

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	CASE NO. 2007-CR-269
)	
Plaintiff)	JUDGE ANDREW D. LOGAN
)	
vs.)	STATE'S ANSWER AND
)	MEMORANDUM TO THE
CLAUDIA C. HOERIG,)	DEFENDANT'S MOTION TO
)	DISMISS DUE TO SPEEDY
Defendant)	TRIAL VIOLATION

Now comes the State of Ohio by and through the Trumbull County Prosecutor, and hereby in answer to the Defendant's motion to dismiss her case due to a speedy trial violation under Ohio Revised Code Section 2945.71 et seq and both the Constitutions of the United States and Ohio, says that the motion is totally without any merit and therefore should be overruled without a hearing. The reasons for our position follow in the State's attached memorandum in opposition to motion.

Respectfully submitted,

March 13, 2018
DATED

Dennis Watkins
DENNIS WATKINS, #0009949
PROSECUTING ATTORNEY
Trumbull County Prosecutor's Office
160 High Street, 4th Floor
Warren, OH 44481
330-675-2426

Christopher D. Becker
CHRISTOPHER D. BECKER, #0047252
ASSISTANT PROSECUTING ATTORNEY
Trumbull County Prosecutor's Office
160 High Street, 4th Floor
Warren, OH 44481
330-675-2426

KAREN INFANTE ALLEN
CLERK OF COURTS
TRUMBULL COUNTY
2018 MAR 13 PM 3:00
TRUMBULL COUNTY
CLERK OF COURTS



2007 CR
00269
00001520927
CRSA

MEMORANDUM IN OPPOSITION TO MOTION

ARGUMENT I: OHIO LAW

The Defendant, in her motion to dismiss her indictment fails to give the Court relevant applicable law and facts which are outcome determinative in deciding the motion. Also, it is important to note that the Defendant was not arrested on her Trumbull County arrest warrant for Aggravated Murder until January 17, 2018 when she was returned to Trumbull County in custody by the United State Marshal's Office and which led to this court setting April 16, 2018 as her trial date (see State's Motion of February 1, 2018 to Determine Trial Date). Specifically, Ohio Revised Code Section 2945.71 requires the state to bring a felony defendant to trial within 270 days of arrest or within 90 days if the accused is held in jail in lieu of bail on the pending charge, State v. McDonald, (2003), 153, Ohio App 3r 679 (emphasis added). The Defendant was arrested on her pending state charge for the first time on January 17, 2018. (See State's Exhibits No. 1 and 2, the Return of Service of Aggravated Murder Warrant on Complaint by Prosecuting Attorney and Indictment capias upon Claudia Hoerig on January 17, 2018 signed January 18, 2018 by Deputy Jolene Marcello of the Trumbull County Sheriff's Office (see Exhibit No. 3 copy of initial complaint, affidavit, and warrant signed by the Honorable Andrew D. Logan, Judge on April 12, 2007).

Thus, Defendant was not incarcerated on a state warrant between April 12, 2007 and January 17, 2018. Rather, she was from March 12, 2007 to January 17, 2018 a fugitive from justice and a subject to international extradition proceedings. Though she was arrested on April 20, 2016 in Brazil, this was pursuant to a Brazilian arrest warrant enforcing the Extradition Treaty between Brazil and the United States following United States government action against

her in 2007. (See Treaty marked as Exhibit No. 4; April 12, 2007 letter to U.S. Marshal Elliott, Exhibit No. 5; Federal criminal complaint; Affidavit, arrest warrant for unlawful flight to avoid prosecution and Interpol Red Notice application, Exhibit No. 6). She was never arrested and incarcerated pending trial of this matter in Ohio. Defendant misrepresents the true facts which show that she was arrested and incarcerated in Brazil pending extradition proceedings there (emphasis added). Therefore her complaint for her 21 months of incarceration is on Brazil not Ohio. In fact, evidence will show that she sued Brazil not Ohio or the United States for her detention (See Exhibit No. 7, Defendant's Deposition on June 28, 2016 in Brazil by Judges of the Brazilian Court in relevant part where she was represented by three separate lawyers in protracted litigation contesting the Brazilian Government's action to allow her extradition to the United States).

She further failed to provide in her motion to the Court relevant Ohio speedy trial law known to the defense, to wit: Ohio Revised Code Section 2945.72(A) and (D) regarding this issue which reads in pertinent part:

The time within which an accused must be brought to trial... may be extended... by reason of the pendency of extradition proceedings, provided that the prosecution exercises reasonable diligence to secure his availability; (ORC §2945.72(A) and ... Any period of delay occasioned by the neglect or improper act of the accused. (ORC §2945.72(D)). Emphasis added.

Furthermore, the State will provide to the Court throughout its answer evidence of its "exercise of reasonable diligence" to secure Claudia Hoerig's arrest for trial, with various exhibits. They are documents from the Trumbull County Prosecutor's Office, and the Office of United States Marshal Peter Elliot, Northern District of Ohio, showing that the Trumbull County Prosecutor's Office and other law enforcement officials of Trumbull County and Ohio worked with federal officials in their investigation of Karl Hoerig's murder on March 12, 2007 once it

was determined that the Defendant fled the United States to Brazil as a fugitive to avoid apprehension and prosecution. In fact, on the day an arrest warrant was issued for the Defendant's arrest, April 12, 2007, United States Marshal Peter Elliott and deputy U. S. Marshal William Bolden were in Trumbull County to provide the required federal assistance in her possible foreign apprehension since under the laws of the United States and Ohio, international apprehension and extradition of state fugitives from justice is exclusively a function of the federal government mainly by the State and Justice Departments under the authority given to the President of the United States under the Constitution. (See State's Exhibits Nos. 8 and 9 which are certified copies of federal unlawful flight warrant issued for Claudia C. Hoerig on April 16, 2007 by United States District Court, Northern District of Ohio, Judge George J. Limbert). From our view of the reasonable facts and the correct and full law on this subject, the Defendant has failed to make (or must show) an initial presentation which provides a prima facie showing that a statutory speedy trial violation has in fact occurred in order for her to shift the burden of proof to the State on this issue. State v. Truitt 2010 WL4968690; State v Price (1997) 122 Ohio App 3rd 65, 68.

However, before proceeding with our argument regarding the Defendant's alleged constitutional law violation under Barker v. Wingo and Doggett v. United States infra, which goes beyond their Ohio speedy trial claim, the State would like to address the complete failure by the defense to present a fair factual picture of why the Defendant left the United States for Brazil on March 12, 2007. Her failure to make a good faith effort to give the proper law and reasonable facts to support her motion changes everything. Under routine practice lawyers are required to inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions. Also lawyers must

not allow a tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false. Ohio Rules of Professional Conduct Rule 3.1 Meritorious Claims and Contentions.

In her motion, the Defendant claims both Ohio and federal constitutional law violations regarding her speedy trial rights. Specifically regarding Ohio statutory law with its constitutional underpinnings, she cites Ohio Revised Code Sections 2945.71 and 2945.71(C). She further gives mainly Ohio case law dealing with individuals who are arrested and incarcerated in Ohio and do not obtain a trial within a 90 day period thus bringing about a right to discharge. But nowhere in her motion does the Defendant mention important provisions of law, to wit: Ohio Revised Code Section 2945.72(A) and (D) which involve extradition proceedings and improper acts by defendants which are relevant and provide dispositive law on this point. The Defense compounds her weak and almost non-existent legal presentation with a specious and inferentially false factual scenario to support her legal argument. In short, the Defense has tailored a motion on inapplicable law and misleading and left-out facts which totally distort a reality which the Defense knows to be true or should know to be true.

First, in her Memorandum in support of her motion, the Defendant states: "On or about March 12, 2007, the Defendant left Trumbull County, Ohio, returning to her native Brazil. At the time of her departure, the Defendant was not charged with any crime. Forty-four days later on April 24, 2007 the Defendant was indicted in the instant case." Really!, the true facts will show (and known to the Defense) that the Defendant says (and other evidence shows) that she in fact killed her husband by shooting him three times in the family home on March 12, 2007 and that she covered up her husband's body with a tarp to give her the needed time to escape her arrest in Ohio on the same day traveling to Pittsburgh, flying to New York City, then taking an

international flight to Sao Paulo, Brazil (all in an effort to avoid prosecution). The Defense well knows it was not reasonably possible to have her charged “at the time of her departure.” (See various relevant statements of Claudia Hoerig to U. S. Marshal William Bolden and FBI Special Agent Anthony Sano Exhibits No. 10 and 11 and partial transcription of Defendant’s approximate 3 hour video tape statement in the Trumbull County Jail on January 17 and 18, 2018, Exhibit No. 12). Furthermore, the Defendant believed that her native country of Brazil would not return her for prosecution because of its history of protecting fugitives. Therefore, this Defendant by her own words and conduct willfully left Trumbull County, Ohio after committing murder for her native Brazil, over four-thousand (4,000) miles away, with the specific purpose to obtain sanctuary from prosecution which is under both case law and Ohio Revised Code Sections 2945.72(A) and (D) an improper act which tolls the running of the clock for speedy trial.

She further hid in Brazil and later took legal action to delay her prosecution in Ohio. At no time did she agree to voluntarily come back to face trial. At no time did she demand a trial in Ohio. These facts were not given by the Defendant. The appropriate law was also not given by the Defense. (See State v. Seccession 1991 WL355151, where 1989 aggravated murder conviction for 1974 murder was upheld since 15 year delay was caused by the accused’s own action by fleeing to Montana to avoid prosecution in Ohio). More specifically under the law of Ohio where an accused actively absents himself from a trial, escapes, absconds, becomes a fugitive, or resists extradition proceedings intended to bring him to trial, he is generally not entitled to the constitutional protection afforded by the Speedy Trial Clause. State v. Haynes (1982) 8 Ohio App 3d 119, 121.

The Defense also does not mention in their memorandum, that from 2013 to 2018 she fought extradition proceedings brought against her in Brazil by the Brazilian government. See State v. Williams (1979) 242 S.E. 2d 245, 246-247; and State v. Mick (1981) 621 P2a 106, 109.

Criminals who kill and run are not a protected class. Motions which have no valid or reasonable purpose other than to delay only undermine public confidence in the justice system. This Court must pierce the veil of deceit and hypocrisy in this matter. The idea suggested by the Defense that that the Defendant somehow should have or could have been tried in Brazil, and should not have been pursued by the State of Ohio through the Office of Prosecuting Attorney for Trumbull County asserting its sovereign right to try her as a resident of Ohio and United States citizen, in Ohio for an Ohio crime is absurd and without legal authority. (See Exhibit No. 13, 2010 letter of Trumbull County Prosecutor to Office of International Affairs regarding position of trying Defendant in Ohio; Exhibit No. 14, 2014 letter of Trumbull County Prosecutor refusing to turn evidence over to Brazil for prosecution there).

ARGUMENT II: FEDERAL LAW

The State maintains that it has shown with Argument I that Ohio's statutory scheme of speedy trial provisions has not been violated in this case. In Argument II, the state will provide its analysis of the law and facts with supporting exhibits to show that there has been no unreasonable delay under the circumstances to constitute a violation of the Defendant's state and federal constitutional right to a speedy trial. Importantly, the Defendant fails in her Motion and Memorandum to cite one Ohio case which involves extradition (whether interstate or international). For example, in one of her cases State v. Wells, the Cuyahoga County Court of Appeals held that a 19 month delay between the defendant's arrest and trial violated his right to a

speedy trial. The defendant there was in local jail repeatedly asserting his right to a speedy trial but had them denied. That's not Claudia Hoerig's facts. She absconded. Her one citation of law which dealt with extradition is Doggett v. United States (1992), 112 S. Ct. 2686, a 5 to 4 United States Supreme Court decision, which the State submits only helps the State's arguments. Though, the Supreme Court held that an 8-1/2 year delay between the defendant's indictment and his arrest violated his Sixth Amendment right to a speedy trial, the facts in that case however were totally different than Hoerig's situation. There after Doggett's indictment in 1980 for conspiracy to import and distribute cocaine, federal law enforcement officials learned that Doggett had left the country for Colombia. There was no formal extradition request done by authorities. The next year Doggett's name also vanished from a national computer network screening people entering the United States. In 1982 Doggett passed unhindered through customs in New York City and settled down in Virginia. Since returning to the United States, he got married, earned a college degree, found a steady job as a computer operations manager, lived openly in the United States under his own name, and stayed within the law. Thus from 1982 to 1988 "Doggett remained lost to the American Justice system." Nearly 6 years after his return to the United States, and 8-1/2 years after his indictment, Doggett was finally arrested. That's not Claudia Hoerig's factual scenario.

As previously mentioned, the Defendant fled the United States on the day she murdered her husband with the purpose to avoid prosecution and only returned escorted in handcuffs. On the day she was charged with Aggravated Murder in Trumbull County, April 12, 2007, both state and federal officials were involved in the investigation of Karl Hoerig's death on March 12, 2007. (See Affidavit outlining effort of Trumbull County authorities collecting evidence including ballistic testing bringing about charges 44 days later. See State's Exhibit No. 3). And

as previously cited as Exhibits No. 8 and 9, a Criminal Complaint for unlawful flight and Warrant for Arrest of the Defendant was filed in United States District Court, Northern District of Ohio on April 16, 2007 and subsequent efforts were made on the continuing basis by the Trumbull County Prosecutor's Office, United States Marshal's Office, the FBI, the United States Department of Justice Office of International Affairs, the United States' State Department, the Government of Brazil through its Attorney General and the State Department of Brazil to obtain Hoerig's rendition back to the United States and Ohio. The State asserts that unlike the Doggett case, the Trumbull County Prosecuting Attorney and others involved dogged Claudia Hoerig continuously and persistently through the years to have her returned to Ohio for trial. There was no 6 year gap here where Claudia Hoerig "remained lost to the American Justice System." (See State vs Claudia Hoerig Time Line attached as Exhibit No. 15). Further, there are many other relevant communications between 2007 and 2018 showing "reasonable diligence" on part of the Prosecutor's Office to obtain custody of Hoerig for trial in Trumbull County, Ohio which, if the Court found necessary, would be provided at a hearing in this matter. Also the State attaches Exhibit No. 16, Brazilian Supreme Court decision of March 28, 2017 and September 18, 2017 upholding that Defendant was a U. S. citizen subject to extraditions (in Portuguese).

Therefore, when one considers the appropriate law regarding the law of speedy trial rights of an accused to the known facts in this case, the test which we respectfully suggest should be applied by this Court is found in Barker v. Wingo (1972), 407 U.S. 514. In Barker (approving a 5 year delay), the nation's high court stated that "(a) balancing test necessarily compels courts to approach speedy trial cases on an ad hoc basis." 407 U.S. at 530. The Court identified four factors which courts should access in determining whether the right to a speedy trial has been violated: (1) the length of the delay; (2) the reason for the delay; (3) the defendant's assertion of

his right; and (4) prejudice to the defendant. Under Doggett the United States Supreme Court said courts have generally found post accusation delay ‘presumptively prejudicial’ at least as it approaches one year, 505 U.S. at 652. But Barker makes it clear that a full analysis to determine whether there is actual prejudice, factors one, two and three must be weighed together; in other words the State may rebut the presumption with contrary evidence. Ohio has also found post accusation delay prejudicial when the accused has no recollection of event and is not indicted for 13 months in trafficking in marijuana charge. State v. Selvage (1998) 80 Ohio St 3d 465. But see State v. Walls (2002) 96 Ohio St 3d 437 (where 13-year delay between offense and indictment did not violate defendant’s due process rights and United States v. Lawrence (2013) WL 6388455 (where a 9-1/2 year delay did not violate Barker or Doggett when fault lies with the defendant).

Furthermore, the U. S. Supreme Court has said the second Barker factor – the reason for the delay - is the “flag all litigants seek to capture” United States v. Loud Hawk (1986) 474 U.S. 302, 315. From the State’s view of the facts, Defendant never got to hold this flag.

Significantly, the missing facts and wrong law given to the Court by the Defense makes its gatekeeper role unnecessarily complicated and time consuming. And our out-come determinate point we are making to the Court (though already given) is that the overwhelming and uncontradicted evidence known by the Defense (though not disclosed in its motion) that Claudia Hoerig on March 12, 2007 intentionally and repeatedly shot her husband Karl Hoerig to death, then attempted to cover-up her crime and afterwards purposely fled the United States to Brazil to avoid her prosecution in Trumbull County gives her no bonafide claim to relief in her motion. These facts clearly differentiate her case from Doggett (and also others cited) in a speedy trial analysis. In Doggett, at a hearing on his speedy trial motion there was no evidence produced

by the government that Doggett knew of his indictment of 1980 until his arrest in 1988 (nearly 8-1/2 years later). Further Ohio cases do take into account whether the actions of leaving Ohio by an accused was done to avoid prosecution and also whether the State attempted to get a Governor's Warrant or take other steps to have an arrest made which would show "reasonable diligence" on its part. State v. Major (2008), 190 Ohio App 3d 29 (where the State of Ohio took no action for 11 years). In the present matter, Ohio took total action to bring her back while the Defendant made every effort to resist. As the Supreme Court in Doggett stated, a Defendant is not entitled to relief "when the presumption of prejudice...is ... persuasively rebutted. 505 U. S. at 658 (emphasis added).

Therefore in the present case, the State firmly believes that the record before the Court is sufficient to overrule the Defendant's Motion without the necessity of a hearing since the State has made a clear prima facie showing justifying the delay and negating any speedy trial violation. Alternatively, if the Defendant has evidence to rebut the facts and law given with the State's answer and memorandum with attached exhibits, then the Court should require the Defendant to go forward with witnesses, its evidence, and law and prove its good faith claim and actual prejudice in this matter. The State submits in a nutshell that there can be no stronger case made under known facts and applicable law that Claudia Hoerig's outrageous conduct as an American citizen rises to that of a consummate justice dodger.

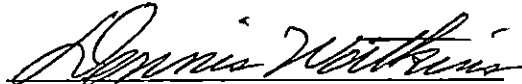
CONCLUSION

In conclusion, the State of Ohio prays that this Court overrule the Defendant's motion for discharge because of a speedy trial violation since the attached exhibits of the State provide reasonable facts and law which demand that this case go forward to trial. Further, the State believes no hearing is necessary with the record before it.

Respectfully submitted,

March 13, 2018

Dated



DENNIS WATKINS, #0009949

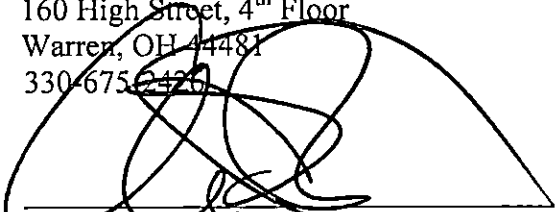
Prosecuting Attorney

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CHRISTOPHER D. BECKER, #0047252

Assistant Prosecuting Attorney

Trumbull County Prosecutor's Office

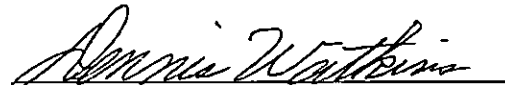
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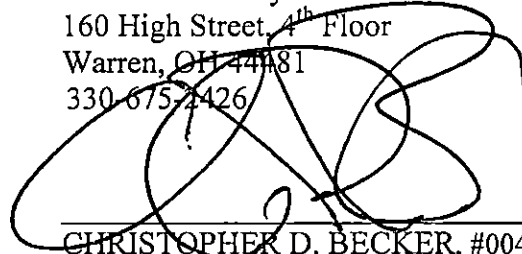
330-675-2426

CERTIFICATION

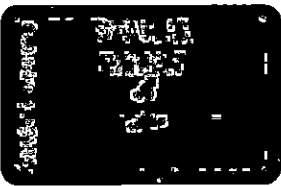
I hereby certify that a copy of the State's answer and Memorandum to the Defendant's Motion to Dismiss Due to Speedy Trial Violation was hand-delivered to Attorney Matthew A. Pentz and David T. Rouzzo of Ohio Public Defender's Office, 112 E. Market Street, Warren, Ohio 44483, this 13 day of March, 2018.



DENNIS WATKINS, #0009949
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330-675-2426



CHRISTOPHER D. BECKER, #0047252
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Trumbull County Prosecutor's Office
160 High Street, 4th Floor
Warren, OH 44481
330-675-2426



C

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

vs.

* COMPLAINT BY PROSECUTING
* ATTORNEY UPON AFFIDAVIT
* (CRIMINAL RULE 4)

CLAUDIA C. HOERIG, aka
CRISTINA HOERIG, CLAUDIA BOLTE,
CRISTINA BOLTE, CLAUDIA SOBRAL,
CRISTINA SOBRAL
64 W. 9TH STREET
NEWTON FALLS, OHIO 44444

CASE NO. 07-CR-269

D.O.B. 8/23/1964

S.S.# 127-76-4599

TRUMBULL COUNTY
COMMON PLEAS

2007 APR 12 A 9:01

TRUMBULL COUNTY
COMMON PLEAS

COUNT ONE

Complainant Prosecuting Attorney being duly sworn states that DETECTIVE SGT. PETER J. PIZZULO has filed an affidavit, a copy of which is attached hereto, stating that CLAUDIA C. HOERIG, aka CRISTINA HOERIG, CLAUDIA BOLTE, CRISTINA BOLTE, CLAUDIA SOBRAL, CRISTINA SOBRAL at NEWTON FALLS, Trumbull County, Ohio on or about MARCH 12, 2007, did purposely, and with prior calculation and design, cause the death of another, to-wit KARL HOERIG.

Upon this affidavit complainant states that CLAUDIA C. HOERIG, aka CRISTINA HOERIG, CLAUDIA BOLTE, CRISTINA BOLTE, CLAUDIA SOBRAL, CRISTINA SOBRAL on or about the date and the above place did violate Sections 2903.01(A) & (F) of the Ohio Revised Code.

Dennis Watkins
Complainant -Dennis Watkins (0009949)
Prosecuting Attorney-Trumbull County, Ohio

Sworn to and subscribed before me by DENNIS WATKINS, Prosecuting Attorney,
Trumbull County, Ohio, on April 12, 2007

H-12, 20 07
This is a true and correct copy of the original
Complaint
KAREN INFANTE ALLEN, Clerk
By [Signature] Deputy

[Signature]
Andrew D. Logan, Judge
Trumbull County, State of Ohio

**WARRANT TO ARREST
RULE 4**

**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

vs.

CLAUDIA C. HOERIG, aka
CRISTINA HOERIG, CLAUDIA BOLTE,
CRISTINA BOLTE, CLAUDIA SOBRAL,
CRISTINA SOBRAL
64 W. 9TH STREET
NEWTON FALLS, OHIO 44444,

S.S. #~~282-78-7652~~ 127-76-4599

D.O.B. ~~12/24/65~~ 8/23/1964

* **CASE NUMBER 07-CR-269**

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**WARRANT ON COMPLAINT
(RULE 4)**

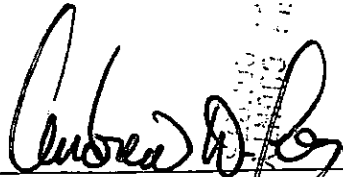
TO: DET. SGT. PETER J. PIZZULO OF THE TRUMBULL COUNTY SHERIFF'S
DEPARTMENT & OFFICER MICHAEL LASWELL OF THE NEWTON FALLS POLICE
DEPARTMENT

A complaint, a copy of which is attached hereto, has been filed in the Trumbull County Common Pleas Court charging: Count 1: Aggravated Murder, in violation of Section 2903.01(A) & (F) of the Ohio Revised Code

You are ordered to arrest CLAUDIA C. HOERIG, aka CRISTINA HOERIG, CLAUDIA BOLTE, CRISTINA BOLTE, CLAUDIA SOBRAL, CRISTINA SOBRAL and bring her before said Court without unnecessary delay.

You may not issue a summons in lieu of arrest under Rule 4(A)(2) or issue summons after arrest under Rule 4.

Special instructions to executing officer:



HONORABLE ANDREW D. LOGAN
JUDGE, COURT OF COMMON PLEAS
TRUMBULL COUNTY, STATE OF OHIO

2007 APR 12 A 9

TRUMBULL COUNTY

4-12, 20 07
This is a true and correct copy of the original
Warrant
KAREN INFANTE ALLEN, Clerk
By A. Ryan Deputy

RECEIPT OF WARRANT BY EXECUTING AUTHORITY

First Receipt

Subsequent Receipt

Received this warrant on _____, 2007, Received this warrant on _____, 2007,

at _____ o'clock __. M. at _____ o'clock __. M.

By _____

RETURN OF EXECUTED WARRANT

Execution By Arrest. I received this warrant on ^{aw} April 13, 2007, at 0901 o'clock A. M.

On JAN. 18, 2018, 2007, I arrested Gloria Hoerig and gave

him/her a copy of this warrant with complaint attached and brought TCS
(state the place)

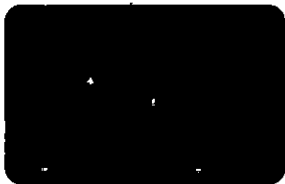
[Signature]
(Arresting Officer/Title)

TRUMBULL COUNTY
CLERK OF COURTS
2018 JAN 18 AM 11:57
KAREN INFANTE ALLEN
CLERK OF COURTS
TRUMBULL COUNTY

FEES

Mileage \$ _____
\$ _____
\$ _____

Total \$ _____



**COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

**WARRANT UPON INDICTMENT/INFORMATION
(Criminal Rule 9)**

(ISSUED BEFORE APPEARANCE)

CASE: 07 CR 269

2007 APR 24 PM 1:17
SHERIFF
TRUMBULL CO.

STATE OF OHIO

VS.

CLAUDIA C HOERIG

TO THE SHERIFF OF SAID COUNTY, GREETINGS:

AN INDICTMENT, A COPY OF WHICH IS ATTACHED HERETO, HAS BEEN FILED IN THE TRUMBULL COUNTY COURT OF COMMON PLEAS, 161 HIGH STREET, N.W., WARREN, OHIO 44481, CHARGING DEFENDANT **CLAUDIA C HOERIG** WITH:

Agg Murder W Firearm Spec 2903.01(A)&(F) AF1

WE COMMAND YOU TO ARREST THE DEFENDANT AND SAFELY KEEP SO THAT YOU HAVE HIM/HER BROUGHT BEFORE THE JUDGE OF THE COMMON PLEAS COURT IN SAID COUNTY WITHOUT UNNECESSARY DELAY.

SPECIAL INSTRUCTIONS TO OFFICER:

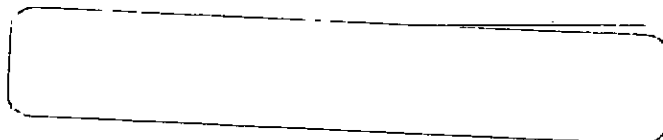
NONE

AND HAVE YOU THEN AND THERE THIS WRIT.

**WITNESS MY HAND AND THE SEAL
OF SAID COURT, April 24, 2007**

**KAREN INFANTE ALLEN,
CLERK OF COURTS**

BY: NANCY WINGARD DEPUTY CLERK



CASE NUMBER: SECRET

NAME: CLAUDIA C. HOERIG (aka Cristina Hoerig; Claudia Bolte; Cristina Bolte;
Claudia Cristina Sobral; Claudia Sobral; Cristina Sobral)

ADDRESS: (LKA) 64 WEST 9TH STREET,
NEWTON FALLS, OH 44444

RADIUS: 1

DESCRIPTIVE DATA OF PERSON WANTED ON THE ENCLOSED WARRANT:

CHARGE: CT 1: AGGRAVATED MURDER (F) WITH FIREARM SPECIFICATION
(2903.01(A)&(F) and 2941.145)

DOB: 08/23/64 SOCIAL SECURITY NO.: 127-76-4599

AGE: HT.: 502 WT.: 110 SEX: FEMALE

COMPLEXION:

RACE: BRAZILIAN

EYES: BRN HAIR: BROWN

SCARS, MARKS, TATTOOS, ETC.:

EMPLOYER:

SHIFT:

DEPT.:

YEAR & MAKE OF AUTO:

COLOR:

REGISTRATION NO.:

STATE:

LIC. NO.:

NAME OF COMPLAINANT: SGT PIZZULO - TCSO
ADDRESS:

NAME OF DEFENDANT: CLAUDIA C HOERIG

RETURN OF EXECUTED WARRANT

RECEIVED THE WRIT April 24 A.D. 2018
AT 1:17 O'CLOCK P. M. ON JAN. 18
2018, I ARRESTED THE SAID Gloria Hoerig
GAVE HIM/HER A COPY OF THIS WARRANT WITH
/INDICTMENT/INFORMATION/ATTACHED AND BROUGHT
HIM/HER TO Trumbull County Jail
(place/location)

Det J Manolo
ARRESTING OFFICER, TITLE

THE STATE OF OHIO
TRUMBULL COUNTY

FEEES

SERVICE:	\$ <u>20.00</u>
MILEAGE:	\$
CONVEYANCE:	\$
ASSISTANTS:	\$
SUSTENANCE:	\$
RETURN:	\$
TOTAL:	\$ <u>20.00</u>

KAREN INGRAM, ALLEN
CLERK OF COURTS
TRUMBULL COUNTY
2018 JAN 18 AM 11:56
TRUMBULL COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

vs.

