

The UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

JOHN GREGORY LAMBROS,

Plaintiff,

Vs.

UNITED STATES OF AMERICA, et al.,

Defendants.

**Civil Action No. 0:19-cv-01870
(MJD/ECW)**

**Transferred from U.S. District
Court The District of Columbia.
Civil Action No. 18-1312(TJK)**

AFFIDAVIT FORM

**PLAINTIFF LAMBROS' OBJECTIONS TO THE HONORABLE MAGISTRATE
JUDGE WRIGHT'S PROPOSED FINDING WITHIN THE REPORT AND
RECOMMENDATIONS. DATED: JULY 20, 2020. RECEIVED: JULY 23, 2020.**

1. COMES NOW, Plaintiff - Movant JOHN GREGORY LAMBROS, (Hereinafter "MOVANT"), Pro Se, and request this Court to construe this filing liberally. See, HAINES vs. KERNER, 404 U.S. 519 , 520-21 (1972).
2. In support of this request Plaintiff relies upon the record in this case and the following facts that are submitted in affidavit form herein. Therefore, Plaintiff restates and incorporates all pleadings, motions, exhibits, testimony and documents filed within this action. See, F.R.C.P. 10(c).
3. John Gregory Lambros declares under penalty of perjury:

4. I am the Plaintiff in the above entitled case.

FACTS:

5. **APRIL 30, 1992:** The Brazilian Supreme Court **DID NOT GRANT EXTRADITION ON THE AUGUST 21, 1989 "WARRANT" BY THE U.S. PAROLE COMMISSION, THAT MOVANT WAS ARRESTED ON BY DEA AGENT TERRYL ANDERSON IN BRAZIL ON MAY 17, 1991.**

6. **May 5, 1992:** **THE OFFICE OF INTERNATIONAL AFFAIRS:** The "OIA", Justice Department reviewed the request for Plaintiff's extradition and was informed on or about MAY 5, 1992 by telex, as where the following U.S. Government Offices:

- a. **Secretary of State;**
- b. **U.S. Department of Justice, Washington DC;**
- c. All Embassies and consulates within Brazil;
- d. **DEA Washington;**

That Plaintiff Lambros was only extradited on criminal indictment U.S. vs. LAMBROS, Criminal No. CR-4 89-82(05), District of Minnesota. Also see, EXTRADITION TREATY BETWEEN U.S. AND BRAZIL, Article XXI, - **A person extradited may not be tried or punished by the requesting state for any crime or offense committed prior to the request for extradition, other than that which gave rise to the request, ...)** **Article XXI.**

7. **JULY 4, 2017:** Movant Lambros completes the required 85 percent of his current 30-year sentence and would start his supervised release if he **DID NOT** have the August 21, 1989 U.S. PAROLE "WARRANT" pending "DETAINER".

8. **JULY 4, 2016:** August 21, 1989 "WARRANT" from U.S. Parole Commission **PREVENTS** Movant's prerelease custody. **Without the "WARRANT" Movant Lambros would be eligible for "PRE-RELEASE CUSTODY" to a halfway house on JULY 4, 2016.** Inmates are allowed one (1) year within pre-release to adjust and prepare for reentry into the community. See, 18 U.S.C.3624(c)(1) and 28 C.F.R. 570.21(a).

9. **JULY 4, 2015:** U.S. Parole Commission "WARRANT" - "DETAINER" **PREVENTS** Movant Lambros from attending and participation within the **"RESIDENTIAL DRUG ABUSE PROGRAM (RDAP)"** that would of allowed Movant Lambros **ANOTHER TWELVE (12) MONTHS OFF OF HIS SENTENCE.** **THEREFORE, A RELEASE DATE OF JULY 4, 2015.** See, 18 U.S.C. 3621(e)(2)(B). Also, ESPINOZA vs. LINDSAY, 500 Fed. Appx. 123, 125 FN. 2 (3rd Cir. 2012)(Inmates with detainers lodged against them are **ineligible for RDAP.**).

**MOVANT’S OBJECTIONS TO THE HONORABLE MAGISTRATE
JUDGE WRIGHT’S PROPOSED FINDING WITHIN THE REPORT
AND RECOMMENDATIONS. DATED: JULY 20, 2020.**

10. Page 1: Judge Wright recommends that Defendants’ Motion to Dismiss be granted. Movant does not agree.

11. Page 2: Judge Wright correctly stated Movant **was not** extradited by the Supreme Court of Brazil on the Special Parole Violation Warrant. Also, on September 14, 1994, the USPC ordered that the Special Parole Violation Warrant remain in place. Please note that the USPC and the U.S. Bureau of Prisons had been placed on notice with copy of the Extradition papers from the Supreme Court of Brazil and the MAY 5, 1992 by telex from the Brazilian Embassy in Brazil as to Movant not being extradited on the 1989 PAROLE VIOLATION WARRANT, before the September 14, 1994 hearing by Movant’s Attorney, Movant’s Attorney David J. Phillips, a federal public defender, was Court appointed on April 6, 1994 and received the order from the Supreme Court of Brazil and the telex on or about April 20, 1994, which he included within his arguments to the USPC dispositional record review of Movant, as to having **ADVERSE IMPACT ON MOVANT’S SECURITY CLASSIFICATION AS WELL AS THE TYPES OF PROGRAMS AND EMPLOYMENT TO WHICH MOVANT HAD ACCESS WHILE INCARCERATED,**

12. Page 4: Judge Wright correctly stated “On February 27, 2018, Lambros was able to secure a finding by the Parole Commission that the Rule of Speciality applied to him and his sentence on this offense from the 1970s had expired.” Movant offers **EXHIBIT A** (U.S. Department of Justice, U.S. Parole Commission, February 27, 2018, National Appeals Board **concluded that the Rule of Specialty applies to the 1989 Special Parole Warrant that Movant was arrested on in Brazil and not extradited from Brazil, as per the Brazilian Supreme Court.**)

13. Pages 4-5: Judge Wright correctly states, “According to Lambros, the 1989 Warrant has caused his illegal false imprisonment, which he claims the USPC admits was illegal, as he should not have been arrested under the 1989 Warrant. Lambros claims that the 1989 Warrant also caused him to lose the opportunity to participate in the Residential Drug Abuse Program, **which would have resulted in his release from incarceration as early as July 4, 2015.**” (emphasis added)

ANALYSIS, Whether Plaintiff Effectuated Proper Service

14. Page 12: Judge Wright stated within her “**ANALYSIS, Whether Plaintiff Effectuated Proper Service**” “Even assuming Lamros met the service requirements of Rule 4(i)(1), his act of mailing the Summons and Complaint via certified mail **HIMSELF** does not meet the requirements for effective service under Rule 4(c)(2):” Movant does not agree, as the **U.S. Bureau of Prisons DOES NOT ALLOW ANYONE OTHER THAN THE PERSON THAT HAS SIGNED ANY LEGAL DOCUMENTS TO MAIL THEM.** Judge Wright clearly stated on page 5, “Lambros initiated this action on May 12, 2018 in the United States District Court for the District of Columbia. **At the time he FILED THE COMPLAINT, PLAINTIFF HAD BEEN CONFINED IN A RESIDENTIAL REENTRY CENTER IN MINNEAPOLIS, MINNESOTA.**” Therefore, the U.S. Bureau of Prisons paid the housing, enforced all policies, as if Movant was still incarcerated at U.S. Penitentiary Leavenworth. Movant Lambros would of incurred disciplinary action by the U.S. Department of Justice, U.S. Bureau of Prisons, if he would have mailed the Summons and Complaint in this action HIMSELF. Again, it is defendant's own rules, under the U.S. Department of Justice, that DID NOT allow Movant Lambros to meet the requirements for effective service under Rule 4(c)(2).

15. In addition paragraph 14 above, Movant would like to incorporate the following legal theories to support his opposition to Judge Wright’s recommendation to dismissal of the complaint due to failure to effect proper service of the Summons and Complaint:

A. OJELADE vs. UNITY HEALTH CARE, INC., 962 F.Supp. 2d 258, 262 (District of Columbia - 2013) “If a defendant is not served within 120 days after the complaint is filed, the court ... must dismiss the action without prejudice ... or order that service be made within a specified time.” Fed.R.Civ.P. 4(m). Plaintiff has failed to complete service of process within the 120 days allowed under the rules. However, she has made diligent and repeated efforts to effect service without the assistance of counsel, and Defendant clearly has received actual notice of Plaintiff’s complaint. **Therefore, the Court will, sua sponte and nunc pro tunc, grant an extension of Plaintiff’s deadline. Plaintiff will be given 45 days from today to effect service in accordance with Rule 4. Unless Defendant informs the Court by September 10, 2013, that it is willing to waive service pursuant to Rule 4(d), the Court will appoint a member of the U.S. Marshals to make service. See id. at 4(c)(3) (“[T]he court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court.”).** (emphasis added)

Although effective service will moot the Rule 12(b)(5) argument in Defendant's pending motion to dismiss, the Court will not require Defendant to re-file its motion in order to maintain its Rule 12(b)(1), (4), and (6) arguments.

16. Movant Lambros requests this Court to request Defendants to willingly waive service pursuant to Rule 4(d), in the interest of justice, as Defendants have clearly received actual notice of Plaintiff’s complaint.

ANALYSIS, Constitutional Claims for Monetary Relief.

17, Page 15, Foot Note 6: Judge Wright stated within her “Analysis, as to Constitutional Claims for Monetary Relief”, “Lambros does not set forth any cause of Action for monetary relief afforded by the express language of any treaty between the United States and Brazil that is applicable to him under the facts of this case.” Movant

Lambros filed this current action due to the denial of his **FEDERAL TORT CLAIM STANDARD FORM 95, REQUESTED MONETARY RELIEF OF TWENTY (20) MILLION DOLLARS FOR FALSE IMPRISONMENT AND UNLAWFUL DETENTION.**

See, Exhibit K, within the original complaint. Also, Movant filed all the needed administrative remedies leading to this complaint, BP-9, 10, and 11. See, Paragraph 53 within the original complaint in this action. **This action was started on November 13, 2017, as to monetary relief under the Federal Tort Claim.**

18. Movant's complaint dated May 25, 2018, clearly stated under Count One (1) **"FALSE ARREST AND/OR FALSE IMPRISONMENT IN VIOLATION OF FEDERAL AND DISTRICT OF COLUMBIA - COMMON LAW TORT.** See, Page 19.

19. Defendant UNITED STATES OF AMERICA are residents of the District of Columbia, as to the application of District of Columbia - COMMON LAW TORT.

"The ultimate responsibility for federal prisoners [Plaintiff] remains with the U.S. Attorney General in Washington, D.C. See, U.S. vs. ROCHA-LEON, 187 f.3D 1157, 1159 (9TH Cir. 1999) (18 U.S.C. 751, "The director of the Bureau of Prisonsons is appointed by the Attorney General and is subject to her direction. See, 18 U.S.C. 4041; ... U.S. vs. WILSON, 503 U.S. 329, 331 (1992)("The Attorney General, through the Bureau of Prisons (BOP), has responsibility for imprisoning federal offenders.")" see, Movant Lambros' complaint, Paragraph 45.

