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ACTION OCS-00

RELEASED IN FULL

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

E.O. 12958: N/A  
 TAGS: CASC, PHUM, ASEC, MX  
 SUBJECT: KIECKER CASE: DEFENSE WILL NOT WAIT FOR U.S. DNA TEST  
 RESULTS

REF: A. CDJ 12628  
 B. CDJ 13961

1. Amcit Cynthia Kiecker and her family agreed today to accept the recommendation of her defense lawyers and request that her trial on murder charges proceed to the conclusions phase, despite the fact that the defense-sponsored DNA test of the alleged victim's remains has not yet been concluded (ref A). Miguel Zapien, head of Kiecker's defense team, presented this recommendation to the family based on the quick timeline under which he feels the case can now be concluded. He plans to immediately request that the court end the trial's period for submission of evidence and move immediately to concluding arguments. Zapien estimates that the prosecution will submit their concluding arguments beginning on October 27; when their 10 working days to submit arguments are finished, the defense will submit its final statements and waive their 10 day period so that the case can proceed immediately to the final hearing. Following this final hearing, estimated to take place during the week of November 15, by law the judge has 10 working days to review the case and issue his decision. Comment: This 10 day time frame is rarely met by Chihuahua state courts. End comment.

2. Zapien learned yesterday that Dr. Lori Baker of Baylor University would be unable to have the DNA test results by today due to technical difficulties with one of the analytic machines used to run the test. She estimated that she would have the

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results by October 29 at the earliest, and Zapien fears that waiting this long would jeopardize Kiecker's chances of getting a decision out of the judge currently hearing her case. The judge does not expect to have his appointment renewed in December by the new state supreme court, and Zapien and the Kiecker family want to take advantage of the judge's apparent disposition to rule in favor of Kiecker and her LPR husband Ulises Perzabal before he steps down (ref B). Zapien also stated that if the DNA test results came back negative, that is, disagreeing with the results of the prosecution's DNA test positively identifying the victim as 16 year old Viviana Rayas, the defense would still be able to submit them to the court as evidence during the concluding arguments phase of the trial through means of an amparo.

3. Post will continue to advise of developments in this case.

GRAY

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