CLAUDIA C. HOERIG, aka
CRISTINA HOERIG, CLAUDIA BOLTE,
CRISTINA BOLTE, CLAUDIA SOBRAL,
CRISTINA SOBRAL
64 W. 9TH STREET
NEWTON FALLS, OHIO 44444

D.O.B. 8/23/1964

S.S.# 127-76-4599

* COMPLAINT BY PROSECUTING
ATTORNEY UPON AFFIDAVIT
(CRIMINAL RULE 4)

* CASE NO. 07-CR-269

TRUMBULL COUNTY
COMMON PLEAS COURTS

2007 APR 12 A 9:01

TRUMBULL COUNTY
COMMON PLEAS COURTS

COUNT ONE

Complainant Prosecuting Attorney being duly sworn states that DETECTIVE SGT. PETER J. PIZZULO has filed an affidavit, a copy of which is attached hereto, stating that CLAUDIA C. HOERIG, aka CRISTINA HOERIG, CLAUDIA BOLTE, CRISTINA BOLTE, CLAUDIA SOBRAL, CRISTINA SOBRAL at NEWTON FALLS, Trumbull County, Ohio on or about MARCH 12, 2007, did purposely, and with prior calculation and design, cause the death of another, to-wit KARL HOERIG.

Upon this affidavit complainant states that CLAUDIA C. HOERIG, aka CRISTINA HOERIG, CLAUDIA BOLTE, CRISTINA BOLTE, CLAUDIA SOBRAL, CRISTINA SOBRAL on or about the date and the above place did violate Sections 2903.01(A) & (F) of the Ohio Revised Code.

Dennis Watkins
Complainant -Dennis Watkins (0009949)
Prosecuting Attorney-Trumbull County, Ohio

Sworn to and subscribed before me by DENNIS WATKINS, Prosecuting Attorney,
Trumbull County, Ohio, on April 12, 2007

Andrew D. Logan
Andrew D. Logan, Judge
Trumbull County, State of Ohio

4-12, 20 07
This is a true and correct copy of the original
Complaint
KAREN INFANTE ALLEN, Clerk
By [Signature] Deputy

**WARRANT TO ARREST
RULE 4**

**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

* **CASE NUMBER 07-CR-269**

vs.

*

CLAUDIA C. HOERIG, aka
CRISTINA HOERIG, CLAUDIA BOLTE,
CRISTINA BOLTE, CLAUDIA SOBRAL,
CRISTINA SOBRAL
64 W. 9TH STREET
NEWTON FALLS, OHIO 44444,

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**WARRANT ON COMPLAINT
(RULE 4)**

S.S. # ~~282-787652~~ 127-76-4599

D.O.B. ~~10/24/65~~ 8/23/1964

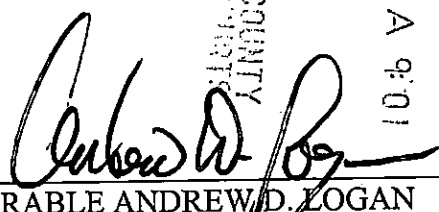
TO: DET. SGT. PETER J. PIZZULO OF THE TRUMBULL COUNTY SHERIFF'S DEPARTMENT & OFFICER MICHAEL LASWELL OF THE NEWTON FALLS POLICE DEPARTMENT

A complaint, a copy of which is attached hereto, has been filed in the Trumbull County Common Pleas Court charging: Count 1: Aggravated Murder, in violation of Section 2903.01(A) & (F) of the Ohio Revised Code

You are ordered to arrest CLAUDIA C. HOERIG, aka CRISTINA HOERIG, CLAUDIA BOLTE, CRISTINA BOLTE, CLAUDIA SOBRAL, CRISTINA SOBRAL and bring her before said Court without unnecessary delay.

You may not issue a summons in lieu of arrest under Rule 4(A)(2) or issue summons after arrest under Rule 4.

Special instructions to executing officer:


HONORABLE ANDREW D. LOGAN
JUDGE, COURT OF COMMON PLEAS
TRUMBULL COUNTY, STATE OF OHIO

4-12-07
This is a true and correct copy of the original


KAREN INFANTE ALLEN, Clerk

By  Deputy

APR 2 9:01 AM
CLERK'S OFFICE
TRUMBULL COUNTY

RECEIPT OF WARRANT BY EXECUTING AUTHORITY

First Receipt

Subsequent Receipt

Received this warrant on _____, 2007, Received this warrant on _____, 2007,

at _____ o'clock __. M. at _____ o'clock __. M.

By _____

RETURN OF EXECUTED WARRANT

Execution By Arrest. I received this warrant on _____ 2007, at _____ o'clock __. M.

On _____, 2007, I arrested _____ and gave

him/her a copy of this warrant with complaint attached an brought _____.
(state the place)

(Arresting Officer/Title)

FEES

Mileage \$ _____

\$ _____

\$ _____

Total \$ _____

COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO)
)
COUNTY OF TRUMBULL) SS.

TRUMBULL COUNTY
SHERIFF'S OFFICE
2007 APR 12 A 9:01
Trumbull County

**AFFIDAVIT IN SUPPORT OF PROSECUTOR'S COMPLAINT AND
ARREST WARRANT**

Now comes Sergeant Peter J. Pizzulo, Detective for the Trumbull County Sheriff's Office, and member of the Trumbull County Homicide Investigation and Prosecution Unit, hereinafter referred to as Affiant, who first being duly sworn according to law deposes and says:

1. Affiant is employed by the Trumbull County Sheriff's Office and has been so employed since December of 1990. Affiant has been a Police Officer since 1984, having worked for the McDonald Police Department from 1984 to 1990 as a Special Patrolman and at the Brookfield Twp. Police Department from September 1st, 1989 to December 10th, 1990 as a Detective.
2. Affiant is currently assigned to the Investigative Division of the Sheriff's Office and is a member of the Trumbull County Homicide Investigation and Prosecution Unit. In that capacity, your Affiant has previously investigated, among others; Homicides, Rapes, Burglaries, Drug Abuse and Drug Trafficking offenses.
3. On March 15, 2007, at approximately 12:30 p.m. Newton Falls Police were dispatched to 64 W. Ninth Street, Newton Falls, Trumbull County, Ohio. The reason was that family members and friends of Air Force Reserve Major Karl Hoerig were concerned because

4-12, 2007
This is a true and correct copy of the original
Karen Infante Allen
KAREN INFANTE ALLEN, Clerk
By [Signature] Deputy

- they had not heard from Maj. Hoerig for a few days.
4. Maj. Karl Hoerig was a highly decorated C-130 pilot with the 910th Operation Support Squadron and had flown nearly 200 combat missions with nearly 400 combat hours in support of Operation Enduring Freedom and Iraqi Freedom. Members of the 910th Airlift Wing stated to Newton Falls Police that Maj. Hoerig had missed a scheduled flight assignment which was extremely out of character for Maj. Hoerig.
 5. Sgt. Ronald Lane of the Newton Falls Police Department arrived at 64 W. Ninth Street, Newton Falls, Trumbull County, Ohio. Sgt. Lane observed one vehicle parked in the driveway, a 2007 Subaru. Sgt. Lane knocked on the door and received no response from within. The exterior doors were locked and there was no sign of forced entry. Newton Falls Police Sgt. Ronald Lane called Major Gary Dodge of the United States Air Force Reserve 910th Airlift Wing Youngstown ARS, 3976 Kings Graves Road, Vienna, Ohio, who contacted Major Hoerig's parents, Ed and Frannie Hoerig, requesting that they meet the Newton Falls Police at Major Hoerig's residence. Upon their arrival, Ed Hoerig told Sgt. Lane that he had been at 64 Ninth Street, Newton Falls, Ohio in the morning hours of Thursday, March 15, 2007 and he had not been able to make contact with his son. Both of Major Hoerig's parents stated that they were very concerned about their son because of recent marital problems.
 6. The parents asked Sgt. Lane to enter the residence to check on the welfare of their son and his wife Claudia, who they called Chris. Sgt. Lane entered the residence through a back sliding door and smelled what he believed to be the odor of a dead body. As Sgt. Lane made his way into the living room area he observed a bed comforter and a tarp

commonly used for a painters drop cloth covering something at the bottom of the steps leading upstairs. He then noticed a human hand protruding from under the coverings. Underneath he discovered the body of Maj. Hoerig.

7. Sgt. Lane contacted Chief Robert Carlson and advised him of his finding. Chief Carlson contacted your Affiant. Affiant enlisted the assistance of other members of the Trumbull County Homicide Investigation and Prosecution Unit, including Detective Mike Yannucci of the Trumbull County Sheriff's Department, Detectives Nick Roberts and Alan Sprocket of the Howland Police Department, Trumbull County Prosecutor Dennis Watkins, Senior Assistant Christopher Becker, the Trumbull County Coroner's Office led by Dr. Humphrey Germaniuk and investigator Kathy Meszaros and officer Mike Laswell of Newton Falls Police Department.
8. Affiant and Dr. Germaniuk examined the body of Maj. Hoerig and made the following observations: Maj. Hoerig was lying face down at the bottom of a flight of stairs with one shoe at the bottom of the steps and another shoe partially underneath his torso. Maj. Hoerig appeared to have been shot twice in the back and once in the head. Additionally, investigators located two holes in the floor near the deceased where two rounds that had been fired at Maj. Hoerig missed and went through the floor into the basement. Investigators working with Trumbull County Prosecuting Attorney Dennis Watkins' Office obtained five (5) search warrants prepared by Senior Assistant Christopher Becker, including a search warrant for 64 W. Ninth Street, Newton Falls, Ohio. During the execution of one of those search warrants a projectile and projectile fragments were located in the basement.

9. Affiant found through his investigation that Maj. Hoerig owned two vehicles, the 2007 Subaru found in the driveway at 64 W. Ninth Street, Newton Falls, Ohio, and a 2001 silver BMW bearing Ohio registration EK99WY. The BMW was not at the residence. Neither was the victim's wife Claudia C. Hoerig, aka Claudia Bolte, Cristina Bolte, Claudia Sobral, Cristina Sobral, and Cristina Hoerig.
10. Officers were unable to locate the victim's wife Claudia C. Hoerig, aka Claudia Bolte, Cristina Bolte, Claudia Sobral, Cristina Sobral, and Cristina Hoerig. During the execution of a search warrant at the residence investigators discovered paperwork granting United States citizenship to Claudia C. Hoerig. According to the paperwork she became a naturalized citizen of the United States on September 28, 1999. Claudia had been in the United States since at least 1989 on work and education visas according to information obtained by Affiant. Attached herewith is a copy of Certificate of Naturalization of Claudia Cristina Bolte with photograph marked Exhibit No. 1.
11. On June 30, 2005, Major Karl Hoerig married Claudia Cristina Sobral in Las Vegas, Nevada. Attached herewith is Exhibit #2 – Marriage Certificate. Sobral was her maiden name from her native Brazil. She was born in Rio de Janeiro on August 23, 1964 as Claudia Cristina Sobral. Attached herewith is Exhibit #3 and #4 – Brazilian Birth Certificate. It is further noted that Claudia Cristina Sobral married Dr. Thomas Bolte of Long Beach New York, New York on May 21, 1990 and was divorced from him on September 28, 2000. Therefore, Claudia went by the name of Claudia Cristina Bolte at the time of her naturalization in 1999.
12. Pursuant to one of the search warrants obtained to search 64 W. Ninth Street, Newton

Falls, Ohio, investigators located in the north bedroom closet a loaded .357 Smith and Wesson 5 shot revolver bearing serial number CJT0901. The Smith & Wesson Revolver was propped in a wood board that had been secured into the interior closet door and which had a hole bored out to fit the muzzle of the .357. The .357 had a grip with a built-in laser sighting system. The firearm was fully loaded and the hammer was cocked, hanging in a way that the barrel was pointed outward from the closet.

13. In the basement investigators discovered one live and five spent .357 casings near a Gander Mountain bag containing boxes of ammunition for both .357 and .45 caliber firearms and a Gander Mountain Sales receipt for a purchase dated March 10, 2007 at 6:29 p.m. An empty box for 20 rounds of .357 ammunition was also located in the basement near the bag.
14. Investigators searched the 2007 Subaru pickup that was parked in the driveway of 64 W. Ninth Street, Newton Falls, Ohio. Inside the bed of the truck investigators found Major Hoerig's carry on suitcase. Inside the vehicle lying across the back seat were two long guns (rifles) and a handgun each in their own case and unloaded.
15. Investigators spoke to a neighbor that had seen Claudia Hoerig, known to family and friends as Cris, leaving the residence on Monday, March 12, 2007 at around noon in the silver BMW. The neighbor noted that the BMW has not been seen at the residence since Monday, March 12, 2007.
16. Det. Mike Yannucci of the Trumbull County Sheriff's Department and Officer Michael Laswell of the Newton Falls Police Department subsequently discovered that on Saturday, March 10, 2007, Claudia Hoerig went to Slugmasters gun shop in Braceville

Township, Trumbull County, Ohio. Det. Yannucci and Officer Laswell spoke to Nancy Hagmaier who identified Claudia Hoerig from photographs investigators had obtained. Hagmaier stated that Claudia Hoerig had been to Slugmasters twice during the week of March 5, 2007. The first time Hoerig just looked at handguns but did not purchase a handgun. The second visit by Claudia Hoerig to Slugmasters was on March 10, 2007.

17. On March 10, 2007, Claudia bought a Smith & Wesson .357 five shot revolver bearing serial number CJT0901, the same firearm found in the board that had the hole bored out in the north bedroom closet at 64 W. Ninth Street, Newton Falls, Ohio. Hagmaier advised that Claudia's hands were too small for the original grips that came on the firearm and Claudia purchased a new grip with a built-in laser sighting system. Hagmaier filled out all of the necessary paperwork for the .357 and the laser sight. Claudia spent \$839 for the .357 and laser grip at Slugmasters. Claudia used her Sky Bank debit card for the purchase.
18. While at Slugmasters Claudia Hoerig spent most of her time speaking with Brian Martin. Martin changed the grip for the .357 for Claudia on Saturday, March 10, 2007.
19. Claudia Hoerig left Slugmasters and went to the Warren Shooting Range, 1832 West Market Street, Warren, Trumbull County, Ohio. Claudia arrived at Warren Shooting Range at approximately 3:45 p.m. on Saturday, March 10, 2007. There Claudia practiced with the .357 she had purchased earlier at Slugmasters. Claudia spoke to Richard Sliter, Jr. an employee of Warren Shooting Range. Sliter assisted Claudia with her target shooting for approximately one hour. During this time Claudia questioned Sliter about different types of ammunition, with her main concern being stopping power. Sliter

offered his knowledge to Claudia and stated that a hollow point style bullet would best suit her concerns since the bullet expands and mushrooms when it hits its intended target.

She paid \$15.00 cash for target practice.

20. After test firing the .357 she had purchased at Slugmasters and test firing the same at Warren Shooting Range Sliter then showed Claudia how quickly he could reload a .45 semi-automatic in comparison to the .357 she had just purchased at Slugmasters. After seeing this Claudia decided to purchase a Taurus PT1911, serial number NZK32758 .45 caliber handgun Warren Shooting Range, dba Mike's Guns for \$578.24.
21. Sliter filled out a receipt and a Federal Firearms Transaction Record for Claudia Bolte for the Taurus .45 caliber handgun. After filling out the receipt and Federal Firearms Transaction Record Claudia realized she did not have enough money to make the purchase for the second firearm. Claudia advised Sliter that she needed to go to the ATM at Sky Bank to obtain more money. Claudia returned and said she "had drew too much out that day" and could not complete transaction for the .45. Claudia asked if she could keep the transaction open until the next business day which would have been Monday, March 12, 2007. Sliter, who had already filled out the receipt and Federal Firearms Transaction Record agreed.
22. Investigators were able to obtain security video, bank records and a receipt from Gander Mountain located on State Route 46 near the Eastwood Mall showing that Claudia purchased two boxes of .45 hollow point ammunition and one box of Federal .357 hollow point ammunition for \$58.54 at approximately 6:29 p.m. on Saturday, March 10, 2007.

23. Investigators attended the autopsy of Karl Hoerig and received numerous pieces of evidence from Dr. Humphrey Germaniuk of the Trumbull County Coroner's Office including fired bullets, bullet jacket fragments and other evidence. This evidence was secured and transported to the office of Ohio Attorney General, Bureau of Criminal Identification and Investigation in Boardman, Ohio and subsequently transferred to its Forensic Laboratory in Richfield, Ohio.
24. On March 29, 2007, Forensic Scientist Andrew Chappell of the Ohio Attorney General's Office, Ohio Bureau of Criminal Identification and Investigation, Richfield, Ohio prepared a two page written forensic report. That report concluded that based upon microscopic comparisons of bullet fragments recovered from the body of Karl Hoerig, a fired bullet recovered from the body of Karl Hoerig, a bullet jacket fragment that had been shot into the head and exited the body of Karl Hoerig, and fired cartridge casings found in the basement were all fired from the Smith and Wesson .357 Magnum caliber revolver, model 60-18, serial numberCJT0901 that Claudia Hoerig had purchased on March 10, 2007.
25. Maj. Karl Hoerig in addition to being with the 910th Airlift Wing was a first officer with Southwest Airlines with his home base being Chicago, Illinois Midway Airport. According to Southwest Airlines work records Karl Hoerig arrived at Islip, New York at 9:07 p.m. on Friday, March 9, 2007.
26. On Saturday, March 10, 2007, Karl Hoerig departed Islip, New York and arrived in Raliegh-Durham, North Carolina. The Captain of the pairing stated that he and Karl had dinner in the Raliegh-Durham area on Saturday night March 10, 2007.

27. Investigators have confirmed that Karl met with his daughter and other family members who live in North Carolina during the day on Sunday, March 11, 2007.
28. The Southwest Captain that was paired with Karl during the March 9-March 11, 2007 trip stated that he and Karl met again at Raliegh-Durham Airport at approximately 6:00 p.m. on Sunday, March 11, 2007. The flight departed Raliegh-Durham at 7:14 p.m. and returned to Chicago Midway Airport at approximately 10:54 p.m. Central Time.
29. Investigators have learned that Karl stayed at a crash pad or apartment available to flight personnel near Chicago's Midway Airport and did not return to Ohio until the morning of Monday, March 12, 2007.
30. During the Islip, New York to Raliegh-Durham flight Karl spoke to the Southwest Captain about Karl's marriage to Claudia. Karl stated to the Captain that he was having marital problems and that the marriage had been poor from the beginning. Karl also stated that his wife had fired a gun in the house and that Karl had repaired the damage. Karl also stated that his wife kept large sums of cash inside the house.
31. Karl also told the Southwest Captain that he was finished with the marriage and was planning on moving out of the house on Monday, March 12, 2007. Karl stated that he feared what his wife's reaction would be to him leaving. Karl also confided to the Captain that he had spoken to his wife on Sunday, March 11, 2007 and that the conversation had not gone well.
32. On Friday, March 16, 2007, investigators located the 2000 silver BMW 328i Ohio Registration EK99WY at Pittsburgh International Airport. Detective Alan Sprocket and Nick Roberts of the Howland Township Police Department and the Trumbull County

Homicide Task Force went to Pittsburgh, Pennsylvania and were present when that vehicle was searched and processed by Allegheny County Police. That vehicle was subsequently returned to Ohio and searched a second time pursuant to a search warrant issued by Trumbull County Common Pleas Court by the Honorable Peter J. Kontos due to the fact that the trunk was locked and access could not be gained. Investigators obtained a trunk key from Karl Hoerig's parents for the second search of the vehicle.

33. Investigators have discovered that Claudia Hoerig flew out of Pittsburgh International Airport on Monday, March 12, 2007. Claudia flew for free on US Airways using the Southwest employee pass of Karl Hoerig on flight 3675 from Pittsburgh, Pennsylvania to LaGuardia Airport in New York City.
34. Investigators have obtained bank records for an account in the name of Claudia Bolte at Sky Bank that on Monday, March 12, 2007 a deposit of \$10,000 was posted to that account. That same account shows a wire transfer in the amount of \$9,900 to Antonio Jorge Sobral.
35. Investigators have obtained a sign-in log from the safety deposit box at Sky Bank in Newton Falls, Ohio, showing Claudia Hoerig entering the safety deposit box on Saturday, March 10, 2007 at approximately 11:20 a.m. until 11:30 a.m. Claudia Hoerig is also observed on security video on this date and time.
36. On Monday, March 12, 2007, Claudia Hoerig entered the Sky Bank at Newton Falls, Ohio, at approximately 2:21 p.m. to 2:25 p.m.
37. Investigators have determined that Claudia Hoerig was previously married to an individual by the name of Dr. Thomas J. Bolte in New York City, New York.

38. According to Dr. Bolte, Claudia has a father in Brazil by the name of Antonio Sobral. She also has a brother by the name of Antonio who also lives in Brazil. Dr. Bolte advised that he and Claudia were married in May of 1990 and divorced in September of 1999. Dr. Bolte advised that he had only one conversation with Claudia since the divorce. That conversation was in 2005 just prior to Claudia marrying Karl. Claudia told Dr. Bolte that she was getting married and that she wished him the best in the future.
39. Dr. Bolte stated that Claudia was abusive both physically and mentally to him during their marriage and that the marriage dissolved due primarily to Claudia's dishonesty pertaining to the couple's finances.
40. Dr. Bolte advised that Claudia had over 20 credit cards during their marriage and was using those credit cards in conjunction with the couple's joint bank account to wire funds to an account Claudia had established in Brazil. Claudia was then using the account in Brazil to purchase properties located in Brazil. Upon confronting Claudia with this information by Dr. Bolte, Claudia served divorce papers on Dr. Bolte.
41. Investigators have spoken to a former boyfriend of Claudia's who stated that on Monday, March 12, 2007, at approximately 4:45 p.m. he received a call from Claudia. The former boyfriend stated that Claudia told him that her father had been injured in Brazil and that she was going to see him. Claudia told the former boyfriend that she was flying into LaGuardia and needed a ride from LaGuardia to JFK to catch a flight to Brazil at approximately 9:30 p.m. on Monday, March 12, 2007. The former boyfriend told Claudia that he did not have enough notice to pick her up at LaGuardia and take her to JFK.
42. The next day, Tuesday, March 13, 2007, Claudia sent an e-mail to the former boyfriend

stating that her father was ok and that she was not going to Brazil.

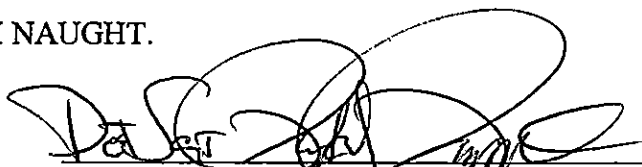
43. Investigators have obtained cell phone records for Claudia Hoerig. The cell phone records show that she was near Pittsburgh International Airport on Monday, March 12, 2007, from approximately 4:15 p.m. to 5:06 p.m. The cell phone records then indicate that she was near JFK airport from 7:44 p.m. until 9:36 p.m. These are the last cell phone records for Claudia's cell phone.
44. American Airlines has a direct flight from New York's JFK to Sao Paulo, Brazil that departed during the time Claudia's cell phone was near JFK. Investigators have issued a subpoena to CTS in Cleveland which handles all legal process for American Airlines. As of the date of this affidavit CTS and American Airlines have not complied with the subpoena.
45. On March 29, 2007, Affiant obtained a search warrant from the Trumbull County Common Pleas Court for the Hoerig residence in order to inventory the personal belongings of Claudia. After searching rooms of the home, it is evident that she left quite suddenly from the marital residence leaving over 900 personal items behind. For example: Affiant notes that 77 pairs of women shoes were found in home along with 59 dresses, 19 business suits, 12 coats, and 69 sweaters and numerous other items. Only Claudia and Karl lived at the home.
46. On Monday, April 2, 2007, investigator Gary Hetzel of Trumbull County Prosecutor's Office enlisted the services of a Portuguese Interpreter. The interpreter made three recorded phone calls. Two were made to Claudia's father Antonio Jorge Sobral in Brazila, Brazil. During the first call he stated that he had not spoken to Cristina for two

weeks and only had contact information for his daughter for her home in Ohio. During the second call the father stated he was unaware of anything happening to Karl Hoerig. When informed that Karl had died the father did not ask how he died. When the father was asked if he would like to know how Karl had died he stated yes and was told Karl was killed. The father did not ask for any details. The father also provided the phone number for Claudia Cristina Hoerig's sister, Claudia Simone.

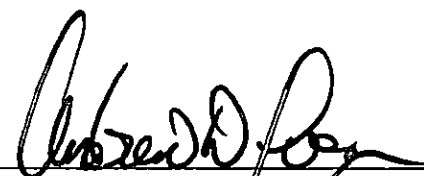
47. Investigators, using the same interpreter contacted Simone in Brasilia, Brazil. Simone stated that she had seen her sister in Brazil on Saturday, March 31, 2007. Simone stated that she does not know where her sister is staying. Simone asked, "is it true what Cristina told me?" The interpreter asked, "what did she tell you?" Simone stated that she did not want to say out loud. When told that Karl was dead Simone stated, "so it's true what Cristina told me."
48. Claudia Hoerig, aka Claudia Bolte, Cristina Bolte, Claudia Sobral, Cristina Sobral, and Cristina Hoerig had a pending DUI case in Portage County, Ohio, and she was aware of the court dates. She failed to appear for that hearing on March 28, 2007 and a warrant was issued for her arrest.
49. THEREFORE for the above given reasons, Affiant firmly believes he has shown that probable cause has been established to charge the following person **CLAUDIA CRISTINA HOERIG, aka CLAUDIA BOLTE, CRISTINA BOLTE, CRISTINA HOERIG, CLAUDIA SOBRAL, and CRISTINA SOBRAL**, a 42 year old female, being approximately 5'02" and weighing approximately 110 pounds with brown hair and brown eyes, DOB 8/23/64, SS#127-76-4599 (Photos Attached as Exhibit #5) with the

crime of AGGRAVATED MURDER in violation of section §2903.01(A) & (F) of the Ohio Revised Code. Further, said Aggravated Murder charge is not a capital offense under Ohio law. The penalty for a violation of Ohio Revised Code section 2903.01(A) is any of the following: 1) life imprisonment without parole; (2) life imprisonment with parole eligibility after serving twenty years of imprisonment; (3) life imprisonment without parole eligibility after serving twenty-five years of imprisonment; or (4) life imprisonment after serving thirty full years of imprisonment. After due consideration, Affiant further prays that this Honorable Court issue upon the Prosecutor's Complaint a warrant for the arrest of said CLAUDIA CRISTINA HOERIG, aka CLAUDIA BOLTE, CRISTINA BOLTE, CRISTINA HOERIG, CLAUDIA SOBRAL, and CRISTINA SOBRAL.

FURTHER AFFIANT SAYETH NAUGHT.


DETECTIVE SGT. PETER J. PIZZULO
TRUMBULL COUNTY SHERIFF'S DEPARTMENT
AFFIANT

Sworn to and subscribed before me, a Common Pleas Judge, in and for Trumbull County,
Ohio, this April 11, 2007


JUDGE, COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

UNITED STATES DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE



DEPARTMENT OF JUSTICE

No. 24 999 950

Personal description of holder as of date of naturalization:

TNS Registration No. A029789994

Date of birth: AUGUST 23, 1964

I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

Sex: FEMALE

Height: 5 feet 2 inches

Claudia Cristina Boite
(Complete and true signature of holder)

Marital status: MARRIED

Be it known that, pursuant to an application filed with the Attorney General

Country of former nationality: BRAZIL

at: NEW YORK, NEW YORK

The Attorney General having found that:

CLAUDIA CRISTINA BOITE

then residing in the United States, intends to reside in the United States when so required by the Naturalization laws of the United States, and had in all other respects complied with the applicable provisions of such naturalization laws and was entitled to be admitted to citizenship, such person having taken the oath of allegiance in a ceremony conducted by the

U.S. IMMIGRATION AND NATURALIZATION SERVICE

at: BROOKLYN, NEW YORK

SEP 28 1993

that such person is admitted as a citizen of the United States of America.

David M. ...
Commissioner of Immigration and Naturalization



Claudia Cristina Boite

IT IS PUNISHABLE BY U. S. LAW TO COPY, PRINT OR PHOTOGRAPH THIS CERTIFICATE, WITHOUT LAWFUL AUTHORITY.

