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ACTION OCS-00

RELEASED IN FULL

INFO LOG-00 AID-00 CA-00 WHA-00 DS-00 UTED-00 H-00  
 TEDE-00 L-00 PPT-00 TEST-00 DSCC-00 SAS-00 /000W

-----20EB14 201330Z /38

R 201328Z MAY 04  
 FM AMCONSUL CIUDAD JUAREZ  
 TO SECSTATE WASHDC 3028  
 INFO AMCONSUL CIUDAD JUAREZ  
 AMEMBASSY MEXICO

UNCLAS CIUDAD JUAREZ 007401

DEPT FOR CA/OCS/ACS/WHA JANIE FRIEDLEIN  
 EMBASSY PASS TO USAID/RAFAELA HERRERA

E.O. 12958: N/A  
 TAGS: CASC, PHUM, PREL, ASEC, MX  
 SUBJECT: FINAL HEARING COMPLETED IN KIECKER CASE

REF: A. 03 CDJ 12371  
 B. POWER EMAIL 5/4/04

1. SUMMARY: ON MAY 18, THE FINAL WITNESS TESTIFIED IN THE MURDER TRIAL OF AMCIT CYNTHIA KIECKER. THE ONLY REMAINING EVIDENCE OUTSTANDING IS THE DNA TEST ON THE PURPORTED REMAINS OF VICTIM VIVIANA RAYAS; DNA RESULTS ARE EXPECTED IN MID-JUNE. KIECKER'S DEFENSE IS PREPARING FOR A SECOND DNA TEST, IF NECESSARY, AND FOR FINAL ARGUMENTS, AND HER LAWYER IS OPTIMISTIC THAT SHE AND HER LPR HUSBAND WILL BE FOUND INNOCENT OF ALL CHARGES. ACTION REQUEST PARA 5. END SUMMARY.

2. ACS CHIEF AND CONASST ATTENDED THE MAY 18 HEARING OF CRISTOBAL SIBAJA JUAREZ, BROTHER OF WITNESS MELITO SIBAJA JUAREZ. CRISTOBAL WAS PRESENT DURING HIS BROTHER'S ARREST AT HOME ON MAY 30, 2003, AND PROVIDED TESTIMONY REGARDING THE ARREST AND THE FAMILY'S SUBSEQUENT ATTEMPTS TO LOCATE MELITO WHILE IN POLICE CUSTODY (REF A). CRISTOBAL ALSO REPEATED HIS BROTHER'S CLAIMS THAT THE ARRESTING POLICE HAD BEEN OFFICERS OF THE STATE JUDICIAL POLICE (PJE) AND THAT HE HAD BEEN TORTURED INTO SIGNING STATEMENTS IMPLICATING AMCIT CYNTHIA KIECKER AND HER LPR HUSBAND ULISES PERZABAL IN A CRIME. CRISTOBAL STATED THAT THE POLICE NEVER ALLOWED MELITO TO SEE THE DOCUMENTS HE WAS FORCED TO SIGN, SO HE WAS NOT AWARE THAT HE WAS PROVIDING STATEMENTS INDICATING THAT KIECKER AND PERZABAL WERE RESPONSIBLE FOR THE MURDER OF VIVIANA RAYAS. FOLLOWING HIS RELEASE FROM POLICE CUSTODY, MELITO ACQUIRED TWO MEDICAL CERTIFICATES, INCLUDING ONE FROM THE STATE'S OWN MEDICAL EXPERT AT THE PJE

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STATION, TESTIFYING TO HIS PHYSICAL CONDITION AND THE EVIDENCE THAT HE HAD BEEN TORTURED. CRISTOBAL'S TESTIMONY WAS BRIEF AND THE PROSECUTION DID NOT QUESTION HIM.

3. ACCORDING TO CRISTOBAL, MELITO DISAPPEARED SHORTLY AFTER HIS RELEASE FROM POLICE CUSTODY, CLAIMING THAT HE DID NOT WANT TO INVOLVE HIS HONEST FAMILY IN A CONFRONTATION WITH THE PJE; THE FAMILY IS NOT CURRENTLY CERTAIN OF HIS WHEREABOUTS. POST HAD EARLIER HEARD FROM KIECKER'S LAWYER MIGUEL ZAPIEN THAT MELITO WAS STAYING WITH A RELATIVE IN NEW MEXICO TO PROTECT HIMSELF FROM THE CHIHUAHUA STATE AUTHORITIES. MELITO'S OWN LAWYER DID NOT CONFIRM WHETHER MELITO WAS IN THE U.S., BUT DID SAY THAT HE MIGHT CONTACT THE CONSULATE IN THE FUTURE TO REQUEST INFORMATION ABOUT HOW TO REQUEST ASYLUM FOR HIS CLIENT.