20. Movant Lambros only requested this Court to "issue a declaratory judgment stating that Defendants United States of America and the U.S. Bureau of Prisons violated the Treaty of Extradition by committing the acts of false arrest and false imprisonment by detaining, arresting, convicting, and incarcerating Plaintiff Lambros on the August 21, 1989, U.S. Parole Commission Warrant that Plaintiff was arrested on by DEA and Brazilian Federal Police on May 17, 1991, in Rio de Janeiro, Brazil and not extradited by the Brazilian Supreme Court on April 30, 1992." **MOVANT LAMBROS DID NOT REQUEST DAMAGES UNDER THE DECLARATORY JUDGMENT REQUEST.** See, Page 23, Paragraph 69 of Movant complaint in this action.

21. Movant Lambros believes confusion occurred when Defendants in this action relied on paragraph one (1) of Movant Lambros' complaint which stated:

"COMES NOW, Plaintiff-Petitioner - Movant JOHN GREGORY LAMBROS (Hereinafter "MOVANT"), Pro Se, and requests this court to construe this filing liberally. See, HAINES vs. KERNER, 404 U.S. 519, 520-21 (1972); RICHARDSON vs, U.S., 193 f.3D 545, 548-49 (D.C. Cir. 1999), **and not limit the jurisdictional statutes identified in this complaint.** See, BRUCE vs. CONSULATE OF VENEZUELA, 2005 U.S. Dist. LEXIS 18898 (D.C. 2005)(citing, GERRITSEN vs. de la MADRID HURTADO, 819 f.2D 1511, 1515 (9TH Cir. 1987). "The court may sustain jurisdiction when an examination of the entire complaint reveals a proper basis for assuming jurisdiction other than one that has been improperly asserted..." id. Therefore, this action is not limited to the FEDERAL TORT CLAIM ACT (FTCA), 28 U.S.C. 2401-02, 2411 12, 2671-80 et seq".

ANALYSIS, Request for Declaratory Relief

22. Page 15-16: Judge Wright stated within her "**ANALYSIS, Request for Declaratory Relief.** "As set forth above, Lambros seeks a declaratory judgment stating that the United States of America and the BOP violated the Treaty of Extradition with Brazil by committing the acts of false arrest and false imprisonment by detaining, arresting, convicting and incarcerating Plaintiff Lambros on the 1989 warrant." This is true.

23. Rule 57, Fed.R.Civ.P. - Declaratory Judgment. These rules govern the procedure for obtaining a declaratory judgment under [28 U.S.C. §2201](#), The existence of another adequate remedy does not preclude a declaratory judgment that is otherwise appropriate. In a declaratory judgment a party asks a judge to declare its rights.

Potential defendants can ask for declarations of non-liability before [litigation](#) commences. Parties can seek a declaration to prevent ongoing violations of [statutory](#) or constitutional rights. The defendants in this action can ask for a declaration of non-liability before litigation commences and/or this Court can order that no liability will be awarded as to this Court's declaratory judgment.

24. The [United States Supreme Court] has recognized that different considerations enter into a federal court's decision as to declaratory relief, on the one hand, an injunctive relief, on the other." *Steffel v. Thompson*, [415 U.S. 452](#), 469, 94 S. Ct. 1209, 1221, 39 L. Ed. 2d 505 (1974) (citations omitted). For example, "irreparable injury must be shown in a suit for an injunction, but not in an action for declaratory relief." *Perez v. Ledesma*, [401 U.S. 82](#), 123, 91 S. Ct. 674, 696, 27 L. Ed. 2d 701 (1971); *Aetna Life Ins. Co. of Hartford, Conn. v. Haworth*, [300 U.S. 227](#), 241, 57 S. Ct. 461, 464, 81 L. Ed. 617 (1937). **A declaratory judgment is also generally less coercive because it "is merely a declaration of legal status or rights," whereas an injunction either mandates or prohibits particular conduct. *Ledesma*, 401 U.S. at 124, 91 S. Ct. at 696.**

25. In *Perez vs. Ledesma*, [401 U.S. 82](#), 126 (1971), the court stated:

"The Court's opinion in [Zwickler v. Koota](#) confirmed that the considerations governing the grant of the two remedies are quite different. [Zwickler v. Koota](#) distinguished the prayer for injunction from the prayer for declaratory relief and held squarely that the District Court **erred in denying declaratory relief** on the ground that there was no "showing . . . of `special circumstances to justify . . .' injunctive relief." [389 U. S., at 253-254](#). The Court expressly held that "a request for a declaratory judgment that a state statute is overbroad on its face must be considered independently of any request for injunctive relief against the enforcement of that statute. **We hold that a federal district court has the duty to decide the appropriateness and the merits of the declaratory request irrespective of its conclusion as to the propriety of the issuance of the injunction.**" *Id.*, at 254 (emphasis added). See also [Malone v. Emmet](#), [278 F. Supp. 193 \(MD Ala. 1967\)](#)."

26. Movant Lambros, as to his legal research, believes this court has a duty to decide **the appropriateness and the merits of his declaratory request** and requests this court to issue a declaratory judgment.

ANALYSIS, FTCA CLAIM FOR DAMAGES AGAINST THE BOP

27. Page 16: Judge Wright stated within her “**ANALYSIS, FTCA CLAIM FOR DAMAGES AGAINST THE BOP**, “Lambros asserts a FTCA claim against the United States and the BOP, However, a FTCA claim cannot be brought against a federal agency. Therefore, the FTCA against the BOP should be dismissed.”

28. “In the FTCA, Congress waived the United States' sovereign immunity for claims arising out of torts committed by federal employees. See 28 U.S.C. § 1346(b)(1). As relevant here, the FTCA authorizes "claims against the United States, for money damages ... for injury or loss of property ... caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment." *Ibid*. The FTCA exempts from this waiver certain categories of claims. See §§ 2680(a)-(n).” See. *ALI vs. FEDERAL BUREAU OF PRISONS*, 128 S.Ct. 831, 835 (2008).

29. Judge Wright is correct as to her analysis, that a FTCA claim cannot be brought against a federal agency. Citing, *Duncan vs. Department of Labor*, 313 F.3d 445, 447 (8th Cir. 2002)(“Because a federal agency cannot be sued under the FTCA, **THE UNITED STATES IS THE PROPER DEFENDANT.**”) (Citing [*F.D.I.C. v. Meyer*, 510 U.S. 471, 476-77, 114 S.Ct. 996, 127 L.Ed.2d 308 \(1994\)](#)).

ANALYSIS, FTCA CLAIMS FOR DAMAGES AGAINST THE UNITED STATES.

30. Page 16: Judge Wright stated within her “**ANALYSIS, FTCA CLAIM FOR DAMAGES AGAINST THE UNITED STATES,** “The United States argues that Lambros’ FTCA claim against it for the actions of its employees for allegedly wrongfully confining him on the 1989 Warrant should be dismissed because the United States is entitled to immunity under the FTCA as the employees of the USPC and the BOP whose alleged acts form the basis of Lambros’ claims are entitled to quasi-judicial immunity. Lambros argues that he is entitled relief under the FTCA arising out of his illegal assault, battery, false imprisonment, false arrest, abuse of process, and malicious prosecution as the result of Defendants acting on the 1989 Warrant. Lambros also argued that Defendants’ negligent or intentional acts that injured him were the result of “faulty training, selection or supervision - or even less than that, lack of careful training, selection or supervision -- in the United States.”

31. Page 19, Foot Note 7: Judge Wright stated within the last sentence of foot note 7, “As such, while Lambros may not be entitled to relief for claims of fraud under Section 2680(h) or claims against the USPC for false arrest and imprisonment, **IT MAY NOT PRECLUDE A FTCA CLAIM FOR FALSE ARREST AND IMPRISONMENT RELATED TO THE BOP’s ACTIONS.**” (emphasis added)

32. Page 20: Judge Wright further stated, “Given that Warden Fox and other unnamed BOP officials were acting pursuant to the USPC’s quasi-judicial actions relating to the 1994 Order on the applicability of the 1989 Warrant and subsequent parole revocation hearing decision, the Court finds that Lambros’ FTCA claim should be dismissed as being barred by quasi-judicial immunity.” a.k.a. “**ABSOLUTE IMMUNITY**”. Movant Lambros does not agree.

ABSOLUTE IMMUNITY IS NOT APPLICABLE AS TO DEFENDANTS ACTIONS
WHEN THEY BREAK THE LAW.

33. “The presence of malice and the intention to deprive a person of his civil rights is wholly incompatible with the judicial function. When a judge acts intentionally and knowingly to deprive a person of his constitutional rights he exercises no discretion or individual judgment; he acts no longer as a judge, but as a "minister" of his own prejudices.” Pierson vs. Ray, 386 U.S. 547, 567 FN. 6 (1967). (emphasis added)

34. “The absolute immunity of prosecutors is likewise limited to the prosecutorial function. **A prosecutor who directs that an investigation be carried out in a way that is patently illegal is not immune.**” Nixon vs. Fitzgerald, 457 U.S. 731, 766 (1982).

35. “Members of Congress, for example, repeatedly importune the executive branch and administrative agencies outside hearing rooms and legislative halls, **but they are not immune if in connection with such activity they deliberately violate the law.**” Nixon vs. Fitzgerald, 457 U.S. 731, 765 (1982).

36. Movant Lambros believes **Defendants intentionally, knowingly and deliberately broke the law when they were presented the following evidence -** **TELEX - from the U.S. Government Embassy in Brasilia, Brazil on May 5, 1992, as to the fact Movant Lambros was not extradited to the United States from Brazil on the August 21, 1989, U.S. Parole “WARRANT”, that Movant was arrested on in Brazil.** The May 5, 1992 TELEX was sent to the following U.S. Government Offices:

- a. U.S. Secretary of State;
- b. U.S. Department of Justice, Washington DC;
- c. All Embassies and consulates within Brazil;
- d. DEA Washington DC;

E. U.S. Department of Justice, Office of International Affairs.

The TELEX clearly stated Movant Lambros was only extradited on criminal indictment U.S. vs. LAMBROS, Criminal No. CR-4 89-82(05), District of Minnesota. See, **EXHIBIT B.**

37. Defendants were also given the U.S. Department of Justice, United States Marshals Service, District of Minnesota, June 23, 1992, **“ARREST REPORT”** of Movant Lambros that occurred at the airport in Rio de Janeiro, Brazil on June 19, 1992. The report offers the following facts:

A. “On June 19, 1992, at approximately 18:30 hours, John Gregory Lambros was arrested by Deputy U.S. Marshals Supervisor ... (blacked out) .. pursuant to an arrest warrant for narcotics violations issued out of the District of Minnesota, **AS WELL AS A PAROLE VIOLATION.**” See, **EXHIBIT C.**

38. Movant Lambros offered Defendants **verified court documents** to prove that Brazil’s Supreme Court did not extradite Movant on the **August 21, 1989, U.S. Parole “WARRANT”, that Movant was arrested on in Brazil.**

39. **Defendants investigated Exhibits B and C and knew the documents were valid,** as the U.S. Department of Justice maintained copy and sent copy to Movant.

40. \$64,000 QUESTION: If Defendants are entitled to quasi-judicial immunity - ABSOLUTE IMMUNITY - that means that Defendants were lying under OATH during Movant Lambros Parole Violation hearings starting in 1994, when they knew Movant was not extradited from Brazil on the 1989 Parole Violation Warrant. Remember a judge is always under oath in the courtroom. **ABSOLUTE IMMUNITY IS NOT APPLICABLE AS TO DEFENDANTS ACTIONS WHEN THEY BREAK THE LAW.** See, Paragraphs 33 thru 39 above.