DEPARTMENT OF JUSTICE

State of Nevada

Marriage Certificate

No. D826386

State of Nevada }
County of Clark } ss:

This is to certify that the undersigned, JACQUELINE DAFALLAH, DEPUTY MARRIAGE COMMISSIONER

(PRINT NAME AND TITLE OF OFFICIAL PERFORMING MARRIAGE)

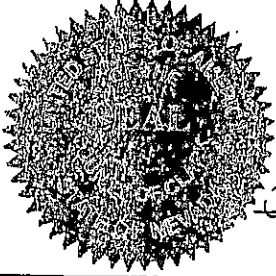
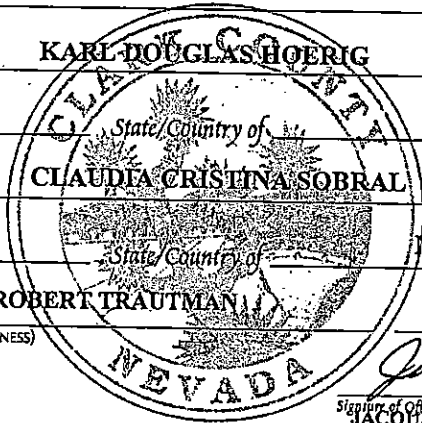
did on the 30TH day of JUNE, 2005

at 309 SOUTH THIRD STREET LAS VEGAS, Nevada,
(ADDRESS OR CHURCH) (CITY)

join in lawful wedlock KARL DOUGLAS HOERIG
of NEWTON FALLS OHIO
State/Country of

and CLAUDIA CRISTINA SOBRAL
of NEW YORK NEW YORK
State/Country of

with their mutual consent, in the presence of ROBERT TRAUTMAN
(WITNESS)



Shirley B. Pinaquero
Shirley B. Pinaquero, County Clerk

Jacqueline Dafaallah
Signature of Official Performing Marriage (Black Ink Only)
JACQUELINE DAFALLAH
DEPUTY COMMISSIONER OF CIVIL MARRIAGES
Print Name and Title of Official
309 SOUTH THIRD STREET
Address of Official Performing Marriage
LAS VEGAS, NEVADA 89101
City, State and Zip Code

Original To be given to the parties married

EXHIBIT "4"

Pad number 123,480

FEDERATIVE REPUBLIC OF BRAZIL
CIVIL REGISTRATION OFFICE

2nd District First Zone District of Sacramento and São José
County of the Capital of the State of Rio de Janeiro

BIRTH CERTIFICATE

Dante Alighiere Bria - Officer of Civil Registration

CERTIFIES that on page 164 of book A-231, under number 51,356,
there is a registration of the birth of CLAUDIA CRISTINA SOBRAL,
born on August 23, 1964, at 4:30 AM, at Herculano Pinheiro
Maternity Hospital, in this city

The child is female, white, son of ANTONIO JORGE SOBRAL and
CLAUDETTE CLAUDIA GOMES DE OLIVEIRA

Paternal grandparents Antonio Sobral and Luiza Distasio Sobral

Maternal grandparents Carlos Gomes de Oliveira and Elidia Santos
de Oliveira

The father was the informant

Witnesses Jose Carlos da Silva Souto and Crispim Batista Soares

The registration was made on July 16, 1968

Remarks the registration was made pursuant to Law 765 of July 14,
1949

SIGNATURE DULY NOTARIZED

I, (EDUARDO FRANCISCO DA SILVA), extracted it

The above is true and I certify

Rio de Janeiro, April 22, 1981

Signed - Officer of Civil Registration
(SECOND DISTRICT OF THE COUNTY OF THE CAPITAL)

EXHIBIT "5"

660



MARC DANN
ATTORNEY GENERAL
STATE OF OHIO



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Record Information

Data Source: OBMV Owing Agency: OBMV
 Record Type: Driver's License (Active) Record Key: 019549550

Demographics

CLAUDIA C HOERIG

Allas(s):
 Height: 5' 02"
 Hair: BROWN
 Race:
 Date of Birth: 8/23/1964
 Scar/Mark/Tattoos:

Weight: 110
 Eyes: BROWN
 Gender: F
 Age: 42



Identifiers

SSN(s): 127-76-4599 FBI Number(s): BCI Number(s):

Driver's License

Drivers License Authority: OH Drivers License:
 Expires On: Issue Date:
 License Type: NOT License Type Two Part:
 License Class: License Restriction:
 License Endorsement(s): Restriction(s):
 Permanant Identification SZ859920 Class: I
 Issued Date: 07/27/2005 Expiration Date: 08/23/2008
 Status: VALID CDLIS:

Addresses

Address Type	Street	City	State	County	Zip
Residence	64 W 9TH ST	NEWTON FALLS	OH	78-TRUMBULL	44444

Access History

Name	Agency	Last Access Time	Count
Hetzel, Gary	Trumbull County Prosecutor	4/11/2007 11:57:12 AM	5
Becker, Christopher	Trumbull County Prosecutor	4/3/2007 8:31:47 PM	4

TREATIES AND OTHER INTERNATIONAL ACTS SERIES 5891

EXTRADITION

**Treaty and Additional Protocol
Between the UNITED STATES OF AMERICA
and BRAZIL**

**Signed at Rio de Janeiro January 13, 1961,
and June 18, 1962, Respectively**



BRAZIL

Extradition

Treaty and additional protocol signed at Rio de Janeiro January 13, 1961, and June 18, 1962, respectively;
Ratification advised by the Senate of the United States of America May 16, 1961, and October 22, 1963, respectively;
Ratified by the President of the United States of America May 29, 1961, and October 29, 1963, respectively;
Ratified by Brazil August 25, 1964;
Ratifications exchanged at Washington November 17, 1964;
Proclaimed by the President of the United States of America November 20, 1964;
Entered into force December 17, 1964.

**TREATY OF EXTRADITION BETWEEN THE UNITED STATES
OF AMERICA AND THE UNITED STATES OF BRAZIL**

The United States of America and the United States of Brazil, desiring to make more effective the cooperation of their respective countries in the repression of crime, have resolved to conclude a treaty of extradition and for this purpose have appointed the following Plenipotentiaries:

The President of the United States of America: His Excellency John Moors Cabot, Ambassador of the United States of America to Brazil, and

The President of the United States of Brazil: His Excellency Horacio Lafer, Minister of State for External Relations,

Who, having communicated to each other their respective full powers, found to be in good and due form, agree as follows:

ARTICLE I

Each Contracting State agrees, under the conditions established by the present Treaty and each in accordance with the legal formalities in force in its own country, to deliver up, reciprocally, persons found in its territory who have been charged with or convicted of any of the crimes or offenses specified in Article II of the present Treaty and committed within the territorial jurisdiction of the other, or outside thereof under the conditions specified in Article IV of the present Treaty; provided that such surrender shall take place only upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his commitment for trial if the crime or offense had been there committed.

ARTICLE II

Persons shall be delivered up according to the provisions of the present Treaty for prosecution when they have been charged with, or to undergo sentence when they have been convicted of, any of the following crimes or offenses:

1. Murder (including crimes designated as parricide, poisoning, and infanticide, when provided for as separate crimes); manslaughter when voluntary.
2. Rape; abortion; carnal knowledge of (or violation of) a girl under the age specified by law in such cases in both the requesting and requested States.
3. Malicious wounding; willful assault resulting in grievous bodily harm.

4. Abduction, detention, deprivation of liberty, or enslavement of women or girls for immoral purposes.

5. Kidnapping or abduction of minors or adults for the purpose of extorting money from them or their families or any other person or persons, or for any other unlawful end.

6. Bigamy.

7. Arson.

8. The malicious and unlawful damaging of railways, trains, vessels, aircraft, bridges, vehicles, and other means of travel or of public or private buildings, or other structures, when the act committed shall endanger human life.

9. Piracy, by the law of nations; mutiny on board a vessel or an aircraft for the purpose of rebelling against the authority of the Captain or Commander of such vessel or aircraft; or by fraud or violence taking possession of such vessel or aircraft.

10. Burglary, defined to be the breaking into or entering either in day or night time, a house, office, or other building of a government, corporation, or private person, with intent to commit a felony therein; housebreaking.

11. Robbery.

12. Forgery or the utterance of forged papers.

13. The forgery, falsification, theft or destruction of the official acts or public records of the government or public authority, including Courts of Justice, or the uttering or fraudulent use of the same.

14. The fabrication or the utterance, circulation or fraudulent use of any of the following objects: counterfeit money, whether coin or paper; counterfeit titles or coupons of public debt, created by national, state, provincial, territorial, local, or municipal governments; counterfeit bank notes or other instruments of public credit; and counterfeit seals, stamps, dies, and marks of State or public administration.

15. The introduction of instruments for the fabrication of counterfeit coins or bank notes or other paper currency as money.

16. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals.

17. Larceny.

18. Obtaining money, valuable securities or other property by false pretenses, or by threats of injury.

19. Receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained.

20. Fraud or breach of trust by a bailee, banker, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation or by anyone in any fiduciary capacity.

21. Willful non-support or willful abandonment of a minor or other dependent person when death or serious bodily injury results therefrom.

22. Perjury (including willfully false expert testimony); subornation of perjury.
23. Soliciting, receiving, or offering bribes.
24. The following offenses when committed by public officials: extortion; embezzlement.
25. Crimes or offenses against the bankruptcy laws.
26. Crimes or offenses against the laws of both countries for the suppression of slavery and slave trading.
27. Crimes or offenses against the laws relating to the traffic in, use of, or production or manufacture of, narcotic drugs or cannabis.
28. Crimes or offenses against the laws relating to the illicit manufacture of or traffic in substances injurious to health, or poisonous chemicals.
29. Smuggling, defined to be the act of willfully and knowingly violating the customs laws with intent to defraud the revenue by international traffic in merchandise subject to duty.
30. Aiding the escape of a prisoner by force of arms.
31. Use of explosives so as to endanger human life or property.
32. Prostitution, defined as the procuring or transporting of a woman or girl under age, even with her consent, for immoral purposes, or of a woman or girl over age, by fraud, threats, or compulsion, for such purposes with a view in either case to gratifying the passions of another person; profiting from the prostitution of another.
33. The attempt to commit any of the above crimes or offenses, when such attempt is made a separate offense by the laws of the Contracting States.
34. Participation in any of the above crimes or offenses.

ARTICLE III

Except as otherwise provided in the present Treaty, the requested State shall extradite a person accused or convicted of any crime or offense enumerated in Article II only when both of the following conditions exist:

1. The law of the requesting State, in force when the crime or offense was committed, provides a possible penalty of deprivation of liberty for a period of more than one year; and
2. The law in force in the requested State generally provides a possible penalty of deprivation of liberty for a period of more than one year which would be applicable if the crime or offense were committed in the territory of the requested State.

ARTICLE IV

When the crime or offense has been committed outside the territorial jurisdiction of the requesting State, the request for extradition need not be honored unless the laws of the requesting State and those of the requested State authorize punishment of such crime or offense in this circumstance.

The words "territorial jurisdiction" as used in this Article and in Article I of the present Treaty mean: territory, including territorial waters, and the airspace thereover, belonging to or under the control of one of the Contracting States; and vessels and aircraft belonging to one of the Contracting States or to a citizen or corporation thereof when such vessel is on the high seas or such aircraft is over the high seas.

ARTICLE V

Extradition shall not be granted in any of the following circumstances:

1. When the requested State is competent, according to its laws, to prosecute the person whose surrender is sought for the crime or offense for which that person's extradition is requested and the requested State intends to exercise its jurisdiction.
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.
3. When the legal proceedings or the enforcement of the penalty for the crime or offense committed has become barred by limitation according to the laws of either the requesting State or the requested State.
4. When the person sought would have to appear, in the requesting State, before an extraordinary tribunal or court.
5. When the crime or offense for which the person's extradition is requested is purely military.
6. When the crime or offense for which the person's extradition is requested is of a political character. Nevertheless
 - a. The allegation by the person sought of political purpose or motive for the request for his extradition will not preclude that person's surrender if the crime or offense for which his extradition is requested is primarily an infraction of the ordinary penal law. In such case the delivery of the person being extradited will be dependent on an undertaking on the part of the requesting State that the political purpose or motive will not contribute toward making the penalty more severe.
 - b. Criminal acts which constitute clear manifestations of anarchism or envisage the overthrow of the bases of all political organizations will not be classed as political crimes or offenses.
 - c. The determination of the character of the crime or offense will fall exclusively to the authorities of the requested State.

ARTICLE VI

When the commission of the crime or offense for which the extradition of the person is sought is punishable by death under the laws of

the requesting State and the laws of the requested State do not permit this punishment, the requested State shall not be obligated to grant the extradition unless the requesting State provides assurances satisfactory to the requested State that the death penalty will not be imposed on such person.

ARTICLE VII

There is no obligation upon the requested State to grant the extradition of a person who is a national of the requested State, but the executive authority of the requested State shall, subject to the appropriate laws of that State, have the power to surrender a national of that State if, in its discretion, it be deemed proper to do so.

ARTICLE VIII

The Contracting States may request, one from the other, through the channel of their respective diplomatic or consular agents, the provisional arrest of a fugitive as well as the seizure of articles relating to the crime or offense.

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;
2. A description of the person sought for the purpose of identification;
3. A statement of the probable whereabouts of the fugitive, if known; and
4. A declaration that there exist and will be forthcoming the relevant documents required by Article IX of the present Treaty.

If, within a maximum period of 60 days from the date of the provisional arrest of the fugitive in accordance with this Article, the requesting State 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.

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.

2. In the case of a person who is merely charged with the crime or offense for which his extradition is sought; a duly certified or authenticated copy of the warrant of arrest or other order of detention issued by the competent authorities of the requesting State, together with the depositions upon which such warrant or order may have been issued and such other evidence or proof as may be deemed competent in the case.

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 extradition shall be accompanied by a duly certified translation thereof into the language of the requested State.

ARTICLE X

When the extradition of a person has been requested by more than one State, action thereon will be taken as follows:

1. If the requests deal with the same criminal act, preference will be given to the request of the State in whose territory the act was performed.
2. If the requests deal with different criminal acts, preference will be given to the request of the State in whose territory the most serious crime or offense, in the opinion of the requested State, has been committed.
3. If the requests deal with different criminal acts, but which the requested State regards as of equal gravity, the preference will be determined by the priority of the requests.

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.

ARTICLE XII

If at the time the appropriate authorities of the requested State shall consider the documents submitted by the requesting State, as required in Article IX of the present Treaty, in support of its request for the extradition of the person sought, it shall appear that such documents do not constitute evidence sufficient to warrant extradition

under the provisions of the present Treaty of the person sought, such person shall be set at liberty unless the requested State or the proper tribunal thereof shall, in conformity with its own laws, order an extension of time for the submission by the requesting State of additional evidence.

ARTICLE XIII

Extradition having been granted, the surrendering State shall communicate promptly to the requesting State that the person to be extradited is held at its disposition.

If, within 60 days counting from such communication—except when rendered impossible by *force majeure* or by some act of the person being extradited or the surrender of the person is deferred pursuant to Articles XIV or XV of the present Treaty—such person has not been delivered up and conveyed out of the jurisdiction of the requested State, the person shall be set at liberty.

ARTICLE XIV

When the person whose extradition is requested is being prosecuted or is serving a sentence in the requested State, the surrender of that person under the provisions of the present Treaty shall be deferred until the person is entitled to be set at liberty, on account of the crime or offense for which he is being prosecuted or is serving a sentence, for any of the following reasons: dismissal of the prosecution, acquittal, expiration of the term of the sentence or the term to which such sentence may have been commuted, pardon, parole, or amnesty.

ARTICLE XV

When, in the opinion of competent medical authority, duly sworn to, the person whose extradition is requested cannot be transported from the requested State to the requesting State without serious danger to his life due to his grave illness, the surrender of the person under the provisions of the present Treaty shall be deferred until such time as the danger, in the opinion of the competent medical authority, has been sufficiently mitigated.

ARTICLE XVI

The requesting State may send to the requested State one or more duly authorized agents, either to aid in the identification of the person sought or to receive his surrender and to convey him out of the territory of the requested State.

Such agents, when in the territory of the requested State, shall be subject to the applicable laws of the requested State, but the expenses which they incur shall be for the account of the State which has sent them.

ARTICLE XVII

Expenses related to the transportation of the person extradited shall be paid by the requesting State. The appropriate legal officers of the country in which the extradition proceedings take place shall, by all legal means within their power, assist the officers of the requesting State before the respective judges and magistrates. No pecuniary claim, arising out of the arrest, detention, examination and surrender of fugitives under the terms of the present Treaty, shall be made by the requested State against the requesting State other than as specified in the second paragraph of this Article and other than for the lodging, maintenance, and board of the person being extradited prior to his surrender.

The legal officers, other officers of the requested State, and court stenographers in the requested State who shall, in the usual course of their duty, give assistance and who receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the requesting State the usual payment for such acts or services performed by them in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XVIII

A person who, after surrender by either of the Contracting States to the other under the terms of the present Treaty, succeeds in escaping from the requesting State and takes refuge in the territory of the State which has surrendered him, or passes through it in transit, will be detained, upon simple diplomatic request, and surrendered anew, without other formalities, to the State to which his extradition was granted.

ARTICLE XIX

Transit through the territory of one of the Contracting States of a person in the custody of an agent of the other Contracting State, and surrendered to the latter by a third State, and who is not of the nationality of the country of transit, shall, subject to the provisions of the second paragraph of this Article, be permitted, independently of any judicial formalities, when requested through diplomatic channels and accompanied by the presentation in original or in authenticated copy of the document by which the State of refuge has granted the extradition. In the United States of America, the authority of the Secretary of State of the United States of America shall be first obtained.

The permission provided for in this Article may nevertheless be refused if the criminal act which has given rise to the extradition does not constitute a crime or offense enumerated in Article II of the present Treaty, or when grave reasons of public order are opposed to the transit.

ARTICLE XX

Subject to the rights of third parties, which shall be duly respected:

1. All articles, valuables, or documents which relate to the crime or offense and, at the time of arrest, have been found in the possession of the person sought or otherwise found in the requested State shall be surrendered, with him, to the requesting State.
2. The articles and valuables which may be found in the possession of third parties and which likewise are related to the crime or offense shall also be seized, but may be surrendered only after the rights with regard thereto asserted by such third parties have been determined.

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 so 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.

ARTICLE XXII

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Washington, as soon as possible.

The present Treaty shall enter into force one month after the date of exchange of ratifications. It may be terminated at any time by either Contracting State giving notice of termination to the other Contracting State, and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed hereunto their seals.

DONE in duplicate, in the English and Portuguese languages, both equally authentic, at Rio de Janeiro, this thirteenth day of January, one thousand nine hundred sixty-one.

[SEAL] JOHN M CABOT

[SEAL] HORACIO LAFER

**ADDITIONAL PROTOCOL TO THE TREATY OF EXTRADITION
OF JANUARY 13, 1961, BETWEEN THE UNITED STATES
OF AMERICA AND THE UNITED STATES OF BRAZIL**

The United States of America and the United States of Brazil, Having concluded at Rio de Janeiro, on January 13, 1961, a Treaty of Extradition for the purpose of making more effective the cooperation between the two countries in the repression of crime,

And desiring to make clear that their respective nationals will be subject to extradition only if the constitutional and legal provisions in force in their territories permit it,

Have resolved to sign an Additional Protocol to the aforementioned Treaty of Extradition and, to this end, have appointed the following Plenipotentiaries:

The President of the United States of America: His Excellency Lincoln Gordon, Ambassador Extraordinary and Plenipotentiary to Brazil, and

The President of the Republic of the United States of Brazil: His Excellency Francisco Clementino de San Tiago Dantas, Minister of State for External Relations,

Who, having communicated to each other their respective full powers, found to be in good and due form, agree as follows:

ARTICLE I

Article VII of the Treaty of Extradition concluded between the two countries at Rio de Janeiro, on January 13, 1961, shall be interpreted as follows:

"The Contracting Parties are not obliged by this Treaty to grant extradition of their nationals. However, if the Constitution and laws of the requested State do not prohibit it, its executive authority shall have the power to surrender a national if, in its discretion, it be deemed proper to do so."

ARTICLE II

The present Protocol shall enter into force on the same date as the Treaty of Extradition of January 13, 1961, and shall cease to be effective on the date of the termination of the Treaty.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Additional Protocol and have fixed hereunto their seals.

DONE in duplicate, in the English and Portuguese languages, both equally authentic, at Rio de Janeiro, on this eighteenth day of June, one thousand nine hundred sixty-two.

LINCOLN GORDON

F C DE SAN TIAGO DANTAS

[SEAL]

WHEREAS the Senate of the United States of America by their resolution of May 16, 1961, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the treaty and by their resolution of October 22, 1963, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the additional protocol;

WHEREAS the President of the United States of America ratified the treaty on May 29, 1961 and the additional protocol on October 29, 1963, in pursuance of the advice and consent of the Senate, and the Government of the United States of Brazil has duly ratified the treaty and the additional protocol;

WHEREAS the respective instruments of ratification of the treaty and the additional protocol were duly exchanged at Washington on November 17, 1964;

AND WHEREAS it is provided in Article XXII of the treaty that the treaty shall enter into force one month after the date of exchange of ratifications, and it is provided in Article II of the additional protocol that the additional protocol shall enter into force on the same date as the treaty;

Now, THEREFORE, be it known that I, Lyndon B. Johnson, President of the United States of America, do hereby proclaim and make public the said treaty and additional protocol, to the end that the same and every article and clause thereof may be observed and fulfilled in good faith on and after December 17, 1964, one month after the day of exchange of instruments of ratification, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twentieth day of November in the year of our Lord one thousand nine hundred sixty-
[SEAL] four and of the Independence of the United States of America the one hundred eighty-ninth.

LYNDON B. JOHNSON

By the President:
GEORGE W BALL
Acting Secretary of State

First Assistant
JAMES J. M

Chief — Civil
JAMES T. S

Chief — Criminal
CHARLES L. MORROW

Senior Trial Attorneys
KENNETH N. BAILEY
CHRISTOPHER D. BECKER

Administrator — Criminal Division
DAVID M. TOEPFER

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LuWAYNE ANNOS



DENNIS WATKINS

Trumbull County Prosecuting Attorney

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Criminal Division
JEFFREY D. ADLER
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Child Assault Division
DIANE L. BARBER, CHIEF
MICHAEL A. BURNETT

Child Support Division
DAVID E. BOKER, CHIEF
DONALD W. HILL

Chief — Juvenile Division
STANLEY A. ELKINS

Investigators
GARY S. HETZEL
ROY ANNE RUDOLPH

April 12, 2007

U.S. Marshal Peter Elliott
United States Marshal-Northern District
801 W. Superior Avenue - Room 1200
Cleveland, OH 44113

Dear Mr. Elliott:

In re: Extradition of Claudia C. Hoerig, aka Cristina Hoerig,
Claudia Bolte, Cristina Bolte, Claudia Sobral, Cristina Sobral
64 W. 9th Street, Newton Falls, OH 44444
D: 8/23/1964 - S.S.#127-76-4599

Please find enclosed original Prosecutor's Agreement to Extradite and Red Notice Application Materials which have been prepared by my office by the request of Deputy U.S. Marshall William Bolden of your office. You know Mr. Bolden has been working the Trumbull County Homicide Task Force in the investigation into the death of Mr. Karl Hoerig on March 12, 2007 in Newton Falls, Ohio. Mr. Hoerig was a pilot and Major in the Air Force Reserve 910 Airlift Wing, Youngstown ARS. He had flown nearly 200 combat missions for America. Mr. Bolden has been most helpful in assisting us in contacting the appropriate federal officials regarding locating and arresting the person responsible for Mr. Hoerig's death. It appears that the individual responsible for his death, Claudia C. Hoerig, left the United States and is now in Brazil.

On April 12, 2007, Judge Andrew D. Logan of the Trumbull County Common Pleas Court, Warren, Ohio upon a Complaint by the Prosecuting Attorney and the sworn Affidavit of Sgt. Peter J. Pizzulo of the Trumbull County Sheriff's Department issued a Warrant for Arrest of Claudia C. Hoerig for the aggravated murder of Karl

U.S. Marshal Peter Elliott
April 12, 2007
Page Two

Hoerig. Certified copies of the Complaint, Affidavit and Warrant are attached to this letter.

Because the evidence has shown that Mrs. Hoerig has fled the United States to Brazil, your assistance and the help of U.S. Department of Justice is needed. On two (2) occasions I talked by telephone to Trial Attorney Roberto Iraola of the Office of International Affairs in the U.S. Department of Justice, Washington, D.C., the latest conversation being April 10, 2007, concerning the possible apprehension and extradition of Claudia Hoerig. He informed me that currently the nation of Brazil, though having an Extradition Treaty, under its laws and constitution will not extradite for crimes committed in the United States, by its own citizens to the United States (even though the United States under its laws would extradite American citizens who commit crimes in Brazil). (See Treaty attached.)

This lack of comity and reciprocity between the United States and Brazil is totally unacceptable. Apparently, Brazil has become a safe haven for Mrs. Hoerig to avoid justice. This state of affairs becomes all the more appalling when the facts show that Claudia Hoerig is also a naturalized citizen of the United States. (See Exhibit #1 of Affidavit, copy of 1999 Certificate of Naturalization.) I have been informed by the Office of International Affairs that the Brazilian Consulate believes that the dual citizenship status of Mrs. Hoerig makes no difference in their position, that Mrs. Hoerig, while in Brazil, is exempt from apprehension, extradition, and American justice.

Because the present state of the law provides no remedy for local law enforcement in Ohio in this matter, I have and will appeal to the President of the United States and Congress to take all necessary steps to correct this situation and prevent a manifest injustice. In order to move things along and do everything possible, I have filed, per your request, the necessary paperwork to have Claudia Hoerig arrested. Obviously, if she were to leave Brazil and go to another country where the long arm of the law would reach her, we would want the Red Notice Application approved and in effect. It is my understanding that Mr. Bolden will

DENNIS WATKINS
Trumbull County Prosecuting Attorney

U.S. Marshal Peter Elliott

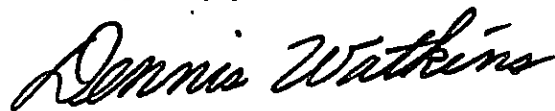
April 12, 2007

Page Three

forward the Prosecutor's Agreement to Extradite form and Red Notice Application as soon as possible to the Department of Justice.

We expect this letter and material will be helpful in our effort to obtain an apprehension in this case. I truly appreciate the fine cooperation you have provided my office and local law enforcement.

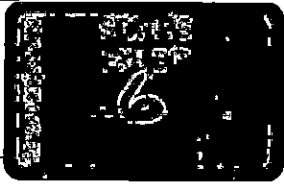
Very truly yours,

A handwritten signature in cursive script that reads "Dennis Watkins".

DENNIS WATKINS
Prosecuting Attorney

Attachments

DW:fah



UNITED STATES DISTRICT COURT FILED

them DISTRICT OF Ohio 07 APR 16 AM 9:56

UNITED STATES OF AMERICA

V.

Claudia Hoerig (AKA Claudia Bolte and Claudia Sobral)

CLERK US DISTRICT COURT NORTHERN DISTRICT OF OHIO CRIMINAL COMPLAINT

Case Number:

4:07M 6033

(Name and Address of Defendant)

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about March 12th, 2007 in Trumbull County, in the Northern District of Ohio defendant(s) did,

(Track Statutory Language of Offense)

Willfully, knowingly, unlawfully, and feloniously move and travel in foreign and interstate commerce from Newton Falls, OH to New York and then Brazil with the intent to avoid prosecution for the offense of Aggravated Murder, Ohio Revised Code 2903.01 (A) and (F), a felony in the State of Ohio

in violation of Title 18 United States Code, Section(s) 1073

I further state that I am a(n) Deputy United States Marshal and that this complaint is based on the following facts:

See attached Affidavit hereby incorporated by reference as if fully restated herein

Continued on the attached sheet and made a part of this complaint: x Yes [] No

William A. Boldin

Signature of Complainant

William Boldin, Deputy U.S. Marshal

Printed Name of Complainant

Sworn to before me and signed in my presence,

April 16th, 2007

Date

at Youngstown, OH

City and State

George J. Limbert, U.S. Magistrate Judge

Name and Title of Judge

George J. Limbert

Signature of Judge

6

AFFIDAVIT

I, William A. Boldin, being duly sworn, declare and state the following:

1. I am a Deputy United States Marshal assigned to the Northern District of Ohio, Youngstown Sub-Office, and have been so employed since July, 2003. As part of my duties I am assigned as a member of the Northern Ohio Violent Fugitive Task Force and the Trumbull County Homicide Task Force.
2. I have participated in the homicide investigation and personally supervised the fugitive investigation referred to in this affidavit. The information contained in this affidavit was personally obtained by the affiant, or by other law enforcement officers involved in the investigation.
3. On March 15th, 2007 the body of Karl Hoerig was found in his residence in Newton Falls, OH. Investigators began attempting to locate the victim's wife Claudia Hoerig (AKA Claudia Bolte and Claudia Sobral). Claudia Hoerig is a native of Brazil and has extensive family ties in that country.
4. On March 16th, 2007 Claudia Hoerig's vehicle was discovered in a parking lot at the Greater Pittsburgh International Airport. A cooperating witness reported that Claudia Hoerig flew to the Laguardia Airport in New York, NY on March 12th, 2007. The cooperating witness further reported that Claudia Hoerig stated that she needed a ride to John F. Kennedy Airport to board a connecting flight to Brazil.
5. On April 3rd, 2007 Deputy Marshal Boldin spoke with Detective Aida Carrasco of the New York/New Jersey Port Authority Police Department. Utilizing investigative resources in New York, Detective Carrasco was able to confirm that Claudia Hoerig (AKA Claudia Bolte and Claudia Sobral) departed John F. Kennedy International Airport

on March 12th, 2007 on an American Airlines flight to Brazil. Deputy Marshal Boldin confirmed with the Bureau of Immigration and Customs Enforcement that the fugitive did leave the United States of America for Brazil.

6. On April 12th, 2007 the Trumbull County Common Pleas court issued an arrest warrant for Claudia Hoerig, charging her with Aggravated Murder, Ohio Revised Code section 2903.01 (A) and (F) which is a felony under the laws of the State of Ohio.

Trumbull County Prosecutor Dennis Watkins advised that the Trumbull County Prosecutor's Office would extradite Hoerig from anywhere in the world.

7. Therefore, I believe that there is probable cause that Claudia Hoerig (AKA Claudia Bolte and Claudia Sobral) has violated Title 18, U.S. Code, Section 1073, Unlawful Flight to Avoid Prosecution.

