

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

JOHN GREGORY LAMBROS,

Plaintiff - Appellant

Vs.

**United States of America and
United States Bureau of Prisons, et, al.**

Defendant - Appellees.

CASE NO.

20-3672

**On Appeal from the United States District Court
For the District of Minnesota
Case No. 19-cv-01870-MJD-ECW**

BRIEF OF APPELLANT

**John Gregory Lambros
Appellant - Pro-Se**

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a. **EXHIBIT A:** August 21, 1989, U.S. Parole Commission Violation Warrant for Special Parole Term Violations.

b. **EXHIBIT B:** Judge Jonathan Lebedoff's, December 21, 1992, REPORT AND RECOMMENDATION, in U.S. vs. LAMBROS, CR-4-89-82, U.S. District Court for the District of Minnesota, Fourth Division, page one (1) and fourteen (14).

c. **EXHIBIT C:** U.S. Department of State document dated January 13, 1993, at 19:08 hours from U.S. Embassy, Brazil, UNCLASSIFIED, and numbered 159 and 160 in U.S. Department of State Freedom of Information Act release to John Gregory Lambros, regarding April 30, 1992, extradition of Lambros from Brazil and list of charges authorized in extradition case No. 539-1.

d. **EXHIBIT D:** February 27, 2018: "Notice of Action on Appeal" by the U.S. Department of Justice, United States Parole Commission, stated "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." These are the cases contained within August 21, 1989, U.S. Parole Violation Warrant for Special Parole Term Violations Appellant Lambros was not extradited from Brazil on.

e. **EXHIBIT E:** November 18, 2020: The Honorable Michael J. Davis, issued a "MEMORANDUM OPINION AND ORDER". On page one (1) of three (3), Judge Davis stated, "Plaintiff was extradited from Brazil to the United States in 1992 in connection with cocaine-related charges. Plaintiff was also charged with travel in interstate commerce in carrying out illegal activity **and had an outstanding warrant from 1989, but was not extradited on those charges.**" (**Special Parole Violation Warrant**)

f. **EXHIBIT F:** July 20, 2020: The Honorable U.S. Magistrate Judge Wright issued a “REPORT AND RECOMMENDATION”, pages 1 and 20. Judge Wright 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.” (Absolute immunity)

g. **EXHIBIT G:** September 11, 2020: the Honorable Judge Michael J. David, ORDER granted Defendants’ Motion to Dismiss, stated “This matter is before the Court on the Report and Recommendation by United States Magistrate Judge Elizabeth Cowan Wright dated July 20, 2020. Based upon that review, and in consideration of the applicable law, the Court will adopt the Report and Recommendation in its entirety.”

h. **EXHIBIT H:** July 20, 2020: The Honorable U.S. Magistrate Judge Wright issued a “REPORT AND RECOMMENDATION”, pages 1 and 19, Foot Note 7: Judge Wright stated, “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)

10. **APPENDIX:**

Appellant is requesting this Court to review the electronic record of the District Court and all portions of the original record which are not available in an electronic format through PACER, including any documents maintained in paper format, etc. See, ORDER, U.S. Court of Appeals for the Eighth Circuit, No. 20-3672, Lambros vs. U.S. America and U.S. Bureau of Prisons. Dated: December 23, 2020.

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EXTRADITION OF APPELLANT BY BRAZILIAN SUPREME COURT:

Brazilian Supreme Court extradition of Appellant Lambros to the United States in U.S.

vs. LAMBROS; CR-4-89-82, District of Minnesota, **in extradition case No. 539-1.**

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SUPPLEMENTAL STATEMENT

Appellant is requesting this Court to review the electronic record of the District Court and all portions of the original record which are not available in an electronic format through PACER, including any documents maintained in paper format, etc. See, ORDER, U.S. Court of Appeals for the Eighth Circuit, No. 20-3672, Lambros vs. U.S. America and U.S. Bureau of Prisons. Dated: December 23, 2020.

STATEMENT OF ISSUES

- I. **WHETHER APPELLE UNITED STATES, U.S. BUREAU OF PRISONS AND U.S. PAROLE COMMISSION ARE ENTITLED TO ABSOLUTE IMMUNITY IN THE ABSENCE OF ALL JURISDICTION OVER THE SUBJECT MATTER. See, STUMP vs. SPERKMAN, 435 U.S. 349, 356-357 (1978). WHEN THEY BROKE THE LAW BY VIOLATING THE PROVISIONS OF THE “EXTRADITION TREATY” BETWEEN THE UNITED STATES AND BRAZIL AND CONDITIONS ESTABLISHED IN THE EXTRADITION DECREE BY THE SUPREME COURT OF BRAZIL, WHICH APPROVED THE EXTRADITION REQUEST PRESENTED BY THE GOVERNMENT OF THE UNITED STATES - - A VIOLATION OF FEDERAL LAW PURSUANT TO THE SUPREMACY CLAUSE. See, U.S. CONSTITUTION, Art.. VI.**

STUMP vs. SPERKMAN, 435 U.S. 349, 356-357 (1978)

U.S. CONSTITUTION, Art.. VI

State of Washington vs. Martin Shaw Pang, 940 P.2d 1293, 1318 (Wash. 1997)

U.S. vs. THIRION, 813 F.2d 146, 151 (8th Cir. 1987)

STATEMENT OF THE CASE

The Plaintiff - Appellant herein, John Gregory Lambros, was indicted by a United States Grand Jury for the District of Minnesota on May 17, 1989, which is not at issue here. See, U.S. District Court for the District of Minnesota, USA vs. Lambros, CR-4-89-82.

