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DEPT FOR CA/OCS/ACS/WHA AND WHA/MEX

E.O. 12958: N/A  
 TAGS: CASC, ASEC, PHUM, PREL, MX  
 SUBJECT: KIECKER'S JUDGE INCREASES PRESENCE IN TRIAL

REF: A. CDJ 10023  
 B. CDJ 10571

1. Summary: Judge Fabio Valdez personally conducted the "careo" hearing in an attempt to clear up the discrepancies between statements made by Amcit Cynthia Kiecker, her LPR husband Ulises Perzabal, and the police officer implicated in their arrest and subsequent torture. Valdez indicated that he plans to conclude the case and issue a decision in early October, slipping the decision in under the radar during the formal transition in the governor's office at that time. Meanwhile, Kiecker's defense plans to request the application of the Istanbul Protocol to investigate her alleged torture, with the assistance of Commissioner Guadalupe Morfin's office. End summary.

2. On August 3, 2004, Judge Valdez of the Chihuahua State First Penal Court personally presided over the hearing in which testimony was presented by Kiecker, Perzabal, and police officer Sergio Alberto Huerta de Sosa. Huerta de Sosa is one of several state police (PJE) officers alleged to have tortured Kiecker and Perzabal; he had earlier testified to the court that he and a colleague arrested Kiecker and Perzabal near dawn on May 31, 2003, as they were driving their car in Chihuahua City. He claims that Kiecker and Perzabal were taken to the police station for further investigation, as is routine procedure in arrest and detention cases. According to testimony by Kiecker and Perzabal, they were arrested in their home, when approximately 20 police officers rushed into their home shortly

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after midnight on May 31. From there, they were taken to police facility "La Academia", where they were tortured into signing confessions to the murder of 16 year old Viviana Rayas. During Tuesday's hearing, the prior statements to the court made by Kiecker, Perzabal, and Huerta de Sosa were read aloud, and then each party had the opportunity to refute any discrepancies between the statements. All three declarants stood by their prior statements, excepting the forced confessions by Kiecker and Perzabal, both of whom repeatedly and forcefully stated that those confessions had been signed after they had been tortured at the hands of Huerta de Sosa and his PJE colleagues. A second such hearing scheduled for August 4, 2003, involving one of Huerta de Sosa's colleagues, was cancelled, following the police officer's failure to appear at court.

3. Judge Valdez's participation in the hearing was highly unusual in the Chihuahua state court system, which is not based on oral trials, and represents only the second such personal appearance by the judge at one of Kiecker's hearings. Not only did Valdez preside over the hearing, giving instruction to all parties and carefully confirming each person's testimony, but he actively sought to clarify various statements. Several times he urged Huerta de Sosa to provide more detail about his participation in Kiecker's arrest and detention, seemingly incredulous at the police officer's refusal to state anything beyond insisting that he stood by his earlier testimony, which was complete and true.

4. Following the hearing, Valdez met for over two hours with Kiecker's defense attorneys. They reportedly discussed a range of issues surrounding the murder trial, including the defense's pending request for the exhumation of the purported remains of Viviana Rayas (ref A), and the political pressure surrounding the trial. Valdez is due to rule on the exhumation request by Friday, August 6, and the defense assumes that the request will be granted, following which the exhumation might occur within the next 10 working days. Valdez very candidly admitted to the defense lawyers that he hoped to issue a final decision in this case during the first week of October, the period of transition between outgoing Chihuahua governor Patricio Martinez and incoming governor Reyes Baeza. He indicated that he hopes to use the confusing and hectic transition period as cover for his decision, implying that the decision will not be politically popular. Comment: Valdez's concern about slipping his decision in under the political radar seems to indicate that he is leaning towards finding Kiecker and Perzabal innocent of the murder of Viviana Rayas. End comment.

5. Kiecker's defense attorneys expressed further interest in requesting the application of the Istanbul Protocol in her case

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