William A. Boldin

William A. Boldin
Deputy United States Marshal
Northern District of Ohio

Subscribed and sworn to before me this 16TH day of April, 2007

George J. Limbert

George J. Limbert
U.S. Magistrate Judge

UNITED STATES DISTRICT COURT

Northern

District of

Ohio

UNITED STATES OF AMERICA

WARRANT FOR ARREST

V.

Claudia Hoerig
(AKA Claudia Bolte and Claudia Sobral)
Address Unknown

Case Number:

4:07M 6033

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest Claudia Hoerig (AKA Claudia Bolte and Claudia Sobral)
Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

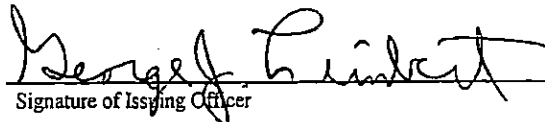
- Indictment
- Information
- Complaint
- Order of court
- Probation Violation Petition
- Supervised Release Violation Petition
- Violation Notice

charging him or her with (brief description of offense)

Willfully, knowingly, unlawfully, and feloniously move and travel in foreign and interstate commerce, to wit, Newton Falls, Ohio to New York and then Brazil with the intent to avoid prosecution for the offense of Aggravated Murder, Ohio Revised Code 2903.01 (A) and (F), a felony in the State of Ohio

in violation of Title 18 United States Code, Section(s) 1073

George J. Limbert
Name of Issuing Officer


Signature of Issuing Officer

United States Magistrate Judge
Title of Issuing Officer

April 16th, 2007 Youngstown,
Date and Location

RETURN

This warrant was received and executed with the arrest of the above-named defendant at

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		



INTERPOL RED NOTICE APPLICATION FORM
FOR USE BY U.S. AUTHORITIES

**PUBLICATION OF AN INTERNATIONAL WANTED NOTICE
WITH A VIEW TO ARREST AND EXTRADITION**

APPROVE CIRCULATION TO THE MEDIA AND PUBLIC, INCLUDING INTERNET:

YES

NO

To be sent to Interpol Secretariat General in Lyon, France by:
U.S. National Central Bureau - INTERPOL
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

USNCB REFERENCE NUMBER (to be provided by USNCB):

DATE: April, 16th, 2007
SUBJECT NAME: Claudia Cristina Hoerig

NOTICE REQUESTED FOR INFORMATION CONCERNING A

- Fugitive wanted for prosecution**
 Fugitive wanted to be sentenced
 Fugitive wanted to serve a sentence

1. IDENTITY PARTICULARS

PHOTOGRAPHS

PHOTOGRAPH ENCLOSED: **YES** **NO**
DATE PHOTOGRAPH TAKEN: _____
PLACE PHOTOGRAPH TAKEN: Ohio

FINGERPRINTS

FINGERPRINTS ENCLOSED: **YES** **NO**
DATE FINGERPRINTS TAKEN: _____
PLACE FINGERPRINTS TAKEN: _____

CAUTION

THIS PERSON MAY BE (specify):

- | | | |
|--|---|--|
| <input type="checkbox"/> Mentally Ill | <input checked="" type="checkbox"/> Armed | <input type="checkbox"/> Infectious |
| <input type="checkbox"/> Suicidal | <input type="checkbox"/> Addicted to drugs | <input checked="" type="checkbox"/> Violent |
| <input checked="" type="checkbox"/> Dangerous | | |

- 1.1 **PRESENT FAMILY NAME:** Hoerig
- 1.2 **FAMILY NAME AT BIRTH:** Sobral
- 1.3 **FORENAMES:** Claudia Cristina
- 1.4 **SEX:** **MALE** **FEMALE**
- 1.5 **DATE AND PLACE OF BIRTH:** (spell out name of month, State, country)
September 23, 1964 Rio de Janeiro, Brazil
- 1.6 **ALSO KNOWN AS:** (include all known aliases, and corresponding dates of birth, if different) Claudia Hoerig, Claudia Bolte, Claudia Sobral
- 1.7 **OTHER DATES OF BIRTH:** N/A
- 1.8 **FATHER'S FAMILY NAME AND FORENAMES:**
Sobral, Antonio
- 1.9 **MOTHER'S FAMILY NAME AND FORENAMES:**
De Oliveira, Claudette (deceased)
- 1.10 **IDENTITY:** **CONFIRMED** **NOT CONFIRMED**
- 1.11 **NATIONALITY(IES):** (list country(ies) of citizenship)
 CONFIRMED **NOT CONFIRMED**
- 1.12 **IDENTITY DOCUMENTS:**
(include: passport number, country, date/place issued, expiration date;
driver's license number; identity card number; INS Alien registration number;
and any other forms of identification)

US INS #-A02978994
US Social Security #- 127-76-4599
Ohio Driver's License #- SZ859920

1.13 OCCUPATION: (skills, professional qualifications, etc.)

Accountant
Import/export specialist

1.14 LANGUAGES SPOKEN: (include specific dialect if appropriate)

USUAL: English OTHERS: Portugese

1.15 DESCRIPTION:

HEIGHT(cm): 157.48 HAIR: Brown
WEIGHT(kg): 49.895 EYES: Brown
BUILD: Medium

1.16 DISTINGUISHING MARKS AND CHARACTERISTICS: (scars, tattoos, deformities, amputations, bearing, mannerisms, or other characteristics)

1.17 DNA CODE: _____

1.18 REGIONS / COUNTRIES LIKELY TO BE VISITED: Brazil

Rio de Janeiro and Brasilia

1.19 ADDITIONAL INFORMATION:

(date and place of previous criminal activities, prior convictions, and any other information likely to assist in identifying and locating fugitive)

2. JUDICIAL INFORMATION

2.1 SUMMARY OF FACTS OF CASE: (Provide narrative description of events in chronological order, including who, what, when, where, and how. Include dates, places, amounts, circumstances, role of subject, modus operandi, etc. Should be sufficient to describe all offenses charged. Use plain language. Do not merely repeat

indictment or charging language. In cases, where the outstanding warrant is for failure to appear or escape, or there has been a conviction, the facts should also include a brief procedural history, including significant events such as date of arrest, release on bail, date of the hearing for which the fugitive did not appear, or the date of the trial in which the fugitive was convicted, leading up to the issuance of the outstanding warrant. Use separate sheet as needed).

On April 12th, 2007 the suspect was charged with Aggravated Murder in Trumbull County, OH, USA and on April 16th, 2007 the suspect was charged with Unlawful Flight to Avoid Prosecution in the Northern District of Ohio. The charges allege that on or about May 12th, 2007 the suspect shot and killed her husband in Trumbull County, OH and then fled the United States for Brazil.

The victim's body was discovered in their residence on March 15th, 2007 with multiple gunshot wounds.

- 2.2 ACCOMPLICE(S): Family name, forename(s), date(s) of birth (Include number of red notice, if known, or state if application is pending)**

FUGITIVE WANTED FOR PROSECUTION

- 2.3 CHARGE: (Full list of the names of all charges listed in charging instrument (i.e. indictment or complaint), include number of counts for each offense. See attached guidance for examples. Use separate sheet if necessary).**

1. State charge- Aggravated Murder (1 count)
2. Federal charge- Unlawful Flight to Avoid Prosecution

- 2.4 LAW COVERING THE OFFENSE: (Full citation (title, article, code or law, section, etc.), for each offense charged. Should correspond to list in section 2.3 above.)**

Aggravated Murder: Ohio Revised Code 2903.01 (A) and (F)
Unlawful Flight to Avoid Prosecution: Title 18 US Code Section 1073

2.5 **MAXIMUM PENALTY POSSIBLE:** (Separately list maximum possible period of imprisonment for each offense charged. List should correspond to list in sections 2.3 and 2.4 above. Do not include sum of all penalties.)

1. Aggravated Murder- Life Imprisonment
2. Unlawful Flight to Avoid Prosecution- 5 year maximum

2.6 **TIME-LIMIT FOR PROSECUTION OR EXPIRY DATE OF ARREST WARRANT:**

No time limits or statute of limitations

2.7 **ARREST WARRANT:** (Provide number, date and place of issuance of outstanding warrant, name of issuing court or competent judicial authorities. Warrant should be unsealed.)

1. April 12th, 2007; Common Pleas Court, Warren, Ohio: Case #07-CR-269.
2. April 16th, 2007; United States District Court for the Northern District of Case # 4:07M 6033.

(Arrest warrant No.____, issued on DATE, by the Judicial authorities of the NAME of COURT, CITY, STATE.)

Arrest Warrant based on (outstanding charging instrument):

Indictment Complaint . Information . Other(_____)

Date outstanding Charging Instrument filed or returned: April 12th, 2007

2.8 **NAME OF SIGNATORY (Outstanding Warrant):**

NAME: Andrew Logan TITLE: Common Pleas Judge

Copy of arrest warrant available at the General Secretariat in the language used by the requesting country. _Yes _No

OR -

FUGITIVE WANTED TO SERVE A SENTENCE

2.3 **CHARGES ON WHICH CONVICTED:** (full list of all offenses of which convicted and number of counts for each).

2.4 **LAW COVERING THE OFFENCE(S):** (full citation (title, article, code or law, section, etc.), for each offense of conviction. Should correspond to 2.3 above.)

2.5 **SENTENCE IMPOSED:** (list for each offense of which convicted. Or one combined sentence if to be served concurrently.)

REMAINDER OF SENTENCE TO BE SERVED: _____

2.6 **TIME-LIMIT FOR ENFORCEMENT:** _____

2.7 **CONVICTION / SENTENCE:** (number, date and place of issuance, name of issuing court or competent judicial authorities)

ARREST WARRANT (outstanding): (number, date, and place of issuance, name of issuing court or competent judicial authorities)

2.8 **NAME OF SIGNATORY (for Outstanding Warrant)**

NAME: _____ **TITLE:** _____

Record of conviction / sentence available at the General Secretariat in the language used by the requesting country: _ _ **_Yes_** _ _ **_No**

3 **ACTION TO BE TAKEN**

3.1 IMMEDIATELY INFORM INTERPOL WASHINGTON,
REFERENCE _____, DATED _____, AND THE ICPO –
INTERPOL GENERAL SECRETARIAT THAT THE FUGITIVE HAS BEEN
FOUND

3.2 FOR COUNTRIES WHICH CONSIDER RED NOTICES TO BE VALID
REQUESTS FOR PROVISIONAL ARREST, PLEASE PROVISIONALLY
ARREST THE FUGITIVE.

EXTRADITION WILL BE REQUESTED FROM ANY COUNTRY WITH WHICH THE
REQUESTING COUNTRY IS LINKED BY A BILATERAL EXTRADITION TREATY, AN
EXTRADITION CONVENTION OR BY ANY OTHER CONVENTION OR TREATY
CONTAINING PROVISIONS ON EXTRADITION.

SIGNATURE

Director
U.S. National Central Bureau
Washington, D.C.

SUBMITTED TO INTERPOL -USNCB BY:

NAME: _____

TITLE: _____

ORGANIZATION: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

E-MAIL ADDRESS: _____

MAIL ADDRESS: _____

SIGNATURE: _____

DATE: _____



Claudia's Deposition

Audiencia

Ext1462

28/06/2016

(June 28, 2016)

00:14: Judge: Claudia Cristina Sobral, but I would like you to tell us your full name

00:25 C: Claudia Cristina sobral

00:26 Judge: is that your name in your documents?

00:30: C: That is my maiden name, I have been married for 9 years and my name changed to Claudia Cristina sobral alves Barbosa. However, my single name in Brazil is Claudia Cristina Sobral

00:42 Judge: Okay, but this is the name you are using in this moment?

00:46 C: Yes, in this moment.

00:47 Judge: Your documents are with this name?

00:50 C: Yes, my single name. All my documents have it; I did not change my name to my married name, which is my husband's name. I am married to him for 9 years.

01:00 Judge: Right but now, are you provisionally in the Papuda? (Name of the prison)

01:06 C: Yes... no not in the prison but in the comenha. (Name of the prison)

01:09 Judge: And how is the situation there, are you by yourself? Or with inmates?

01:13 C: I am with prisoners that are highly dangerous

01:18 Judge: In the same unit?

01:21 C: Initially I stayed in a cell with 40 women, I slept on the floor with my face in the garbage, on a wet floor and I slept there for 6 days. I slept there 6 days.

01:34 Judge: And in the moment?

01:36 C: cockroaches are eating me, if you can see I am all bit.

01:45 Judge: And in the moment?

01:51 C: A situation is going against human rights... the food comes expired. The people smoke, marijuana, cocaine and cigarettes 24 hours per day. In addition, I have respiratory

problems and really am putting blood through the nose and throat and I am not eating, in reality, I only eat bread and water. I have been imprisoned for 70 days.

02:16 Judge: At this moment are you with other inmates?

02:18 C: Yes with other inmates that are highly dangerous.

02:21 Judge: In the unit or in the cell?

02:23 C: In the cell. Inside the cell, there are 40 women. Initially I stayed with 40 women in a 4 by 4 cell and I was moved after they noticed that I had a superior level. I was moved to a 3 by 4 cell with 20 women. However, these women are women who have addiction problems, including crazy people in the cell.

02:47 Judge: The moment that you were arrested, you worked with what?

02:51 C: I am an accountant... I have an accounting company for 9 years, I have 300 clients and I had up to nine workers but because of this crisis in Brazil, I reduced it to three registered workers now. I also have freelancers. I have a total seven workers.

03:13 Judge: In this moment?

03:14 C: In this moment.

03:17 Judge: And in this moment, that you were arrested, did you reside in Brasilia?

03:18 C: I always lived in the same address for more than 30 years, my address has never changed. It has always been the same address, much so as on the day you went to arrest me because I never moved from my address. My address has always been the same.

03:33 Judge: Did you ever reside outside of the country?

03: 34 C: No, I have property in Brazil; I never broke off contact with Brazil

03: 40 Judge: But you resided in Brazil for 30 years?

03:45 C: No, I have homes in Brasilia in the city of Brasilia that I brought for more than 30 years. The homes are mine. It is my residential address.

03:52 Judge: The question only is, where did you reside during the arrest?

03:58 C: In the moment of the arrest, I.. no in reality the address I that informed is of the business which is 500 meters of my residence.

04:10 Judge: Ok, and in the moment you were arrested, you worked in an accounting business, had 300 clients. Do you have any idea how much you made per month?

04:18 C: No, like I charge, my clients are children of unemployed (?). I do not have profit but it is enough to pay expenses. In terms of ...

04:33 Judge: Have you ever been processed criminally in Brazil or out of Brazil?

53:37 its written here that from high authority it was asked if there was a possibility that there was another form since here it does not exist, it is here in the documents. If you read, the process is not long even though it says that it is 8,000 or 9,000 pages but really, the process itself is all concentrated in 400 pages and here in these 400 pages

54:11 you can clearly see that they are saying that we have to follow certain political calls from Brazil and we have to find an exit because she did not renounce it, her(Claudia) renounce doesn't exist (nationality) And then they started with a new thesis that no wait.. But she swore to the American flag and there she says she renounces

54:40 but also in the process it says it is just a formality that is not written as a law, so it is just a formality guys like when we get married and we say let us be faithful in the good and bad until death do us apart.

55:05 It was just mere formality, no one stays married forever nowadays. So it was a beautiful ceremony and with a saying that you swear to the American flag but that is not said by law. That judgment is written by law, there is not a law that says a person that has dual citizenship when she is naturalized in America has to remove her original nationality.

55:33 Much so that this is true that a well-known person that we all know has this: Arnold Schwarzenegger. He has dual citizenship and he is exactly just like me. He was born in Australia, has Austrian parents and married an American. He took the dual citizenship American and he travels to Australia with the Austrian passport, he has two passports.

56:01 Judge: Ok so I am going to ask you to have an objective conclusion.

56:19 C: Yes, so there exists two sides one for and one against, the "for" was during Lula term in 2010 and they said that there is absolutely no way that this Consulate letter exist and I maintain my nationality. In other visits that occurred, there were eight visits, um diplomatic being three of Dilma to the United States and five of them coming here.

56:50 five visits of theirs here and my topic was in their trip schedule, as it was in there schedule it was also here in the process... here it is page 24 of the process of administrative, and loss of nationality. It is on page 24, it says... and in other pages, you can see that it was written by Ms. (Izouda), Izouda that she says puts in the process, that it is a political order.

57:16 Therefore, in 2011, she (Dilma) asked here is her order, she asked to find a Brazilian way to remove my nationality, and they put that we may have a line of reason... the united states that the swore is base

57:39 Judge : Ms. What do you mean when you affirm that Dr. Izaoura check the department of foreign national security of justice that ask a Brazilian way- what did you mean when you said that?

57:50 C: She asked and they said there is no way, she detains her nationality but she asked here: is there way or form... can you find a way that we can officially start and you can't officially start

the only person who can officially start the steps to losing nationality is I and no one else can ask for me.

58:20 However, she went and asked in letter to the GU to find a way. So a second opinion was made on the 4 2011, where they find a way. He said in the loss of this letter here "let us see if we can get her by using the swearing in (judgment) to substitute the loss of the letter

58:44 Judge: In conclusion, Ms. Do you affirm that the judgment has no judicial verdict?

C: I am saying there is no juridical relevance so what happens when-

58:55 Judge: Just a minute, let me conclude, Ms. You can agree or disagree and then I will you the word. Ms. Do you affirm that the judgment has no juridical relevance and the loss of naturalization in Brazil is a political issue.

C: Yes, I affirm this. Much so, that on page 86 it states what I am saying. It says-

Judge: No, it is not essential for you to read it, the documents are known to the high. Ms. In relation to facts-

C: Oh okay

Judge: in relation to the criminal facts presented in the United States, do you prefer to talk about it?

58:29 C: No, not now because I want to put emphasis on the fact that I have the Brazilian nationality

59:37 Judge: Yeah but Ms., you have already expressed about your Brazilian nationality and a largely amount. And I will be ending this part and Ms. with relation of coming to Brazil, do you have anything to say, still reminding you have the choice to stay silent.

59:53 C: Yes, I came to Brazil because it is where my family lives and I want to stay close to my family, apart from the subject topic of the exterior (United States).It was always my intention to go back to live in Brazil and- if I don't have

01:00:14 Judge: what day did you come back from Brazil?

01:00:19C: March 12, 2007 If I do not have any family friends or any friends in exterior (United States). Obviously, I want to be close to my family.

Judge: So in relation of you coming to Brazil, do you affirm that you came to stay with your family? Is that it?

C: I came to be close to my family

01:00:41 Judge: right did you have any intention to return to the United States?

C: In this moment, no

Judge: And what about when you came to Brazil?

C: In 2007, no.

Judge: you came to...

C: I came to stay

01:00:57 Judge: Ok we are ending on this part...by the court, any other thing you would like to say in your defense?

01:01:09C: Yes, I am a serious professional and I am a women with little personal experience because I was a student who got 10s (100s), I was much attached; I am a person who gets 10s ever since middle school until I graduate college. I was a student who 10s (100), I had little experience and do not have lots of experience when it comes to going out, so I was a person who finished her schooling and went straight to work.

01:01:42 I was succeeding because I dedicated a lot to my professional life and that is why I am a professional of high level in Brazil and succeeding a lot in Brazil, sadly I do not know how to charge. However, the number of clients I have it is for me to get a lot of money, unfortunately I do not know how to charge. I have clients that I help free and there are clients are charge 50 reais; I do a lot of charity, I am a protector of animals.

01:02:15 I take care of 200 animals and in the moment they are without my assistance. In addition, it is a very hard situation for them but I am a person that in all my life I dealt with all my obligations, social because I am the protector of animals, I sustained children and poor families. I took care of my sister who is sick and has lupus and her three children, I took care of these people for more than 30 years, and I am a person that is surrounded by total charity and professional. I help many people and my job is focusing on work

01:03:03Judge: that is right

C: I do not have a tense social life so I am a person of good character, I never been arrested. I never did anything wrong and I always follow the law

01:03:14: Judge: With relations to the facts, do you wish to make any claims?

C: At the moment, no

Judge: Ok, in relation to the process, do you have anything to say?

C: Yes

01:47:29 C: I went there because I had a very good job in Brazil uhh as a bilingual secretary, I have my work permit that says- at the time I was a bilingual secretary. And through my church, I met the family of Sidney Poitier that is an American actor. And they went to my church and every year they went and I build a friendship with them. And every time they went to Brazil, they called me to go to places with them and go to their hotels and so on. A family that lived in Connecticut.

01:48:00 And I said I wish I could be an exchange student in the United States but I do not have the age to do that anymore and I passed the age. However, you can stay in our home, and I said right I really wanted to better my English because I write good and read well. However, when it comes to speaking and understand, you talk to me and I become lost in lots of things. In addition, there in my church there was always opportunity to do translation of foreigners because there is many foreigners there in my church.

01:48:25 And I was never called, so for me it was like a dream to be called to do translation for gringos in my church but I had no condition to translate simultaneously because I did not understand everything. Then they said go stay a little bit in my house, when you have vacation from work, you go and that is what I did. I take a vacation to pass a period there to better my understanding of English.

01:48:52 that is why I went there, with that, I met an American, Dr. Bolte, I went back to Brazil and we stayed in touch, and he asked me to marry him. That is when I returned to the United States and stayed some time there and I told him that I was in no condition to get married because I loved Brazil a lot.

01:49:21 Uhhh my roots were Brazilian; I loved the food and the climate. In addition, there was very cold uh but I went back to Brazil but I was already in love with this man, so I was torn apart between the love because I was already in love and of my country.

01:49:41 But he said no don't worry, at the time he was doing medical residency, and said we stay for a time and then we go to Brazil- we will go live in Brazil. He said I like Brazil, he came many times to Brazil, many times, we flew all the time to Brazil, and he said we will live in Brazil, so stay calm. So that is why, I went there to better my English.

1:50:04 Judge: With this, can we conclude you never went there for some type of employment?

C: Ah, no that was not an option in my life because I had many compromises with my family. I sustained a family, an ill sister and three children.

Judge: And you already a graduate in Brazil?

C: Yes, I was already a graduate and I had a good income.

Judge: Uh well, during this time you move to the United States, married, when was it that you were able to get the green card?

01:50:32 C: The green card you are able to get it one year after you are married. Therefore, you can work

Judge: This was in what year?

C: Uhh 2001

Judge: 89...

C: I married in 1990, I mean 1991, sorry

01:50:55 Judge : Ok so from there until now you worked, this period of 91 until the separation in 1999, well according to your report, you worked as an assistant, in reality you, the question is were you able to exercise your profession in its fullness?

C: No, no there is no way with the green card.

Judge: your employer, employers did they have any requirements, which you had to do in order to fulfill it? Was it expected by them, or imposed by them? Like if you were naturalized, you are going to have a better situation?

01:51:49 C: No what happened was that they said - I said but I have the accounting certificate why can't I be like the other girls? Because there were girls who were accountant and the assistants and I asked why – I took my diploma and they said you cannot and they never gave a motive.

01:52:20 They just said it is not possible; it is not possible yet, for you to pass to the next step. In addition, they kept saying stay with us for a little longer and sort of messing with me and you knew the motives. It was because I was discriminated for the fact that I was there as Brazilian

Judge: Uh from the moment, you naturalized did that change?

01:52:51 C: Of course, I started getting five time more

Judge: Only the salary or the discrimination as well?

C: Oh the discrimination too because once you put in that paper American, the doors open for you

Judge: So you can almost say that it is a moral imposition?

01:53:11 C: Yes, social. Absolutely... Social, the doors open. The people treat you so different even the people who did not use to speak with you. You get, did you ever watch those movies of the girls in school that suffers from bullying right?

01:53:30 That are joke well the things completely change for you. The doors open and you have respect, from that moment you have respect, social respect much bigger. Other than the fact, professionally you can practice an accounting or attorney profession that has public faith if you are American. However, if you are a foreign, you do not get there, you cannot, the doors do not open because the record lowers you, and it eliminates you.

01:54:05 When you fill out the nationality field and you put Brazilian, you do not get in. Especially because Brazilians have an awful reputation, it is the carnival, soccer and prostitution so there I had no respect. I was only useful to take to a bar, I did not serve to be used for this type of profession (accounting)

01:54:31 Judge : The condition of the public faith is (another name) for you to exercise your profession fully manner?

C: Exactly, the accountant he has to have public faith because of the national security, they do not give it to a foreigner

Judge: It is an illegal imposition

C: Ah no, a law for that does not exist. It is discrimination, it is a culture.

01:54:57 Judge: It is there a law that demands this? A law that talked about the public faith and that it is necessary-

C: No, it does not exist; you will not find an accountant of the superior level that is foreign.

Judge: Uh if you knew of let us, say of this supposed renunciation that existed in this oath, would you have done the oath?

01:55:38 C: Absolutely no

Judge: your intention- did you intend to renounce the Brazilian nationality?

01:55:49 C: Absolutely not, my whole family is here. I have no one there. I was going to renounce Brazil; it is the same thing as shooting yourself in the head. I would just die, my family- I have property here, my profession was here, and my family was 100% here. I have no one abroad, no family, and no family members.

01:56:11 Judge: In the moment of your naturalization, did you know or had knowledge the Brazil dual citizenship that Brazil accepted the dual citizenship at that moment?

01:56:22 C: Yes, it is written here in page 86 "Foreign Department manifested in another opportunity that with the constitutional amendment of 94 Loss of Brazilian nationality should only occur when there is an express and unequivocal expression of the interested party in that sense, since the pure and simple acquisition of foreign nationality is no longer a cause for the loss of Brazilian nationality.

01:56:51 I had various friends that had the dual citizenship, so if they have it; it is nice and it is good if they have it, then it must be because you can. The American players, the soccer players have it then it is because you can. Then I said how can you and you can so why am I the only Brazilian in the history of Brazil, 500 years that is losing their nationality.

01:57:21 I am not being able to clearly understand this fact when there are millions of Brazilians that have dual citizenship.

Judge: So can we say that when you naturalized you did not have knowledge that you could lose the Brazilian nationality?

C: Absolutely not just, as I understand until this day, you cannot.

01:57:40 Judge: Ok, you signed and sent or did online any document renouncing your nationality?

C: Never, because the facts shows the opposite right? My bond with Brazil has always been strong; if you look at my passport... my passport has continuous trips to Brazil.

01:58:06 Judge: How many times?

C: nine times after the naturalization. In addition, I was working and that is because I can only come during vacation, so I had that limitation. Nine times in eight years- 2000-2007, that is in 7 years. That is a lot of traveling, once every year.

Judge: And during this period, you exercised your Brazilian nationality?

01:58:33 C: Yes, I voted, I paid taxes, I paid income tax, I paid ITPU, CRC, I had property, everything. Continuous trips, all of my money was used to send to Brazil. I sent my money to Brazil, my money was sent to Brazil. I had my expenses there (America) and what was left from it I would send it to my family, to sustain them.

01:58:59 Judge: You have any process in the Ministry of Justice?

C: Yes, it exist. Until this day, they have not responded my order of acquisition of my nationality, which is a right of mine. It is written here on their website that it is an automatic right for you to regain your nationality uhh it is not possible that it applies to every Brazilian but does not apply to me. I am not prettier or uglier than anyone, not fatter or skinner so it gets hard to understand why I am the only Brazilian too-

01:59:38 Judge: Ms., you already read all the positives

C: Ok, I am not going to read. I am just really looking

Judge: what was the motive-um date of this process?

C: The date of this process was I think the 18th of 2(Feb), 2013 or the 18th of the 3 (March)

Judge: was this before or after the declaration of the loss of your nationality?

C: It was before, before

02:00:12 Judge 1: Excuse me, question of request was it after or before the-

Judge 3: the declaration

Judge 2: proof of documents your Excellency

Judge 3: just to constrain

Judge: I ask that we-

02:00:28 Judge 2: I am not bothering just observing that this proof is in fact documental... of course

Judge 3: do you have any properties abroad?

C: No

Judge 3: Do you have any family member there?

C: no

Judge: any friends?

C: No

02:01:00 Judge: Ok to finalize.... Uhh do you believe that there is any political interest involved?

C: I believe so and I am sure with all conviction that I can tell you all the trips that were made and it is in the process, in the administrative process saying that there was various encounters of high level people; between the United States and Brazil to discuss how they would- the strategies that they will utilize to successfully get the loss of my Brazilian citizenship.

02:01:47 Sir if it is your interest I can tell you all the trips because I know all of the trips. There was nine; I mean eight was the total. This is in the administrative process of the Justice ministerial. (Ministrio da justica) This was not information that was hidden to anyone.

02:02:04 now I have a curiosity, if you permit me to say. That Minister Barroso, I did not have defensive right, not even from the ministrio de justica, or STJ or in the STF. They were able to

put a barrier on my defensive right in every instance. Umm something very interesting was that in the STF, I do not want to say the name of the minister,

02:02:35 but he decided (voted) in my favor in 2013 and now in 2016, he decided to now vote against me, so how does he disagree with himself. In 2016, he is against me; the vote in the STF was three against two for me.

02:03:00 If you were to take the vote from this minister that voted against me that before had voted in favor and after he voted against and two ministers voted alongside him. They made no observations and just voted together. So if they had voted in my favor now in 2016, these two ministers would have voted together. Therefore, I won unanimously because two were in my favor, 3 against me. Being that the minister uh, the Minister rapporteur had before voted in favor of me and then he voted against.