On August 21, 1989, the U.S. Parole Commission issued a U.S. Parole Violation Warrant for Special Parole Term Violations with 5,357 days to be served (14 plus years) for the following offenses: a) failure to submit written supervision reports; b) failure to report change in employment; c) failure to report change in residence; d) law violations. See, August 21, 1989 Warrant. **EXHIBIT A.**

“On May 17, 1991, Defendant Lambros was arrested in Brazil by DEA Agent Terryl Anderson and Brazilian authorities pursuant to a PAROLE VIOLATION WARRANT. Defendant arrived in the country through an extradition process on June 20, 1992.” See, “REPORT AND RECOMMENDATION”, December 21, 1992, by the Honorable U.S. Magistrate Judge Jonathan Lebedoff, within USA vs. LAMBROS, CR-4-89-82. **EXHIBIT B** (Page 1 and 14 of “REPORT AND RECOMMENDATION”)

On or about August 15, 1991, Appellant Lambros went before Brazilian Supreme Court Justice Carlos Velloso, as to his extradition in U.S. vs. LAMBROS, CR-4-89-82, from the U.S. District Court for the District of Minnesota. This was

the first time Lambros had been seen by a Brazilian Judge since his arrest on May 17, 1991. Justice Velloso informed Movant Lambros his extradition request by the United States was based upon a PAROLE VIOLATION WARRANT and the May 17, 1989 indictment, CR-4-89-82.

APRIL 30, 1992: The Brazilian Supreme Court GRANTED IN PART the extradition of Lambros to the United States in U.S. vs. LAMBROS; CR-4-89-82, District of Minnesota, in extradition case No. 539-1. The Justices decided, however, by majority of votes, that Movant 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). See, **EXHIBIT C.** (U.S. Embassy Brasilia, Brazil Telex to U.S. Secretary of State, Washington; DC, U.S. Dept. of Justice, Washington, DC; DEA Washington, DC; U.S. Dept. Of Justice Office of International Affairs, etc., regarding summary of action taken by Brazilian Supreme Court on April 30, 1992, as to extradition of Appellant Lambros from Brazil to the US.) (This document was U.S. Department of State document dated January 13, 1993, at 19:08 hours from U.S. Embassy, Brazil, UNCLASSIFIED, and numbered 159 and 160 in U.S. Department of State Freedom of

Information Act release to John Gregory Lambros, regarding April 30, 1992, extradition of Lambros from Brazil and list of charges authorized in extradition case No. 539-1.)

The Brazilian Supreme Court did not grant extradition on the August 21, 1989, the U.S. Parole Violation Warrant for Special Parole Term due to the Extradition Treaty between Brazil and the U.S. due to Article V(4): “Extradition shall not be granted in any of the following circumstances, (4) When the person sought would have to appear, in the requesting State, before an EXTRAORDINARY TRIBUNAL OR COURT. The U.S. Parole Commission is an extraordinary tribunal or court. The U.S. - Brazil Extradition Treaty in its entirety is available within the State of Washington vs. Martin Shaw Pang, 940 P.2d 1293, 1354-1361 (Wash. 1997), cert. Denied, 139 L.Ed2d 608).

Also a parole violation is not illegal in Brazil as escape is legal in Brazil and a parole violation is the same as escape. See Article XI within Treaty. Article XXI states “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, ...” See, ANDERSON vs. CORALL, 263 U.S. 193, 196; U.S. vs. POLITO, 583 F.2D 48, 55 (2nd Cir. 1978).

SPECIALTY DOCTRINE: The Supreme Court of Washington stated within PANG, at 1318, “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 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.” Quoting, PANG, 940 P.2d at 1318 and FootNote 56. (Brazil is the requested State). Also see the following Eighth Circuit cases: U.S. vs. THIRION, 813 F.2d 146, 151 (8th Cir. 1987)("Under the doctrine of speciality a defendant may be tried only for the offense for which he was delivered up by the asylum country."); LEIGHNOR vs. TURNER, 884 F.2d 385 (8th Cir. 1989) (“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 at 151, 153. Thus, in addressing Leighnor's claim that the PAROLE COMMISSION VIOLATED THE RULE OF SPECIALITY, WE MUST FOCUS ON THE QUESTION OF WHETHER THE FEDERAL REPUBLIC OF GERMANY WOULD CONSIDER THE COMMISSION'S ACTION TO BE A BREACH OF THE SPECIALITY PRINCIPLE. See, U.S. vs. JETTER, 722 F.2d 371, 373 (8th Cir. 1983)(per curiam).”

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

JULY 4, 2016: August 21, 1989 "WARRANT" from U.S. Parole Commission PREVENTS Appellant Lambros' prerelease custody. Without the "WARRANT" Appellant 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).

JULY 4, 2015: U.S. Parole Commission "WARRANT" - "DETAINER" PREVENTS Appellant 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.).

February 27, 2018: "Notice of Action on Appeal" by the U.S. Department of Justice, United States Parole Commission, stated "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." These are the cases contained within August 21, 1989, U.S. Parole Violation Warrant for Special ParoleTerm Violations Appellant Lambros was not extradited from Brazil on. See, **EXHIBIT D.**

COMMITMENT WITHOUT JURISDICTION: Liability for FALSE

IMPRISONMENT may be premised on an ORDER OF COMMITMENT BEING MADE WITHOUT JURISDICTION, BECAUSE THE STATUTORY REQUIREMENT FOR COMMITMENT WERE NOT FOLLOWED. JILLSON vs. CAPRIO, 181 f.2D 523 (D.C. Cir. 1950) (psychiatrist liable as instigator) Police officers committed both false arrest and false imprisonment where they seized a person for an emergency mental evaluation WITHOUT PROBABLE CAUSE. BAILEY vs. KENNEDY, 349 f.3D 731 (4TH Cir. 2003).

Actions for false imprisonment accrues, for limitations purposes, on the TERMINATION OF THE IMPRISONMENT OR CONFINEMENT, and not the completion of the completion of the proceedings resulting from the arrest. WARREN VS. BYRNE, 699 F.2d 95, 97 (2nd Cir. 1983).

The question of probable cause is often considered one of fact, which is for the jury to decide; DISTRICT OF COLUMBIA vs. MURPHY, 635 A.2d 929 (D.C. 1993); unless there is no dispute as to the facts. MOOREHEAD vs. DISTRICT OF COLUMBIA, 747 A.2D 138 (D.C. 2000).