41. Amazingly, an honest U.S. Parole Commission agent admitted that Movant Lambros was not extradited from Brazil, on February 27, 2018, within the US Parole Commission “NOTICE OF ACTION”, stating:

“The National Appeals Board concludes that the **RULE OF SPECIALTY** APPLIES IN YOUR CASE.” See, **EXHIBIT A.**

As this court knows, The **RULE OF SPECIALTY** is based on principles of international comity and is designed to guarantee the surrendering nation that the **extradited individual WILL NOT be subject to indiscriminate prosecution by the receiving government.** U.S. vs. THIRION, 813 F.2d 146, 151-153 (8th Cir. 1987).

42. In addition to the above information, Movant Lambros is offering this court the Certified mailing of his December 12, 2014 letter to Johanna Markind, Assistant General Counsel, U.S. Parole Commission, that again contained **EXHIBITS B.** See, Paragraph 36 above. (**TELEX - from the U.S. Government Embassy in Brasilia, Brazil on May 5, 1992, as to the fact Movant Lambros was not extradited to the United States from Brazil on the August 21, 1989, U.S. Parole “WARRANT)** See, **EXHIBIT D.**

43. Please note that Movant Lambros could not verify the receipt of the December 12, 2014 certified letter to Johanna Markind, Assistant General Counsel, U.S. Parole Commission, within the U.S. Postal Service website. Therefore, Movant resent the December 12, 2014 letter on February 3, 2015, via certified mail, that was received on February 10, 2015, that was confirmed within the tracking service offered by the U.S. Postal Service. See, **EXHIBIT D.**

U.S. BUREAU OF PRISONS HAD A “DUTY TO INVESTIGATE” A CLAIM THAT A PRISONERS SENTENCE WAS NOT PROPERLY CALCULATED .

44. Movant Lambros requests this Court to review the Ninth Circuit Court of Appeals decision within **Alexander vs. Perrill, 916 F.2d 1392 (9th Cir. 1990)**. Of interest in this case is the fact that Alexander was arrested in Germany on local charges and the U.S. Govt. filed a detainer for extradition. Alexander was extradited to the U.S. and convicted of fraud and income tax charges and sent to FCI Tucson to serve his sentence.

The Court stated that the Bureau of Prisons' policy requires jail credit from a foreign jail be verified and monitored by the Central Office, Bureau of Prisons in Washington, D.C. (Central Office). Bureau of Prisons Program Statement 5880.24.

"On several instances, Alexander met with Rivera and presented him with certified court documents which Alexander claimed entitled him to the jail and presentence credits. Rivera made NO INQUIRIES, CONDUCTED NO INVESTIGATION, DID NOT FORWARD THE DOCUMENTS TO THE CENTRAL OFFICE, AND MADE NO EFFORT TO DETERMINE WHETHER THE CENTRAL OFFICE WAS AWARE OF THE FACTS SUBMITTED TO HIM BY ALEXANDER. INSTEAD, HE CONTINUED TO RELY EXCLUSIVELY ON THE CENTRAL OFFICE MEMORANDUM AND REJECTED ALEXANDER'S CLAIM." Id. at 1394.

"Here, the prison official's obligation to investigate Alexander's claim need not be set out in decisional law. Their duties are clearly established by virtue of the Bureau of Prisons regulations and policies which they were **LEGALLY OBLIGATED TO PERFORM.**" Id. 1398.

"Nevertheless, when faced with the possibility that a mistake was made, they did nothing to attempt to determine whether Alexander's claim was meritorious. We simply will not, as the defendants urge, embrace a rule which would allow prison officials to stand by idly after an inmate has raised the prospect that he is being

unlawfully incarcerated and has provided documentary evidence in support of his claim.” Id. at 1398.

“We have no cause to determine whether the officials engaged in further or additional breaches or whether we could conclude that a breach occurred had the circumstances been different. In conclusion, however, we reiterate our view that "strict factual similarity" is not required in order to find that a right or a duty is clearly established. All that is necessary is that a reasonable person would have known that the right or duty exists.

For the above reasons, we hold that the district court properly refused to grant Perrill's and Rivera's motions for summary judgment on their defense of qualified immunity.” Id. at 1399.

RELIEF REQUESTED

45. Movant Lambros requests this Court to consider the above information in response to the “REPORT AND RECOMMENDATION”, dated July 20, 2020 and dismiss Defendants’ Motion to Dismiss, so this action may move forward for settlement of the \$20 million dollars requested by Movant Lambros.

46. Defendant Motion to Dismiss should not be granted.

47. Movant again requests this Court to appoint him an attorney in this action

48. I JOHN GREGORY LAMBROS declare under the penalty of perjury that the foregoing is true and correct. See, Title 28 USC 1746.

EXECUTED ON: August 3, 2020.

John Gregory Lambros, Pro Se

U.S. Department of Justice
United States Parole Commission
90 K Street, N.E., 3rd Floor
Washington, D.C. 20530

Notice of Action on Appeal

Name: Lambros, John

Institution: District of Minnesota

Register Number: 00436-124

Date: February 27, 2018.

The National Appeals Board examined the appeal of the above named and ordered the following:

Terminate parole supervision on your original federal sentence in CR3-75-128, 3-76-54, and 3-76-17 and close case.

REASONS:

The National Appeals Board concludes that the Rule of Specialty applies in your case. Consequently your sentence in CR3-75-128, 3-76-54, and 3-76-17 has expired.

All decisions by the National Appeals Board on appeal are final.

cc: Designation & Sentence Computation Ctr
U.S. Armed Forces Reserve Complex
Grand Prairie Office Complex
346 Marine Forces Drive
Grand Prairie, TX 75051

U.S. Probation Office
District of Minnesota
406 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415-1320

EXHIBIT - A

5/16/92

For Lambros file =

① We need to check on his

1/14/92

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UNCLASSIFIED
05-05-92



BT

PR

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PR

FOL CONS DEA

AMEMBASSY BRASILIA
SECSTATE WASHDC, PRIORITY
USDOJ WASHDC
INFD AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO
AMCONSUL RECIFE
AMCONSUL PORTO ALEGRE
AMEMBASSY MONTEVIDEO
DEA WASHDC

USDOJ FOR OFFICE OF INTERNATIONAL AFFAIRS;
MONTEVIDEO FOR LEGATT

E.O. 12356: N/A
~~TAGS: GIAN, CASC, CPAS, SNBP, BR (LAMBRAS, JOHN GREGORY)~~
SUBJ: EXTRADITION: JOHN GREGORY LAMBRAS -
EXTRADITION GRANTED

REF: BRASILIA 3021 AND PREVIOUS

Ex. - B



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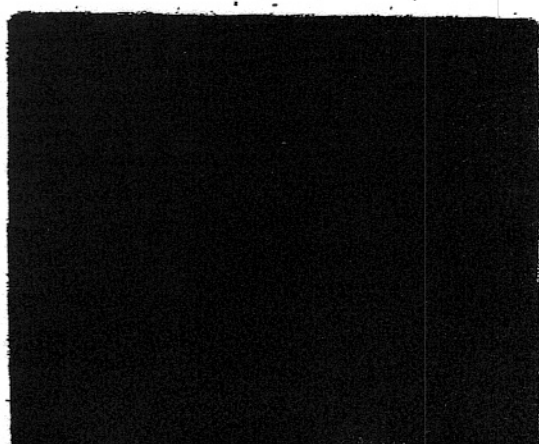
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1. THIS IS AN ACTION MESSAGE.

2. SUMMARY. ON APRIL 30, 1992, THE BRAZILIAN FEDERAL SUPREME COURT (STF) GRANTED, IN PART, BY MAJORITY OF VOTES, THE U.S. REQUEST FOR THE EXTRADITION OF JOHN GREGORY LAMBROS. THE FUGITIVE IS WANTED IN MINNESOTA TO STAND TRIAL FOR VIOLATION OF NARCOTICS LAWS. HE SHOULD BE READY TO BE REMOVED FROM BRAZILIAN TERRITORY WITHIN APPROXIMATELY ONE WEEK. END SUMMARY.

3. LAMBROS IS CHARGED WITH A) CONSPIRACY AND POSSESSION WITH INTENT TO DISTRIBUTE COCAINE; B) AIDING AND ABETTING, POSSESSION WITH INTENT TO DISTRIBUTE COCAINE; AND C) TRAVEL IN INTERSTATE COMMERCE WITH INTENT TO DISTRIBUTE COCAINE. IN HIS ORAL PRESENTATION TO THE STF, THE EMBASSY'S FSN LEGAL ADVISOR REITERATED ALL THE POINTS CONTAINED IN THE LAMBROS EXTRADITION DOCUMENTATION PROVIDED BY THE USG. THE STF JUSTICES DECIDED, HOWEVER, BY MAJORITY OF VOTES, THAT LAMBROS SHOULD BE PROSECUTED AND TRIED IN THE U.S. ONLY FOR CHARGES (A) AND (B) LISTED ABOVE, AND NOT FOR (C), I.E., FOR TRAVEL IN INTERSTATE COMMERCE BECAUSE THIS IS NOT A CRIME IN BRAZIL. THE U.S.-BRAZIL EXTRADITION TREATY AND BRAZILIAN LAW PROVIDE THAT EXTRADITION CAN BE EFFECTED ONLY WHEN THE ACT ATTRIBUTED TO THE FUGITIVE IS CONSIDERED A CRIME BOTH IN THE U.S. AND BRAZIL.



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U.S. Department of Justice

United States Marshals Service

District of Minnesota

ARREST REPORT

On June 19, 1992, at approximately 18:30 hours,
John Gregory Lambros was arrested by
Deputy U.S. Marshals Supervisor [REDACTED]

pursuant to an arrest warrant for narcotics violations issued out-
of the District of Minnesota, as well as a Parole Violation.

The subject's original charge was the sale of Heroin and Cocaine.

The arrest was made without incident
at the airport in Rio de Janeiro, Brazil.

The Arrestee was transported and booked into
Anoka County Jail on June 20, 1992 after being extradited back to
the District of Minnesota.

The Arrestee was brought before United States Magistrate
Frank Noel, District of Minnesota,
on June 22, 1992 at 15:00 hours for an Initial Appearance.

(The Attached Describes The Facts and Circumstances Surrounding
the Arrest.)

Ex. -

C.

21

Page 2 of 2

Subject: Arrest of John Gregory Lambros

Report Prepared by: [REDACTED]

Signature of Preparer: [REDACTED]

Date: June 23, 1992

7c

On May 17, 1991 John Gregory Lambros was arrested by the Brazilian authorities in Rio de Janeiro, Brazil. Lambros was held in the Brazilian authorities custody while he sought extradition proceedings. Supervisory Deputy U.S. Marshal [REDACTED] and Deputy U.S. Marshal [REDACTED] assumed custody of Lambros from the Brazilian authorities on June 19, 1992, and extradited him back to the District of Minnesota.

7c

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22

February 3, 2015

John Gregory Lambros
Reg. No. 00436-124
U.S. Penitentiary Leavenworth
P.O. Box 1000
Leavenworth, Kansas 66048-1000
Website: www.Lambros.Name
www.PAROLE.Lambros.Name

U.S. CERTIFIED MAIL NO.
7008-1830-0004-2648-9916

JOHANNA MARKIND, Assistant General Counsel
U.S. Parole Commission
90 K. Street, N.E., Third Floor
Washington, D.C. 20530
Tel. (202) 346-7036

RECEIVED:
FEB. 10, 2015

RE: REMAILING OF DECEMBER 12, 2014 LETTER FROM LAMBROS TO JOHANNA MARKIND

Dear Johanna Markind:

The attached December 12, 2014 letter was mailed to you via U.S. Certified Mail NO. 7013-2630-0000-5381-3567

U.S. Postal Service website states that the letter was never received by you - thus lost by the U.S. Postal Service.