02:03:34 if these two we do not count because they always go alongside the rapporteur. Therefore, if we consider the first decision that was in favor, in favor of me then I won anonymously. If the matter is violation that is here written in the administrative process that is a contravention process. They are not sure if they can have an official start, it was said this in the Ministerio da Justica that is not sure if they can or cannot.

02:04:05 This was said in the STJ that I won and appeared in my favor they wanted to take it to the plenario. , the general prosecutor of the republic did not let; I won, and he ordered to catch the decision that was in my favor. I did not get to reach plenario, look o Ministerio da justica, my request was not analyzed and did not have response and I entered with it before I lost.

02:04:41 In the STJ, I had seemed like in my favor the PRG Attorney general of the Republic (procurador geral da repblica), he tried 6 times to intercept my process, asking to take it to the STF.

02:05:00 Minister Nunes Napoleao Maia said no no until it got there, he got tough that is Rodrigo Jano, he got tough with Nunes Maia and had no alternative other than opening hand in declaring incompetence but he said it is the STJ incompetence, yes, because the matter is not extradition. The matter here is the discussion if she does or does not detain the nationality.

02:05:29 Let us wait to get to the plenario first, let us maintain this decision in her favor until it gets to plenario. But Rodrigo did not settle, he ripped from the hands of the STJ this process and sent someone after the decision that was in my favor. Then it went to the STF, where they judged this process in the dead of night.

02:06:00 Two days after Dilma was- had done her impeachment. Everything was a total confusion, her impeachment was Sunday April 17 (2016) on the 19th at night they Judged my process without communicating my lawyer. Because Antonio Andrade was not my lawyer, it was clear who my lawyer was, my lawyer was Henrique Gustavo. He was already my third lawyer, it was clear that there was no way to mistaken who was my lawyer. Being that they communicated, to G1, went to G1 and communicated it personally to them.

02:06:44 Look they personally filled them in, the date of the court hearing is on so so, but this was not done the same for my lawyer. Then they said but the lawyer was the same, no it was not. In the timeline, there was three lawyers, one was Antonio Andrade that has nothing to do with in the current moment, he was my lawyer in the Ministerio da justica, and he had an intern with him.

02:07:08 He retired in 2013, Aug 2013, this men because of health problems he retired. He closed his office so this intern became unemployed but he temporary went to work with a second lawyer that was the one who messed with my writ of mandamus.

02:07:31 this second lawyer was just a friend, so he signed like a friend and did not want to mess with my process. Therefore, he told me to look for another lawyer; this intern who was unemployed worked temporarily with this lawyer. Then this intern finally found a job in an accounting company with the lawyer Henrique Gustavo, ok? Therefore, since this intern was already working on my process, when he went to work for a new law office, he took the process with him.

02:08:04 So my lawyers name is Henrique Gustavo but who was notified was Antonio Andrade who was notified through the Diario Oficial, he did not receive any personal notification. I do not know, in the process there was an establishment for Henrique Gustavo and he did not go.

02:08:29 so one more time my rights was not given... So I did not defend myself, my lawyer did not defend me and they removed my rights; in the Ministrio da Justica, in the STJ that was in my favor, and went after the STJ decision and passed it to the STF. Late at night they voted on my process, they arrested me the second day in my commercial address that is recognized and I never hid.

02:09:03 I never intended to be a fugitive, never had interest in having sub employment because for me to be a fugitive I would have to have another employment. I am a person with many financial responsibilities; I sustain more than 200 animals, I sustain family member-

Judge 2: Your Excellency, she is repeating the same information she has gave.

C: No, I am explaining that I had no intention

Judge: Just a minute, I did not give you the chance to speak yet, I am going to ask Ms. that you conclude in the fastest way, one last manifestation in your defense. So we will conclude

02:09:38 C: Ok, so I did not have any intention to hide, I could have been a fugitive all these years. My address is known, it was informed and you found me the day you got there because I never had any intention to be a fugitive. So what happens..? What I think is happening is that I was deprived of my rights of defense, to answer a political favor from the United States.

02:10:08 I became an exchange coin so I just want to know what... Brazil is giving me to the United States and the United States is giving what? Are they giving a mirror because we are like Native Indians to them, so what are we exchanging? United States friendship? So I ask you what really happened, what happened to those 2 pilots

02:10:38 Judge: I am going to ask you to conclude

02:10:43 C: Ok what I want to say is I did not have the right to defense, not in the Ministerio da justica because my request was before the loss. There was no response until this day; in the STJ that I won and was then chased by the STF.

02:11:01 In the STF, they do not give me the opportunity to defend myself. They judged in default and the most impressive thing was that in the extradition process they could only start after the plenario. But they allowed the restoration of an extradition process. They arrested me, being that an extradition process has a shorter period than 120 days.

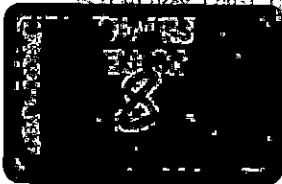
02:11:30 My lawyer did not have access to the accord to defend me in the of Writ mandamus. Today, I am here arrested, I cannot have communication, or the right of defense, I do not have access to my lawyer because through that mirror. I do not have access to that material; it is hard to make my defense. And I am here today in an extradition process in my first, there exist and interrogation where the law says that in 2 days, after 2 days you have an interrogation but now we will have a recess of 30 days.

02:12:17 Technically on the first day of Aug can have the plenario and the following day the United States can take me away. Now you see I am risking a lot because the acceleration pedal is pressed in the extradition process but pressed the break in the Writ mandamus in my defense. No one here think that is being taken care of in the American side. So technically, in the first week of Aug the United States can take me away without my defense being made in the STF.

Judge: so with that you conclude?

02:13:00 C: Yes

U.S. District Court Northern District of Ohio Criminal Complaint



UNITED STATES DISTRICT COURT FILED

Northern DISTRICT OF Ohio 07 APR 16 AM 9:56

UNITED STATES OF AMERICA

V.

Claudia Hoerig
(AKA Claudia Bolte and Claudia Sobral)

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CRIMINAL COMPLAINT

Case Number:

4:07M 6033

(Name and Address of Defendant)

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about March 12th, 2007 in Trumbull County, in the Northern District of Ohio defendant(s) did,

(Track Statutory Language of Offense)

Willfully, knowingly, unlawfully, and feloniously move and travel in foreign and interstate commerce from Newton Falls, OH to New York and then Brazil with the intent to avoid prosecution for the offense of Aggravated Murder, Ohio Revised Code 2903.01 (A) and (F), a felony in the State of Ohio

in violation of Title 18 United States Code, Section(s) 1073

I further state that I am a(n) Deputy United States Marshal and that this complaint is based on the following facts:
Official Title

See attached Affidavit hereby incorporated by reference as if fully restated herein

Continued on the attached sheet and made a part of this complaint: Yes No

I hereby certify that this instrument is a true and correct copy of the original on file in my office.

Attest: Sandy Opacich, Clerk
U.S. District Court
Northern District of Ohio

By: Stephani Lima
Deputy Clerk

Sworn to before me and signed in my presence.

April 16th, 2007
Date

at

Youngstown, OH
City and State

George J. Limbert, U.S. Magistrate Judge
Name and Title of Judge

George J. Limbert
Signature of Judge

William A. Boldin
Signature of Complainant

William Boldin, Deputy U.S. Marshal
Printed Name of Complainant

UNITED STATES DISTRICT COURT

Northern

District of

Ohio

UNITED STATES OF AMERICA

WARRANT FOR ARREST

V.

Claudia Hoerig
(AKA Claudia Bolte and Claudia Sobral)
Address Unknown

Case Number:

4:07M 6033

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest Claudia Hoerig (AKA Claudia Bolte and Claudia Sobral)
Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

- Indictment
- Information
- Complaint
- Order of court
- Probation Violation Petition
- Supervised Release Violation Petition
- Violation Notice

charging him or her with (brief description of offense)

Willfully, knowingly, unlawfully, and feloniously move and travel in foreign and interstate commerce, to wit, Newton Falls, Ohio to New York and then Brazil with the intent to avoid prosecution for the offense of Aggravated Murder, Ohio Revised Code 2903.01 (A) and (F), a felony in the State of Ohio

in violation of Title 18 United States Code, Section(s) 1073

George J. Limbert
Name of Issuing Officer

George J. Limbert
Signature of Issuing Officer

United States Magistrate Judge
Title of Issuing Officer

April 16th, 2007 Youngstown,
Date and Location

I hereby certify that this instrument is a true and correct copy of the original on file in my office.
Attest: Sandy Opacich, Clerk
U.S. District Court
Northern District of Ohio

RETURN By: Stephanie Jones
Deputy Clerk

This warrant was received and executed with the arrest of the above-named defendant at

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		



REPORT OF INVESTIGATION

1. FID: 1311900 CASE: 0760-0416-3204-F	2. DATE OF REPORT: 01/29/2018	3. REPORTED BY: BOLDIN, WILLIAM AT: 060
4. SUBJECT NAME: HOERIG, CLAUDIA		
5. MERGED FIDS:		

6. TYPE OF REPORT:

<input type="checkbox"/> REPORT OF ELECTRONIC INTERCEPTION	<input checked="" type="checkbox"/> ARREST/CLOSE (USM11 1124428)
<input type="checkbox"/> COLLATERAL LEAD	<input type="checkbox"/> INTELLIGENCE UPDATE
<input type="checkbox"/> WITNESS INTERVIEW	<input type="checkbox"/> MEMORANDUM TO FILE
<input type="checkbox"/> ADMINISTRATIVE SUBPOENA	<input type="checkbox"/> OTHER

7. HOURS WORKED:

On January 17, 2018, Deputy U.S. Marshals (DUSMs) Bill BOLDIN, Brian FITZGIBBON and Tony KEFFER extradited Claudia HOERIG (AKA SOBRAL) from Brazil to the United States. HOERIG was wanted in Trumbull County, OH, on a warrant charging her with the murder of her husband, Karl HOERIG. Diplomatic Security Service Special Agent (S/A) Angela BRENNER and Federal Bureau of Investigation Special Agent (S/A) Anthony SANO were also present during the extradition. HOERIG was transported from Brazilia, Brazil to the Akron-Canton Airport on a U.S. Marshals Service contracted aircraft.

Shortly after takeoff HOERIG began engaging S/A SANO and DUSM BOLDIN in general conversations about topics such as her upbringing, life in Brazil, and conditions in Brazilian prison. During the conversation HOERIG stated she wanted to talk about what happened, but that she did not want to hurt Karl's family. During the flight HOERIG made the spontaneous statement, "A wife does not kill her husband without a good reason." DUSM BOLDIN observed on the in-flight monitor that it was 6:52 pm (Brazil time) and the flight was in international airspace. HOERIG stated that she suffered from mental and sexual abuse, and that Karl had sexual fetishes that she was uncomfortable with. HOERIG stated she willingly engaged in some sexual activities, but was unwilling to do others.

HOERIG went on to say that she had wanted to commit suicide and that she purchased a gun to kill herself. She said that the gun she purchased to kill herself was the one she used to kill her husband.

HOERIG said that she did computer research on suicide, and that the research would be in the history on the computer that was in the house. During her research she said learned that guns had recoil, and that people often flinched when trying to shoot themselves. HOERIG tried to explain that learning about recoil was the reason

8. SIGNATURE (Name and Title) WILLIAM BOLDIN Deputy U.S. Marshal	9. DATE 01/29/2018 10:20 AM EST	12. DISTRIBUTION DISTRICT <input type="checkbox"/> HEADQUARTERS <input type="checkbox"/> OTHER
10. APPROVED (Name and Title) ALEX RUTTER Supervisory Deputy U.S. Marshal	11. DATE 01/29/2018 10:45 AM EST	

UNITED STATES MARSHALS SERVICE
THIS REPORT IS THE PROPERTY OF THE UNITED STATES MARSHALS SERVICE. NEITHER
IT NOR ITS CONTENT MAY BE DISSEMINATED OUTSIDE THE AGENCY TO WHICH LOANED.

REPORT OF INVESTIGATION

Page 2 of 2

1. FID: 1311900
CASE: 0760-0416-3204-F

2. DATE OF REPORT: 01/29/2018

3. REPORTED
BY: BOLDIN, WILLIAM
AT: 060

4. SUBJECT NAME: HOERIG, CLAUDIA

5. MERGED FIDs:

she bought a laser sight, however the explanation did not make sense to DUSM BOLDIN. HOERIG also stated that she built a block in her closet so that she could shoot herself without the gun moving if she flinched.

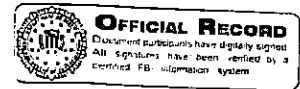
HOERIG stated that on the day it happened she informed Karl that she was pregnant and they got into a heated argument. HOERIG stated that Karl went to take a shower and locked the bedroom door so she couldn't get in. She stated that she stood in the hallway and that when he exited the bedroom she put the gun to her head and threatened to shoot herself. She said Karl responded by telling her to kill herself, but told her to go to the basement so that she did not get blood on paintings and the carpet. HOERIG stated that Karl started to walk down the stairs and that she was so angry that she shot him. She said she shot him three times and she was sure he was dead. She stated she then went into the bedroom and attempted to kill herself using the suicide block, but that the gun would not fire.

HOERIG stated that at some point she realized that gun was empty and she reloaded it. She stated that she still wanted to kill herself, but she wanted to call her father before she did it. She said that she called her father and he talked her into fleeing. She said that she went to the bank to withdraw money and then drove to the Pittsburgh airport. She stated she first flew to New York, and then flew on to Brazil. HOERIG also stated that she had withdrawn \$10,000 dollars and sent it to her father in Brazil because she anticipated killing herself and did not want Karl or his children to get the money.

All of HOERIG's statements were unsolicited and voluntary. DUSM BOLDIN and S/A SANO did not ask HOERIG any questions regarding her statements. BOLDIN and SANO told her that they could not ask her any follow up questions, and asked her if she would be willing to be interviewed by detectives when she arrived in Ohio. HOERIG stated that she wanted to give a statement when she arrived.

Upon arrival at the Akron-Canton Airport HOERIG was transported to the Trumbull County Sheriff's Office by DUSMs Bill BOLDIN and Anne MURPHY. After arriving at the Sheriff's Office HOERIG was placed into an interview room. HOERIG was interviewed by Detective Sergeant Mike YANNUCCI and DUSM BOLDIN. Details of the interview are contained in a separate report at the Trumbull County Sheriff's Office.

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**FEDERAL BUREAU OF INVESTIGATION****Electronic Communication****Title:** (U) Statements made by Claudia Hoerig.**Date:** 01/29/2018**From:** CLEVELAND

CV-YOUNGSTOWN RA (15)

Contact: SANO ANTHONY J, 330-965-2903**Approved By:** SSRA Herbert D. Fitzgerald, Jr.**Drafted By:** SANO ANTHONY J**Case ID #:** 163G-CV-73885(U) HOERIG, CLAUDIA, C - CLAUDIA C.
HOERIG, KARL HOERIG - VICTIM, FOREIGN
POLICE COOPERATION, WHITE FEMALE, DOB 8
/3/64, SSN 127-76-4599**Synopsis:** (U) To document voluntary statements made by Claudia Hoerig during her extradition from Brazil to the U.S. on 1/17/2018.**Details:**

Claudia Cristina Hoerig (nee Sobral), aka Claudia Bolte (hereafter Hoerig), a Brazilian female, date of birth xx/xx/1964, social security account number xxx-xx-4599, was extradited from Brasilia, Brazil to the United States on 1/17/2018. Hoerig was escorted to the United States by DUSM William Boldin, DUSM Brian Fitzgibbon, DUSM Anthony Keffer, DSS SA Angela Brenner, and this writer.

During the course of the approximate (9) nine hour flight to the U. S., Hoerig made a number of unsolicited admissions to DUSM Boldin and this writer, regarding the murder of her husband Karl Hoerig (hereafter Karl). It should be noted that at no time did DUSM Boldin or this writer question Hoerig, so her statements were not challenged, nor were there follow-up questions for clarification. It should also be noted that Hoerig's story line appeared to be rehearsed, and for the most part, non-emotional.

During the course of general conversation surrounding Hoerig's upbringing, education and prison stay, Hoerig informed the

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Title: (U) Statements made by Claudia Hoerig.

Re: 163G-CV-73885, 01/29/2018

investigators a number of times that at some point she wished to tell her story, but did not want to hurt Karl's parents, adding that they had suffered enough. Hoerig made a number of insinuations that she had been the victim of abuse, but never provided any specifics. At some point during these exchanges, Hoerig then made the following statement to the investigators, "...let me tell you, a wife does not kill her husband without having a good reason." Shortly thereafter, Hoerig made the following statements:

Hoerig advised that she suffered from depression and had purchased the handgun, which she used to shoot her husband, for the purpose of committing suicide. Hoerig further stated the handgun was a revolver, which she had equipped with a laser sight. Hoerig said her depression stemmed from three miscarriages she suffered, as well as mental and sexual abuse from her husband. She said she had conducted computer research on how to commit suicide using a handgun, adding that the research she conducted could be located on the computer seized by the police. Hoerig informed the investigators that during her research she discovered it is not unusual for the recoil from the weapon, or shaky hands, to cause the handgun to shift causing the shooter to miss the intended spot on their head and not only failing at killing themselves, but causing a head injury.

Based on her above concerns, Hoerig conducted computer research on how to build a suicide rig that would allow her to stabilize the handgun. The rig allowed her to place the gun in a stable position and pull the trigger with a cord, thus minimizing the chance of her hands shaking and her missing shooting her head. Hoerig said she set up this rig in the couple's home on the day she shot her husband. Karl came home that day and caught her in the act of attempting suicide. Hoerig said Karl became angry, began calling her names, and told her not to shoot herself upstairs because she would get blood on the walls and his paintings. Hoerig said Karl then told her to shoot herself in the basement where it would not make as much of a mess. Hoerig said this made her so angry, that she shot her husband in the back as he walked away from her. She said she shot him (3) three times, believing the

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Title: (U) Statements made by Claudia Hoerig.
Re: 163G-CV-73885, 01/29/2018

first shot struck him in the head and the other two in the back. At this point, Hoerig became angry and said to the investigators "imagine that, your husband being more concerned about the mess, than the fact that their wife was going to kill them self."

Hoerig said she realized she had killed her husband, and went to the suicide rig to kill herself. Hoerig stated she pulled the cord to the trigger twice and each time the bullet did not discharge. At some point after this, Hoerig contacted her father in Brazil, who along with her sister and a friend, who is an attorney, told her to flee the country because she would get the death penalty. Hoerig stated she went to the bank and withdrew \$1,000 of the \$1,300 she had in the bank. Hoerig did not withdrawal the entire amount believing the teller would know she had killed her husband if she withdrew the entire amount. Hoerig laughed, stating how ridiculous that now seems. Hoerig stated she then purchased a ticket to Brazil, a flight that departed from Pittsburgh and traversed through New York enroute to Brazil.

Hoerig stated that prior to deciding to commit suicide, she had wired \$10,000 to her father in Brazil. Hoerig added that when she entered the marriage to Karl, she brought with her \$40,000, which she placed in savings. Hoerig said that she and Karl suffered from financial difficulties during their marriage. She added their financial difficulties were due to Karl's change in employment from the military where he made approximately \$120,000 to the private sector, where he made approximately \$60,000. Their financial difficulties were further exacerbated by the fact that Hoerig had lost her job as an accountant after she was hospitalized for mental health concerns following a previous suicide attempt. Based on this, the couple had to use approximately \$30,000 of the savings. Hoerig said she did not want to die and leave the remaining \$10,000 to Karl's ex-wife or kids, so she withdrew it and sent it to her father.

Hoerig agreed to be questioned by investigators once on the ground to verify the information she had just shared.

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Title: (U) Statements made by Claudia Hoerig.

Re: 163G-CV-73885, 01/29/2018

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Trumbull County Sheriff's Office
Your Constitutional Rights
Miranda

Place: Trumbull County Jail (TCSO)

Date: 01-17-18

Time: 2132

Before we ask you any questions, you must understand your rights. CCH

You have the right to remain silent. CCH

Anything you say can be used against you in court. CCH

You have the right to talk to a lawyer for advice before we ask you any questions, and to have him with you during questioning. CCH

If you cannot afford a lawyer, one will be appointed for you before any questioning, if you wish. CCH

If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer. CCH

Waiver of Rights

I have read, or have had read to me, this statement of my Constitutional Rights, and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind had been used against me. I, therefore, waive my rights and agree to make a statement.

Signed Claudia L. Hoerig

Witness: Det. S. A. [Signature]

Witness: SF Bill Baldini

Time: 2125

Y) TRANSCRIBED INTERVIEW OF CLAUDIA

1/17/2018

Interview with Claudia Hoerig

Interviewed by Det. Michael Yannucci (Trumbull County Sheriff's Office)

Also present in room: Bill Boldin (US Marshall)

Case# 07-016517

Det. Y: What we do is we record everything. So I'm just letting you know this thing's running. Okay.

Claudia: Okay.

Det. Y: Now, before we even get started okay, and like I said, from way back when, ah, 2007 I was working this case, okay. There's been a lot of time in between. All right.

Claudia: 11 years.

Det. Y: Yes. Exactly. But what I want to talk to you about before we can even get started is, I want to make sure you understand, we're gonna treat you fairly. Okay. I'm not sure about you know, Brazil and how things go down there but up here we're gonna do things exactly how we're supposed to. Okay. And I'm sure, and I'm sure Bill has told you that.

Claudia: Yes.

Det. Y: Okay. Um, now from my understanding, from what I hear that while you were on the plane, on the plane ride up here, you gave these guys a statement about what happened, is that,

Claudia: Yeah, partial. Yes.

Det. Y: Okay great. Now. What I want, what I want to ask you now is, and I want to make sure that you, you knew. You don't have to talk to us. Okay that's first and foremost. I would love to hear your side of the story. Okay. But what I need to do is I need to make sure that you understand what your rights are. Okay. Now you had a lawyer down in Brazil is that right, how he knew this case down there. Okay. Obviously he's not up here. We want to talk to you; um we can talk to you without a lawyer which is your choice.

Claudia: It doesn't matter to me. Either way.

Det. Y: So you're willing to talk to us without a lawyer.

Claudia: Yes.

Det. Y: And you're sure of that?

Claudia: I have nothing to hide.

Det. Y: Okay great. And I, just understand something. As much as I can't wait to hear what you have to say, I need to, it's more important to me to make sure that you understand,

Claudia: I do understand my rights.

Det. Y: Okay. You understand that you, you've been charged with murder.

Claudia: I have the right. I have the right to stay silent. I know that.

Det. Y: Okay.

Claudia: But if I want to talk, it doesn't bother me to talk to you.

Det. Y: Okay. Great. We're gonna get to that. You do understand, just one more question. You do understand that when you get arraigned, you know your arraignment is when you actually get formally, that you go see the judge about the charges, you've been charged with murder.

Claudia: Yeah.

Det. Y: They're gonna assign you a lawyer. And you're willing to talk to me now without that lawyer around.

Claudia: Doesn't bother me.

Det. Y: Okay. Wonderful.

Bill: So I will tell you Chris. I had to tell him everything that we talked about.

Claudia: Yeah cuz it (inaudible) laughing.

Bill: Was an 8 hour flight.

Claudia: I talk a lot and I had (inaudible) temper tantrum.

Bill: This is the paperwork that I told you. Remember when we were on the plane talking to you and we said that we would have certain things that we had to do that, we couldn't ask you questions.

Claudia: Yeah.

Bill: But this is the paperwork that has to be done before we can ask any of those follow up questions.

Claudia: Yes. No problem.

Bill: Okay. Again this isn't much different than how they do things down there. Everything is out in the open and above board.

Claudia: Yeah.

Bill: Nobody's trying to,

Claudia: Yeah. Yeah.

Det. Y: That's the one thing we usually shrug at. We are not here to trick you. Okay. We are here to make sure. Again, I'm not.

Claudia: I understand.

Det. Y: I don't know how things are in Brazil but,

Claudia: You can ask me any question.

Det. Y: We're gonna, believe me, I'm gonna ask you so many questions, you're gonna be tired of me by the time this is over.

Claudia: No. I will,

Bill: I will tell you this, from the time that we spent together, it's very important to her, correct me if I'm mistaken. That you (inaudible). And she was reading a lot of things in the news and seeing the things reported and she wants to fill in those blanks, the things that weren't correct. Is that fair? Is that kind of how this thing started?

Claudia: Yeah,

Det. Y: Okay. Awesome. Awesome. How about we do this. Claudia, can you read and write the English language?

Claudia: Yes.

Det. Y: Okay. What I'm gonna do is, these are your constitutional rights under Miranda, okay. This section. Put those on please. This section right here, from here to here, those are your Constitutional rights. And what I'll do is I'll read those to you and I'll ask you that you follow along.

Claudia: Sure.

Det. Y: You'll see at the end of each sentence there's a blank space. What I want you to do is put your initials there if you understand it. If you don't understand it ask me and I'll be more than happy to explain it. Once we get through that, when we get down here, this paragraph's called your Waiver of rights and again I'll read that and what that basically says is that you understand what your rights are and you're willing to waive at this time and talk to us.

Claudia: Yeah. Hum hun.

Det. Y: So you take this end and follow along with me. Before we ask you any questions, you must understand your rights. If that's true initial there.

Claudia: It's been so long (laughing). Ah, see,

Det. Y: You have the right to remain silent. That you already told me you knew.

Claudia: Hum hun.

Det. Y: Anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.

Claudia: I waive that.

Det. Y: You waive that is that what you said?

Claudia: Yeah, don't worry. I don't have a problem with that.

Det. Y: Okay. Um, if you cannot afford a lawyer one will be appointed for you before any questioning if you wish. If that's true, initial here.

Claudia: Okay.

Det. Y: If I answer questions now without a lawyer present you still have the right to stop answering at any time. You also have the right to stop answering anytime until you talk to a lawyer.

Claudia: Yeah.

Det. Y: Now this is the waiver of rights. I have read or have had read to me this statement of my Constitutional rights and I understand what my rights are. I'm willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me. I therefore waive my rights and agree to make a statement. If that is true, please sign there.

Claudia: Yes. That doesn't mean that I cannot have, I will not have a lawyer.

Det. Y: You know, you will. This just means that you will talk to us right now without a lawyer present.

Claudia: Sure.

Det. Y: You will get a lawyer assigned to you if you cannot afford one. Absolutely. And that will probably happen as soon as tomorrow.

Bill: You got to sign that too.

Det. Y: Okay. Now what I want to do is, I kind of just want to start off, (inaudible) for a long time.

Claudia: Yeah.

Det. Y: Now what name are you going by, are you going by Claudia or you going by, what do you want me to call you?

Claudia: Chris.

Det. Y: You want me to call you Chris?

Claudia: Yes.

Det. Y: I'm gonna start off with today's date and time and I'm gonna introduce myself as well. Okay. I'll start out, I'll introduce myself. I'll introduce Bill. Hi, introduce yourself.

Claudia: Sure.

Det. Y: Okay and then what we'll do is you know, I'll ask your date of birth, you know that kind of stuff and then what we're gonna do is, get into what happened 11 years ago.

Claudia: Okay.

Det. Y: I mean it's been a long, long time.

Claudia: Okay.

Det. Y: Okay. Today's date is Wednesday January 17th, 2018. The time is 9:32 PM. Speaking is Detective Sergeant Mike Yannucci with the Trumbull County Sheriff's

Office. We're currently in the investigative division of the Sheriff's Office. Also present in the room is, ah, from the US Marshall's Office ah, Bill Boldin. Bill for voice recognition purposes, please state your name.

Bill: Ah my name is Bill Boldin. I'm a senior detective with the US Marshall.

Det. Y: Great. Thank you. And we are sitting here with, please state your name.

Claudia: Claudia Christina Hoerig.

Det. Y: Claudia Christina Hoerig. Now Claudia you are here.

Bill: Chris.

Claudia: Chris.

Det. Y: I'm gonna call you Chris. You are here right now ah, you've been charged, what, almost 11 years ago you were charged here with the murder of your husband. His name was Karl Hoerig, is that correct?

Claudia: Yeah.

Det. Y: Okay. Now in the meantime you just got, came back from a flight from Brazil is that true?

Claudia: Yes. That's true.

Det. Y: Okay. Um, now where were you living in Brazil? Do you have an address down there where you were living?

Claudia: Yeah.

Det. Y: Well your former address.

Claudia: CLSW 504, um, Block A. Apartment 145. The name of the town (inaudible) and the name of the village Brasilia. That's it.

Det. Y: That's quite an address.

Claudia: (laughing).

Bill: I've been there for 2 days, I know. That's quite an address.

Claudia: Yes.

Det. Y: Chris, what's your date of birth?

Claudia: Um, August 23rd, 64.

Det. Y: That makes you how old?

Claudia: 53.

Det. Y: Okay and you were a US citizen. Do you have a social security number? Do you know what your social is?

Claudia: 167-76-4599.

Bill: Wow (inaudible).

Claudia: I know. (inaudible) I remember the number.

Bill: She's impressed me.

Claudia: I'm shocked.

Bill: She's impressed me; she's impressed me with numbers the whole trip. She's a natural. She's a numbers person.

Claudia: No, that's shocking. I'm shocking myself now.

Det. Y: Now before we get into. I'm anxious to learn about what happened and how you ended up in jail down in Brazil. But we'll get to that. That's kind of towards the end.

Claudia: (inaudible).

Det. Y: We're gonna be talking for a while. Don't you worry? Um, but I kind of want to start at the beginning. I want to go back to March 15th, 2007.