PUNITIVE DAMAGES: Evidence of malice or the like may be sufficient to justify submitting the question of punitive damages in a false imprisonment case, to the jury. TOLSON vs. DISTRICT OF COLUMBIA, 860 A.2D 336 (D.C. 2004).

Appellant Lambros spent over 3 years illegally incarcerated within U.S. Penitentiary Leavenworth due to the U.S. Bureau of Prisons, U.S. Department of State, Brazil and the U.S. Department of Justice, after all of the above Agencies had been provided proof of Appellant not being extradited from Brazil on the August 21, 1989, U.S. Parole Violation Warrant for Special ParoleTerm Violations.

FACTS OF THE CASE

1. On or about 1993 or the early part of 1994 the "USPC" forwarded to Appellant Lambros, pursuant to 18 U.S.C. 4214(b)(1), an application for a dispositional record review of outstanding August 21, 1989 "WARRANT" by the USPC, while Appellant was housed at U.S. Penitentiary Leavenworth. This information was processed thru staff of Defendant U.S. Bureau of Prisons. Defendant "BOP" informed Appellant that he had the right to be represented by an attorney and that it would be best to contact the U.S. Public Defender's Office to appoint an attorney due to the confusion regarding the legality of Plaintiff's extradition from Brazil on August 21, 1989 U.S. Parole Commission Warrant.

2. March 29, 1994: Appellant requested services of a court appointed attorney on March 29, 1994, to assist in the dispositional record review of August 21, 1989 "WARRANT". On April 6, 1994, the Court appointed Attorney David J. Phillips, a federal public defender, to assist Appellant. Appellant Lambros requested Attorney Phillips to pursue claims concerning the illegal arrest and extradition of Plaintiff from Brazil on the August 21, 1989 "WARRANT", by the US PAROLE COMMISSION ("USPC"). During the "USPC" dispositional record review of Appellant Lambros, Attorney Phillips argued that the parole commission warrant was having ADVERSE IMPACT ON THE PLAINTIFF'S SECURITY CLASSIFICATION AS WELL AS THE TYPES OF PROGRAMS AND EMPLOYMENT TO WHICH Appellant HAD ACCESS

WHILE INCARCERATED WITHIN DEFENDANT "BOP" FACILITIES. "He also included several documents discussing various issues Appellant Lambros thought pertinent, such as his allegedly ILLEGAL EXTRADITION FROM BRAZIL.

3. September 14, 1994: The "USPC" ordered that the parole violation warrant remain in place (ORDER...." See, LAMBROS vs. U.S., 1997 U.S. Dist. LEXIS 2373 (D.C. Kan. 1997)("FootNote 3, The U.S. sought to extradite the plaintiff to stand trial in the U.S. District Court for the District of Minnesota for alleged narcotic crimes contained in his indictment AS WELL AS HIS PAROLE VIOLATIONS CONTAINED IN HIS PAROLE VIOLATION WARRANT (PVC).

4. DECEMBER 12, 2014: Appellant Lambros' letter to Johanna Markind, U.S. Parole Commission, U.S. Certified Mail No. 7013-2630-0000-5381-3567. This letter requests the 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." This letter outlines the facts and laws regarding Lambros **NOT BEING EXTRADITED FROM BRAZIL ON THE AUGUST 21, 1989 'WARRANT ISSUED BY THE U.S. PAROLE COMMISSION.** Therefore, Lambros will seek justice by legal process via "THE FOREIGN SOVEREIGN IMMUNITIES ACT" against Brazil for EVERY DAY LAMBROS IS INCARCERATED AFTER JULY 4, 2016, THE DAY LAMBROS IS ELIGIBLE FOR "PRERELEASE CUSTODY". Lambros' action is a **TORT** and Title 28

U.S.C. Section 1605(a)(5) under the FSIA allows claims for a) the infliction of mental or emotional distress; b) **FALSE IMPRISONMENT**; c) **FALSE ARREST**; d) conspiracy to aid and abet false arrest and false imprisonment; e) battery; f) assault. A FEDERAL JURY IN 2013 AWARDED \$500,000.00 A MONTH FOR FALSE IMPRISONMENT.

See, SLEVIN vs. BOARD OF COMMISSIONERS FOR THE COUNTY OF DONA ANA, et al., 934 F. Supp. 2d 1282, 1285 (Dist. of New Mexico, January 8, 2013)(Jury found defendants liable for the **TORT OF FALSE IMPRISONMENT** and awarded COMPENSATORY DAMAGES OF \$500,000.00 FOR EACH MONTH THAT PLAINTIFF WAS INCARCERATED, PLUS AN ADDITIONAL \$1 MILLION FOR EACH YEAR SINCE PLAINTIFF'S RELEASE FROM CUSTODY). This document was 19 pages total, including 2 pages of exhibits.

5. FEBRUARY 3, 2015: Appellant Lambros remails December 12, 2014 letter to U.S. Parole Commission - U.S. Certified Mail No. 7008-1830-0004-2648-9916. The December 12, 2014 mailing of the letter, as entitled above, was lost by the U.S. Mail Service. Lambros remailed same and it was received on **February 10, 2015**, as verified by the U.S. Postal Service website.

6. JUNE 23, 2017: Appellant Lambros filed a PETITION FOR WRIT OF MANDAMUS against Defendant Nicole English, Warden for the U.S. Penitentiary Leavenworth, Leavenworth, Kansas. See, LAMBROS VS. Warden Nicole English and U.S. Parole Commission, U.S. District Court for the District of Kansas, Civil Docket No. 17-3105. The Writ of Mandamus again placed Defendant BOP and the U.S. Parole

Commission on notice of the fact that Plaintiff was not extradited on the August 21, 1989 U.S. Parole Commission Warrant that was preventing Plaintiff's release from BOP custody.

