AMADO ANTONIO GARAY REYES) MIGHT POSE A RISK TO THE COMMUNITY WHEN SHE IS RELOCATED IN THE UNITED STATES (DOES SHE HAVE A CRIMINAL RECORD? IF SO, FOR WHAT TYPES OF OFFENSES? DOES SHE POSSESS ANY CHARACTER TRAITS OR PERSONAL HABITS WHICH MIGHT MAKE HER A RISK? ETC.)
2. EMBOFFS ARE ASKED TO CONSULT WITH GOES OFFICIALS, AS APPROPRIATE, REGARDING THIS ASSESSMENT AND CABLE RESPONSE ASAP. EMBASSY ASSISTANCE IS APPRECIATED. PLEASE SLUG RESPONSE FOR L/LEI JOETTINGER, WHITEHEAD

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REMOVED
7/14/93

Department of State IS/SFC/CDE El Salvador SP Date 7/21/93
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RELEASE

8830587

United States Department of State

Washington, D. C. 20520

October 19, 1988

ACTION MEMORANDUM

Rwm
S/S
10/19

Handwritten notes and signatures:
WAS THIS
3. C. G. W.
AS
PR
KW
AS
AS

TO: The Secretary
FROM: L - Abraham D. Sofaer *ADS*
SUBJECT: Whether to Extradite Alvaro Rafael Saravia to El Salvador

ISSUE FOR DECISION

Whether to sign the surrender warrant at Tab 1 authorizing the extradition of Alvaro Rafael Saravia to El Salvador.

ESSENTIAL FACTORS

El Salvador has requested the extradition of Saravia, a Salvadoran citizen and former Army Captain, to stand trial for murder. Saravia is accused of the aggravated homicide of Archbishop Oscar Arnulfo Romero. The evidence shows that at the conclusion of a memorial Mass in San Salvador on March 24, 1980 Archbishop Romero was standing behind the altar when he was shot from the exterior of the chapel. Mortally wounded, the Archbishop was rushed to the Salvadoran Police Clinic, where he was pronounced dead shortly after arrival. The cause of death proved to be massive hemorrhaging as a result of a gunshot wound to the chest. On November 24, 1987, the Fourth Criminal Court of San Salvador formally charged Saravia with the aggravated homicide of the Archbishop in violation of Article 153 of the Salvadoran Penal Code and ordered Saravia's arrest. Saravia was known to have fled to the United States, and on January 22, 1988, the Embassy of El Salvador requested his extradition (copy of Embassy's note at Tab 2).

Following an extradition hearing on August 17, 1988 in the U.S. District Court for the Southern District of Florida (Miami), at which supporting documents were submitted on behalf of El Salvador, the United States Magistrate found Saravia extraditable to stand trial as charged. On September 27, 1988, the Magistrate signed a Certification of Extraditability (Tab 3), which contains the findings of fact and the conclusions of law required by treaty and U.S. law. Although Saravia has had ample time to seek judicial review of the Magistrate's finding, he has not done so, and there is no judicial bar to his extradition.

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- 2 -

In contesting extradition, Saravia relied on the political offense exception, arguing that his extradition is being sought with a view to try him for an offense of a political character. Saravia argued that there was considerable political violence in El Salvador prior to and at the time of the Archbishop's murder, that much of that violence was directed at the Catholic Church, and that the Archbishop was an outspoken critic of that violence. Saravia's argument seems to be that therefore, the Archbishop was a political figure and his murder was politically motivated.

The Magistrate found that, even assuming there was an uprising or rebellion at the time of the Archbishop's murder, Saravia failed to establish that the Archbishop's murder was politically motivated. The magistrate reasoned that "the mere co-existence of political violence and the opposition to that violence by the victim of the offense charged does not dictate the conclusion that the victim's murder is politically motivated". Moreover, the Magistrate concluded that Saravia failed to establish that the murder of Archbishop Romero was in furtherance of the "uprising". Finally, the Magistrate found that the political offense exception does not extend to a murder aimed at silencing criticism of political violence and advocacy of peaceful reform, because to extend its protection to acts aimed at repressing and eliminating forces of political change would undermine the purpose of the exception. We concur with the Magistrate's finding.

Having reviewed the Salvadoran documents and the record certified by the District Court to the Secretary of State, we have concluded that the offense with which Saravia is charged in El Salvador is covered by the 1911 Extradition Treaty between the United States and El Salvador. The Salvadoran Government has submitted (1) duly authenticated documents as required by the treaty, (2) such evidence of criminality in regard to the offense with which Saravia is charged as would have justified his apprehension and commitment in the United States, and (3) sufficient evidence to support the Magistrate's finding that the person sought by El Salvador was the person before the court at the extradition hearing.