Claudia: You're gonna start from the, from the end.

Det. Y: The beginning of the end. Yeah.

Claudia: I'll talk backwards. It's gonna start backwards.

Bill: (inaudible) what you had already talked to Monty and I on the plane. I think that, that would be a very good place to start. Because you said a lot of, the most important things that you wanted to tell us.

Claudia: I was all over the place though so I don't know if I can repeat that, you'll have to help me.

Det. Y: Well here's what will happen. You can jump all over the place; you're allowed to do that. And then what we'll do is, we'll try to reign you back in. We'll try to bring you back in and try to make sense of it. I like to, the way I find over the years is I like to talk, we talk in order. Like say the day that this happened and we kind of move forward from there. That seems to jog the memory fairly well. But you can tell me whatever you want to tell me and then we'll go back. We'll go forward. What would be easier for you, how about that?

Claudia: Bill.

Bill: Yes. I know how hard,

Claudia: I want to be fair to the family. But I don't want to be unfair to myself. If I say only a few things and I don't say the whole thing.

Bill: Right.

Claudia: I'm gonna look very bad.

Bill: I think that, what I would like you to do and this is entirely up to you. You just talk about the things that you talked about with us, the things that you were already comfortable with. The things that you told us, how many okay and then we (inaudible) of the things that you want to tell you us, we will let you do that. If we have some questions we will ask you. If you're comfortable answering them you can. If you don't want to then you don't have to. But I think for me anyway.

Det. Y: You were right at the top of the steps. Top corner.

Claudia: Yeah, the steps are here right. Here's the door to the master bedroom. Here's the door to his son's bedroom, here's the door to his daughter's bedroom.

Det. Y: Isn't there a bathroom over here somewhere maybe?

Claudia: Here's a bathroom here. Yes. He, he, he saw me here and then he threw me here. I hit my head here, I was here.

Det. Y: So he threw you down, you didn't lose control of the gun or anything or he didn't take it from you?

Claudia: No. He didn't take it from me. So when he saw, when he said ah, let me leave the house and do me a favor, go to the basement and kill yourself in the basement because it's gonna splash my paintings here, you're gonna splash blood all over my paintings here. I, I got very angry. I got very angry and if he had left and not said that, I would, he would have lived and I would die. Had died. I would have killed myself.

Det. Y: So he's telling you to change down there, change the whole,

Claudia: Change the whole thing. Change the whole thing.

Det. Y: Made you that mad?

Claudia: Yes. Very, sensitive.

Det. Y: You're still mad. I can tell.

Claudia: Yeah.

Bill: It's very emotional. This is, this is exactly what you told us when we were, when we were on the airplane. You're telling me, you're telling us now exactly the same thing that you told us before. And,

Claudia: I couldn't look. I didn't say a word; I just thought it was too quick. I'm gonna die, we're gonna die, gonna die with us, the two of us we're gonna die here now.

Det. Y: You having the kid.

Claudia: Yes.

Det. Y: You having the baby.

Claudia: Yes. But those were not words that I said. It was too quick.

Det. Y: Just what you were thinking.

Claudia: Yeah. I thought in my head, you know real quick.

Det. Y: Okay did you stand up?

Claudia: I got up real fast. I was maybe, just like this.

Det. Y: Hum hun.

Claudia: Then just got up real fast. And,

Det. Y: And what you do next?

Claudia: I just turned around and, just turned around and I shot.

Det. Y: (inaudible).

Claudia: But, I feel, my fraction,

Det. Y: Right.

Claudia: My reaction was that the gun had five shots because I had, had a little drink. My feeling is that I had shot him three times and I said, save the two bullets for myself. So after I shot him I ran inside the third bedroom and I sat in the little ah chair, I sat in the little chair and as hard as it was I pulled the trigger. It was the hardest thing I've ever done in my life. It was hard. I pulled the trigger, nothing happened. I said, I moved, what happened. I pulled the trigger a second time. I don't where I got this strength to do this. It was hard, very hard. Nothing happened. What happened? I shot him three times, and I saved two bullets for myself and what happened. I got confused. Ah, (inaudible) maybe, I don't know. So I ran down, down stairs to the basement and I don't remember if it was when I was going down or going up, back up, I, I realized what I had done. And I turned to see if he was alive. Breathing. Um, I, I put my, I put my (inaudible) and I turned to see if he was breathing or (inaudible). Um, so said okay I'll finish up what I started. So, I think was, on my way down. Yeah, it was on my way down and I said it's done. I gotta finish up what I started. I went to the basement, put in five new bullets in the gun. I went back to the room, his daughter's room. I put that gun in that piece of wood. I sat there again but it was hard because I started thinking about my family. And I said, let me say goodbye to my family. Let me tell my family what I did and what I'm going to do with myself. I don't want them to find that out ah, in the newspapers. I want myself to tell them. So from the landline I called my sister from the ah, cell phone I called my father. And somehow they started talking among themselves and they called some lawyer and they said that um, Ohio had death penalty. And they advised my father and my sister to talk, to convince me to leave the US. But they hadn't told me that. In the meantime while my father and sister are talking they put ah, ah, my sister's husband on the phone talking to me and he's a pastor. And he starts talking to me about hell. Going to hell. Don't do that, don't kill yourself. You're going to hell, da, da, da. He didn't say anything about ah, the death penalty. He only talked about going to hell. No, no, no. I don't what to hear that about hell. I got to kill myself, I want to die. I want to die. Um, they said no, don't do that, don't do that. And then my father um, um, got on, took the phone and he said ah, you know where your passport is? I said yeah I do. Where is it? I said it's in the bank. It's in a safe ah in his bank. Do you have money? I said ah, I have a credit card and I have 13 hundred in my bank account. He said go there, get money and get your, get your passport, get, and you gonna come to Brazil. I said I can't. I can't drive, I'm drunk. Don't worry go, and do you have coffee in the house? Yes I do.

Make strong coffee and drink coffee and you gonna come back. I said, I can't. So he convinced me to do that. I went to the bank. Went to my safe deposit. Um, and that was only under my name. My husband didn't have access to that. It's only under my name so I,

Det. Y: And where was that bank at Chris?

Claudia: Newton Falls.

Det. Y: Do you remember the name of the bank?

Claudia: Help me out.

Det. Y: Could it be Huntington? Wouldn't have been Huntington at the time,

Bill: I don't remember what they were.

Det. Y: I'm trying to remember.

Claudia: I think PC?

Det. Y: Think it's PC.

Claudia: There's only one bank in Newton Falls.

Det. Y: Yeah I know it. It's changed names over the years, that's all.

Claudia: It's only one bank in there. So I went in there. I went to my safe deposit box, which I had when I got married to him. I had 40 thousand dollars in, in cash. Why I have that, because I claimed bankruptcy and I couldn't keep my money in the bank. So ah, but I spent 30 thousand dollars because I didn't work for a while and I was buying food for the, I was buying clothes, I was traveling. I paid for all the meals, going out to dinner so I spent 30 thousand easily. Over two years I spent 30 thousand. So, but I still had 10 thousand dollars. So um, no, no, no. I didn't have exactly, I didn't have 10 thousand dollars anymore because on Thursday when I decided to kill myself ah, when I was preparing to kill myself, ah, I said I have 10 thousand dollars, if I'm gonna kill myself, I'm not gonna leave this 10 thousand dollars to him. I'm gonna give it to my father. So on Thursday I transferred 10 thousand dollars to my father. Ah,

Det. Y: Did you call him and tell him you were going to do that or? Did he know that money came?

Claudia: Ah, I did that once in a while because I support ah, family members. Once in a while I, I don't remember if I told him. I probably did. I probably did. Ah, but he was,

Det. Y: Did you tell him why or, that was just normal.

Claudia: No. No, no, no. No.

Det. Y: Okay.

Claudia: Um,

Det. Y: Was that a bigger transfer than you normally would make?

Claudia: Yes, yes. Yes. That was all the money I had. Um, so ah, I said if I'm gonna kill myself, I'm not gonna leave this money to Karl so I'm gonna leave it to my father.

Det. Y: Hum hun.

Claudia: Because my father will keep giving money to my sister whom I supported. So um, on Thursday I transferred money ah, to him. But I wasn't sure if I was gonna kill myself, was just in case I killed myself. Because I hadn't talked to him, I was hoping that on Monday, we would straighten things out.

Det. Y: Well would dad had wired that money back to you if you wanted it?

Claudia: No.

Det. Y: So you were out 10 grand one way or the other.

Claudia: No, no. That money was for my sister.

Det. Y: Okay.

Claudia: You know that money was money that I gave often to my sister.

Det. Y: So you were giving your last, you last money you were giving away to your sister.

Claudia: Well but you know, it would go to good use because instead of me wiring money every couple months, every three months, every six months ah, that money was once a year. You know for my sister. So I, I wired the money to him just in case things didn't work out on Monday, he was supposed to be coming back home and I was gonna tell him about the pregnancy. Um so that day I wired the money. If I was planning on going back to Brazil ah, first of all I would have bought a um, an airplane ticket, which I didn't. I bought the airplane ticket in New York on Monday afternoon which is the day that I got to New York. Right. And I would have taken the money with me. And another thing is that um, I had 13 hundred dollars in my bank account. I was so confused when I got to the bank to get ah, the things out of the safe deposit box that I thought my God I have 13 hundred in the bank. If I clean it out, they will know that I killed my husband. I was paranoid. So I only got a thousand and left 3 hundred in the bank account that is still there to this date and I was confused, I was paranoid. So I went to the um, to the clerk and I got a thousand dollars out in cash and I gotten the things out of my safe deposit box, which was my passport, and my ah, my diplomas from school and birth certificate and marriage certificate documents. And the money was not there anymore because I had sent it on Thursday. But on this, after I killed him I went to the bank and I got my stuff. If I was planning on doing this, I would have gotten things out of the safe deposit box before I killed him. Not after.

Det. Y: I understand.

Claudia: Right.

Det. Y: Now where are you going with this?

Claudia: So um, so I, my father told me to go there, get the stuff and you can fly to Brazil. But, I don't know. It's a long trip from, from New York to Pittsburg which was the airport. And, I'm gonna help you out. And I'm gonna try to buy you the ticket with my credit card. If you, if things don't work out, you still have a thousand dollars and you have your credit card, you're gonna be able to get a ticket. So um, I was able to get a ticket, for I think it was 900.00 something. Less than a thousand dollars. He wasn't able to use a credit card. Um, so um, what was I getting at?

Bill: And, you left the bank and if (inaudible) what you told me earlier was when you left the bank you drove the car,

Claudia: Oh yeah.

Bill: Very slow and very careful.

Claudia: Very, I was like a zombie. I was, my father was talking to me. Try to, to, to encourage me so I would have the strength to keep driving. Because I didn't even know why I was driving. What's the purpose, my life is over. What's the purpose of me doing this. But one thing kept going through my head. I wanted to say goodbye to my family. I wanted to see my family because that idea of committing suicide hadn't left my head yet. I thought, if I get to Brazil and I say goodbye to my family, then I'll kill myself and I tried to kill myself that day when I got to, to ah,

Det. Y: And how did you try to do that?

Claudia: I went to ah, a very expensive, a very expensive hotel in Cocoa Cabana Beach. I went to the highest, I think it was the 19th floor. To the highest apartment that I could get. And I had a credit card. And I said give me the most, and I doubled, all the limits, I still had left in my credit card. So I, got that room and I said goodbye to my father. Ah, he picked me up at the airport. We, I talked to him. I told him what, I did this horrible thing and I don't want to be in your house because I don't want to involve you in something like that. Ah, because we thought that if the police found me in his house he would be arrested. That's not true but at the time we didn't know how things work.

Det. Y: Right.

Claudia: So, I'm not gonna get you involved in this. I just want to say goodbye. Ah, we cried and we said goodbye and he said what are you gonna do, I'm still not gonna tell you. Where you going? I'm not gonna tell you but from, from the way he talked to me he knew what I was planning and I said don't try to stop me. Ah, I had to do this. So we cried and we said goodbye and I went into this very expensive um, room, hotel room and what I was gonna do is that I was gonna

sleep a little bit and wait until night because I didn't want to see, to make a bad, to make a very bad scene and I figured that at night I wouldn't have the risk of falling on top of someone and killing an innocent person. So um, I waited. And once I got to the room, I called my father. I said Dad, I'm fine. I'm in a hotel room. Ah, in Cocoa Cabana. Um, I said I love you, something like that and then I went to sleep because it was still afternoon. A half an hour later the phone rings in the room and it's my father. I said, my father. He said listen, you are coming home with me. I said, no. He said yes because I spoke to a lawyer. He said I'm your father and I'm not gonna get into trouble ah by having you in the house. And he comes with me. And I said Dad no. Yeah and we gonna, we gonna take care of you. I said really? And my father was not very loving, was never very loving. He said you're my daughter. (inaudible) My father never said that. You're my daughter and I love you.

Det. Y: So you went with Dad.

Claudia: That was, (inaudible). For me to still hear those words. I'm your father and I love you. And that was the first time I felt really loved. All I wanted was to be with my father. I wanted to get home and then I'm gonna kill myself. I can wait a few more days. I just wanted to enjoy my father a little bit more.

Det. Y: Chris how about I give you a break for a few minutes. We're gonna take a little break.

Claudia: Yeah.

Det. Y: And then we'll come back in.

Bill: I'll get you some tissues, okay. I'm about to grab you some, I'll be right back.

Det. Y: We're gonna stop the tape for a second. (inaudible) on the 13th. All right I started the tape backup. The time is 11:21. We took a short break. If you're still ready to talk let's just talk.

Claudia: Yeah.

Det. Y: All right. Now here's what I'm gonna ask you. You, you lay out quite a story for us.

Claudia: Yeah, there's still a big part, an important part of it.

Det. Y: (inaudible).

Claudia: (inaudible) before um, a month before he died.

Bill: You did?

Claudia: Yeah, he committed to mental hospital.

Bill: Okay.

Claudia: He put me there. Um,

Det. Y: How did you try to do that?

Claudia: Well, thing is, he was depressed. I told you he was depressed. He was drinking a lot, he was having problems with his job at Southwest. He was not flying well. And he was getting bad reviews and he was at risk of losing his job. So he was already depressed over several things. He was, hadn't gotten over his divorce from his first wife. (inaudible) up on him because he wanted to be, become a politician and his dreams were ruined. Then the law, then not having custody of his children. He was very frustrated because they were fat and they wanted to be skinny and they were not because they, they. He wanted his son to be a sports boy and he was a computer type of person. He only wanted to play games and he didn't work out, he was fat and he thought it was also fat, there was a problem with him. He wanted the perfect wife, the perfect house, the perfect kids. He was obsessed with it. Things were getting out of hand. Ah, left his, his first marriage didn't work out. His second marriage with Carla (inaudible) the Peruvian woman, didn't work out and he, he was obsessed with her because he talked about her all the time with me. It was crazy. And I looked like her. That's why he married me. And made me, he gonna dye my hair black. Because he wanted me to look like her.

Det. Y: Right.

Claudia: Um, and then um, his son left. Didn't want to be living with him anymore. Um, and then um, there was the pregnant thing, the pregnancy thing and he was doing, he was not doing well at Southwest. All those things are piling up in his head he became depressed. Oh and there was the, thing that he thought that he had prostate cancer. And he tried to get money from the ah, the um,

Bill: ~ Airport.

Claudia: The airport and they denied his retirement and denied his settlement.

Det. Y: Hum hun.

Claudia: And you can also check those records.

Det. Y: Couple things that we didn't touch on, I think quite just because you were emotional at the time, um, after you shot him, you were pregnant. What happened with that child?

Claudia: I lost the baby.

Det. Y: You lost that baby.

Claudia: I couldn't eat. I didn't eat, I didn't sleep in Brazil. I was, I was very sick.

Bill: Was that while you were in Sao Paulo at your father's?

Claudia: No my father. I went to Sao Paulo, from Sao Paulo I went to Rio.

Bill: Okay.

Claudia: And I stayed with my father, like I guess 4 days.

Bill: Okay.

Claudia: And then from, from Rio I went to Brasilia and I didn't leave anymore.

Bill: When you lost the Brasilia did you go to the hospital there?

Claudia: No because I was afraid to use my name and be arrested. (inaudible).

Det. Y: Okay and we're gonna talk about some of that too because I'm really interested in what happened after. I'd like to know how all of it worked. One more, another question. At some point did you try to buy, now you told us about the revolver, did you try to buy another gun up here?

Claudia: Yeah, I tried to buy another gun.

Det. Y: Tell me why or what it was, or where you tried to buy it. Tell me everything.

Claudia: Ah, I thought that, that gun was not ah, I don't remember exactly the reason why I, I wanted to buy a second gun. Let me try to think.

Det. Y: I have the paper, that was a 45 if I remember right.

Claudia: Yeah, I think he convinced me that ah, um. I don't remember,

Det. Y: Who convinced you?

Claudia: The guy at the firing, firing store.

Det. Y: At the range?

Claudia: Yes.

Det. Y: What he was trying to tell you is that, that might be a better gun for you or something?

Claudia: No, I started inquiring. I started inquiring.

Det. Y: Because of the internet searches you were doing?

Claudia: Yes. Yes.

Det. Y: Okay and you actually tried to buy it, it's just the purchase didn't go through on your credit card right? Do you remember?

Claudia: No, I figured, I think I figured that, that first gun, it was good. It was a good gun. I didn't need that other gun. It was good.

Det. Y: Okay. So, all right. I thought something happened with your credit card didn't go through or something. May be I'm mistaking. I don't need to tell you that it's been a long time.

Claudia: I don't remember.

Det. Y: Okay. That's fine.

Claudia: To be honest with you.

Det. Y: That's why I was trying to figure why you needed two guns.

Claudia: No. I, I. I think I, to be honest with you. I don't remember why I wanted to buy the second gun if I thought that one would be more precision or the other. Or maybe because I shot with a gun, with that gun and I thought it was better. Oh wait a minute. Yeah, I tried that gun and I thought it was a good gun with,

Det. Y: How'd you try it?

Claudia: Yeah.

Det. Y: After he shoves you down, what, what's his action after that? Does he start going down the steps?

Claudia: No, no. The first bullet knocked him.

Det. Y: What's that?

Claudia: The first bullet knocked him.

Det. Y: Not him?

Claudia: Knocked him. Killed him. The first one.

Det. Y: The first one killed him.

Claudia: The first one. He fell down. He fell down the stairs. But, but his one foot. I remember his one foot was like this. But it was not, that sound like (makes a sound). He died instantly.

Det. Y: Let me ask you this. The first, now you have a laser on that gun.

Claudia: No but I didn't need to use it because it was too fast. The laser was not for; I didn't buy a gun to kill anybody.

Det. Y: I'm not saying you did.

Claudia: So the laser beam was, there was no more use for it. (inaudible).

Det. Y: Listen to what I'm saying. Do you know where that first shot hit him?

Claudia: No, no I actually, I was just shooting.

Det. Y: That's why I'm asking you because the laser, obviously if you have a laser pointing somewhere, it's hard to see where a bullet hits something but (inaudible) laser pointing.

Claudia: No it was too fast. It's impossible to, to, to.

Det. Y: How close was he to you when you fired that first shot?

Claudia: From here to there or less. From here to,

Det. Y: So I would say most 6, 6 ½ or 8 feet maybe.

Claudia: Yes. Yes.

Det. Y: So very close.

Claudia: Very close.

Det. Y: Okay. And then, how many times did you shoot?

Claudia: In my head I had shot him three times. But the article say I shot 5 times. Hit him three bullets and 2 were, hit the, hit the room.

Det. Y: We'll get into that.

Claudia: But in my head I had shot him three times and saved 2 bullets for myself.

Det. Y: We'll get into that. Because that touches on, we're gonna do a little math problem. I know your intelligent, we're gonna work on math here.

Claudia: I don't know if it's true that there were 5 shots. I read that on the internet.

Det. Y: I understand.

Claudia: You know.

Bill: I remember when you told me on the plane, if I remember correctly, you said that it happened so fast, it shot, and you remember shooting a couple times but you just, you didn't remember how many cuz you when you went into the bedroom you thought you had 2 more bullets.

Claudia: No. no.

Bill: When you went to, (inaudible) right?

Claudia: In my head, I, I counted three bullets.

Bill: You counted three.

Claudia: In my head I counted three bullets.

Bill: Right.

Claudia: So in my head, I knew there were five, so less three there was still two. So I went to the bed, I only needed one to kill myself. But I had two. Because in my head I, I, I.

Det. Y: All right, we're gonna get back to that.

Claudia: Shot 3 times.

Det. Y: So he's shot three times.

Claudia: In my head I, I don't know if I hit him, or not. In my head.

Det. Y: Okay. The first shot you know, I mean,

Claudia: The first shot I know hit him because I saw how he fell.

Det. Y: And you said you know it killed him. He went right down, his foot buckled. You're describing how his foot buckled.

Claudia: No it looked like that was the look. I didn't know, he looked like, I didn't know for sure, he looked like the first one was the bullet that killed him from the, the way he didn't make a sound.

Det. Y: Hum hun.

Claudia: So ah, that's what I think happened.

Det. Y: Now regardless of the number of shots you actually fired or what you think you read or what have you. Where did you fire, did you fire all the shots from upstairs or did you go down to where he was at the bottom of the steps.

Claudia: I don't remember.

Det. Y: And shoot more?

Claudia: I don't remember that part. It happened too fast.

Det. Y: Because one thing I'm gonna tell you, I'm gonna let out, but you probably read on, do you remember reading anything on the news about the coroner's report?

Claudia: I read a few things.

Det. Y: Do you remember anything about a contact gunshot wound?

Claudia: No. I don't know that.

Det. Y: Do you know what a contact gunshot wound is with all the research you've done about suicide and,

Claudia: Contact?

Det. Y: Contact.

Claudia: What's the contact, yeah.

Det. Y: In close proximity, very close.

Claudia: Yeah.

Det. Y: He had one of those.

Claudia: It's possible, it's possible that I hit him once, I don't remember. I'm gonna say that's possible. I don't remember. I cannot say something to you that I don't remember.

Det. Y: And I wouldn't ask you to.

Claudia: Right. But it's possible. I remember very clearly the first one. That I remember the first one. And then I know that I shot him 2 more times but I don't remember if it was on top or if I went, had went down to shoot him. I don't remember. But it's possible that I did.

Det. Y: Possible that you did.

Claudia: Yes. It's possible.

Det. Y: It's not out of the realm of possibility.

Claudia: No. No, no it's not.

Det. Y: Because what could have happened there, I mean, you're mad right, I mean basically he told you that his paintings are more important than you.

Claudia: Yeah,

Det. Y: You're pissed.

Claudia: Yeah.

Det. Y: And I think most people would be at that point right?

Claudia: Yes. Yes.

Det. Y: So you hit him, he goes down. You go down to the bottom of the steps, is he still moving, is he still breathing?

Claudia: No, no. He was already not moving because he didn't make that sound of (made sound) you know, nothing. So it was too fast. It's like I think, I don't remember if I went down and shot two more times or if I shot from the top. From the top of the stairs. That what I don't know. But, but I know I shot three times. That's what I remember. I may have shot five but I only remember three.

Det. Y: So it's possible.

Claudia: And it's very possible that I shot five times because I told you that I went back to the room.

Bill: To the bedroom.

Claudia: To shoot at myself in the wood, I, nothing happened.

Det. Y: Hum hun.

Claudia: So it baffled, I was confused because in my head I had shot, I had shot three times.

Det. Y: Not five.

Claudia: Not five.

Det. Y: It would make sense if you shot five because you,

Claudia: It made sense.

Det. Y: Pulled the trigger twice, nothing happened.

Claudia: Right. I got very confused. But I don't have that much experience with guns. And I thought the bullets are bad, maybe they're, there's a problem, that ah, there was bad manufacturing, there was a manufacturing problem with the bullets. So I got to go back to the basement and, and change the bullets, put new bullets in. To go back in and kill myself. Ah, but in the meantime, I think is when I'm going down, I don't remember if I was going down or up the stairs and I had, oh it was when I was going up because (inaudible) home and then I think to myself. I think that time of going down to the basement and having time to put in ah, five new bullets I came to my senses. And when I went up again and I saw him there and I realized what I had done and I took up his (inaudible) and checked his breathing.

Det. Y: What'd you do next?

Claudia: When I saw that he was not breathing at all, I went running back into the bedroom to, to shoot myself a third time. That was when it was ah, not the, ah the reason why I didn't shoot myself the third time was not because it was hard, it was because I thought of my family.

Det. Y: I gotcha. Makes sense.

Claudia: Yeah.

Det. Y: I get you.

Claudia: I wanted to tell them.

Det. Y: Now he was covered up. Why did you cover him up?

Claudia: See yes because when I went back. No, I think I didn't come back to the house, I went um, I went straight from the bank to the airport. I didn't go back to the house. Because I, I, I want to have time to to fly. So I put a cover over him and a letter in case somebody came to the window, they would not see his body. So I would have time to take to the airport.

Det. Y: To get out of the country.

Claudia: To get out of the country.

Bill: Can I ask a question?

Det. Y: Sure.

Bill: I'll jump in, (inaudible). There's something I'm curious about that confused me. Why didn't you just, I know there's isn't like a direct flight from Pittsburg to Brazil but why didn't,

Claudia: There is, no there isn't.

Bill: Tell the truth, why did you fly from Pittsburg to LaGuardia, and then change airport. There wasn't,

Claudia: There was (inaudible). Right next to each other.

Bill: Yeah, there wasn't a way to book a flight like when I flew down there a couple days ago.

Claudia: Yeah.

Bill: To get you. They didn't let us fly down (inaudible).

Claudia: No.

Bill: We had to fly American, we had to go to Miami and change the plane. We were able to do it right from here.

Claudia: No. Listen. There were no flights from, at that time from Pittsburg to ah, to JFK.

Bill: Okay. So that was the only way to get there. You had to go to LaGuardia.

Claudia: Yeah. Yeah, they're really five minutes away.

Bill: (inaudible) I'm familiar and you use to live there.

Claudia: Yeah and I got there, um, I don't know, probably 2, before 2 PM or after PM and the flight to Brazil was only at 6 at night. So I had plenty of time.

Bill: You had 4 hours and,

Claudia: I wasn't in no rush to, to get to JFK. I was ready to get to New York because the flight to Brazil was from New York.

Bill: Okay. But that's probably not uncommon to fly to LaGuardia and then just grab, get a cab or a,

Claudia: And I didn't have money for the ah, for the ticket. I had to fly with his ah, flying privileges. Um, as a spouse I could fly with um, I had flying privileges.

Bill: Was that for both flights?

Claudia: No.

Bill: Just the one to ah,

Claudia: Just the one.

Bill: To Pittsburg.

Claudia: Yeah, yeah.

Det. Y: All right. So you head down there. And check into the hotel, then you go stay with Dad for a couple days. At what point does this start setting in, this is, really interesting to me. By now you know what happened. You know what you did. It's all coming together.

Claudia: Yes.

Det. Y: What's going on down in Brazil?

Claudia: Well I tried to, I wanted to kill myself. I had the fixation. I wanted to kill myself. So when my father told me those words, they moved me a lot and I wanted to enjoy that a little bit more. I wanted to prolong my time with my family, as much as I could. So I, I was saying a long goodbye to them. So I, I spent, those, I don't know, 4 days with my father. 3, 4 days and he said ah, I talked to your siblings and they think it's better that you don't stay here with me. You go to Brasilia because there's more people there to cheer you up. Here's it's just me and you. You're too sad, you don't talk, you don't eat, you don't do anything so I, I think it's the environment. I have no more money, cuz (inaudible) the ticket. So I went to Brasilia and I, I had an apartment there that my sister lived in and I just stayed with my sister. She had kids and more people and,

Det. Y: Did everybody down there know who you were, what was going on up here? Did they know about what happened?

Claudia: My whole family, yes. And they took care of me.

Det. Y: What about the people of Brazil. I mean, did you just blend in down there? And nobody really knew what was going on?

Claudia: No that didn't hit the news in there for I think a year or two. Yeah, so ah, um, so they cheered me up. They tried to cheer me up because nothing was, and I tried to, the same thing that I did in the hotel, in Rio, I did in Brasilia, 4 times. I went to the um, to another hotel. I went to the 13th floor and I tried the same thing but for some reason things did not work out for me.

Det. Y: What was you gonna do, you were gonna try to jump?

Claudia: Jump. Yeah. Cuz I spent all the money that, that I had. Ah, going to those hotels. Try to kill myself. So I figured out that would be very hard.

Det. Y: Hum hun.

Claudia: To kill myself that way. I just didn't have the courage to do that. I was trying to (inaudible). Um I would wait too long, and um, things just didn't work out. And I was running out of money. I said, I don't have any more money to keep going to hotels. And I had a little piece of land, that I had from many years before, (inaudible) before um, I went back to Brazil. But there was no construction there. So I, ah, I, I, that 10 thousand dollars that I gave to my father, was gave me, all back to me and I was living off of that money but I was spending it all. And I was spending it like water because I thought I don't need money, I'm gonna kill myself. Why do I need money. I would go to expensive hotels, register myself. And and then I, I thought um, was running out of money but ah, I think I still had 4 um, I had a thousand left. I spent all the money real quick and I bought some

wood and some bricks, to build a little shack. And I bought a little um, beetle, beetle.

Det. Y: Hum hun.

Claudia: (inaudible) cuz I thought I wanted to commit suicide was to the exhaust of the car. So I figured I would get ah, the car in that room and I would get it running and I would take some sleeping pills and I would die from the um, um.