7. July 3, 2017: Warden John B. Fox, Oklahoma BOP Federal Transfer Center, ARRESTED Appellant Lambros on the 1989 Parole Violation Warrant.

8. October 12, 2017: The USPC held a revocation hearing on the Special Parole violation regarding the 1989 Warrant.

9. October 26, 2017: The USPC issued a notice of action finding that none of the time that Appellant Lambros had previously spent on parole would be credited.

10. Appellant Lambros' ADMINISTRATIVE REMEDIES in this above-entitled matter have been denied on the following dates:

a. BP-9: October 26, 2017, by Warden Fox.

b. BP-10: April 18, 2018: by Mike Connel, Central Sector Administrator. Denied due to lack of jurisdiction of BOP. Claims Appellant Lambros does not have a right to appeal to the Office of General Counsel for BOP, Washington, DC.

c. BP-11: Submitted on May 4, 2018, U.S. Certified Mail No. 7017-2680-0000-6464-8197. The BP-11 contained a copy of the above BP-9, 10 and responses of denial from Defendant BOP.

11. May 29, 2018: Appellant Lambros initiated this action in the United States District Court for the District of Columbia.

12. June 24, 2019: United States District Judge Timothy J. Kelly of the

District of Columbia transferred this action to the District of Minnesota, but did not otherwise rule on the merits of the motion to dismiss.

13. February 12, 2020: The Court within the District of Minnesota issued an Order directing Defendants to re-file any aspects of the earlier motion to dismiss to the extent Defendants sought relief after transfer of this action.

14. July 20, 2020: United States Magistrate Judge Elizabeth Cowan Wright issued "REPORT AND RECOMMENDATION", in this action.

15. August 3, 2020: Appellant Lambros filed his "PLAINTIFF LAMBROS' OBJECTIONS TO THE HONORABLE MAGISTRATE JUDGE WRIGHT'S PROPOSED FINDING WITHIN THE REPORT AND RECOMMENDATIONS." Appellant incorporates and restates this motion here and offers the following information from the motion to highlight issues: See, Document #32-017.

A. Page 4 of Motion - Paragraph 11:

"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.**"

B. Page 4 of Motion - Paragraph 12:

"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." See, **EXHIBIT D.**

C. Page 5 of Motion - Paragraph 13:

"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)"

D. Page 5 of Motion - Paragraph 14:

"14. Page 12: Judge Wright stated within her "**ANALYSIS, Whether Plaintiff Effectuated Proper Service**" "Even assuming Lambros 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 not 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).”

E. Page 6 of Motion - Paragraph 16:

“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.”

F. Page 11 of Motion - Paragraph 30:

“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."

G. Page 11 of Motion - Paragraph 31:

"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)

H. Page 11 of Motion - Paragraph 32:

"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.

16. September 11, 2020: The Honorable Michael J. Davis, issued an “ORDER” as to the Report and Recommendation by U.S. Magistrate Judge Elizabeth Cowan Wright dated July 20, 2020. The court ORDERED “Defendants’ Motion to Dismiss is granted and the Complaint is dismissed without prejudice.”

17. September 30, 2020: Appellant Lambros filed his Motion to Alter or Amend Judgment under Federal Rules of Civil Procedure Rule 59(e).

18. November 18, 2020: The Honorable Michael J. Davis, issued a “MEMORANDUM OPINION AND ORDER”. On page one (1) of three (3), Judge Davis stated, “Plaintiff was extradited from Brazil to the United States in 1992 in connection with cocaine-related charges. Plaintiff was also charged with travel in interstate commerce in carrying out illegal activity **and had an outstanding warrant from 1989, but was not extradited on those charges.**” (**Special Parole Violation Warrant**) (emphasis added) Judge Davis denied Appellant Lambros’ Motion to Alter or Amend Judgment under Federal Rules of Civil Procedure Rule 59(e). See, **EXHIBIT E.** (Page 1 of 3).

19. December 16, 2020: Appellant Lambros mailed his Notice of Appeal to the Clerk of the District Court.

ISSUE ONE_1:

WHETHER APPELLE UNITED STATES, U.S. BUREAU OF PRISONS AND U.S. PAROLE COMMISSION ARE ENTITLED TO ABSOLUTE IMMUNITY IN THE ABSENCE OF ALL JURISDICTION OVER THE SUBJECT MATTER. See, STUMP vs. SPERKMAN, 435 U.S. 349, 356-357 (1978). WHEN THEY BROKE THE LAW BY VIOLATING THE PROVISIONS OF THE “EXTRADITION TREATY” BETWEEN THE UNITED STATES AND BRAZIL AND CONDITIONS ESTABLISHED IN THE EXTRADITION DECREE BY THE SUPREME COURT OF BRAZIL, WHICH APPROVED THE EXTRADITION REQUEST PRESENTED BY THE GOVERNMENT OF THE UNITED STATES - - A VIOLATION OF FEDERAL LAW PURSUANT TO THE SUPREMACY CLAUSE. See, U.S. CONSTITUTION, Art.. VI.

Appellant Lambros asserts the legal standards governing judges becoming subject to liability when acting in the “clear absence of all jurisdiction”. See, Stump vs. Sperkman, 435 U.S. 349, 356-357 (1978). Appellee United States of America, U.S. Parole Commission and U.S. Bureau of Prisons were granted quasi-judicial immunity - Absolute Immunity - by the Court, when considering and deciding parole questions, as this function is comparable to that of judges, thus denying Appellant Lambros’ claims for damages.

FACTS:

1. Appellant Lambros incorporates and restates the “Statement of the Case” and “Facts of the Case” within this appeal issue.