Thank you in advance for reviewing, filing and responding to the attached December 12, 2014, seventeen (17) page letter with two (2) pages of exhibits.

Sincerely,


John Gregory Lambros

c:
Posting to website: PAROLE.Lambros.Name
Lambros.Name

File

EXHIBIT - D.

23

December 12, 2014

John Gregory Lambrose
Reg. No. 00436-124
U.S. Penitentiary Leavenworth
P.O. Box 1000
Leavenworth, Kansas 66048-1000
Website: www.Lambros.Name
www.PAROLE.Lambros.NAME

U.S. CERTIFIED MAIL NO.
7013-2630-000-5381-3567
- 0000 -

Johanna Markind, Assistant General Counsel
U.S. Parole Commission
90. K. Street, N.E. , Third Floor
Washington, D.C. 20530
Tel. (202) 346-7036

AFFIDAVIT FORM

RE: REQUESTING U.S. PAROLE COMMISSION TO GRANT RELIEF AND CONSERVE JUDICIAL RESOURCES BEFORE JOHN GREGORY LAMBROS PROCEEDS AGAINST "BRAZIL" REGARDING EXTRADITION JUDGMENT #539-1, PURSUANT TO "THE FOREIGN SOVEREIGN IMMUNITIES ACT" FOR FALSE IMPRISONMENT.

Dear John Markind:

First of all, I would like to greatly thank you for reviewing my January 7, 2012 letter, responding on January 25, 2012 and researching and responding to my February 6, 2012 letter with your January 29, 2013 letter and "NOTICE OF ACTION" dated January 30, 2013. The U. S. Parole Commission posture is currently that the Commission's August 21, 1989 WARRANT (detainer) will not be executed until I have finished serving my current 30-year term of imprisonment [July 14, 2017] that was imposed by the U. S. District Court for the District of Minnesota in case No. 89-cr-82-05. Therefore, **NO ONE (1) YEAR PRE-RELEASE COMMUNITY & HOME DETENTION. SEE, 28 CFR §§ 570.20; 570.21; & 570.22. Also, Title 18 U. S. C. § § 3624 (c) (1) and (c) (2).**

"After it is executed, the Commission will conduct a revocation hearing, at which you should rise any argument you wish to present concerning revocation."

See. January 29, 2013, letter from Rockner J. Chickinell, General Counsel, by Johanna E. Mankind

I. EXHAUSTING POSSIBLE REMEDIES:

EXHIBIT - D.

24

I understand that federal prisoners may not ordinarily challenge "NOTICE OF ACTIONS", as was the case on October 6, 1994, when Jan Holmes, Case Analyst Trainee for your agency stated the Commission's violation

warrant would **"REMAIN IN EFFECT"** and the decision is **"NON - APPEALABLE"**. The January 30, 2013, **"NOTICE OF ACTION"**, stated

"Upon execution of the pending August 21, 1989 warrant, the commission shall conduct a hearing to determine whether to revoke your Special Parole Term only.
THE ABOVE DECISION IS NOT APPEALABLE."

X U.S. District Judge John W. Lungstrum stated in LAMBROS vs. U. S., 1997 U. S. District Court for the District of Kansas, 1997 U. S. DIST. LEXIS 2373, Case No. 95 -3502-JWL, February 13, 1997, "[28 C. F. R.] 2.26 does not address the appealability of the USPC's decision to leave the plaintiff's [LAMBROS'] PVW [Parole Violation Warrant] in place. Moreover, the court has been unable to find any basis upon which the plaintiff could appeal the Order." I spent a few hours researching the appealability of **"NOTICE OF ACTION"** and could not locate any current law that allows me to appeal same. X

Federal prisoners must exhaust all available remedies before challenging a parole decision due to the following three reasons: (1) allowing the appropriate agency to develop a factual record and apply its expertise facilities judicial review; (2) permitting agencies to grant the relief requested conserves judicial resources; and (3) providing agencies the opportunity to correct their own errors fosters administrative autonomy. See, CONERLY vs. U. S. PAROLE COMM., 2012 U. S. Dist. LEXIS 47703 (D. NJ, April 4, 2012). The exhaustion requirement is not suppose to preclude judicial relief, but merely postpone the timing of the judicial determination. See, ROSE vs. LUNDY, 455 U. S. 509, 516 fn. 7. (1982)

II. 28 C. F. R. §2.28 (a) ALLOWS THE PAROLE COMMISSION TO REOPEN LAMBROS' CASE:

Lambros believes the Parole Commission needs to make a **CLEAR RECORD** as to whether it considered or refused to consider constitutional arguments raised by Lambros and the Minsters of the Federal Supreme Court of Brazil regarding extradition judgment #539-1, of John Gregory Lambros to the United States of America, U. S. District of Minnesota, criminal case No. 4-89-82 (5). X

On April 30, 1992, the Honorable Ministers of the Supreme Court of Brazil granted **"PARTIAL EXTRADITION"** in the extradition of Lambros, to the U. S. in extradition case No. 539-1. The Justice decided, however, by majority of votes, that Lambros should be **PROSECUTED AND TRIED IN THE U. S. ONLY FOR CHARGES** (A) one count of conspiracy to possess with intent to distribute and to distribute more than five kilograms of cocaine, in violation of 21 U. S. C. 846; (B) three counts of possession with intent to distribute cocaine and aiding abetting such possession, in violation of 21 U. S. C. §841 (A) (1) and §841 (B) (1) (b) and 18 U. S. C. §2; **AND NOT FOR** (C) one count of Travel in Interstate Commerce in carrying out illegal activity, i. e. , the distribution of cocaine, in violation of 18 U. S. C. §1952 (A) (3) and §1952 (B) (1). A **warrant for the above charges was issued on May 17, 1989, INDICTMENT NO. 4-89-82.**

See, **EXHIBIT A:** (Department of State, May 5, 1992, UNCLASSIFIED telex to DEA Washington and all U. S. Embassies in Brazil, offering a **"SUMMARY"** of the April 30, 1992 **EXTRADITION PROCEEDING** of the Brazilian Supreme Court granting partial extradition of John Gregory Lambros to the U. S.) X

My February 6, 2012, letter to Johanna Markind, Attorney for the U. S. Parole Commission offered proof that DEA Agent Terry Anderson arrested Lambros in Brazil **PURSUANT TO THE AUGUST 21, 1989 "WARRANT" BY THE U. S. PAROLE COMMISSION ON MAY 17, 1991.** See, Paragraph 2. Also, DEA Agent Anderson testified before U. S. Magistrate Judge Jonathan Lebedoff on **December 9, 1992, stating that he arrested Lambros on May 17, 1991, IN BRAZIL, PURSUANT TO A "PAROLE VIOLATION** X

WARRANT". See, Paragraphs 4 and 5, with exhibits of transcripts of the Court "ORDER" stating same.

III. SINGLE PAROLE COMMISSIONER HAS AUTHORITY TO REOPEN THIS CASE UNDER 28 C. F. R. §2.28 (a):

Under 28 C. F. R. §2.28 (a), a single Commissioner has the authority to reopen a case. The §2.28 process "is provided to assure fairness in every decision" ... (quoting S. Rep. No. 94-369, at 15, ...) See, MARQUEZ-PEREZ vs. RARDIN, 221 F.3d 1139,1141, (9th Cir. 2000).

The discretionary authority to reopen cases can only be taken by a Parole Commissioner. Title 18 U. S. C. §4203 (c) (2). Title 8 C. F. R. §4203 (c) (2). Title 8 C. F. R. §2.23 (authorizing hearing examiners to conduct parole hearing and make recommendations, but reserving authority to make parole decisions for Commissioners). The discretionary functions of the Parole Commission is governed by the Administrative Procedure Act. Title 5 U.S.C. §706. Id. at 1141-1142.

The Administrative Procedure Act instructs courts to "set aside agency action... found to be... without observance of procedure required by law." §706 (2) (D). When the authority to decide whether or not to act under 28 C. F. R. §2.28 (a) is exercised by a Staff Member, the Commission has acted in a manner not authorized by its regulations and "without observance to procedure required by law." See, MARQUEZ-PEREZ, 221 F.3d at 1142.

IV "NOTICE OF ACTION" LACKS A DECISION OR ORDER BY THE COMMISSION, OR A COMMISSIONER X

The October 6, 1994 "NOTICE OF ACTION" was submitted by Jan Holmes, Case Analyst Trainee for the U. S. Parole Commission and the "NOTICE OF ACTION" dated January 30, 2013, was mailed to Lambros from the General Counsel of the U. S. Parole Commission and did not contain the name or names of any Commissioner on same. MARQUEZ -PEREZ, instructs us that the PAROLE COMMISSIONER can not allow a CASE ANALYST TO RULE UPON REQUEST FOR RELIEF - THUS EXCEEDING ITS AUTHORITY. Id. at 1142. The Court stated: X

" The record in the case (insofar as it pertains to Marquez -Perez's request for reconsideration) contains no decision by the commission, no other action purporting to bear the signature of any Commissioner, and no record of any such determination. Instead, it contains two letters written and signed by a CASE ANALYST. In the first letter, the analyst writes that 'the Parole Commission will not be revising' it's parole decision, stating that the Commission considered all the evidence the first time.... The letter does not assert that the Parole Commission or any Commissioner considered the new facts Marques-Perez sought to bring to the Commission's attention and does not state who, if anyone, made the determination that the new information would not affect the Commission's decision. In fact, a careful examination of the text of the letter would cause any objective reader to conclude that no action may have been taken on Marquez - Perez's request by the Commission or by any individual Commissioner, and that it was the CASE ANALYST who made the decision." Id. at 1142. X

Therefore, it is John Gregory Lambros' request to have the Commission and/or Commissioner screen this request and sign the decision or order in this action. X

V. THE FOLLOWING FACTS EXIST IN THIS ACTION:

1. August 21, 1989, U.S. Parole Commission issued a "WARRANT" for the arrest of John Gregory Lambros, to serve 5,357 days (14½ years).

2. May 17, 1991, DEA Agent Terry Anderson arrested John Gregory Lambros in Rio de Janeiro, Brazil, PURSUANT TO AUGUST 21, 1989 U. S. PAROLE COMMISSION "WARRANT". Lambros was "RETAKEN" by virtue of the execution of the parole violator warrant and no parole revocation hearing was held in Brazil. The U. S. Supreme Court held that a parolee may not be deprived of his conditional liberty through the execution of a parole violator Warrant, without the basic due process safeguards of **NOTICE, PROMPT HEARING, COUNSEL, CONFRONTATION, AND THE OPPORTUNITY TO PRESENT EVIDENCE**. See, Morrissey vs. Brewer, 408 U. S. 471 (1972). Title 18 U. S. C. §4214 (c) provides that a parole violator who is RETAKEN because of a subsequently committed criminal offense "shall receive a revocation hearing within ninety (90) days of the RETAKING."