Det. Y: Carbon monoxide.

Claudia: Yeah. Carbon Monoxide. Um, then ah, I had a problem because it, when the Beetle was inside that little shack, it made so much noise.

Det. Y: You couldn't fall asleep.

Claudia: No. The neighbors. The neighbors would. The neighbors would hear that noise and go there and try to find out what was going on. So I figured that I would have to wait until ah, some, festivity day, carnival, some day that was, had a lot of music going on for me to do this. So as I kept postponing, and postponing ah, I was um, getting better, getting stronger psychologically um and um, and I met my husband there.

Det. Y: You got married again down there?

Claudia: I did.

Det. Y: Did you really?

Bill: (inaudible).

Claudia: I did. I've been married for 11 years.

Det. Y: Really?

Claudia: Yeah.

Det. Y: You mean from the time you got down there you think you got married right away?

Claudia: Yeah to a guy that worked in the construction store ah that helped me build the shack. He was ah, what do you call it. Non educated man, a very.

Bill: You kind of said he was like a farmer.

Claudia: Farmer.

Det. Y: Let me ask you a question. When did you get married? Do you remember when your wedding day was?

Claudia: 12.

Bill: No, no.

Claudia: There was two types of wedding. There's official and the non-official.

Det. Y: Okay.

Claudia: I mean we got into a relationship.

Bill: Right.

Claudia: Ah, in 2007. Like ah, around June, I got there.

Det. Y: Actually 3 months after being down there.

Claudia: No, I, I thought we start talking, 6 months, we (inaudible) out. We were like flirting, flirting.

Bill: Did you know him before you went to Brazil this time? Was it somebody you knew from your past in Brazil?

Claudia: No, no, no.

Bill: You met him when you got there.

Claudia: In the construction. It was the third time I saw him.

Det. Y: Did he know what happened up here?

Claudia: No. I told him in the store,

Det. Y: That'd probably be a deal breaker I would imagine.

Claudia: Yeah. Exactly. Ah, so I was afraid of telling him the story cuz I told him that I was Rio De Genaro. I was there hiding from my husband that was a police officer that I didn't want to be married to him anymore and he um, swore me to death. And I had to hide. Nobody could know where I was. That's why I was hiding that, that ah, in the middle of nowhere. Building a shack in the middle of nowhere so my husband that wanted to kill me wouldn't find me. But after he built that little shack I had some ah, articles, newspaper articles and some pictures of Karl in a box in that shack. And because he took him, that shack, he saw those papers. And he figured out that my story was not exactly the way I, I said. He confronted me and I said look, it's better that you don't ask too many questions. You know enough. Ah, took maybe, maybe that's not entirely the truth but if I tell you the truth, you're probably not gonna want to talk to me anymore and I started crying. He said try me out. I think he's gonna be surprise and then um, something like that ah and then I said the rest. He already knew that my story wasn't true. And I took a chance. And so I told him the whole thing. I said look if you want to leave now and never talk to me again go right ahead. I will understand. He said no, no. I, I like you more now that you told me the truth than before.

Bill: And you're still with him. Then after you wanted, ah, that's when you wanted Sean to call and get your property and stuff.

Claudia: Yeah.

Bill: Right, that's who we called to get your stuff.

Claudia: Yeah. Yeah.

Bill: Okay. Same person.

Claudia: Same person. Yeah, we've been together 11 years.

Det. Y: Did you ever think this day would come?

Claudia: Hm, no, no. I wanted to pay for my crime in Brazil.

Det. Y: And why is that?

Claudia: Cuz I wanted to be near ah my husband. Because it would hurt him too much to lose me.

Det. Y: So you thought this would all be able to take place down there?

Claudia: Yeah.

Det. Y: Sometime.

Claudia: No, I didn't mind to pay for my crime. But I wanted to be near my husband.

Det. Y: What is the punishment for murder in Brazil?

Claudia: Ah, between 18 and 30 years.

Det. Y: So it's kind of similar really.

Claudia: Yeah.

Det. Y: So you're gonna probably, ballpark what you're facing up here.

Claudia: Hum hun.

Det. Y: Right.

Claudia: Yeah, but here I'm don't, I'm not near anybody that I know.

Bill: (inaudible).

Det. Y: I understand. You got frequent flyer miles with this guy over here.

Claudia: (laughing) Yeah that's the truth too.

Det. Y: Something I'd like to talk, and what we'll do is, we'll take one more little break before we're done just to make sure that there's nothing. When we sat here with you for quite some time, this is probably the longest interview I've ever done.

Claudia: Yeah. But you're missing a very important part.

Det. Y: Well we're not, listen. We'll listen to you all night.

Claudia: Yeah.

Det. Y: I'm not worried about that. But, there's. I'd like to ask two things. First of all, if you could. Remember what we talked about earlier, if, if the Hoerig family was gonna be able to hear this or see this.

Claudia: Yeah, that was a lot, that I hadn't said about Karl. I think I said enough. I think I said enough because if I say more, ah about his character, I'm afraid it's gonna hurt them too much.

Det. Y: Well when you get the chance to say whatever you want, just like we said from the start, this is your story. Okay. You're the artist here. You paint the picture. But what I want to ask you, is if you had a chance to talk to his family right now, what would you say to them?

Claudia: I am so sorry. And I know your pain. Ah, and the pain that you feel of losing a son is the same pain that I feel losing my son.

Det. Y: And you're talking about your babies?

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**OFFICIAL POSITION REGARDING
RECONSIDERATION REJECTION**

Dear Attorneys Boynton and Romano:

In re: Extradition of Claudia Hoerig
U.S. Citizen and Fugitive in
Brazil

Thank you for your telephone call on July 26, 2010 informing me that Brazil has rejected the United States government's request for reconsideration of its decision denying extradition of Claudia Hoerig to the United States for the murder of her husband Karl Hoerig on March 12, 2007 in Trumbull County, Ohio. The reconsideration was based on Claudia Hoerig's renunciation of her Brazilian citizenship. Further, I would also thank Milton Drucker and Bruce Friedman along with other officials of both the Department of State and the Department of Justice who have worked diligently for Ms. Hoerig's return to the United States.

Since April of 2007, I have been in contact with Robert Iraola or yourself many times regarding the case. As you know I have also written to both President Bush and President Obama and their respective Secretaries of State about this case. Both

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Trumbull County Prosecuting Attorney

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Congressman Tim Ryan and John Boccieri have personally worked with this office on behalf of their Mahoning Valley constituents to bring about justice. Additionally, I have personally talked to officials of the Legal Attache in Brasilia, Brazil and to my local FBI officials and to the U.S. Marshal of the Northern District of Ohio. All your efforts are appreciated by this office and the victim's family.

CASE FOR RECONSIDERATION

I know you put a strong case forward for reconsideration in our effort to persuade Brazil to arrest and extradite Ms. Hoerig. Per your request, new affidavits were obtained in April of 2009 from Trumbull County Sheriff Thomas Altieri, myself, and an official of the U.S. Immigration of Customs Enforcement to make our case for extradition stronger. In my opinion, the country of Brazil was given good and just legal cause by the United States to render her back to Ohio to face justice.

According to U.S. Immigration and Customs Enforcement documents, Claudia Hoerig entered the United States in 1989 and in 1992 her United States immigration status was changed to a non-restricted Legal Permanent Resident. In 1998, Claudia applied to become a naturalized United States citizen. She was not forced or required to become a citizen for purposes of living in the United States. Her application was based on having been a Legal Permanent Resident in the United States for five (5) years. Therefore, on her own accord, she voluntarily sought citizenship in this country.

On August 23, 1999, Claudia Hoerig processed her petition of American citizenship (Form N-649) and under the space designated "Country of Former Nationality" Claudia wrote "Brazil." She then signed her name under the Oath of Allegiance to the United States.

On September 28, 1999 at her National Oath Ceremony, Claudia Hoerig swore in part the following: "I HEREBY DECLARE, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign state (i.e. Brazil) of

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whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States...that I will bear true faith and allegiance to the same...I take this obligation freely, without any mental reservation or purpose of evasions; SO HELP ME GOD.”

Well, it can't be any clearer, the proof shows Claudia Hoerig has unequivocally renounced her citizenship to Brazil and chose to become a citizen of the United States. Furthermore, as you know, the Brazilian Constitution itself speaks directly on this issue. Article 12 titled Brazilian Nationality in relevant part provides in paragraph 4 captioned Loss of nationality shall be declared for a Brazilian who ii: “acquires another nationality unless there was imposition of naturalization by foreign rules, to the Brazilian resident in foreign State, as a condition for him to stay in its territory or for the exercise of civil rights.” As stated above, Claudia Hoerig voluntarily became a U.S. citizen with no conditions having been imposed on her. It therefore would appear that Brazilian Constitutional law itself reasonably provides an interpretation for Brazil to extradite Hoerig back to the United States. For the life of me, I don't understand why a country would harbor or provide sanctuary to a national who left the country 20 years before and voluntarily renounced any allegiance to it and only came back to it after killing someone in her new home of allegiance.

Although I don't know or understand the reasons of Brazil for rejecting the United States Government's position in reconsideration in this matter, I do know that sometimes persistence is the answer when you are right. The Brazilian Constitution (its 7th constitution since 1824) referred to as the Citizen Constitution (1988-present) as of May 2010 has been amended 64 times in 22 years. The United States Constitution on the other hand is over 200 years old and has been amended only 27 times. This fact alone tells me that the nation of Brazil is in a very fluid state where the legislative process, plebiscite, referendum and initiative are valued and used by the people. Change does take place there. Apparently many new ideas actually become law there. This is a good thing in my view. Just ideas don't die but live in the minds of all free people.

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OTHER CASES

In our telephone calls over the past year, we have talked about the Sean Goldman and Dorothy Stang cases. Both cases have brought about web sites: BringSeanHome.org and dorothystang.org. The opening greeting to the BringSeanHome.org is worth quoting:

Welcome to BringSeanHome.org, our success in helping David and Sean Goldman reunited on Christmas Eve 2009 was due to the work of tens of thousands of supporters who spent countless hours writing, phoning and emailing elected officials, government administrators, journalists, judges, lawyers, anyone who might help or spread the word of the injustice done to David and Sean. While you have probably heard or read that this case reached the highest levels of the U.S. and Brazilian governments, that only happened because of relentless efforts of our supporters around the world. The Brazilian public, once they heard the truth, overwhelmingly made their voices heard and protested this injustice. In the end the Brazilian Federal judiciary applied the law correctly and sent Sean home without allowing further legal tricks which had been used for five years. The lessons we have learned since the beginning of the Bring Sean Home campaign are many. First and foremost is the power of the people to force our government to take pro-active action rather than simply file documents like "Paper Tigers." Second, we have learned that one man can make a difference, Congressman Christopher Smith of New Jersey, who represents a different Congressional district than David's, saw the first hour-long Dateline NBC report in January 2009 and immediately volunteered to personally help. Congressman Smith was relentless and stood by David to the very end, he is truly one of a kind and we are forever in his debt. (Emphasis added). (It is also noted that just prior to Sean Goldman's release to his father, Senator Frank Lautenberg delayed the renewal of a \$2.75 billion trade deal that would lift tariffs

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on some Brazilian exports citing the Goldman case. The Christian Science Monitor, December 22, 2009).

I too have echoed the Goldman theme to Brazilian national television and the newspaper Globe in interviews saying that if the Brazilian people knew the full story they would not lend support to laws or interpretations of laws which would give sanctuary to murderers, child rapists and other criminals. This is plainly wrong. Regarding Sister Dorothy Stang, the road to justice has been long especially for her family. It has been over five years since she was murdered in cold blood and still the case is not over, with more trials to come. On May 2, 2010, Rancher Regivaldo Galvao (one of 5 defendants) was found guilty of ordering the murder of Stang and sentenced to 30 years in jail. Under Brazilian law, anyone convicted of murder in Brazil and receiving the maximum sentence, gets an automatic retrial. Also, according to recent press reports (7/16/10), Regivaldo Galvao is free on bond pending retrial. In Ohio, convicted murderers are in prison while they appeal. Apparently under Brazilian law you're not really guilty until your appeals are finalized.

In any case, Dorothy Stang was killed in Para, Brazil and her killers were tried there for her murder. That's the way it should be. As an aside, I know President Obama and Secretary of State Hillary Clinton actively sought Sean Goldman's return to the United States to be with his father. For years, the Brazilian legal authorities said no. Sean is home now and his father does not have to go to Brazil to see him. Neither should the Hoerig family have to go to Brazil to see justice done. You know I have written two presidents, two secretaries of state, and two attorneys general and I have yet to get a telephone call or written response from any of them regarding this case. And I know for sure that the Hoerig family and I would deeply appreciate their personal involvement.

HISTORY OF THE HOERIG CASE

During our telephone conversation last week you and Magdalena Boynton asked me to consider going to Brazil to try the Trumbull County Aggravated Murder

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charge. You indicated that you could on our behalf at the appropriate time negotiate with Brazil regarding the possibility of getting some compensation from Brazil to try the case there. Though appreciating your offer, I emphasized to you that my opposition to a Brazilian trial was not based only on financial considerations. (See attached letters of March 11, 2008 and March 13, 2009.). There are many good reasons why this office should not turn its prosecution over to another prosecutor in a foreign country which I explained to you. Nevertheless, I told you I would meet with the victim's family and discuss the matter and get back to you with my position. This letter outlines my office's official position.

As you know, Paul Hoerig, the victim's brother, has been the spokesperson for Karl's family. Without a doubt he has been pro-active in this matter and knows the issues and options well. I have regularly met or talked with him over the past three (3) years. Additionally, from time to time, I have met with other members of the family to update them as things developed. On Tuesday August 3, 2010, the Hoerig family met with me and Chief Trial Attorney Christopher D. Becker to discuss the new developments.

Paul Hoerig has routinely forwarded me some of his e-mails on the case. On July 27, 2010, Bruce W. Friedman, Acting Office Director in the Office of Brazil and Southern Cone Affairs, e-mailed Mr. Paul Hoerig that the "only viable option at present appears to be a prosecution of Claudia Hoerig in Brazil." Prior Director Milton K. Drucker also communicated the same position on June 25, 2010 saying "...that the most promising way forward at this stage is to pursue a prosecution of Claudia Hoerig in Brazil. I know this is not the ideal solution, but it is our assessment that it is the most viable remaining option for seeking some measure of justice in this case."

With all due respect based on what I know, I disagree with the assessment that it is a viable option to go to Brazil to try the Karl Hoerig Trumbull County murder case. Frankly I don't know what it means to seek "some measure of justice." I do however know that in Ohio under the evidence and law in this case, a prosecution

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here is viable and full justice is obtainable. Therefore, as you are aware from my communications with you and Brazil, I have consistently said that my responsibility as Trumbull County Prosecuting Attorney to the people of Ohio requires me to independently evaluate all options and do what is right. From what I know now it would be folly to forward this case to Brazil for trial.

TRUMBULL COUNTY PROSECUTOR'S POSITION

Last year you asked me for some time in order for the Department of Justice and the State Department to present to Brazil the new materials on reconsideration. Initially, there was some cautious optimism. Unfortunately developments did not go our way. I will now give you my reasons for why the Trumbull County Prosecutor's Office will not agree to a trial in Brazil.

First, as I understand the present situation (noting many questions regarding a possible trial in Brazil have never been answered) most recently given to me during my last telephone conversation with you, any trial in Brazil will be handled by a Brazilian prosecutor, and not by me. The Trumbull County Prosecutor will have no control of the case and all evidence will be turned over to a prosecutor I do not know.

Two, although the crime took place in Trumbull County, Ohio and the charge in the indictment is written under Ohio law and the penalty for the crime as provided by Ohio statute is a life sentence, it is my understanding a Brazilian trial would mean that Ohio law would not be applied; that is, this case would be tried under Brazilian law and Brazilian authorities would decide which provisions of Brazilian law will be applied. Further, under all circumstances, a conviction for the highest form of murder in Brazil will mean no life sentence under Brazilian law. Claudia Hoerig could only receive a maximum sentence of 30 years in jail or prison. (This means that a trial in Brazil would mean an automatic reduction in the possible penalty as provided in Ohio from Life without parole, Life with 30 full years in prison, Life with 25 full years in prison and 20 full years to Life to a maximum of 30 years in prison.).

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Three, any trial in Brazil would mean that in the event Claudia Hoerig is convicted of murder under Brazilian law if she is sentenced to 20 years or more in prison, she gets an automatic retrial and between trials would likely remain free on bond. This would mean Ohio witnesses and the victim's family would have to travel to Brazil twice for separate trials.

Four, at this time, United States authorities do not know where in Brazil Claudia Hoerig's trial will be held. I am told that it is likely to be held in the state court system rather than federal court system.

Five, once Brazil tells us where we are going and who the prosecutor and judge are, it is my understanding that because no Ohio law will be applied, legal issues dealing with admissibility of evidence, juror questioning, mental defenses (eg. self-defense, insanity or battered woman defense), expert testimony, and jury instructions will be addressed ad hoc as Brazilian matters. In short, no comity will be given to Ohio law, including its rules of evidence. (No Brazilian precedence for this approach has been given to me to enable me to call a prosecutor who has done this before to get an objective assessment. I am also unaware of any Brazilian court decision holding that Brazil has jurisdiction to criminally try a citizen of the United States who kills another citizen of the United States on American soil.).

Six, it is absolutely impossible at this time to estimate what any trial or trials would cost. We need to know where we are going and how long we are staying. We are dealing with 20 to 40 persons possibly, including prosecutor's, police, coroner, forensic experts, lay witnesses, and the victim's family. The list of witnesses could possibly increase if the defendant would plea not guilty by reason of insanity. (In Ohio such a plea would allow the State to get an independent evaluation-what's Brazilian law say? Who has the burden of proof on this issue there?). Obviously, any trial in Brazil would automatically be lengthened considerably since all witnesses from Ohio speak English and not Portuguese, the official language of Brazil. That will mean translations will be needed for every witness and exhibit or document interpretation. (In short the defendant speaks English as did the victim and every single witness in

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this case yet the viable option is to go to Brazil to have a Portugese speaking trial.).

Lastly, though I have no clue what this endeavor could cost, and putting financial considerations aside, I do know as a career prosecuting attorney, having tried 45 murder trials (including many circumstantial evidence cases) that the present proposition for me to agree to transfer this case now to Brazil for prosecution under the known circumstances, would be irresponsible and contrary to my oath of office and not in the interest of the citizens of Ohio nor in my opinion in the victim's family rights under the constitution and statutes of the State of Ohio.

Therefore, it is my belief that the United States Government should continue to negotiate with Brazil for Claudia Hoerig's return to Ohio for prosecution and take stronger action (as was done in the Goldman matter) diplomatically and legally to protect American citizens from wanton crime committed by persons now and in the future who believe by fleeing this country, sanctuary will be given anywhere to anyone who kills innocent Americans. Lastly, I am always available to discuss this matter further. Additionally, I believe we need the involvement of the highest levels of the American government in this matter and obviously much more information with specific assurances for me to reconsider my position. It is my hope that with more discussion, the United States government will agree with my view.

Thanking you in advance for your consideration and continued work in this matter.

Very truly yours,



DENNIS WATKINS
Prosecuting Attorney

Enc.

DENNIS WATKINS

Trumbull County Prosecuting Attorney

CC: President Barack Obama
Secretary of State Hillary Clinton
U.S. Attorney General Eric Holder, Jr.
Representative Tim Ryan
Representative John Boccieri
Senator George Voinovich
Senator Sherrod Brown

First Assistant
CHRISTOPHER D. BECKER

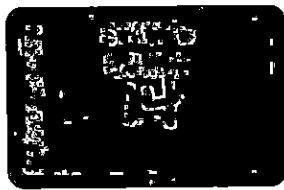
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December 10, 2014

Mary D. Rodriguez, Acting Director
U.S. Department of Justice-Criminal Division
Office of International Affairs
1301 New York Avenue, N.W., Suite 800
Washington, D.C. 20530

In re: Request for Assistance from Brazil
In the Matter of Claudia Hoerig

Dear Acting Director Rodriguez:

I am writing for the purpose of formally responding to the October 16, 2014 letter of Senior Trial Attorney Kyle D. Latimer, which Mr. Latimer drafted on your behalf, in which Mr. Latimer requests that I consider assisting the government of Brazil ("Brazil"), under the Treaty Between the Government of the United States of America and the Government of the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters ("Mutual Legal Assistance Treaty"), in the Matter of Claudia Hoerig.¹

I. BACKGROUND

Over the past seven and one-half (7½) years, I have cooperated with two (2) different Presidential Administrations and several different officials of the United

¹ Mr. Latimer's October 16, 2014 letter to me and Brazil's mutual legal assistance request, which is attached to Mr. Latimer's letter, are enclosed for your reference.

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States Department of Justice, including the Office of International Affairs which you now head. I will follow with a history of communications with relevant parties in order to underline our frustration in attempting to understand what is the true position of the United States Government in dealing with Brazil and its open-door policy of harboring fugitives of Brazilian descent from justice for crimes committed in the United States and other countries.²

As you must know, Claudia Hoerig's escape to Brazil from Ohio to avoid prosecution for murder is not an isolated event. The list of Brazilian-nationals committing crimes, including fraud, rape, drug trafficking, and murder, in the United States is well documented. In fact, recent reports from Brazil's Interpol Central Office suggest that the number of Brazilian-nationals sought for crimes committed abroad increases twenty-percent (20%) every year. Incredibly, in recent years, Brazil has even provided safe harbor to a wanted Italian-national terrorist who killed several persons in Italy and fled to Brazil. History also shows that notorious criminals, and even war criminals, have fled to Brazil for years. What makes our case more egregious is the fact that Claudia Hoerig became an American citizen in 1999 and, as a result, renounced her citizenship and allegiance to Brazil. Therefore, Brazil is now protecting an alleged American murderer.

I must emphasize that Claudia Hoerig's American citizenship is important. The Brazilian Constitution of 1988, Chapter III, which is captioned "Nationality," Article 12, paragraph 4 provides, in pertinent part, that "[l]oss of nationality shall be declared for a Brazilian who...acquires another nationality, save in the cases...of imposition of naturalization, under the foreign rules, to the Brazilian resident in a foreign State, as a condition for permanence in its territory, or for the exercise of civil rights." The referenced provision of the Brazilian Constitution of 1988 serves as the basis of the Office of International Affairs' 2010 formal request to Brazil to reconsider its denial of extradition of Claudia Hoerig. As shown in the 2009 United States Immigration and Customs Enforcement Affidavit of Special Agent Mark Bodo, Claudia Hoerig voluntarily became a U.S. citizen with no conditions

² For instance, see my April 17, 2012 letter to President Barack Obama, a copy of which is enclosed for your reference.

having been imposed on her.³ Therefore, Brazil's legal position to strip Claudia Hoerig of her right to safe haven in Brazil, which Brazil took in Brazilian court in 2013, is a strong one and has had our unequivocal support.⁴

II. SENIOR TRIAL ATTORNEY KYLE D. LATIMER'S OCTOBER 16, 2014 LETTER AND THE PROSECUTOR GENERAL OF THE BRAZILIAN FEDERAL PROSECUTION SERVICES' AUGUST 19, 2014 MUTUAL LEGAL ASSISTANCE REQUEST IN CRIMINAL MATTERS

Given the aforementioned background, Mr. Latimer's October 16, 2014 letter requesting me to consider assisting Brazil under the Mutual Legal Assistance Treaty is both surprising and confusing, and appears to contradict and undermine what my office and victim Karl Hoerig's family believed was the heretofore, consistent United States Government effort in Brazil to get Claudia Hoerig back to Ohio to face trial.⁵ Instead of discussing the effort to obtain extradition of Claudia Hoerig to Ohio, in his October 16, 2014 letter, which includes an attached written Brazilian Mutual Legal Assistance Request in Criminal Matters ("MLAT request") dated August 19, 2014, Mr. Latimer states that he wants me to give copies of all documents contained in my case file to Brazilian authorities in order for Brazilian authorities to have the evidence "to prosecute Ms. Hoerig in Brazil for the murder of Mr. Hoerig."

Interestingly, on October 16, 2014, which is the same day on which Mr. Latimer wrote me requesting assistance to Brazil, Bruce Friedman of the State Department wrote the brother of victim Karl Hoerig, Paul Hoerig, and reiterated the continuing United States Government effort to obtain extradition of Claudia

³ See 2009 United States Immigration and Customs Enforcement Affidavit of Special Agent Mark Bodo, a copy of which is enclosed for your reference.

⁴ See Trumbull County's official position letter of August 4, 2010 to the United States Department of Justice, a copy of which is enclosed for your reference.

⁵ See Prosecutor Press Release materials of July 31, 2013 applauding Brazil's effort in extradition process, a copy of which is enclosed for your reference.

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Hoerig as follows:

The latest from the Embassy is the following:

The United States Embassy, Brasilia, continues to have routine and open dialogue with Brazilian Authorities regarding the Claudia Hoerig case. Brazilian Federal Prosecutors have advised, most recently on September 29, 2014, that the Brazilian Superior Court of Justice (STJ) is adjudicating the status of Claudia Hoerig's Brazilian citizenship. If the court rules that Claudia Hoerig's Brazilian citizenship should be stripped, we will continue to press for her extradition. There are no hearings scheduled in this matter and a decision is pending.

So apparently the issue of citizenship is still being adjudicated. So, the wheels of justice grind slowly. Let's hope they also grind surely.

With warmest regards,

Bruce (Emphasis added).

If, as Mr. Friedman states in his October 16, 2014 correspondence, "Brazilian Federal Prosecutors have advised, most recently on September 29, 2014, that the Brazilian Superior Court of Justice (STJ) is adjudicating the status of Claudia Hoerig's Brazilian citizenship...", then why does the Prosecutor General of the Brazilian Federal Prosecution Service ("Prosecutor General"), in his August 19, 2014 MLAT request, which is attached to Mr. Latimer's October 16, 2014 letter, request the file of the Trumbull County Prosecutor's Office for a prosecution of Claudia Hoerig in Brazil? This suggests to me that Mr. Friedman was told by Brazilian authorities on September 29, 2014, that Brazilian prosecutors are in court seeking to strip Claudia Hoerig of her citizenship and return her to the United States for trial,⁶ but at the same time, and before the Prosecutor General, those same prosecutors are seeking to prosecute her in Brazil claiming that "it is not

⁶ Incidentally, this has been the consistent Brazilian legal position for over a year.

possible to predict when the controversy concerning the loss of her Brazilian citizenship will be solved.”⁷ Thus, Brazil is seemingly giving up on extradition or, at best, taking contradictory legal positions in this matter.

The Prosecutor General laments in his August 19, 2014 MLAT request that “[i]n Brazil, due (to) the statute of limitations, the crime of murder is no longer prosecutable after 20 years from its commission. In this case, this shall happen on the 11th of March, 2027.”⁸ In Ohio, there is no statute of limitations for murder and justice awaits Claudia Hoerig here no matter how long it takes. Unbelievably, Brazil is saying that Claudia Hoerig is no longer a citizen of Brazil, while also simultaneously saying that she can be tried in Brazil as a Brazilian citizen. Well, with all due respect, Brazil has thirteen (13) years left to litigate a case, which was good enough for Brazilian prosecutors to file only a year ago, that could result in Claudia Hoerig’s extradition. We strongly believe that the Brazilian prosecutors should follow through and consistently argue their case.

After discussing this matter with Karl Hoerig’s family, all agree that any Brazilian prosecution of this case at any time is unacceptable and inappropriate. This has been our long-standing, official position.⁹ The Brazilian prosecutors’ lack of follow-through and effort to maintain the correct legal course after only a year is very disappointing and especially disheartening to Karl Hoerig’s family, and highlights one of the several reasons why Claudia Hoerig must be extradited to Ohio to face prosecution.

By the way, is Brazil also going to forward MLAT requests to Texas, Florida, and other states, and advise them that it will be prosecuting all other Brazilian-nationals who have committed crimes in their jurisdictions, but escaped

⁷ See paragraph 7 of the August 19, 2014 MLAT request of the Prosecutor General, a copy of which is attached to Mr. Latimer’s October 16, 2014 letter.

⁸ See paragraph 7 of the August 19, 2014 MLAT request of the Prosecutor General, a copy of which is attached to Mr. Latimer’s October 16, 2014 letter.

⁹ See Trumbull County’s official position letter of August 4, 2010 to the United States Department of Justice, a copy of which is enclosed for your reference.

to Brazil? Obviously, a victim of rape in Texas is no less important to the United States Government than Karl Hoerig's family. If this is the new Brazilian approach and its national policy dealing with Brazilian-national fugitives from the United States living in Brazil, then in fairness to all other countries of the world, I would assume that Brazil will be treating those countries the same (i.e. with MLAT requests where Brazilian-national fugitives also have fled those countries to avoid prosecution and have safely returned home to Brazil with no chance of extradition). Thereupon, all Brazilian-national fugitives of the world will universally be subject to prosecution in Brazil, as Brazil puts it "aut dedere aut judicare" (extradite or prosecute). Under this logic, no Brazilian-national who commits a crime in any other part of the world will have "impunity" from prosecution by escaping to Brazil.

Maybe the United States should try this approach and change its laws to protect American-born citizens who come home to the United States after murdering, raping, or stealing abroad. No extradition needed. Then, I suppose the next step, in the spirit of universalism, would be to put everyone in the same position. There would be no need for extradition, or treaties, anytime or anywhere. In sum, the common criminal who flees justice internationally will be prosecuted "where he is found" ("aut judicare"). Great, that makes sense!