2. The Appellee’s in this action all had notice that Appellant was not extradited from Brazil on the August 21, 1989, U.S. Parole Violation Warrant for Special Parole Term Violations with 5,357 days to be served (14 plus years) for the following offenses: a) failure to submit written supervision reports; b) failure to report change in employment; c) failure to report change in residence; d) law violations. See, August 21, 1989 Warrant. **See, EXHIBIT A, B, C.**

3. Appellant Lambros was not extradited from Brazil on the August 21, 1989, U.S. Parole Violation Warrant for Special Parole Term, that he was arrested on May 17, 1991, in Brazil by DEA agents and Brazilian authorities. **See, EXHIBIT B, C, D, & E.**

4. February 27, 2018, Appellee U.S. Parole Commission - employees of the United States - admitted after more than twenty-four (24) years, with the same documents that Appellant Lambros and his Attorney filed with the U.S. Parole Commission in 1994, that “The National Appeals Board concludes that the **RULE OF SPECIALITY** applies in your case.” Therefore, the U.S. Parole Commission **admitted** that there was **ABSENCE OF ALL JURISDICTION** over Appellant Lambros’ August 21, 1989, U.S. Parole Violation Warrant for Special Parole Term, that Appellant was arrested on May 17, 1991, in Brazil by DEA agents and Brazilian authorities. **See, EXHIBIT D.**

5. On July 20, 2020, U.S. Magistrate Judge Wright stated within her “REPORT AND RECOMMENDATION”, page 18, “Parole Board officials are entitled to quasi-judicial immunity (absolute immunity) when they make decisions with respect to parole detainers warrants or decide to grant, deny, or revoke parole, as they perform functionally comparable tasks to judges in this capacity. See, *Mayorga v. Missouri*, 442 F.3d 1128, 1131 (8th Cir. 2006) (“Parole board members are entitled to absolute immunity when considering and deciding parole questions, as this function is comparable to that of judges.”) (string citation omitted);”

6. Judge Wright also stated within her July 20, 2020 “REPORT AND RECOMMENDATION”, page 20, “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.” (Absolute immunity) **See, EXHIBIT F.**

7. September 11, 2020: the Honorable Judge Michael J. David, ORDER granted Defendants’ Motion to Dismiss, stated “This matter is before the Court on the Report and Recommendation by United States Magistrate Judge Elizabeth Cowan Wright dated July 20, 2020. Based upon that review, and in consideration of the applicable law, the Court will adopt the Report and Recommendation in its entirety.” **See, EXHIBIT G.**

8. September 30, 2020: Appellant Lambros filed Motion to Alter or Amend Judgment under Federal Rules of Civil Procedure Rule 59(e), raising this issue as to “Whether Defendants’ are entitled to Absolute Immunity in Absence of all Jurisdiction over the Subject Matter. See, Stump vs. Sporkman, 435 US 349, 356-357 (1978) ...”

9. November 18, 2020: Judge Davis denies Appellant Lambros’ Rule 59(e) Motion.

10. Appellant Lambros would like this Court to note the following within July 20, 2020, U.S. Magistrate Judge Wright “REPORT AND RECOMMENDATION”, page 19, FootNote 7: “As Lambros correctly points out, there is an exception to this rule under the FTCA, with regard to acts or omissions of investigative or law enforcement officers of the United States Government, arising out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution. As such, while Lambros may not be entitled to relief for claims of fraud under 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.**” See, **EXHIBIT H.**

DISCUSSION:

11. The *Stump v. Sparkman*, 435 U.S. 349 (1978) decision is the leading United States Supreme Court decision on judicial immunity, which outlined the manner in which a necessary inquiry in determining whether a defendant judge (U.S. Parole Commission and/or U.S. Bureau of Prisons) is immune from suit is whether, at the time he took the challenged action, he had jurisdiction over the subject matter before him. In making the judgment, the Supreme Court stated:

“The Court of Appeals correctly recognized that the necessary inquiry in determining whether a defendant judge is immune from suit is whether at the time he took the challenged action he had jurisdiction over the subject matter before him. Because “some of the most difficult and embarrassing questions which a judicial officer is called upon to consider and determine relate to his jurisdiction . . . ,” *BRADLEY v. FISHER*, 80 U.S. 335, 352 (1871), the scope of the judge's jurisdiction must be construed broadly where the issue is the immunity of the judge. A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority; **rather, he will be subject to liability only when he has acted in the “clear absence of all jurisdiction.”**^[7] [13 Wall., at 351.](#)” (emphasis added)

See, *Stump v. Sparkman*, 435 U.S. 349, 356-357.

12. “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)

13. “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).

14. “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).

15. U.S. BUREAU OF PRISONS HAD A “DUTY TO INVESTIGATE” A CLAIM THAT A PRISONERS SENTENCE WAS NOT PROPERLY CALCULATED: Appellant 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. (Emphasis added)

16. The interactions between the United States and Brazil pursuant to the treaty indicate that the treaty rights that Appellant Lambros claims are clearly established federal law pursuant to the treaty. In addition to the Treaty itself, other sources of clearly established federal law are [United States v. Rauscher, 119 U.S. 407, 7 S.Ct. 234, 30 L.Ed. 425 \(1886\)](#), and [Johnson v. Browne, 205 U.S. 309, 27 S.Ct. 539, 51 L.Ed. 816 \(1907\)](#). *Rauscher* and *Browne* both stand for the same principle: "An extradited defendant can "only be tried for one of the offenses described in that [extradition] treaty." [Rauscher, 119 U.S. at 430, 7 S.Ct. 234](#). See also [Browne, 205 U.S. at 316, 27 S.Ct. 539](#) (stating that it is impermissible to try a defendant other than "for the crime for which he has been extradited"). This rule from *Rauscher* and *Browne* has come to be known as the doctrine of specialty. See, e.g., [Quinn v. Robinson, 783 F.2d 776, 783 \(9th Cir.1986\)](#) ("The doctrine of `specialty' prohibits the requesting nation from prosecuting the extradited individual for any offense other than that for which the surrendering state agreed to extradite."). Also see, [United States v. Thirion, 813 F.2d 146, 151, 153 \(8th Cir.1987\)](#).

