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Rio de Janeiro, 14 June 1991.

Mr. John G. Lambros
Custódia Policia Federal
Av. Rodrigues Alves nº 7
Rio de Janeiro- RJ
CEP: 20.080

Dear Mr. Lambros,

Per your request, we have reviewed Extradition Process no 539-1/120 in which the United States Government has requested your extradition to the United States to answer charges for conspiracy and possession of more than 5 (five) kilograms of cocaine with the intention of distribution of such during the period of 1 January 1983 to 27 February 1988, possession of quantities exceeding 2 (two) kilograms of cocaine with intent of distribution of said substance, and interstate activity in promotion and administration of cocaine distribution.

The results of our review are contained in the attached legal opinion.

In view of the difficulty in guaranteeing success of available courses of action in the defense of the referenced extradition process, we feel that perhaps the most economical solution would be to utilize the services of a public defender, particularly due to your family's alleged limited financial resources.

It should be pointed out that extradition processes do not judge the merit of the charges. They merely base the processes on the formalities to be complied with as related to Brazilian law and/or international treaties or, in the absence of such treaties, on the guarantee of reciprocity on a case by case basis.

However, should you desire to continue to pursue your defense in this process through our offices, please advise us so that we may aggressively and timely develop proper defense arguments.

Very truly yours,


ESCRITÓRIO DE ADVOCACIA RUY RIBEIRO

MIKE THE SCANNER FOR HIS NOTE
DICTER FROM LHM

LOUIS CARLOS MACHADO

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LEGAL OPINION

Extradition Process nº 539 - 1/120: JOHN GREGORY LAMBROS

1- Scope: This opinion covers the legal aspects of the request for extradition of JOHN GREGORY LAMBROS presented by the U.S. Government, the legal formalities which must be complied with, pre-extradition restraint, family considerations, possibility of extradition to the more severe law, restrictions to extradition, possible defense postures, and conclusions.

2- Legal aspects of the request for extradition: The documents presented by the U.S. Government are proper documents and are in the necessary legal form to be considered by the Government of Brazil. Competent authority in the U.S. has ordered pre-trial confinement of Mr. Lambros in Penal Process nº 4-89-82. Said authority emanates from indictments by the Grand Jury of the U.S. Justice Court in the District of Minnesota and ordered in 17 May 1989.

The charges against Mr. Lambros as presented by said Grand Jury also meet Brazilian legal requirements for similar crimes committed in Brazil or for which, by international treaty, Brazil also has the obligation to punish.

The extradition request meets all of the formal requirements prescribed by the Extradition Treaty between the United States of Brazil (now, Federal Republic of Brazil) and the United States of America, promulgated in Brazil on 11 February 1965 by Decree nº 55.750 and Brazilian law nº 6.815 dated 19 August 1980 as amended by law nº 6.964 dated 10 December 1981.

Statutory limitations have been complied with, both in the U.S. and Brazil, verified by copy of Title 18, USC, art. 3282.

Circumstances surrounding the alleged crimes have been documented sufficiently to indicate grounds for trial as well as proper indication of the accused, Mr. Lambros.

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3- Legal formalities: In addition to the legal requirements stated above, correct procedural formalities have been complied with meeting the criteria of the Federal Constitution of Brazil promulgated in 5 October 1988 which requires all prison orders be issued by judiciary powers, to wit, the Brazilian Federal Supreme Court. (STP)

The request for extradition also meets the required formalities in that the court order issued by the Federal District Court in Minnesota was presented to the Brazilian Government by the U.S. State Department via the American Embassy in Brasilia, thence from the Brazilian Foreign office to the Ministry of Justice and thence to the Federal Supreme Court.

All other formalities required by Art. VIII and IX of Decree no 55.750 (Extradition Treaty) have been complied with.

4- Pre-extradition restraint: Pre-extradition confinement is correct as such action was ordered by the competent judiciary authority as prescribed by the Federal Constitution of Brazil in Art. 50, section LXI and Art. 84 of Law no 6.815/80 in compliance with the extradition request. This confinement will continue until final decision has been made by the Brazilian Supreme Court (Art. 84 of Law no 6.815/80) without the possibility of bail or other forms of release pending trial, such as house arrest, etc.

