

UNCLASSIFIED

ACTION OCS-01

RELEASED IN FULL

INFO LOG-00 AMAD-00 CA-01 WHA-00 DS-00 UTED-00 TEDE-00  
 INR-00 TEST-00 DSCC-00 SAS-00 /002W  
 -----BC6B8D 032308Z /38

P 031800Z NOV 03  
 FM AMCONSUL CIUDAD JUAREZ  
 TO SECSTATE WASHDC PRIORITY 0356  
 INFO AMCONSUL CIUDAD JUAREZ  
 AMEMBASSY MEXICO PRIORITY

UNCLAS CIUDAD JUAREZ 000083

CA/OCS/ACS/WHA JANIE A. FRIEDLEIN

E.O. 12958: E.O. 12958: N/A

TAGS: CASC, MX

SUBJECT: EACT FW: MOTION FILED FOR CYNTHIA KIECKER'S RELEASE

REF: CIUDAD JUAREZ 10418 AND PREVIOUS

1. SUMMARY: THE ATTORNEY OF MELITO SIBAJA JUAREZ, A FRIEND OF AMCIT CYNTHIA KIECKER WHO IS ON TRIAL FOR MURDER, TESTIFIED IN KIECKER'S CASE AND PROVIDED EVIDENCE THAT HE CLAIMS SUPPORTS HIS CLIENT'S ALLEGATIONS OF TORTURE BY THE STATE JUDICIAL POLICE; SIBAJA JUAREZ'S OWN TESTIMONY AT THE TRIAL SEEMS INCREASINGLY UNLIKELY. KIECKER'S LAWYER HAS FILED A MOTION FOR HER CONDITIONAL RELEASE AND A DECISION ON THE MOTION IS EXPECTED THIS WEEK. END SUMMARY

2. ON OCTOBER 30, 2003, LIC. FAUSTO ANTONIO SALGADO TESTIFIED IN THE MURDER TRIAL OF AMCIT CYNTHIA KIECKER AND HER HUSBAND, ULISES PERZABAL, IN CHIHUAHUA CITY. SALGADO IS THE PRIVATE ATTORNEY OF MELITO SIBAJA JUAREZ (INCORRECTLY IDENTIFIED IN EARLIER CABLES AS MELITO PEREZ), A FRIEND OF KIECKER AND PERZABAL. MR. SALGADO IS ONE OF THE WITNESSES WHO ALLEGE THAT CHIHUAHUA STATE POLICE TORTURED HIM INTO MAKING FALSE STATEMENTS REGARDING THE INVOLVEMENT OF KIECKER AND PERZABAL IN THE DEATH OF VIVIANA RAYAS. SALGADO DECLARED THAT ON SATURDAY MAY 30, 2003 ABOUT 11:00 A.M., MELITO SIBAJA JAQUIN AND HIS DAUGHTER (THE FATHER AND SISTER OF HIS CLIENT MELITO SIBAJA JUAREZ), WENT TO HIS HOUSE TO REQUEST HIS SERVICES IN FINDING HIS SON, WHO HAD BEEN ARRESTED AT HOME A FEW HOURS EARLIER. ACCORDING TO SALGADO, THE THREE OF THEM PROCEEDED TO LOOK FOR SIBAJA JUAREZ AT VARIOUS POLICE STATIONS IN THE CHIHUAHUA CITY AREA. MR. SIBAJA JAQUIN CONFIRMED THAT HIS SON HAD BEEN ARRESTED BY THE STATE JUDICIAL POLICE WHEN HE RECOGNIZED ONE OF THE AGENTS AT THE STATION WHERE HIS SON WAS BEING DETAINED. THE AGENT INFORMED

UNCLASSIFIED

UNCLASSIFIED

THEM SIBAJA JUAREZ WAS UNDER INVESTIGATION AND THAT HE WOULD BE RELEASED LATER. ON JUNE 1, ATTORNEY HORACIO RODRIGUEZ LOPEZ, SIBAJA JAQUIN'S SON-IN-LAW, FILED AN AMPARO (OR REQUEST FOR PROTECTION) AT THE SECOND FEDERAL COURT, COMPLAINING OF SIBAJA JUAREZ'S ILLEGAL DETENTION AND ISOLATION. SIBAJA JUAREZ WAS RELEASED SHORTLY AFTER MIDNIGHT ON JUNE 2.