(Emphasis added)

17. The treaty is federal law, and therefore the U.S. Parole Commission must yield to the extent there are any inconsistencies with the U.S. Parole Commission sentencing rules. **See U.S. CONST., Art. VI ("[A]ll Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby**, any thing in the Constitution or Laws of any state to the Contrary notwithstanding.") (emphasis added); [*Howlett v. Rose*, 496 U.S. 356, 369-70, 110 S.Ct. 2430, 110 L.Ed.2d 332 \(1990\)](#) ("[S]tate courts have the coordinate authority and consequent responsibility to enforce the supreme law of the land."); [*Hauenstein v. Lynham*, 100 U.S. 483, 490, 25 L.Ed. 628 \(1879\)](#) ("[T]he Constitution, laws, and treaties of the United States are as much a part of the law of every State as its own local laws and Constitution."). (Emphasis added)

CONCLUSION AND RELIEF REQUESTED:

18. Enforce limitations on punishments following the extradition of Appellant Lambros.

19. Find that clearly established federal law applies to limit the punishments Appellant Lambros can receive when conditionally extradited under a Treaty, and the facts of this case indicate that such limitations were intended here.

20. Find that Appellee's ARE NOT entitled to quasi-judicial immunity - ABSOLUTE IMMUNITY - when considering and deciding parole questions, as Appellee's actions were TAKEN IN THE COMPLETE ABSENCE OF ALL JURISDICTION, as per the April 30, 1992, Brazilian Supreme Court extradition of Appellant Lambros to the United States in U.S. vs. LAMBROS; CR-4-89-82, District of Minnesota, in extradition case No. 539-1.

21. For the reasons stated herein, Appellant Lambros respectfully requests this Honorable Court to remand this case back to the District Court for a finding of damages.

Respectfully submitted,

John Gregory Lambros, Appellant - Pro Se

UNSWORN DECLARATION UNDER PENALTY OF PERJURY

I John Gregory Lambros, declare under penalty of perjury that the foregoing is true and correct, as are all the attached exhibits within this appeal brief. Title 28 U.S.C. 1746.

Executed: January 12, 2021.

John Gregory Lambros, Pro Se

CERTIFICATE OF SERVICE

I, John Gregory Lambros, certify under the penalty of perjury that the foregoing appeal brief was served in an envelope, postage prepaid, on this 12th day of January, 2021, to the following:

1. Clerk's Office
United States Court of Appeals for the Eighth Circuit
316 North Robert Street
500 Federal Building
Saint Paul, Minnesota 55101
PHONE: (651) 848-1300.

John G. Lambros hand delivered the foregoing appeal brief directly to the Clerk's Office.

2. Ms. Ana H. Voss
U.S. Attorney's Office
District of Minnesota
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

John Gregory Lambros, Pro Se

Warrant

To Any Federal Officer Authorized To Serve Criminal Process Within the United States:

WHEREAS, LAMBROS, John Gregory 00436-124 was sentenced by the United States District Court for the
Minnesota District of 00 to serve a sentence of 22 years, 00 months, and
00 days for the crime of Create, Manufacture, Distribute, or Dispense
Controlled Narcotic Drug Under Schedule I
and was on the 3rd day of October, 19 83, released on parole or in accordance with
Volunteers of America
Sec. 4163, Title 18, U.S.C. (Mandatory release) or Public Law 91-513 (Special Parole Term), from the (FCL, Oxford)
with 5,357 days remaining to be served;

AND, WHEREAS, reliable information has been presented to the undersigned Member of this Commission that said released
prisoner named in this warrant has violated one or more conditions of his release;

NOW, THEREFORE, this is to command you by authority of Sec. 4213, Title 18, U.S.C., to execute this warrant by taking the above-
named, wherever found in the United States, and hold him in your custody either until he is released by order of the Parole
Commission, or until you are authorized to transport him for further custody.

WITNESS my hand and the seal of this 21st day of August, 19 89

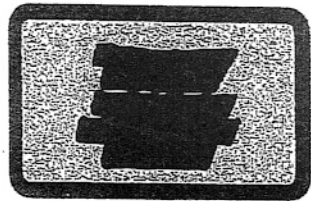
Carol Paulack Sletty
U.S. Parole Commissioner

NORTH CENTRAL

Region

EX - A.

8.



UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

United States of America,

CR-4-89-82

Plaintiff,

v.

REPORT AND RECOMMENDATION

John Gregory Lambros

Defendant.

Assistant United States Attorney Douglas R. Peterson for
plaintiff.

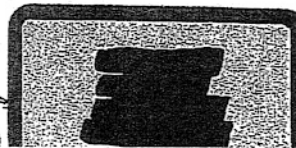
Charles W. Faulkner, Esq. for defendant.

THIS MATTER came before the undersigned United States Magistrate Judge on the 9th day of December, 1992 for a hearing on defendant's pretrial motions. Defendant was present in court. The court heard testimony from Deputy United States Marshal John Marchiniak and Drug Enforcement Administration ("DEA") Special Agent Terryl Anderson. The defendant testified on his own behalf.

I. PROCEDURAL HISTORY

On May 17, 1991, defendant Lambros was arrested in Brazil by DEA Agent Terryl Anderson and Brazilian authorities pursuant to a parole violation warrant. Defendant arrived in the country through an extradition process on June 20, 1992. Defendant Lambros made his initial appearance before this court on June 22, 1992, and moved to have his detention hearing postponed until June 25, 1992. The detention hearing was held on June 25, 1992. Defendant appeared before this court and alleged that Brazilian

Ex. - B.



FILED 12/21/92
FRANCIS E. DOSAL, CLERK

JUDGMENT ENTERED

DEPUTY CLERK'S INITIALS: hew

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181 n. 2 (8th Cir. 1989). Deputy Marshal Marchiniak testified that he followed routine booking procedures for defendant. The information obtained from defendant in the booking procedure is admissible under the "routine booking question" exception to Miranda.