3. April 30, 1992, Supreme Court of Brazil granted "PARTIAL EXTRADITION" of John Gregory Lambros to the U. S. in extradition case No. 539-1. Lambros was not extradited on the August 21, 1989, U. S. Parole Commission **WARRANT**. X

4. **THE FOLLOWING ARTICLES WITHIN THE "TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL"**, signed on January 13, 1961, entered into force on December 17, 1964 - DO NOT ALLOW EXTRADITION OF U. S. PAROLE COMMISSION WARRANTS: See, STATE OF WASHINGTON vs. MARTIN SHAW PANG, 940 P. 2d 1293, 1354-1361 (Washington, 1997) (Copy of treaty)

a. **ARTICLE II: "SPECIAL PAROLE"** is not include within this section. (until 1987, federal prisoners were subject to **PAROLE** rather than supervised release, see 18 U. S. C. §3551 et. seq. (setting forth the provisions of the Sentencing Reform Act of 1984).

PAROLE VIOLATION IS AN ESCAPE: John Gregory Lambros - a parolee - was in legal effect on the same plane as an **ESCAPE** from the custody and control of the warden. His status and rights were analogous to those of an **ESCAPED CONVICT**. See, ANDERSON vs. CORALL, 263 U. S. 193, 196 (1923); U. S. vs. POLITO, 583 F. 2d 48, 55 (2nd Cir. 1978).

ARTICLE II, Paragraph 30, states: "Aiding the **ESCAPE** of a prisoner **BY FORCE OF ARMS**". Lambros only walked away from the State of Minnesota and did not report to his parole officer. **ESCAPE** is not a crime that is illegal in Brazil **WITHOUT FORCE OF ARMS, NOR MAY A PERSON BE EXTRADITED FOR SAME**.

WHAT IS PAROLE?: "Parole is not freedom. A parolee is a convicted criminal who has been sentenced to a term of imprisonment and who has been allowed to serve a portion of that term outside prison walls. By **STATUTE**, a parolee is 'in the legal custody and under the control of the Attorney General.' 18 U. S. C. §4210 (a). In 1923, the Supreme Court explained the status of the **PAROLEE** in the following manner: 'While on parole the convict is bound to remain in the legal custody and under the control of the warden until expiration of the term, less allowance, if any, for **GOOD CONDUCT**. While this is an amelioration of punishment, it is in legal effect imprisonment.' ANDERSON vs. CORALL, 263 U. S. 193, 196 (1923). . . . More recently, the

Court has described PAROLE as 'an established variation on IMPRISONMENT OF CONVICTED CRIMINALS.' MORRISSEY VS. BREWER, 408 U. S. 471, 477 (1972). . . . See also, MOODY vs. DAGGETT, 429 U. S. 78, 85 (1976) ('conditional freedom of a parolee'). . . . This difference in status and protection is based on the fact that PAROLEES have been convicted of a crime and **ARE STILL SERVING THEIR SENTENCE WHILE ON PAROLE, ALBEIT NOT WITHIN PRISON WALLS.**" See, U. S. vs. POLITO, 583 F.2d 48, 54 (2nd Cir. 1978).

b. **ARTICLE V:** Article V, states "EXTRADITION SHALL NOT BE GRANTED IN ANY OF THE FOLLOWING CIRCUMSTANCES:

(2) When the person whose surrender is sought has **ALREADY BEEN** or is at the time of the request being **PROSECUTED IN THE REQUESTED STATE** for the crime or offense for which his extradition is requested.

(4) When the person sought would have to **APPEAR, IN THE REQUESTING STATE BEFORE AN EXTRAORDINARY TRIBUNAL OR COURT."**

PLEASE NOTE: THE U. S. PAROLE COMMISSION IS AN "ADMINISTRATIVE AGENCY" GOVERNED BY THE ADMINISTRATIVE PROCEDURE ACT, TITLE 5 U. S. C. §706. Also, the U. S. Parole Commission is an "AGENCY" within the meaning of the Administrative Procedure Act, Title 5 U. S. C. §§ 551-559. See, MOWER vs. BRITTON, 504 F.2d 396, 397 (10th Cir. 1974).

For the purpose of this subchapter [5 USCS §§ 551 et seq.] --

(1) "AGENCY" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency,

BUT DOES NOT INCLUDE --

(A) the CONGRESS;

(B) the COURTS OF THE UNITED STATES:

See, Title 5 U. S. C. § 551.

The Seventh Circuit stated in LUTHER vs. MOLINA, 627 F. 2d 71, 75-76 (7th Cir. 1980):

"It is apparent that Congress intended to give the [U. S.] Parole Commission great latitude in making decisions relative to **REVOCATION**. In fact, 18 U. S. C. § 4218 (d) states that:

'Actions of the Commission pursuant to paragraph (1), (2), and (3) of section 4203 (b) shall be considered actions committed to **AGENCY DISCRETION** for purposes of section 701 (a) (2) of title 5, United States Code.'

Section 4203 (b) (3) provides that:

"The Commission, by majority vote, and pursuant to the procedures set out in this chapter, shall have the power to

(3) MODIFY OR REVOKE AN ORDER PAROLING ANY ELIGIBLE PRISONER.'

Chapter 7 of title 5 of the United States Code governs judicial review under the Administrative Procedures Act. 5 U. S. C. §701 (a) (2) states that "This chapter applies . . . except to the extent that . . .

(2) AGENCY action is committed to AGENCY DISCRETION BY LAW.' THE EFFECT OF §4218 (d) IS THEREFORE TO INSULATE ALL COMMISSION DECISIONS RELATING TO PAROLE REVOCATION FROM JUDICIAL REVIEW UNDER THE ADMINISTRATIVE PROCEDURE ACT (APA). THIS INCLUDES THE COMMISSION'S DECISION TO RETAIN A RETAKEN PAROLEE IN PRISON PENDING FINAL ACTION IN REVOCATION OF HIS PAROLE.

The **EXCLUSION OF JUDICIAL REVIEW** under the APA does not completely eliminate the possibility of habeas corpus relief, but it does indicate that **COURTS MUST GRANT SUCH RELIEF ONLY IN EXTREMELY LIMITED CIRCUMSTANCES.** . . . Imprisonment of parolees pending revocation is committed to the Parole Commission's discretion; therefore generally this incarceration must be regarded as legal."

See, LUTHER VS. MOLINA, 627 F. 2d 71, 75-76 (7th Cir. 1980).

c. **ARTICLE VIII:** "The request for provisional arrest shall be granted provided that the crime or offense for which the extradition of the fugitive is sought is one for which extradition shall be granted under the present Treaty and **PROVIDED THAT THE REQUEST CONTAINS:**
(1) A STATEMENT OF THE CRIME OR OFFENSE OF WHICH THE FUGITIVE IS ACCUSED OR CONVICTED; (4) A DECLARATION THAT THERE EXIST AND WILL BE FORTHCOMING THE RELEVANT DOCUMENTS REQUIRED BY ARTICLE IX OF THE PRESENT TREATY."

IF WITHIN MAXIMUM PERIOD OF 60 DAYS, from the date of the provisional arrest of the fugitive in accordance with this article, the requesting states **DOES NOT PRESENT** the formal request for his extradition, **DULY SUPPORTED,** the person detained will be set at liberty and a new request for his extradition will be accepted only when accompanied by the relevant **DOCUMENTS REQUIRED BY ARTICLE IX OF THE PRESENT TREATY."**

Lambros does not believe the U. S. Parole Commission submitted the documents required by Article VIII.

d. **ARTICLE IX: "The request for extradition shall be made through diplomatic channels or, exceptionally, in the absence of diplomatic agents, it may be made by a consular officer, AND SHALL BE SUPPORTED BY THE FOLLOWING DOCUMENTS:**

1. In the case of a person who has been convicted of the crime or offense for which his extradition is sought; a duly certified or authenticated copy of the **FINAL SENTENCE OF THE COMPETENT COURT."**

Lambros does not recall documents within the U. S. Department of State filings with the Brazilian Supreme Court that offered copy of the Judgments of the final sentences that the U. S. Parole Commission WARRANT was issued.

2. "The documents specified in this Article **MUST CONTAIN A PRECISE STATEMENT OF THE CRIMINAL ACT OF WHICH THE PERSON SOUGHT IS CHARGED OR CONVICTED**, the place and date of the commission of the criminal act, and they must be accompanied by an authenticated copy of the texts of the applicable laws of the requesting State including the laws relating to the limitation of the legal proceedings or the enforcement of the penalty for the crime or offense for which the extradition of the person is sought, and data or records which will prove the identity of the person sought.

The documents in support of the request for the extradition shall be accompanied by a duly certified translation thereof into the language of the requesting state."

Again, Lambros does not recall any of the above requested documents submitted to the Brazilian Supreme Court by the U. S. Department of State.

e. **ARTICLE XI:** "The determination that extradition based upon the request therefor should or should not be granted shall **BE MADE IN ACCORDANCE WITH THE DOMESTIC LAW OF THE REQUESTED STATE, AND THE PERSON WHOSE EXTRADITION IS DESIRED SHALL HAVE THE RIGHT TO USE SUCH REMEDIES AND RECOURSES AS ARE AUTHORIZED BY SUCH LAW.**"


Lambros is exercising his rights under the laws for the United States and Brazil and Treaties each country belongs to.

f. **ARTICLE XXI:** "a person extradited by virtue of the present Treaty **MAY NOT BE TRIED OR PUNISHED BY THE REQUESTING STATE** for any crime or offense committed prior to the request for his extradition, **OTHER THAN THAT WHICH GAVE RISE TO THE REQUEST**, nor may he be re-extradited by the requesting state to a third country which claims him, unless the surrendering State also agrees or **UNLESS THE PERSON EXTRADITED, HAVING BEEN SET AT LIBERTY WITHIN THE REQUESTING STATE, REMAINS VOLUNTARILY IN THE REQUESTING STATE FOR MORE THAN 30 DAYS FROM THE DATE ON WHICH HE WAS RELEASED.** Upon such **RELEASE, HE SHALL BE INFORMED OF THE CONSEQUENCES TO WHICH HIS STAY IN THE TERRITORY OF THE REQUESTING STATE WOULD SUBJECT HIM.**"

5. **NOTICE OF ACTION BY U. S. PAROLE COMMISSION:** Both the October 6, 1994 and January 30, 2013 "NOTICE OF ACTION" by the U. S. Parole Commission are invalid, as Lambros was not extradited from Brazil by the Supreme Court of Brazil on April 30, 1992, as per the August 21, 1989, U. S. Parole Commission WARRANT, LAMBROS was arrested in Brazil on May 17, 1991 by DEA Agent Anderson.

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VI. DISMISSAL OF AUGUST 21, 1989 U. S. PAROLE COMMISSION WARRANT - WITH PREJUDICE


6. Lambros is requesting the U. S. Parole Commission to **DISMISS WITH PREJUDICE** the August 21, 1989, U. S. Parole Commission **WARRANT**, due to the above stated facts and Lambros' torture in Brazil by Brazilian Federal Police after his arrest for the August 21, 1989 U. S. Parole Commission **WARRANT**. 


VII. U. S. COURT'S HAVE JURISDICTION TO CONSIDER WHETHER THE U. S. PAROLE COMMISSION IS VIOLATING JOHN GREGORY LAMBROS' DUE PROCESS, EXTRADITION TREATY RIGHTS AND CONSTITUTIONAL RIGHTS UNDER BOTH THE UNITED STATES AND BRAZIL.

7. United States Court's have jurisdiction to consider whether the U. S. Parole Commission has violated the Constitution and / or Treaties. See, CALIFANO vs. SANDERS, 430 U. S. 99 (1977). 