5- Family considerations: Irrelevant is the fact that a Brazilian wife or child who is dependent economically on the Accused. "Súmula" no 421 is explicit on this subject that being married to a Brazilian or having a Brazilian child does not impede extradition.

On the other hand, the eminent jurist, Celso D. Albuquerque Mello "in Direito Internacional Público - Vol. 2" points out that while the law impedes expulsion because of Brazilian wife or child, logic would follow to provide the same protection in the case of extradition. However, he admits that such action would also imply impunity for crimes committed extra-territorially. The argument is countered by the fact that the Brazilian Penal Code in its Art. 70 II a. combined with § 20 a. of the same article, permits

Brazil to try individuals for crimes committed elsewhere and when the agent is found to be in national territory.

6- Extradition to the country of the more severe law: Although Art. 59 XLVII of the Federal Constitution of Brazil prohibits the death penalty, life imprisonment, forced labor, banishment or other cruel punishment, the ex-tradition treaty between the U.S. and Brazil specifically mentions only the death penalty as reason for denying extradition based on punishments.

However, logic should also follow that since Mr. Lambros is in Brazil (it is irrelevant as to how he got here or how long he has been here), he is protected by Art. 59 "caput" of the Federal Constitution and therefore, be subject to the maximum punishments permitted by this "carta magna".

Thus, there would be blatant violation of his rights here should he be extradited to be tried under a more severe judiciary regime which could punish for life imprisonment, as is in this case. This condition of direct inequality in punishments between the two systems could create an intolerable situation.

7- Restriction to extradition: Extradition specifically is not permitted by law or treaty if: a) Brazil intends to exercise its jurisdiction (Art. 70 § 29 a Penal Code), b) if the crime for which Mr. Lambros to be extradited is "res iudicata", c) the crime has passed the statute of limitations, d) the crime is to be tried by a special court, e) for military or political crimes, f) or if the punishment in Brazil is less than one year.

8- Possible defense postures: In every of the above considerations for possible defense postures, there are previous decisions by the S.T.F. which permits extradition. Based on case research of similar situations during the past 15 years, there appears to be no "solid right" on which a corresponding solid defense can be built.

However, except for the "súmula" for extradition for persons having a Brazilian wife and child, the other cases are only decisions in which there is always a possibility to obtain a different and favorable decision, although it is our considered opinion that such a thing probably will not happen.

LIFE WITH NO PENAL PLAN

WHAT IS THE TIAL AND IF THAT TAKE PLACE?

LOW POINT BRITISH PLANE TAKE?

MAGNETIC RESONANCE IMAGING NEWS REPORT RESEARCH: LE VAY REPORT JOURNAL SOURCE: SAIX ENCYCLOPEDIA

CONTACT: RESEARCH WITH FILE

The best chance for defense appears to be:

a- Attempt to keep Mr. Lambros here in Brazil for trial based on Art. 70 II a, 5 2º a of the Penal Code since Brazil is competent to try the case because he is already here. In this aspect, having a Brazilian child might help.

b- Competence for Brazil to try the case as stated above combined with the Brazilian Constitution which prohibits the death penalty, life imprisonment, etc, reinforces the thesis for having a local trial. This was considered in Extradition no 472 USA, ^{02/27/72} without favorable consideration although the Attorney General considered it as a limiting factor in the extradition conditions.

c- As a last resort, the Constitution should be used as base for arguing extradition with restrictions to the death penalty, life imprisonment etc. In this end, any excessive punishment, in excess of 30 years should be combined to establish a maximum sentence to be served of 30 years.

9- Conclusions: The situation as presented by the USG is favorable for extradition. Possible defense against extradition with favorable results cannot be guaranteed. Pursuit of an aggressive defense by private attorneys would be very expensive and may not be successful.

However, extradition to the U.S., in no way, prejudices an adequate defense against the charges there since the materiality of the crimes are not judged as part of the extradition other than verifying that the crimes there are also punishable here.

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