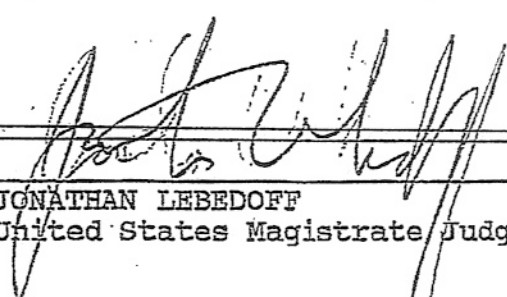
IV. RECOMMENDATION.

Based upon the foregoing findings of fact and conclusions of law, IT IS HEREBY RECOMMENDED that:

1. Defendant's motion to dismiss for violations of the Right To Speedy Trial Act be DENIED;
2. Defendant's motion to dismiss for violations of the extradition treaty be DENIED;
3. Defendant's motion to suppress evidence obtained through illegal search and seizure be DENIED; and
4. Defendant's motion to suppress statements, admissions and answers be DENIED.

DATED: Dec. 21, 1992

Ex. B.



JONATHAN LEBEDOFF
United States Magistrate Judge

→ Pursuant to Local Rule 72.1(c)(2), any party may object to this report and recommendation by filing with the Clerk of Court and serving all parties, within ten days after being served with a copy thereof, written objections which specifically identify the portions of the proposed findings, recommendations or report to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to ten pages. A judge shall make a de novo determination of those portions to which objection is made.

3.

5/16/92

For Lambros file =

① We need to check on his

1/17/92

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BT

PR

MM

PR


FOL 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

USDOJ FOR OFFICE OF INTERNATIONAL AFFAIRS,
MONTEVIDEO FOR LEGATT

E.O. 12958: N/A

TAGS: ~~CIAN~~ ~~CASC~~ ~~CPAS~~ ~~SNAP~~ BR (LAMBRAS, JOHN
GREGORY)

SUBJ: EXTRADITION: JOHN GREGORY LAMBRAS - 
EXTRADITION GRANTED

REF: BRASILIA 3021 AND PREVIOUS

Ex - C.

00159

4.

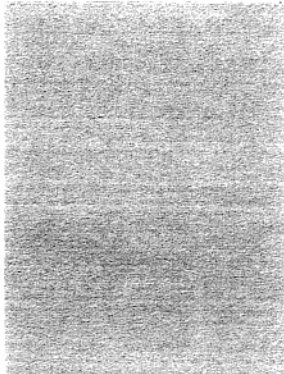
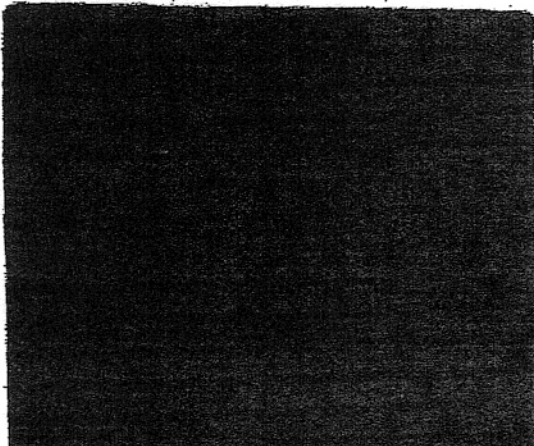
UNCLASSIFIED

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.

EXHIBIT C.



00160

10.5/

UNCLASSIFIED

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:

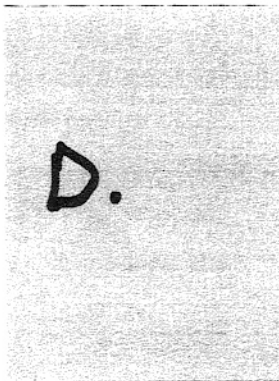
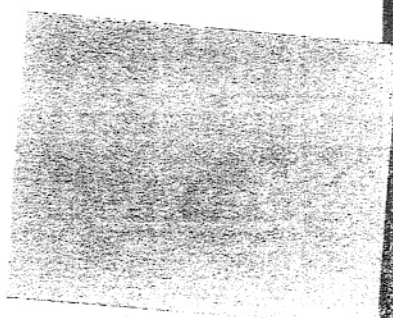
The National Appeals Board concludes that the Rule of Specialty applies in your case. Consequently your sentence in CR3-75-128, 3-76-54, and 3-76-17 has expired.

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 - D.



b1

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JOHN GREGORY LAMBROS

Plaintiff,

v.

MEMORANDUM OPINION
AND ORDER

Civil File No. 19-1870 (MJD/ECW)

UNITED STATES OF AMERICA,

Defendant.

John Gregory Lambros, Pro Se.

Ana H. Voss, Assistant United States Attorney, Counsel for Defendant.

I. INTRODUCTION

This matter is before the Court on Plaintiff's Motion to Alter or Amend Judgment Under Federal Rules of Civil Procedure 59(e). [Doc. No. 35]

II. BACKGROUND

Plaintiff was extradited from Brazil to the United States in 1992 in connection with cocaine-related charges. (Comp. ¶ 7.) Plaintiff was also charged with travel in interstate commerce in carrying out illegal activity and had an outstanding warrant from 1989, but he was not extradited on those charges. (Id.)

A jury found Plaintiff guilty of four cocaine-related offenses in 1993 and was

1 EXHIBIT E.

X

X

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JOHN GREGORY LAMBROS,

Case No. 19-cv-1870 (MJD/ECW)

Plaintiff,

v.

REPORT AND RECOMMENDATION

UNITED STATES OF AMERICA and
UNITED STATES BUREAU OF
PRISONS,

Defendants.

This matter is before the Court on Defendants' Motion to Dismiss ("Motion"). (Dkt. 22.) This case has been referred to the undersigned United States Magistrate Judge for a report and recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.1. For the reasons discussed below, the Court recommends that Defendants' Motion to Dismiss be granted.