No exemption from, or condition to, extradition stipulated in the treaty appears applicable.

If you determine that Saravia should be surrendered, he must be transferred to the custody of Salvadoran authorities before November 27, 1988, or he will be entitled under U.S. law to petition for his discharge from U.S. custody.

-3-

RECOMMENDATION

That you authorize Saravia's extradition by signing the surrender warrant at Tab 1.

Attachments:

- Tab 1 - Surrender Warrant
- Tab 2 - Extradition Request
- Tab 3 - Magistrate's Certification

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TO AMEMBASSY SAN SALVADOR IMMEDIATE

C O N F I D E N T I A L STATE 359687

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FOR ROBERTO FIGUERO

E.O. 12356: DECL: OADR
TAGS: PTER, CJAN, PGOV, ES
SUBJECT: EXTRADITION CASE: SARAVIA

DOJ HAS INFORMED DEPARTMENT THAT U.S. COURT GRANTED SARAVIA'S MOTION FOR STAY, PENDING DETERMINATION ON HIS HABEAS PETITION. AS THE USG DID NOT HAVE AN OPPORTUNITY TO OPPOSE SARAVIA'S MOTION, DOJ HAS ASKED THE COURT TO RECONSIDER ITS DECISION. SARAVIA'S HABEAS CORPUS PETITION IS NOW PENDING BEFORE THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA. SHULTZ

Department of State IS/PFC/CDR El Salvador SP Date 9/24/93
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Department of State IS/FPC/CDR El Salvador SP Date 9/2/93
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PGOV CG

EXCISE

TO: [ARA/CEN - Pete Romero] DC

LE
PP

FROM:

SUBJECT: Ambassador Walker's Meeting With DOJ Officials,
August 23, 1988

1. Romero Case

-- The Saravia extradition hearing went well, the judge finding in our favor on the evidence, probable cause, and the validity of the GOES warrant. The remaining issue to be decided is the political offense exception. DOJ is confident that the judge will decide in our favor on that issue.

-- Assuming a finding of extraditability by the judge, the defense will appeal on habeas corpus grounds. DOJ assumes this appeal will be acted on and rejected by early November. The defense will then appeal to the Federal Appeals Court. DOJ did not estimate as to when a decision from that court might come down.

-- DOJ believes that defense attorney Sonnett's strategy will continue to be to delay the case until developments favorable to his client -- such as the election of an ARENA president in March 1989 -- occur in El Salvador. DOJ will continue to press for an early resolution.

-- ACTION FOR DEPARTMENT/EMBASSY: Monitor closely developments/pressures in El Salvador, in particular Saravia's habeas corpus petition pending before the Supreme Court.

2. Zona Rosa

-- (NOTE: The Zona Rosa defendants remain jailed in El Salvador. Duarte ruled that the GOES amnesty did not apply to them.

LE

appropriator, is vitally interested in this case, as one of the marines was from his district.) / rep. David Owey, our key

LE

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(DECL: OADR)

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LE

-- ACTION FOR DEPARTMENT/EMBASSY: Obtain more information on a fourth suspect arrested on July 13, 1988. Respond to questions/assistance requests from DOJ. Requests will be sent to L/LEI in a memorandum shortly.

3. Sheraton/AIFLD

-- (NOTE: The two convicted Sheraton gunmen were released under the GOES amnesty. The case against Captain Avila, the sole remaining intellectual author who could be prosecuted, was also dismissed under the amnesty. Senator Brock Adams is interested in the case (Mark Pearlman's sister lives in Washington), as, of course, is AIFLD)

-- In April 1988, U.S. formally notified the GOES that we considered Pearlman and Hammer to be internationally protected persons. Despite repeated Embassy approaches, the GOES has yet to respond. We are told that even if the GOES agrees, there may be insuperable problems in El Salvador to rearresting the gunmen or reopening the case against Avila.

LE

4. Legal Officer for Embassy San Salvador

-- Ambassador Walker made a strong pitch for [redacted] who was born in El Salvador, has a law enforcement background, and speaks fluent Spanish.

PP
PP

-- Office of International Affairs (OIA) chief [redacted] told Walker that he would raise the matter this week with DAAG

PP
PP PF

-- [redacted] is ready and willing to go to El Salvador as the legal officer now.

PT

-- ACTION FOR DEPARTMENT: Follow up strenuously on this issue. [redacted] and told us he would not mind bugging him to get DOJ/DEA moving.

PT
PP

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