8. **JULY 14, 2017**: Lambros' current 30 year-term of imprisonment that was imposed by the U. S. District Court for the District of Minnesota in case number **89-CR-82-05**, has a mandatory release date of **July 14, 2017**. (85% of 30 - years) (Lambros was arrested on May 17, 1991). Expiration date of full term is **May 15, 2021**. See, SENTENCING MONITORING COMPUTATION DATE BY U. S. BUREAU OF PRISONS. See, Title 18 U. S. C. §3624 (b) (1) (good time credit of 54 days each year).

9. **TITLE 18 U. S. C. §3624 (b) (1)**: Prisoners within the U. S. Bureau of Prisons are given **good time credit** of 54 days each year.

10. **TITLE 18 U. S. C. §3624 (c) (1)**: **"PRERELEASE CUSTODY"** - The U. S. Bureau of Prisons allows **ONE (1) YEAR HALFWAY HOUSE DURING FINAL PORTION OF IMPRISONMENT**. Also, **HOME CONFINEMENT** of a prisoner for **SIX (6) MONTHS** of the one (1) year halfway house. See, 18 U.S.C. 3624 (c) (2). 

11. **JULY 14, 2016**: Lambros is eligible for **"PRERELEASE CUSTODY"** to a halfway house near his family that will allow him to work within the community and visit his family daily. **THE AUGUST 21, 1989 'WARRANT' FROM THE U. S. PAROLE COMMISSION PREVENTS "PRERELEASE CUSTODY"**. 

VIII. WHAT IS THE PURPOSE OF PRE-RELEASE COMMUNITY CONFINEMENT?

12. Title 28 C. F. R. §§ 570.20 THRU 570.22 OFFERS AN OVERVIEW OF PRERELEASE COMMUNITY CONFINEMENT. Also see, Title 18 U. S. C. §3624 (b) (1); §3624 (c) (1); §3624 (c) (2):

13. The U. S. Bureau of Prisons provides inmates pre-release community confinement and/or home detention. Community confinement is defined as residence in a community treatment center, halfway house or other community re-entry center; and **PARTICIPATION IN GAINFUL EMPLOYMENT, EMPLOYMENT SEARCH EFFORTS, COMMUNITY SERVICES, VOCATIONAL TRAINING, EDUCATION PROGRAMS, OR SIMILAR FACILITY-APPROVED PROGRAMS DURING NON-RESIDENTIAL HOURS.** See, 28 C. F. R. §§ 570.20 (a). Inmates are allowed one (1) year within pre-release to **"ADJUST AND PREPARE FOR REENTRY OF THE PRISONER INTO THE COMMUNITY"**. See, 18 U. S. C. §3624 (c) (1) and §570.21 (a).

14. **HOME DETENTION** is defined as a program of confinement and supervision to his place of resident, except for authorized absences. See, 28 C. F. R. §570.20 (b). A prisoner may spend no more than six (6) months on **HOME DETENTION.** See, 18 U. S. C. §3624 (c) (2) and §570.21 (b).

15. **INMATE RELEASE PLANNING:** Defendants sentenced to a term of imprisonment are released to the supervision of the U. S. Probation System through several methods: parole, special parole, military parole, mandatory release, and supervised release. Planning early during the period of confinement for the inmate's eventual return to the community is an important element of addressing and resolving release problems. The Federal Bureau of Prisons (BOP) and the Administrative Office of the United States Courts, Probation and Pretrial Services Division (AOPPSD), have agreed to work closely on release planning to **ENSURE THAT OFFENDERS HAVE A SMOOTH TRANSITION FROM PRISON TO THE COMMUNITY,** thereby increasing the likelihood of a successful supervision experience. . . . Title 18 U. S. C. §3624 (c) addresses **PRERELEASE CUSTODY, WHICH IS DESIGNED TO PROVIDE A PRISONER WITH 'A REASONABLE OPPORTUNITY TO ADJUST TO AND PREPARE FOR HIS REENTRY INTO THE COMMUNITY.'** See, U. S. Bureau of Prisons, Policy Statement No. **5321.07,** dated: 09-16-1999, Unit Managers Manual.

16. The U. S. Parole Commission's, August 21, 1989, "WARRANT" for Lambros **PREVENTS LAMBROS' PRE-RELEASE ON JULY 14, 2016.** ✕

IX. THE FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976 (FSIA): See, 28 U. S. C. §§ 1330, 1332 (a) (4), 1391 (f), 1441 (d), 1602-1611.

17. Lambros intends to bring his legal dispute regarding the right of the U.S. Parole Commission to issue the August 21, 1989, "WARRANT" against Lambros, as the Brazilian Supreme Court did not extradite Lambros for same. **FSIA ALLOWS LAMBROS TO REQUEST DAMAGES FROM BRAZIL DUE TO BREACH OF TREATY AND FALSE IMPRISONMENT DUE TO SAME.** ✕

18. FSIA usually provides "the sole bases for jurisdiction over a foreign state in the United States." See, **ARGENTINE REPUBLIC vs. AMERADA HESS SHIPPING CORP.,** 488 U. S. 428 (1989).

19. Brazil, like other nations, are generally immune from suit in the United States in both federal and state court. 28 USC §1604. There are certain exceptions to Brazil's sovereign immunity under FSIA. Lambros believes that this case falls under two of these: 28 USC §1605 (a) (5) and 28 USC §1605 (a) (1).

20. Lambros' actions is a **TORT** and his harms are occurring in the United States due to the U. S. Parole Commission "WARRANT" issued on August 21, 1989, that Lambros was not extradited from Brazil on by the Brazilian Supreme Court. The pertinent question in this action will be whether §1605 (a) (5) permits this suit or whether the §1605 (a) (5) (B) LIMITATIONS on the domestic tort exception applies.

21. It is Lambros' belief that SECTION 1605 (a) (5) (B) DOES NOT exclude for following claims from the §1605 (a) (5) tort exemption:

a. **THE INFLICTION OF MENTAL OR EMOTIONAL DISTRESS:** (This is a separate and distinct TORT, not to be confused with the other more commonly known TORTS. See, *LONG vs. BENEFICIAL FINANCE CO. OF NEW YORK, INC.*, 39 A. D. 2d 11, 14; 330 N. Y. S. 2d 664 (N. Y. 1972); *RESTATEMENT (Second) of Torts §46 cmt. (b) (1965)*. It is not a claim arising out of **MALICIOUS PROSECUTION, ABUSE OF PROCESS, LIBEL, SLANDER, MISREPRESENTATION, DECEIT, OR INTERFERENCE WITH CONTRACT RIGHTS**, with which a foreign state still can claim immunity from liability under 28 USC §1605 (a) (5) (B). See, *GROSS vs. U. S.*, 676 F.2d 295, 304, (8th Cir. 1982) and *LARSON vs. SEAGATE TECH*, 2001 U. S. Dist. LEXIS 20489 (Dist. Minn. 2001).

b. **FALSE IMPRISONMENT:** The tort of false imprisonment concerns the violation of someone's liberty of movement – imprisoning someone – without the authority of legal process. Lambros was extradited from Brazil due to an indictment from the U. S. District Court for MINNESOTA. In MINNESOTA, for example, the common law regarding FALSE IMPRISONMENT states that an individual may not, **WITH OUT LEGAL JUSTIFICATION, BE CONFINED AGAINST HER OR HIS WILL.** *GLEASON vs. METRO. COUNCIL TRANSIT OPERATIONS*, 563 N. W. 2d. 309, 319 (Minn. Ct. App. 1997) (citing *KLEIDON vs. GLASCOCK*, 215 Minn. 417, 10 N. W. 2d. 394, 397 (1943) (**FALSE IMPRISONMENT IS ANY IMPRISONMENT THAT IS NOT LEGALLY JUSTIFIABLE**)). Of interest, the MINNESOTA SUPREME COURT took a broad view of causation in a FALSE IMPRISONMENT case, holding that "[a]ll those who by **DIRECT ACT OR INDIRECT PROCUREMENT PARTICIPATE IN OR PROXIMATELY CAUSE THE FALSE IMPRISONMENT OR UNLAWFUL DETENTION ARE JOINT TORTFEASORS.**" See, *ANDERSON vs. AVERBECK*, 189 Minn. 224, 248 N. W. 719, 720 (Minn. 1933). The Minnesota Supreme Court reaffirmed this legal standard ten years later in *KLEIDON*, 10 N. W. 2d. at 397 (quoting *ANDERSON*). **A REASONABLE PERSON and/or jury could find Brazil personally participated in or PROXIMATELY CAUSED LAMBROS FALSE IMPRISONMENT DUE TO THE PAROLE COMMISSION "WARRANT", AS LAMBROS WAS ARRESTED IN BRAZIL ON SAME AND BEING HELD ON SAME CURRENTLY.**

c. **FALSE ARREST:** The tort of FALSE IMPRISONMENT is similar to the tort of FALSE ARREST under MINNESOTA LAW. Both torts require an unlawful arrest performed by the defendant. *GUITE vs. WRIGHT*, 976 F. Supp. 866, 871 (D. Minn. 1997) (citing *PERKINS vs. ST. LOUIS COUNTY*, 397 N. W. 2d. 405, 408, (Minn. Ct. App. 1986)). An arrest is unlawful if the arresting officer did not have arguable probable cause to make the arrest. *LUNDEEN vs. RENTERIA*, 302 Minn. 142, 224 N.W. 2d. 132, 136 (Minn. 1974). An arrest made without proper legal authority is a FALSE ARREST, and any subsequent restraint is FALSE IMPRISONMENT. *GUITE*, 976 F. Supp. at 871. See, *ADEWALE vs. WHALEN*, 21 F. Supp. 2d 1006, 1016 (D. Minn. 1998).

d. CONSPIRACY TO AID AND ABET FALSE ARREST AND FALSE IMPRISONMENT:

See above. Also, the U. S. Supreme Court stated that under **TORT-LAW ANALYSIS** John Gregory Lambros' claims of **FALSE ARREST** and **FALSE IMPRISONMENT ARE VALID**. See, **BAKER vs. McCOLLAN**, 443 U. S. 137, 142 (1979).

The Ninth Circuit Court of Appeals stated in **MOORE vs. THE UNITED KINGDOM**, a foreign government, 384 F. 3d 1079, 1088 and FN. 12 (9th Cir. 2004), "By contrast, the **FSIA DOES NOT BAR ASSAULT, OR MOST OTHER INTENTIONAL TORTS.**" Id. 1088. "The **FSIA** bars the same intentional **TORTS** as the **FTCA**, **EXCEPT IT DOES NOT BAR ASSAULT, BATTERY, FALSE IMPRISONMENT, AND FALSE ARREST.** See, 28 USC §1605 (a) (5) (B)." Id. at 1088, FootNote 12.

e. BATTERY: As stated within document submitted to Brazil, U. S. District Court and the U. S. Parole Commission, Lambros was **TORTURED IN BRAZIL AFTER BEING ARRESTED ON THE U. S. PAROLE VIOLATION WARRANT**. See, **WWW.Lambros.Name**. Under **MINNESOTA LAW** battery requires a showing of offensive or harmful contact along with the defendant's intent to cause such contact. See, **ESSEX INS. CO. vs. DAVIDSON**, 248 F.3d 716, 718 (8th Cir. 2001).

f. ASSAULT: Minnesota law requires a showing that a defendant threatened bodily harm to the plaintiff and had the present ability to carry out the threat. See, **ADEWALE vs. WHALEN**, 21 F. Supp 2d 1006, 1016 (D. Minn. 1998)

22. TITLE 28 U. S. C. Section 1605 (a) (1): Section 1605 (a) (1), does create an **EXCEPTION** to sovereign immunity for cases "in which the foreign state has **WAIVED ITS IMMUNITY EITHER EXPLICITLY OR BY IMPLICATION**, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver."