I. FACTUAL AND PROCEDURAL BACKGROUND

The operative Complaint alleges in relevant part as follows: Plaintiff John Gregory Lambros ("Lambros"), was detained in Brasilia, Brazil pursuant to August 21, 1989 United States Parole Commission ("USPC") Parole Violator Warrant ("1989 Warrant"). (Dkt. 1 ¶ 5.) While in the custody of Brazilian authorities, Lambros claims that he was "placed within a depatterning cell with brain control implants that monitor and control Movant's mental function, thoughts [sic] deeds to this day." (Dkt. 1 ¶ 6.) Lambros asserts that he was informed that the parole violation that was the basis of the 1989 Warrant was not a crime in Brazil and that he would not be extradited based on this

EXHIBIT F.

8.

conduct by persons who are integral to the judicial process but whose conduct is not “functionally comparable” to a judge’s (like a law enforcement officer enforcing a foreclosure judgment).”); *see also Khan v. Holder*, 134 F. Supp. 3d 244, 253-54 (D.D.C. 2015).

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.

X

IV. RECOMMENDATION

Based on the above, and on the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

1. Defendants’ Motion to Dismiss (Dkt. 22) be **GRANTED**.
2. That the Complaint be **DISMISSED WITHOUT PREJUDICE**.

DATED: July 20, 2020

s/ Elizabeth Cowan Wright
ELIZABETH COWAN WRIGHT
United States Magistrate Judge

NOTICE

This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under District of Minnesota Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. D. Minn. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in D. Minn. LR 72.2(c).

EXHIBIT - F

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

John Gregory Lambros,

Case No. 19-cv-1870 MJD/ECW

Plaintiff,

v.

ORDER

United States of America et al,

Defendants.

This matter is before the Court on the Report and Recommendation by United States Magistrate Judge Elizabeth Cowan Wright dated July 20, 2020. (Doc. No. 31). Plaintiff has filed objections to the Report and Recommendation.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, and in consideration of the applicable law, the Court will adopt the Report and Recommendation in its entirety.

*

IT IS HEREBY ORDERED that:

1. Defendants' Motion to Dismiss (Dkt. 22) is **GRANTED**.

EXHIBIT G.

2. The Complaint is **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: Septembr 11, 2020

s/ Michael J. Davis
MICHAEL J. DAVIS
United States District Court

EXHIBIT G.

11.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JOHN GREGORY LAMBROS,

Case No. 19-cv-1870 (MJD/ECW)

Plaintiff,

v.

REPORT AND RECOMMENDATION

UNITED STATES OF AMERICA and
UNITED STATES BUREAU OF
PRISONS,

Defendants.

This matter is before the Court on Defendants' Motion to Dismiss ("Motion"). (Dkt. 22.) This case has been referred to the undersigned United States Magistrate Judge for a report and recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.1. For the reasons discussed below, the Court recommends that Defendants' Motion to Dismiss be granted.

I. FACTUAL AND PROCEDURAL BACKGROUND

The operative Complaint alleges in relevant part as follows: Plaintiff John Gregory Lambros ("Lambros"), was detained in Brasilia, Brazil pursuant to August 21, 1989 United States Parole Commission ("USPC") Parole Violator Warrant ("1989 Warrant"). (Dkt. 1 ¶ 5.) While in the custody of Brazilian authorities, Lambros claims that he was "placed within a depatterning cell with brain control implants that monitor and control Movant's mental function, thoughts [sic] deeds to this day." (Dkt. 1 ¶ 6.) Lambros asserts that he was informed that the parole violation that was the basis of the 1989 Warrant was not a crime in Brazil and that he would not be extradited based on this

EXHIBIT H.

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quasi-judicial immunity from liability to an FTCA claim); *Schlabach v. United States*, No. CV-12-0618-JLQ, 2013 WL 1619829, at *3 (E.D. Wash. Apr. 15, 2013) (same).

This immunity can extend the law enforcement officers, such as those working under the BOP, who are integral in enforcing quasi-judicial decisions.⁷ See *Bickel v. Sheriff of Whitley Cty.*, No. 1:08-CV-102-TS, 2010 WL 1258165, at *10 (N.D. Ind. Mar. 26, 2010) (citing *Richman v. Sheahan*, 270 F.3d 430, 436 (7th Cir. 2001)) (“The primary function of quasi-judicial immunity is to protect judicial or quasi-judicial decision making, which can either be discretionary conduct by a quasi-judicial body (like a parole board) or

X 7 The Court notes that Defendants, relying on 28 U.S.C. § 2680(h) of the FTCA, also argue that although Lambros has raised claims of “fraud and artifice” and asserts that Defendants engaged in a pattern of improper legal practices through misrepresentations, omissions, and false innuendo, there is no waiver of sovereign immunity for fraud, false representation, or misrepresentation under the FTCA. (Dkt. 23 at 8.) Section 2680(h) excludes from the FTCA “any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.” 28 U.S.C. § 2680(h). As Lambros correctly point out, there is an exception to this rule under the FTCA, with regard to acts or omissions of investigative or law enforcement officers of the United States Government, arising out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution. *Id.* For the purpose of this subsection, “investigative or law enforcement officer” means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law.” *Id.* Courts have concluded that as used in §2680(h), a BOP official is a federal law enforcement officer while Parole Commission officials are not. See *Carter-El v. D.C. Dep’t of Corrs.*, 893 F. Supp. 2d 243, 247 (D.D.C. 2012), *aff’d*, 2013 WL 3367416 (D.C. Cir. July 5, 2013) (per curiam) (“Since § 2680(h) of the FTCA permits a claim of false imprisonment to be brought only against United States officers ‘empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law,’ authority which the Parole Commission officials lack, the Court finds that it lacks jurisdiction over the plaintiff’s false imprisonment claim against the Parole Commission.”); *Farmer v. Jacobsen*, No. 97-2562 RHK RLE, 1998 WL 957237, at *5 (D. Minn. Nov. 30, 1998) (citations omitted). As such, while Lambros may not be entitled to relief for claims of fraud under § 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.