4. FOLLOWING THE HEARING, ACS CHIEF MET WITH KIECKER, HER MOTHER CAROL KIECKER, PERZABAL, AND ZAPIEN TO DISCUSS FURTHER ACTION IN THE CASE. THE PROSECUTION IS CURRENTLY SUBJECTING THE PURPORTED REMAINS OF VIVIANA RAYAS TO DNA TESTING TO DETERMINE THEIR IDENTITY. ZAPIEN IS CONFIDENT THAT THE TEST RESULTS WILL BE NEGATIVE; IF THIS IS THE CASE, THE PROSECUTION WILL HAVE NO GROUNDS TO CHARGE KIECKER AND PERZABAL WITH MURDER, AND THEY WOULD BE ELIGIBLE FOR RELEASE WITHIN DAYS. IF THE TEST RESULTS POSITIVELY IDENTIFY THE REMAINS AS THOSE OF RAYAS, ZAPIEN HAS ALREADY RECEIVED APPROVAL FROM RAYAS'S FATHER TO REQUEST THE EXHUMATION OF THE REMAINS AND TAKE INDEPENDENT SAMPLES TO PERFORM HIS OWN DNA TEST. ZAPIEN HAS BEEN WORKING WITH LOCAL AND INTERNATIONAL NGOS TO ARRANGE FOR FORENSIC SPECIALISTS TO CONDUCT THIS TEST, WHICH WOULD BE SUBMITTED TO THE COURT AS EVIDENCE TO COUNTER A POSITIVE DNA RESULT FROM THE PROSECUTION. AMONG ZAPIEN'S CONTACTS IS ALEJANDRO PONCE DE LEON OF ORGANIZACION RENACE, A MONTERREY-BASED NGO THAT SPECIALIZES IN HANDLING THE APPEALS CASES OF WRONGFUL CONVICTIONS. PONCE DE LEON WAS RECOMMENDED TO ZAPIEN BY USAID'S RULE OF LAW ADVISOR AT THE EMBASSY, AND ZAPIEN SAID THAT HIS ADVICE HAS ALREADY PROVED TO BE QUITE USEFUL IN FORMULATING A DEFENSE STRATEGY.

5. CAROL KIECKER WAS QUITE A BIT MORE UPBEAT ABOUT HER DAUGHTER'S CASE THAN THE LAST TIME SHE SPOKE WITH ACS CHIEF, AND ALTHOUGH SHE CONTINUES TO BE FRUSTRATED BY THE SLOW PACE OF THE CHIHUAHUA COURT, SHE IS FEELING HOPEFUL THAT THE END RESULT WILL BE HER DAUGHTER'S LIBERATION. MRS. KIECKER ASKED ONCE AGAIN ABOUT GAINING AN INTERVIEW WITH PRESIDENT FOX. SHE UNDERSTANDS THAT THIS IS A REMOTE POSSIBILITY, BUT IS DESPERATE TO EXPLORE EVERY AVENUE IN ATTEMPTING TO GAIN HER DAUGHTER'S RELEASE. ACTION REQUEST: EMBASSY, PLEASE ADVISE WHOM MRS. KIECKER SHOULD CONTACT TO PURSUE SUCH AN INTERVIEW.

6. POST IS STILL WAITING FOR AN OFFICIAL RESPONSE TO THE LETTER DELIVERED TO CHIHUAHUA STATE ATTORNEY GENERAL PINON PROTESTING

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THE DELAYS IN THE STATE'S INVESTIGATION OF KIECKER'S ALLEGED TORTURE (REF B). DURING OUR MAY 4 MEETING WITH PINON'S DEPUTY, HE STATED THAT THE INVESTIGATING OFFICE WAS DUE TO SUBMIT ITS CONCLUSIONS THAT WEEK AND WE COULD EXPECT A RESPONSE, INCLUDING THE RESULTS OF THE INVESTIGATION, WITHIN SEVERAL WEEKS. POST WILL ADVISE ONCE THIS RESPONSE IS RECEIVED.

PARKER

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