QUESTION: WHETHER WAIVER PROVISION APPLIES TO BRAZIL'S ALLEGED ACTIONS RELATED TO LAMBROS' EXTRADITION?

23. The first issue to resolve is the relationship between **FSIA** and the Extradition Treaty between Brazil and the U. S. . The central provision of **FSIA**, 28 U.S. C. §1604, provides:

"SUBJECT TO EXISTING INTERNATIONAL AGREEMENTS to which the United States is a party at the time of enactment of this act [**Enacted October 21, 1976**] a foreign state shall be immune from the jurisdiction of the courts of the United States **EXCEPT AS PROVIDED IN SECTIONS 1605 to 1607 OF THIS CHAPTER.** [28 U. S. C. §§ 1605-thru 1607]" (emphasis added)

24. Therefore, the "**CONFLICT**" reading of §1604 allows, the above interpretation of **FSIA** to mean **PREEXISTING INTERNATIONAL AGREEMENTS COULD EITHER EXPAND OR CONTRACT A FOREIGN NATION'S AMENABILITY TO SUIT AS COMPARED TO THAT PROVIDED**

UNDER FSIA. We therefore hold that FSIA in its entirety is subject to such 'existing international agreements.' If there is a **CONFLICT** between the FSIA and such an agreement regarding the availability of a judicial remedy against a contracting state, **THE AGREEMENT PREVAILS.**" See, Moore vs. The United Kingdom, 384 F. 3d 1079, 1084 -1085 (9th Cir. 2004) (Offers and **EXCELLENT OVERVIEW** of the House Reports accompanying FSIA in 1976 & Supreme Court guidance from AMERADA HESS).

25. The 1961 Extradition Treaty between Brazil and the United States **PRE-DATED THE ENACTMENT OF FSIA ON OCTOBER 21, 1976**, and is therefore one of the "existing international agreements" covered by the caveat in §1604. See, ARGENTINE REPUBLIC vs. AMERADA HESS SHIPPING CORP., 488 U. S. 428, 442 (1989) ("treaty exception" intended by the "subject to existing international agreements" phraseology "applies when international agreements 'expressly conflict' with the immunity provision of the FSIA." (quoting H. R. Rep. No. 94-1487, at 17 (1976)).

26. It clearly appears that the **1961 EXTRADITION TREATY BETWEEN BRAZIL AND THE U. S. TRUMPS FSIA.** If the Extradition Treaty applies and conflicts with the FSIA, then Brazil has waived its immunity to law suits. ✕

BRAZIL WAIVED ITS SOVEREIGN IMMUNITY FROM LAW SUITS IN BOTH THE UNITED STATES AND BRAZIL EVERY TIME IT ENTERED INTO THE EXTRADITION TREATY BETWEEN BRAZIL AND THE UNITED STATES. A FOREIGN STATE SHALL NOT BE IMMUNE IN ANY CASE IN WHICH THE FOREIGN STATE HAS WAIVED ITS IMMUNITY "EITHER EXPLICITLY OR BY IMPLICATION."

27. The legislative history of the FSIA provides important clues as to congress's meaning of an "**IMPLIED WAIVER**". The **REPORT OF THE HOUSE JUDICIARY COMMITTEE** includes the following:

With respect to **IMPLICIT WAIVERS**, or where a foreign state has **AGREED** that the law of a particular country **SHOULD GOVERN A CONTRACT.** An **IMPLICIT WAIVER** would also include a situation where a foreign state has **FILED A RESPONSIVE PLEADING IN AN ACTION WITHOUT RAISING THE DEFENSE OF SOVEREIGN IMMUNITY.** H.R. NO. 94-1487, at 18 (1976).

On April 30, 1992, the Honorable Ministers of the Supreme Court of Brazil issued and **FILED A RESPONSIVE PLEADING** in the "PARTIAL EXTRADITION" in the extradition of John Gregory Lambros, to the U. S. in extradition case No. 539-1. The Supreme Court of Brazil did not raise a defense of sovereign immunity within the pleading.

28. The House Report catalogues the types of action that were thought to exemplify an **IMPLIED WAIVER.** All three (3) examples - - agreeing to foreign arbitration, **AGREEING TO APPLY FOREIGN LAW TO CONTRACT INTERPRETATION, AND FILING A RESPONSIVE PLEADING WITHOUT ASSERTING AN IMMUNITY DEFENSE** - - share a close relationship to the litigation process. . . . For example, a state **AGREEING** to apply **FOREIGN LAW TO CONTRACT INTERPRETATION** might subjectively intend to allow suit in the jurisdiction whose law applied, ... See, Smith vs. **SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA**, 101 F. 3d 239, 243 (2nd Cir. 1996). This is exactly what occurred on

APRIL 30, 1992, when the Brazilian Supreme Court only allowed "**PARTIAL EXTRADITION**" in the extradition of Lambros from Brazil. The Brazilian Supreme Court and the U. S. Department of State both agreed during court proceedings that Lambros could not be extradited on the **VIOLATION OF TITLE 18 U. S. C. §1952 (A) (3) and §1952 (B) (1), "TRAVEL IN INTERSTATE COMMERCE IN CARRYING OUT ILLEGAL ACTIVITY", AS IT IS NOT A CRIME IN BRAZIL!!!** Therefore, "**AGREEING TO APPLY FOREIGN LAW TO TREATY INTERPRETATION**" and "**FILING A RESPONSIVE PLEADING WITHOUT ASSERTING AN IMMUNITY DEFENSE**".

EXPLICIT WAIVERS: "TREATY" - "DUAL BASIS OF DISTRICT COURT JURISDICTION"

29. **WAIVER OF IMMUNITY BY TREATY:** If an **INTERNATIONAL AGREEMENT** is **SELF - EXECUTING** and may therefore be basis of action under 28 U.S.C. §1604, then, in addition, it **WAIVES SOVEREIGN IMMUNITY** under 28 U.S.C. §1605 (a) (1), thus providing **DUAL BASIS OF DISTRICT COURT JURISDICTION**. See, **FROLOVA vs. UNION OF SOVIET SOCIALIST REPUBLICS**, 761 F.2d 370, 376-377, FootNote 9 (7th Cir. 1985).

EVIDENCE FROM EXTRADITION TREATY BETWEEN BRAZIL AND UNITED STATES THAT EXPLICITLY IMPLIES A WAIVER OF BRAZIL'S SOVEREIGN IMMUNITY:

30. **THE SUPREME COURT FOR THE STATE OF WASHINGTON**, ruled in an **EXTRADITION CASE FROM BRAZIL**, stating:

"We conclude from the record in this case that **BRAZIL HAS NOT EXPRESSLY CONSENTED TO NOR IMPLICITLY OR EXPLICITLY WAIVED OBJECTION TO THE STATE OF WASHINGTON** charging Petitioner with the murder in the first degree. **WE THEREFORE CONCLUDE THAT PETITIONER PANG DOES HAVE STANDING TO OBJECT**"

See, **STATE OF WASHINGTON vs. MARTIN SHAW PANG**, 940 P. 2d 1293, 1318 (Wash. 1997).

31. The Supreme Court of Washington further stated:

"The **SPECIALTY DOCTRINE** has been explained:

The requested state **RETAINS AN INTEREST IN THE FATE OF A PERSON WHOM IT HAS EXTRADITED**, so that if, for example, he is **TRIED FOR AN OFFENSE OTHER THAN THE ONE FOR WHICH HE WAS EXTRADITED**, or is **GIVEN A PUNISHMENT MORE SEVERE THAN THE ONE APPLICABLE AT THE TIME OF THE REQUEST FOR EXTRADITION**, the rights of the requested state, **AS WELL THE PERSON, ARE VIOLATED.**" See, FootNote 56. "Restatement (Third) of the Foreign Laws of Nations, Ch. 7, at 557-58."

See, **PANG**, 940 P. 2d at 1318 and FootNote 56. (Brazil is the Requested State)

36

32. "The TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL" signed on January 13, 1961, clearly states:

a. **ARTICLE XI. :** "The determination that extradition based upon the request therefore should or should not be granted shall be made in ACCORDANCE WITH THE DOMESTIC LAW OF THE REQUESTED STATE [BRAZIL] AND THE PERSON WHOSE EXTRADITION IS DESIRED SHALL HAVE THE RIGHT TO USE SUCH REMEDIES AND RECOURSES AS ARE AUTHORIZED BY SUCH LAW."

See, PANG, 940 P. 2d at 1358.

BRAZIL'S 1988 NEW CONSTITUTION:

33. The 1988 new CONSTITUTION of the Federative Republic of Brazil (Republica Federative do Brazil) clearly states within **TITLE II . , FUNDAMENTAL RIGHTS AND GUARANTEES, Chapter I . , INDIVIDUAL AND COLLECTIVE RIGHTS AND DUTIES ARTICLE 5:**

ARTICLE 5: All persons are equal before the law, WITHOUT ANY DISTINCTION WHATSOEVER, and Brazilians and foreigners resident in Brazil are assured of inviolability of the right to life, to liberty, to quality, to security and to property, on the following terms:

III: No one shall be submitted to TORTURE, OR TO INHUMAN OR DEGRADING TREATMENT;

IV: The expression of thought is free, and anonymity is forbidden;

V: The right to answer is ensured, in proportion to the offense, besides COMPENSATION for property or moral damages or damages to the image;

X: The privacy, private life, honor and image of person are inviolable, and the right to COMPENSATION for property or moral damages resulting from the violation thereof is ensured;

XXXIX.: There is NO CRIME WITHOUT A PREVIOUS LAW WHICH DEFINES IT, nor is there a punishment without a previous legal imposition;

XL.: The PENAL LAW shall not be RETROACTIVE EXCEPT TO THE BENEFIT OF THE DEFENDANT;

XLI.: The law shall punish ANY DISCRIMINATION against fundamental rights and liberties;

XLVII.: There shall be NO SENTENCE: b) of LIFE IMPRISONMENT; e) which is cruel;

LXXV.: The STATE SHALL INDEMNIFY A PERSON CONVICTED BY A JUDICIAL ERROR, AND ALSO A CONVICT WHO REMAINS IMPRISONED LONGER THEN THE PERIOD ESTABLISHED IN THE SENTENCE;

X
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LXXVII: Paragraph 2. The rights and guarantees established in this Constitution **DO NOT PRECLUDE** others arising out of the regimes and the principles adopted by it, **OR OUT OF INTERNATIONAL TREATIES TO WHICH THE FEDERATIVE REPUBLIC OF BRAZIL IS A PARTY.**

The above clearly offers John Gregory Lambros the right to sue Brazil within the **WAIVER OF IMMUNITY BY TREATY.**

34. THE BRAZILIAN LEGAL SYSTEM: Within the Brazilian legal system, in the field of **CRIMINAL LAW**, the principle "**IN DUBIO PRO REO**" (i. e. any doubt shall be **RESOLVED IN FAVOR OF THE DEFENDANT**) has been fully recognized and applied by the courts. See, §1.133. See, **DOING BUSINESS IN BRAZIL**, by Brazilian Attorney PINHEIRO NETO, (1991) offers an excellent overview into the Brazilian Legal System. The book is in **ENGLISH** and published by Matthew Bender & Company.