3. DURING HIS TESTIMONY, SALGADO DID NOT HAVE HIS CLIENT'S PERMISSION TO DECLARE WHO HAD TORTURED HIM OR HOW HE WAS TORTURED, AND INVOKED ATTORNEY-CLIENT PRIVILEGE TO AVOID HAVING TO PROVIDE THAT INFORMATION. HOWEVER, HE TESTIFIED THAT HE MET WITH SIBAJA JUAREZ AT HIS OFFICE IMMEDIATELY FOLLOWING HIS RELEASE FROM JAIL, AND ACKNOWLEDGED THAT HE SAW BURNS ON HIS CLIENT'S HEAD, CHEST, AND BACK, AS WELL AS INFLAMMATION OF HIS NOSE. SALGADO PROVIDED THE COURT WITH EVIDENCE HE CLAIMS PROVES THE ALLEGATIONS OF TORTURE, INCLUDING ORIGINAL MEDICAL CERTIFICATES ISSUED BY THE MEDICAL EXPERT AT THE STATE JUDICIAL POLICE STATION AND A PRIVATE DOCTOR, AND A VIDEO SHOWING THE PHYSICAL INJURIES ON SIBAJA JUAREZ'S BODY.

4. SIBAJA JUAREZ HIMSELF HAS BEEN SCHEDULED TO TESTIFY IN THE TRIAL SEVERAL TIMES, BUT EACH TIME HE HAS FAILED TO SHOW-UP. ACCORDING TO SALGADO, SIBAJA JUAREZ IS CONCERNED THAT THE POLICE WILL ARREST HIM AGAIN, AS THEY HAVE THREATENED TO DO WITH OTHER WITNESSES (REFTTEL). THE COURT HAS GRANTED HIM AN OPEN HEARING DATE AND SAID THAT THEY WILL RECEIVE HIS TESTIMONY ANY DAY, BUT IT SEEMS UNLIKELY THAT HE WILL EVER APPEAR IN COURT. SALGADO REQUESTED INFORMATION ON BEHALF OF HIS CLIENT ABOUT WHETHER HE COULD CLAIM POLITICAL ASYLUM IN UNITED STATES AND ASKED WHETHER IT WAS POSSIBLE FOR HIM TO GIVE HIS TESTIMONY BEFORE A USG OFFICIAL. CONOFF INFORMED THE ATTORNEY THAT SHE WAS UNABLE TO ACCEPT ASYLUM CLAIMS OR DECLARATIONS OF HUMAN RIGHTS VIOLATIONS ON BEHALF OF MEXICAN NATIONALS.

5. FOLLOWING SALGADO'S HEARING, ACS CHIEF MET WITH KIECKER'S LAWYER, MIGUEL ZAPIEN, WHO STATED THAT HE WOULD NOT FILE A MOTION FOR HER CONDITIONAL RELEASE UNTIL THE CONCLUSION OF THE TRIAL. ZAPIEN CLAIMED THAT HE HAD DELAYED FILING THE MOTION FOR RELEASE DUE TO HIS WORKLOAD IN THIS CASE, AND BECAUSE HE WANTED TO INCLUDE THE EVIDENCE SALGADO PRESENTED EARLIER THAT DAY. POST HAS SINCE CONFIRMED WITH ZAPIEN THAT THE MOTION WAS FILED ON OCTOBER 31, 2003, AND OBTAINED A COPY OF THE MOTION DOCUMENTS.

ACCORDING TO LOCAL LAW, THE JUDGE MUST ISSUE A RULING ON THE MOTION WITHIN 24 HOURS (REFTTEL STATES THAT THE TIME PERIOD IS 15 DAYS, BUT ZAPIEN HAS FILED UNDER A DIFFERENT SECTION OF THE LAW). HOWEVER, THE 24 HOUR PERIOD HAS PASSED WITH NO DECISION. WE HOPE TO HAVE A DECISION ON THE CONDITIONAL RELEASE OF KIECKER AND PERZABAL THIS WEEK AND WILL ADVISE OF ANY DEVELOPMENTS.

UNCLASSIFIED

UNCLASSIFIED

PARKER

NNNN

UNCLASSIFIED