35. TREATIES CANNOT CHANGE CONSTITUTIONS: A treaty cannot change the Constitution or be held valid if in violation thereof. See, **CHEROKEE TOBACCO vs. U. S.**, 78 U. S. 616, 620 - 621 (1871). Also, under the Constitution, the treaty power **CANNOT OVERRIDE CONSTITUTIONAL LIMITATIONS RESPECTING INDIVIDUAL RIGHTS**. See, **REID vs. COVERT**, 354 U. S. 1, 16 - 18 (1957). Also, "This Court has also repeatedly taken the position that an Act of Congress, which must comply with the Constitution, is on a full parity with a **TREATY**, and that when a **STATUE** which is subsequent in time is inconsistent with a **TREATY**, the **STATUE** to the extent of conflict renders the **TREATY NULL**. Id. 354 U. S. at 18.

X. LEGAL DEFINITION OF THE WORDS: "PENALTY, FORFEITURE, AND LIABILITY"

36. The terms "penalty, forfeiture, or liability" in the general federal savings statute, Title 1 U.S.C. §109 "were used by Congress to include **ALL FORMS OF PUNISHMENT FOR CRIME.**" **WARDEN vs. MARRERO**, 417 U. S. 653, 661, 41 L. Ed. 2d 383, 390 (1974), quoting **UNITED STATES vs. ULRICI**, 28 F. Cas. 328, 329 (C.C.E.D. Mo. 1875) (The Supreme Court held that Marrero's **PAROLE INELIGIBILITY** was a "**PENALTY**" under section 109). Also, the Supreme Court stated in **WARDEN vs. MARRERO**, Id. at 391, that the **WORDS "PENALTY, FORFEITURE AND LIABILITY," ARE SYNONYMOUS WITH "PUNISHMENT,"** in connection with crimes of the highest grade. **SPECIAL PAROLE IS A PENALTY** within the meaning of the savings clause, **UNITED STATES vs. GARCIA**, 1988 U. S. App. LEXIS 17828 (9th Cir. 1988)

37. Under **MARRERO** and **GARCIA**, the ongoing supervision **AFTER RELEASE** mandated by 18 U. S. C. §4164 is a "**PENALTY**" within the meaning of the savings clause, **MARTIN vs. U.S. PAROLE COMMISSION**, 108 F. 3d. 1104, 1106 (9th Cir. 1997).

38. PAROLE INELIGIBILITY FROM JULY 14, 2016 THRU JULY 14, 2017 IS A "PENALTY" UNDER TITLE 1 U. S. C. §109: Lambros will be punished by the U.S. Parole Commission due to the August 21, 1989 "**WARRANT**", as he will not be able to obtain "**PRERELEASE CUSTODY**", as outlined in paragraph 7 thru 16 above.

39. Lambros is currently serving a **MAXIMUM SENTENCE OF AT LEAST THIRTY-EIGHT (38) YEARS**. I was resentenced from my mandatory life without parole to a term of 30 years with a 8 year term of **SUPERVISED RELEASE**, to be served upon release from imprisonment, thus a 38 year term. See. U.S. vs. ROBERTS, 5 F. 3d 365, 369 (9th Cir. 1993) ("If the defendant receives a potentially longer sentence than the **MAXIMUM HE WAS TOLD**, the failure to inform him of the **SUPERVISED RELEASE TERM AFFECTS HIS "SUBSTANTIAL RIGHTS" AND IS NOT HARMLESS ERROR**" Id. at 369). X

40. The August 21, 1989 "WARRANT" from the U.S. Parole Commission states Lambros must serve 5,357 days (14 ½ years). Therefore, Lambros' "**POTENTIAL PENALTY" IS FIFTY-TWO AND ONE-HALF (52 ½). YEARS.**

41. The Brazilian Constitution consolidates **ARTICLE 75 OF THE BRAZILIAN CRIMINAL CODE WHICH LIMITS THE MAXIMUM PRISON SENTENCE TO THIRTY (30) YEARS.** Sec. STATE vs. PANG, 940 P.2d 1293, 1352 (Wash. 1997). X

XI. CONCLUSION:

42. The U. S. Parole commission's August 21, 1989, "WARRANT" for John Gregory Lambros' arrest was due to violation of parole from two (2) indictments and sentences.

a. **October 14, 1974**, Lambros allegedly possessed two (2) pounds of cocaine and was sentenced on **JUNE 21, 1976 TO A TERM OF FIVE (5) YEARS IMPRISONMENT WITH THREE YEARS OF "SPECIAL PAROLE"**. See, USA vs. Lambros, 544 F. 2d 962, 965 (8th Cir. 1976). **INDICTMENT NUMBER 3-75-128**, District of Minnesota.

b. **JUNE 17, 1976**, Lambros allegedly possessed three (3) ounces of heroin. Lambros was convicted by a jury and sentenced to **FIFTEEN (15) YEARS IMPRISONMENT WITH FIVE (5) YEARS OF "SPECIAL PAROLE"**, to run consecutive with Indictment number 3-75-128 above. See, USA vs. LAMBROS, 564 F. 2d 26, 27 FootNote 1. (8th Cir. 1977). **INDICTMENT NUMBER: 3-76-54**, District of Minnesota.

The August 21, 1989 "WARRANT" states Lambros had "**5,357 DAYS REMAINING TO BE SERVED;**" on the above two (2) sentences.

43. "**SPECIAL PAROLE TERM OF EIGHT (8) YEARS**": The U. S. Parole Commission is **REQUIRED** to make Lambros serve the **MANDATORY TERM OF IMPRISONMENT ON HIS "SPECIAL PAROLE TERM" - EIGHT (8) YEARS**. If the U. S. Parole Commission orders Lambros to serve less than the **MANDATORY EIGHT (8) YEARS**, Lambros will be placed **BACK ON "SPECIAL PAROLE"** for the balance of the mandatory term. Therefore, if Lambros violates "**SPECIAL PAROLE**" **ANY STREET-TIME CREDIT WILL NOT BE GIVEN AND LAMBROS' SENTENCE WILL BE AGAIN INCREASED - IT IS POSSIBLE LAMBROS WOULD NEVER BE RELEASED FROM PRISON, DUE TO THE ADDITIONAL PERIOD OF "SPECIAL PAROLE"**. See, BILLIS vs. USA, 83 F. 3d 209 (8th Cir. 1996). **PLEASE NOTE:** Lambros was sentenced and will be released to Minnesota - Minnesota is within the Eighth Circuit Court of Appeals - thus controlling law.

44. The **CONSTITUTION OF BRAZIL** prohibits the imposition of any penalty of **LIFELONG CHARACTER**. See, Article 5, clause XLVII. (b). The **BRAZILIAN CONSTITUTION CONSOLIDATES ARTICLE 75 OF THE BRAZILIAN CRIMINAL CODE WHICH LIMITS THE MAXIMUM PRISON SENTENCE TO THIRTY (30) YEARS**. See, the **VOTE** of Brazilian Supreme court Justice **CELSO DE MELLO**, State vs. Pang, 940 P.2d 1293, 1352 (Wash 1997). "I grant the request now under examination, **WITH THE RESTRICTION**, which I consider necessary, **OF COMMUTING THE LIFE SENTENCE TO A PRISON SENTENCE NOT TO EXCEED 30 (thirty) YEARS**, agreeing completely with the learned vote of the Honorable Mauricio Correa." Id. at 1353

45. I Gregory Lambros request the U.S. Parole Commission to review and reconsider all past "NOTICE OF ACTIONS" in this above - entitled action and **DISMISS WITH PREJUDICE** the August 21, 1989, U. S. Parole Commission **WARRANT**.

46. Thank you in advance for your consideration in **DISMISSING WITH PREJUDICE** the August 21, 1989 "WARRANT", in an attempt to **CONSERVE JUDICIAL RESOURCES**. I am not trying to **HOODWINK** your agency, as the facts are all true as to my arrest in Brazil on the **WARRANT, BEING TORTURED and NOT BEING EXTRADITED ON THE "WARRANT" BY THE SUPREME COURT OF BRAZIL**.

47. I **JOHN GREGORY LAMBROS**, declare under penalty of perjury that the foregoing is true and correct. See, **TITLE 28 U. S. C. §1746**.

EXECUTED ON: DECEMBER 12, 2014



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Leavenworth, Kansas 66048 - 1000
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For Lambros file =

① We need to check on his
visit. Ylaw -

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POL CONS DEA

AMEMBASSY BRASILIA
SECSTATE WASHDC, PRIORITY
USDOJ WASHDC
INFO AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO
AMCONSUL RECIFE
AMCONSUL PORTO ALEGRE
AMEMBASSY MONTEVIDEO
DEA WASHDC

BT
PR *not*
MM
PR

USDOJ FOR OFFICE OF INTERNATIONAL AFFAIRS;
MONTEVIDEO FOR LEGATT

E.O. 12356: N/A
TAGS: CJAN, CASC, CPAS, SNAR, BR (LAMBROS, JOHN
GREGORY)
SUBJ: EXTRADITION: JOHN GREGORY LAMBROS -
EXTRADITION GRANTED

REF: BRASILIA 3021 AND PREVIOUS

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E

EXHIBIT - A

1. THIS IS AN ACTION MESSAGE.

2. SUMMARY. ON APRIL 30, 1992, THE BRAZILIAN FEDERAL SUPREME COURT (STF) GRANTED, IN PART, BY MAJORITY OF VOTES, THE U.S. REQUEST FOR THE EXTRADITION OF JOHN GREGORY LAMBROS. THE FUGITIVE IS WANTED IN MINNESOTA TO STAND TRIAL FOR VIOLATION OF NARCOTICS LAWS. HE SHOULD BE READY TO BE REMOVED FROM BRAZILIAN TERRITORY WITHIN APPROXIMATELY ONE WEEK. END SUMMARY.

3. LAMBROS IS CHARGED WITH A) CONSPIRACY AND POSSESSION WITH INTENT TO DISTRIBUTE COCAINE; B) AIDING AND ABETTING, POSSESSION WITH INTENT TO DISTRIBUTE COCAINE; AND C) TRAVEL IN INTERSTATE COMMERCE WITH INTENT TO DISTRIBUTE COCAINE. IN HIS ORAL PRESENTATION TO THE STF, THE EMBASSY'S FSN LEGAL ADVISOR REITERATED ALL THE POINTS CONTAINED IN THE LAMBROS EXTRADITION DOCUMENTATION PROVIDED BY THE USG. THE STF JUSTICES DECIDED, HOWEVER, BY MAJORITY OF VOTES, THAT LAMBROS SHOULD BE PROSECUTED AND TRIED IN THE U.S. ONLY FOR CHARGES (A) AND (B) LISTED ABOVE, AND NOT FOR (C), I.E., FOR TRAVEL IN INTERSTATE COMMERCE BECAUSE THIS IS NOT A CRIME IN BRAZIL. THE U.S.-BRAZIL EXTRADITION TREATY AND BRAZILIAN LAW PROVIDE THAT EXTRADITION CAN BE EFFECTED ONLY WHEN THE ACT ATTRIBUTED TO THE FUGITIVE IS CONSIDERED A CRIME BOTH IN THE U.S. AND BRAZIL.

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18.

EXHIBIT - A.

UNCLASSIFIED