For all the reasons outlined herein, this logic is complete nonsense. Extradition of common criminals is time-tested and the best international policy for the circumstances the United States Government and Ohio and the other states face when dealing with fugitives from justice for serious crime.

The timing of Brazil's request also raises questions. For the six (6) years during which Brazilian authorities were operating under the incorrect assumption that Claudia Hoerig was a Brazilian citizen, and therefore, in the Brazilian view, not subject to extradition to the U.S., those same authorities never made a request for assistance to the United States in order to prosecute Claudia Hoerig in Brazil. It was only after Brazil was persuaded that Claudia Hoerig had renounced her Brazilian citizenship, and was therefore subject to extradition, that Brazil requested assistance to try her in Brazil. If Brazil sincerely desired the most effective

prosecution of Claudia Hoerig, shouldn't it have requested assistance to try her in Brazil when it believed she would not be extradited to the United States, instead of when she is subject to extradition?

After reviewing the Mutual Legal Assistance Treaty, I believe that Brazil's request of my office "is not made in conformity with the Treaty," as mandated by the Mutual Legal Assistance Treaty at Article 3(1)(c).¹⁰ As I believe that Brazil's request under the Mutual Legal Assistance Treaty is a misapplication of the terms and purpose of the Mutual Legal Assistance Treaty, and any compliance with it would result in harm to the State's investigation and prosecution of *State of Ohio vs. Claudia Hoerig*, Trumbull County, Ohio Case No. 2007-CR-269, in Trumbull County, Ohio, any legal action by any party to obtain my criminal case file and evidence, such as witness statements, forensic reports, the murder weapon, and ballistics, for Brazil, before the State of Ohio has had the opportunity to prosecute this criminal action in an Ohio courtroom, will be absolutely resisted and fought in the highest court as an undue interference with my responsibility as a prosecutor under the constitutions and laws of the United States of America and the State of Ohio.

In short, my office has and will continue to provide the customary public documents necessary for the United States Government and Brazil to obtain the extradition of Claudia Hoerig. However, my office will never willingly give its case file and evidence to Brazil for the purpose of Brazilian prosecutors prosecuting an Ohio criminal matter involving a domestic crime between two (2) citizens of Ohio and the United States in Brazil. Frankly, under the circumstances, the Ohio prosecution of Claudia Hoerig is none of Brazil's business and is clearly outside the customary reach of Brazil's territorial jurisdiction. I believe that international law and relevant treaty language support this view.

III. BRAZIL'S MLAT REQUEST IS INAPPROPRIATE UNDER

¹⁰ See discussion, *infra*, relative to the inappropriate nature of Brazil's request under applicable treaties, including the Mutual Legal Assistance Treaty, and international law.

APPLICABLE TREATIES AND INTERNATIONAL LAW

The problem here is Brazil's action and policy, and not me, the victims, or the United States Government. For the reasons discussed, supra, and for the reasons that follow, I am requesting that you reconsider the appropriateness of Brazil's request and then unequivocally inform Brazil that under no circumstances, will the United States Government assist Brazil in this situation, even if it would mean cancelling the Mutual Legal Assistance Treaty and the Extradition Treaty between the countries.

In Mr. Latimer's October 16, 2014 letter, Mr. Latimer states that, in accordance with the Mutual Legal Assistance Treaty, "Brazilian authorities seek copies of all documents contained in your office's case file pertaining to the prosecution of Ms. Hoerig, to include:

- 1) all police reports;
- 2) the autopsy report;
- 3) all forensic and/or expert reports;
- 4) all interviews and/or statements of witnesses and potential witness;
- 5) all crime scene reports and photographs; and
- 6) all travel, naturalization, and identification documents for both Claudia and Karl Hoerig."

This request was done allegedly "[i]n accordance with Article 7 of the (Mutual Legal Assistance) Treaty, (as) Brazilian authorities seek this evidence to prosecute Ms. Hoerig in Brazil for the murder of Mr. Hoerig". (Emphasis added).

In his October 16, 2014 letter, Mr. Latimer further advises that "the Treaty allows assistance to be delayed or denied," and that if I have reasons to delay or deny Brazil's request, to contact Mr. Latimer as soon as possible. Pursuant to Mr. Latimer's request, I contacted Mr. Latimer by my letter of October 29, 2014, in which I state that "I will need some time to review, research, and get back to you

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with my written response.”¹¹ Further, in my October 29, 2014 letter, I advise Mr. Latimer “that we believe there are special considerations that will result in either limited or delayed execution of the request, or the inability to execute it altogether.” I can now tell you that my research and analysis of Brazil’s request clearly justifies and sustains my office’s preliminary position to refuse to provide its total file and evidence to Brazil for the purpose of prosecuting Claudia Hoerig in Brazil. As I see it, Claudia Hoerig must be prosecuted in the United States for her heinous crime.

Although Mr. Latimer, in his October 16, 2014 letter to me, has not addressed whether Brazil’s request is lawful and appropriate under the Mutual Legal Assistance Treaty, I will. The Mutual Legal Assistance Treaty was signed at Brasilia on October 14, 1997. It follows the Treaty of Extradition Between the United States of America and the United States of Brazil (“Extradition Treaty”) of January 13, 1961 and the Additional Protocol to Extradition Treaty of January 13, 1961 signed by President Lyndon Johnson on November 20, 1964. A review of these treaties demands that they be read together in order to understand Trumbull County’s and the State of Ohio’s obligation under the treaties, as concerns cooperation with Brazil.

Article 1, which is captioned “Scope of Assistance,” paragraph 4 of the Mutual Legal Assistance Treaty provides that “[t]he Parties recognize the particular importance of combating serious criminal activities, including money laundering and the illicit trafficking in firearms, ammunition and explosives. Without limitation to the scope of assistance established in this Article, the Parties shall provide each other assistance on such matters in accordance with this Treaty.” Clearly, in signing the Mutual Legal Assistance Treaty, the United States and Brazil intended to help each other in the investigation and prosecution of criminal activities having extraterritorial or international reach (i.e. drug trafficking, terrorism, etc.). Certainly, in signing the Mutual Legal Assistance Treaty, neither the United States nor Brazil expected or intended for the other to take over the

¹¹ See my October 29, 2014 letter to Mr. Latimer, a copy of which is enclosed for your reference.

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investigation or prosecution of domestic criminal activity involving murder, rape, robbery, etc. Article 3, which is captioned "Limitation of Assistance," paragraphs 1(b) and (c) of the Mutual Legal Assistance Treaty touch directly on the aforementioned points by providing that "[t]he Central Authority of the Requested State may deny assistance if...the execution of the request would prejudice the security or similar essential interests of the Requested State; or the request is not made in conformity with the Treaty." In sum, the Mutual Legal Assistance Treaty should not be interpreted, under the circumstances, to provide the relief that Brazil requests.

It is also my position that under the United States Constitution and the State of Ohio Constitution and related laws, my work product, to wit: criminal file and evidence in *State of Ohio v. Claudia Hoerig*, is not subject to use, transfer or seizure without my consent, as the State of Ohio's prosecuting attorney. To take evidence from a prosecutor and his/her investigative agencies without his/her consent before the case is tried locally, would fundamentally undermine and prejudice the State's ability to try that criminal case. Accordingly, I am requesting that the United States Attorney General, who is the "Central Authority" under Article 2, paragraph 2 of the Mutual Legal Assistance Treaty, and the Office of International Affairs inform Brazil that Brazil's request to this office is beyond the scope of the Mutual Legal Assistance Treaty, and that compliance with the request will prejudice the Ohio prosecution of Claudia Hoerig.¹²

Furthermore, some of the records requested by Brazil are not publicly available records (i.e. physical evidence, witness statements, and forensic reports) under Ohio's public records law and work product rules and, therefore, are barred from disclosure pursuant to Article 9, which is captioned "Official Records," of the Mutual Legal Assistance Treaty. Accordingly, I am asking the United States, as the Requested State under the Mutual Legal Assistance Treaty, to deny all requests from Brazil which are protected from public disclosure under Ohio's Public

¹² See also Trumbull County's official position letter of August 4, 2010 to the United States Department of Justice, a copy of which is enclosed for your reference.

Records Law and work product rules.

In addition to the preceding considerations, a review of the Extradition Treaty and the Additional Protocol to Extradition Treaty between the United States and Brazil shows that its provisions deal with reciprocally delivering to each other fugitives from justice who commit crimes such as murder, rape, and other criminal offenses.¹³ Obviously, the Extradition Treaty was negotiated and became law for the purpose of addressing the situation that Claudia Hoerig's case presents. Why have a treaty between the United States and Brazil when Brazil, after its execution, exempts its citizens from its provisions and refuses to return them to the United States to face trial for crime?

Going forward, the United States Government should seek removal of all barriers in the Extradition Treaty, which presently is one-sided and protects Brazilian-nationals from extradition based solely on their nationality. As you know, there are many Brazilian fugitives from American justice who, unlike Claudia Hoerig, did not become American citizens and have escaped to Brazil with virtual impunity. If an American citizen had gone to Brazil and murdered a Brazilian (or for that matter any person of any nationality) in like circumstances, the United States Government and all individual states, including Ohio, would extradite, subject to due process, that citizen back to Brazil. Comity and plain morality should require no less. Why would any civilized country want to protect common criminals from justice and trial where they committed their crimes? If the United States Government lets bad things happen, then bad things will happen.

Alternatively, I would like to know the type of conditions that would bring about the "termination" of such a one-sided extradition treaty, as contemplated under Article XXII of the Extradition Treaty. It is almost like Brazilian-nationals have a license to commit crime, and even kill Americans, in the United States if they can get back home safely. As you know, Claudia Hoerig, as an American fugitive from justice, has been free and openly living in Brazil for more than seven

¹³ See Article II of the Extradition Treaty which sets forth a list of thirty-four (34) crimes.

(7) years now! I understand that she even recently married again in Brazil.

Another argument of Brazil, with which I disagree, is found in Paragraph 6 of the Prosecutor General's August 19, 2014 MLAT request which provides, in pertinent part, that since "[t]he Brazilian Federal Constitution (Article 5, LI) does not allow the extradition of natural-born Brazilians...,¹⁴ the Brazilian criminal law is applicable outside of the Brazilian territory, as (allegedly) set forth (in) Article 7 of the Criminal Code in order to reach crimes perpetrated by Brazilians abroad. The principle used in Brazil is the 'aut dedere aut judicare' (extradite or prosecute)." (Emphasis added). Really?!

It is my understanding that the principle of "aut dedere aut judicare" refers to the legal obligations of states under public international law to prosecute persons who generally commit serious international crimes when no other state has requested extradition. Apparently, this obligation arises regardless of the extraterritorial nature of the crime and regardless of the fact that the perpetrator and victim may be of alien nationality. Typically, offenses classified as falling under the aut dedere aut judicare principle include: hijacking of civilian aircraft, taking of civilian hostages, acts of terrorism, torture, crimes against diplomats and other "internationally protected persons" and financing of terrorism and other international crimes.¹⁵

In the Ohio criminal case of *State of Ohio v. Claudia Hoerig*, we have no international crimes and Ohio and the United States Government want Claudia Hoerig's extradition. Quite simply, there is a State request for Claudia Hoerig's return. Just because Brazil says aut dedere aut judicare applies, should not mean that in the eyes of the United States Government, it does. With all due respect, any

¹⁴ However, see Chapter III, Article 12, paragraph 4 of the Brazilian Constitution of 1988 which provides, in pertinent part, that a "[l]oss of nationality shall be declared for a Brazilian (like Claudia Hoerig) who...acquires another nationality. ..."

¹⁵ See Hall, Stephen, International Law (2006), 2nd Ed., Butterworths Tutorial Series, Lexis Nexis Butterworths.

accommodation to Brazil on this point by the Justice Department or the State Department is to surrender justice in this matter and to deny it in innumerable others.

IV. BRAZIL MUST BE COMPELLED TO EXTRADITE CLAUDIA HOERIG

Wherefore, in the strongest terms, the United States Government and all elected officials of both the State and Federal Systems must take a stand for the traditional principles of law in order to provide an avenue to justice for victim Karl Hoerig.

This journey to right the unrightable wrong has been a part of our history. It has been pursued by President Obama, the Attorney General, former Secretary of State Hillary Clinton, and former New Jersey Senator Frank Lautenberg in bringing about the return from Brazil of abducted child Sean Goldman to his natural father in 2009. Additionally, it has been pursued by U.S. Representative Tim Ryan in sponsoring legislation, with bi-partisan support, to deny new visa and foreign aid to Brazil. Further, it was clearly reflected in the July 29, 2014 letter of Secretary of State John F. Kerry to Paul Hoerig, victim Karl Hoerig's brother, declaring that the "Department of State continues to urge all countries, including Brazil, to adopt measures that permit extradition of their citizens. For over a decade our policy has been to negotiate new and amend existing extradition treaties only with countries that agree to extradite their own nationals."¹⁶

Brazil needs to hear from the Office of International Affairs and all other appropriate federal and state officials that *State of Ohio vs. Claudia Hoerig*, Trumbull County, Ohio Case No. 2007-CR-269, will not be tried in Brazil, and that the Trumbull County officials and Karl Hoerig's family are prepared to wait for however long it takes to see justice done in a Trumbull County, Ohio courtroom. The United States Government, including the President and Congress, as well as

¹⁶ See the July 29, 2014 letter of Secretary of State John F. Kerry to Paul Hoerig, a copy of which is enclosed for your reference.

Mary D. Rodriguez, Acting Director
December 10, 2014
Page 14

the Governor of Ohio, and all Governors of the other States where criminal defendants of Brazilian citizenship have fled to Brazil to escape justice, need to take new and more significant action to change things.

For the reasons stated herein, we say NO to Brazil's request.

Very truly yours,



DENNIS WATKINS

Trumbull County Prosecuting Attorney

Enclosures

Cc: Kyle D. Latimer, Senior Trial Attorney (w/encl.)

**STATE vs CLAUDIA HOERIG
CASE NO. 2007-CR-269**

TIME LINE

- MARCH 12, 2007: Karl Hoerig, age 44, murdered in his home in the city of Newton Falls, Ohio.
(Monday)
- MARCH 12, 2007: Claudia Hoerig fled Newton Falls and the United States (flying from New York City to Sao Paulo, Brazil).
- MARCH 15, 2007: Karl Hoerig found in his home by police under a tarp shot three times including one at close range to the head. Trumbull County Homicide Investigation and Prosecution Unit along with Newton Falls City Police Department began an investigation in the case.
(Thursday)
- APRIL 12, 2007: Complaint with Affidavit filed by the Trumbull County Prosecuting Attorney before Common Pleas Judge Andrew Logan who issued a warrant.
- APRIL 12, 2007: U.S. Marshals Service (Peter J. Elliott) obtained a federal warrant for Unlawful Flight – Warrant and Affidavit forward to State and Justice Department and FBI.
- APRIL 24, 2007: Trumbull County Grand Jury indicted Claudia C. Hoerig on a charge of Aggravated Murder.
- APRIL 2007-2009: Brazil refused extradition request from United States
- APRIL 2009: New Affidavits from Trumbull County Prosecutor Dennis Watkins, Trumbull County Sheriff Thomas Altieri, and Mark Bodo, Special Agent of Immigration and Customs Enforcement, were obtained for Attorneys Magdalena Boynton and Nicolette Romano of Justice Department's Office of International Affairs to present to Brazilian government in effort to have Brazil reconsider its decision not to extradite stating that Article 12, Section 4, II of the Federal Constitution of Brazil provides that Claudia Hoerig's action of renouncing her citizenship to Brazil when becoming an American citizen in 1999 gives her no protection from extradition.
- JULY, 2010: Attorneys Boynton and Romano telephoned Prosecutor Watkins to inform him that Brazil had rejected the United States Government's request for reconsideration of its decision denying extradition of Claudia Hoerig to the United States.
Office of International Affairs further requested that Trumbull County consider going to Brazil and have Brazilian authorities prosecute the murder case there.
- AUGUST 4, 2010: Trumbull County Prosecutor Dennis Watkins' 9 page letter to Attorneys Boynton and Romano giving Trumbull County's Official Position Regarding

Reconsideration Rejection including Prosecutor's reasons in refusing to turn the case over to Brazilian authorities and having case prosecuted in Brazil.

JULY 3, 2013: The Minister of Justice of Brazil, pursuant to provisions of the Constitution of Brazil, including Article 12 declared that Claudia Hoerig lost her Brazilian nationality by acquiring U.S. citizenship; thereby Hoerig was stripped of citizenship to Brazil and protection from extradition as an American citizen.

Thereafter, Claudia Hoerig filed a Writ of Mandamus against the act from the Ministry of Justice which declared the loss of her Brazilian nationality. Hoerig was granted a preliminary injunction and she was not arrested while the merits of her appeal were argued in court.

AUGUST 19, 2014: Brazil formally requests legal assistance from the United State to prosecute Claudia Hoerig in Brazil.

OCTOBER 16, 2014: Department of Justice, Director of International Affairs, forwards to Trumbull County Prosecuting Attorney request for his assistance to help Brazil prosecute her in Brazil.

DECEMBER 10, 2014: Trumbull County Prosecutor, in a letter to Office of International Affairs, again refuses to cooperate in any prosecution in Brazil.

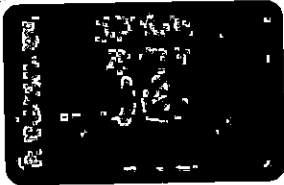
APRIL 20, 2016: The Brazilian Supreme Court upheld Minister of Justice decision of 2013 revoking Claudia Hoerig's Brazilian citizenship subjecting her, as an American, to extradition back to the United States. Following the decision, Hoerig was arrested but still continued appealing the ruling and fighting her extradition back to the United States.

MARCH 28, 2017: Brazil's Supreme Federal Court ruled reaffirming his decision to extradite Claudia Hoerig. However under the ruling and law of Brazil, there were still two steps pending prior to her surrender to the United States. First, an appeal by Hoerig for the sole purpose of clarifying the ruling. Second, the final decision which will be made by the Brazilian Executive Authority (President and Ministry of Justice) as to whether Brazil, after considering all the circumstance, will in fact surrender her.

FALL OF 2017: Supreme Court of Brazil upholds in all respects that Hoerig is an American citizen subject to extradition, dismisses the case effectively leaving her with no other legal remedy.

DECEMBER, 2017: Brazilian President Temer turns Claudia Hoerig extradition case over to the State Department of Brazil to effectuate her transfer and rendition to the United States to stand trial in Ohio.

JANUARY 17, 2018: Claudia Hoerig returned to Trumbull County soil to stand trial by U.S. Marshal Service, FBI, and State Department officials.



Supremo Tribunal Federal

Ofício nº 25403/2017

Brasília, 14 de novembro de 2017.

A Sua Excelência o Senhor
Ministro de Estado das Relações Exteriores

Extradicação nº 1462

REQTE.(S) : GOVERNO DOS ESTADOS UNIDOS DA AMÉRICA
EXTDO.(A/S) : CLAUDIA CRISTINA SOBRAL OU CLAUDIA HOERIG OU CLAUDIA
C. HOERIG OU CRISTINA HOERIG OU CLAUDIA BOLTE OU
CRISTINA BOLTE OU CLAUDIA CRISTINA SOBRAL OU CLAUDIA
SOBRAL OU CRISTINA SOBRAL OU CRIS OU CLAUDIA CRISTINA
BOLTE
ADV.(A/S) : ADILSON VIEIRA MACABU (47808/DF)
ADV.(A/S) : FLORIANO DUTRA NETO (20499/DF)

(Seção de Processos Originários Criminais)

Senhor Ministro,

De ordem, encaminho a Vossa Excelência, para os fins do art. 86 da Lei nº 6.815, de 19 de agosto de 1980, o inteiro teor dos acórdãos proferidos pela Primeira Turma do Supremo Tribunal Federal, na sessão realizada em 28/3/2017 e na sessão virtual de 18 a 24/8/2017.

Ademais, informo que o trânsito em julgado ocorreu em 18/9/2017.

Solicito seja esta Corte comunicada sobre a data em que a Missão Diplomática do Estado requerente tomar ciência, formalmente, da referida decisão.

No ensejo, apresento votos de elevada estima e consideração.

Patrícia Pereira de Moura Martins

Secretária Judiciária

Documento assinado digitalmente

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28/03/2017

PRIMEIRA TURMA

EXTRADIÇÃO 1.462 DISTRITO FEDERAL

RELATOR : MIN. ROBERTO BARROSO
REQTE.(S) : GOVERNO DOS ESTADOS UNIDOS DA AMÉRICA
EXTDO.(A/S) : CLAUDIA CRISTINA SOBRAL OU CLAUDIA
HOERIG OU CLAUDIA C. HOERIG OU CRISTINA
HOERIG OU CLAUDIA BOLTE OU CRISTINA
BOLTE OU CLAUDIA CRISTINA SOBRAL OU
CLAUDIA SOBRAL OU CRISTINA SOBRAL OU CRIS
OU CLAUDIA CRISTINA BOLTE
ADV.(A/S) : ADILSON VIEIRA MACABU
ADV.(A/S) : FLORIANO DUTRA NETO

Ementa: EXTRADIÇÃO INSTRUTÓRIA. REGULARIDADE FORMAL. CRIME DE HOMICÍDIO QUALIFICADO. REQUISITOS LEGAIS ATENDIDOS. DEFERIMENTO CONDICIONADO.

1. Conforme decidido no MS 33.864, a Extraditanda não ostenta nacionalidade brasileira por ter adquirido nacionalidade secundária norte-americana, em situação que não se subsume às exceções previstas no § 4º, do art. 12, para a regra de perda da nacionalidade brasileira como decorrência da aquisição de nacionalidade estrangeira por naturalização.

2. Encontram-se atendidos os requisitos formais e legais previstos na Lei nº 6.815/1980 e no Tratado de Extradicação Brasil-Estados Unidos, presentes os pressupostos materiais: a dupla tipicidade e punibilidade de crime comum praticado por estrangeiro.

3. Extradicação deferida, devendo o Estado requerente assumir os compromissos de: (i) não executar pena vedada pelo ordenamento brasileiro, pena de morte ou de prisão perpétua (art. 5º, XLVII, *a* e *b*, da CF); (ii) observar o tempo máximo de cumprimento de pena possível no Brasil, 30 (trinta) anos (art. 75, do CP); e (iii) detrair do cumprimento de pena eventualmente imposta o tempo de prisão para fins de extradicação por força deste processo.

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ACÓRDÃO

Vistos, relatados e discutidos estes autos, acordam os Ministros da Primeira Turma do Supremo Tribunal Federal, na conformidade da ata de julgamento, sob a presidência do Ministro Marco Aurélio, por maioria de votos, em assentar a possibilidade de entrega da Extraditanda ao Governo requerente, nos termos do voto do Relator, vencido o Ministro Marco Aurélio, Presidente.

Brasília, 28 de março de 2017.

MINISTRO LUÍS ROBERTO BARROSO - RELATOR

Supremo Tribunal Federal

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28/03/2017

PRIMEIRA TURMA

EXTRADIÇÃO 1.462 DISTRITO FEDERAL

RELATOR : MIN. ROBERTO BARROSO
REQTE.(S) : GOVERNO DOS ESTADOS UNIDOS DA AMÉRICA
EXTDO.(A/S) : CLAUDIA CRISTINA SOBRAL OU CLAUDIA
HOERIG OU CLAUDIA C. HOERIG OU CRISTINA
HOERIG OU CLAUDIA BOLTE OU CRISTINA
BOLTE OU CLAUDIA CRISTINA SOBRAL OU
CLAUDIA SOBRAL OU CRISTINA SOBRAL OU CRIS
OU CLAUDIA CRISTINA BOLTE
ADV.(A/S) : ADILSON VIEIRA MACABU
ADV.(A/S) : FLORIANO DUTRA NETO

RELATÓRIO:

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR):

1. Trata-se de pedido de extradição instrutória apresentado pelo Governo dos Estados Unidos da América, por meio da Nota Verbal nº 436/2016, contra Cláudia Cristina Sobral Alves Barbosa ou Cláudia Cristina Hoerig.

2. O crime em razão do qual a extraditanda teve sua prisão decretada pela autoridade norte-americana foi o de homicídio doloso, praticado, em tese, contra o seu então marido, conforme os seguintes fatos constantes da Nota Verbal nº 436/2016 (fls. 65):

“Em 10 de março de 2007, CLAUDIA HOERIG comprou um revólver Smith and Wesson de calibre 357 com visor de laser incorporado. Ela praticou tiro ao alvo em um polígono de tiro que ficava próximo, fazendo perguntas sobre diferentes

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tipos de munição. Há provas que indicam que CLAUDIA HOERIG comprou munição mais tarde naquele mesmo dia, que coincide com o tipo discutido mais cedo no polígono de tiro. Em 12 de março de 2007, um vizinho viu CLAUDIA HOERIG sair de sua residência e nunca mais a viu retornar.

O corpo de Karl Hoerig foi descoberto na residência três dias depois por um policial do Departamento de Polícia de Newton Falls, após ter sido contactado por parentes, preocupados com o bem-estar de Karl Hoerig. Um exame do corpo de Karl Hoerig efetuado por peritos legistas revelou duas feridas por arma de fogo nas costas e uma na cabeça. Fragmentos de bala encontrados no corpo e nas áreas à sua volta indicaram que vítima havia sido atingida pela mesma arma que CLAUDIA HOERIG havia comprado dois dias antes da morte de Karl Hoerig.

Provas indicaram ainda que em 10 de março de 2007 CLAUDIA HOERIG acessou um cofre pessoal em seu banco. Dois dias depois, US\$ 10.000,00 foram depositados em uma conta em seu nome no mesmo banco, tendo a maior parte desta quantia sido transferida em seguida para seu pai no Brasil. Em 12 março de 2007, CLAUDIA HOERIG pegou um voo no Aeroporto Internacional de Pittsburgh para Nova Iorque. Sabe-se que ela chegou ao Brasil pouco tempo depois e informou aos membros da família que lá residem, inclusive à sua irmã Simone Batista Sobral da Silva, que KARL HOERIG estava morto.”

3. O Ministro de Estado da Justiça encaminhou o pedido na forma do art. IX do Tratado firmado entre Brasil e Estados Unidos da América, assinado em 13 de janeiro de 1961 e promulgado pelo Decreto nº 55.750, de 11 de fevereiro de 1965.

4. O pedido de extradição foi inicialmente apresentado por meio da Nota Verbal 617/2013. Entretanto, indeferi tal pedido, considerando que ainda não havia sido julgado o mandado de segurança em que se discutia a perda da nacionalidade brasileira da extraditanda.

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(fls. 352/353 da PPE 694, anexa aos presentes autos).

5. Com o julgamento do mandado de segurança, em que a 1ª Turma decidiu pela perda da nacionalidade brasileira da extraditanda, decretei a sua prisão para fins de extradição, sendo o mandado de prisão devidamente cumprido em 20 de abril de 2016 (fls. 415 da PPE 694, anexa aos presentes autos).

6. Designado interrogatório da extraditanda, a Defesa requereu o seu adiamento, em razão de o acórdão do Mandado de Segurança 33.864 não ter sido publicado (fls. 122/123), o que foi indeferido por mim (fls. 126/127).

7. A extraditanda foi interrogada pelo Magistrado Instrutor deste Gabinete em 28.06.2016 (fls. 128/128v), ocasião em que a Defesa requereu a suspensão do presente processo de extradição até o trânsito em julgado do MS 33.864, cuja análise deixei para momento posterior à apresentação da Defesa escrita (fls. 134).

8. Na Defesa escrita, sustenta-se, em caráter preliminar: (i) a nulidade do julgamento do MS 33.864, em razão de usurpação da competência do Superior Tribunal de Justiça para o seu julgamento, uma vez que o ato coator fora praticado por Ministro de Estado, no caso, o Ministro da Justiça, em face do que requer a devolução do mandado de segurança ao STJ para julgamento pelo Ministro Napoleão Maia, prevento para o caso; (ii) a ausência de sentença condenatória ou decisão penal proferida por autoridade competente do Estado Requerente, não satisfazendo o relatório do Promotor de Justiça responsável pelo caso os requisitos do art. 80 da Lei nº 6815/1980; (iii) a ausência de autenticidade dos documentos anexados, uma vez que não há qualquer carimbo ou elemento que comprove a sua autenticidade; (iv) a ausência de tradução oficial para o idioma português dos documentos anexados, conforme fls. 06, em que não consta a informação de que a tradução foi efetuada por

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tradutor juramentado; (v) a ausência de compromisso formal do Estado requerente de computar o tempo de prisão cumprido pela extraditanda no Brasil; (vi) a ausência de formalização do compromisso de comutar a pena corporal ou de morte em privativa de liberdade. Requer, assim, a extinção do processo sem julgamento de mérito, ou, no caso da ausência de compromissos formais de detrair a pena cumprida no Brasil e de comutar a pena corporal ou de morte em privativa de liberdade, a suspensão do processo até a juntada aos autos destes compromissos.

9. No mérito, a Defesa sustenta: (i) a ausência de vontade da extraditanda em perder a nacionalidade brasileira, consubstanciada no fato de que renovou seu passaporte em 2003 e entrou no Brasil em 2007, utilizando seu passaporte renovado, sendo que aqui permanece cumprindo todas as suas obrigações legais e no fato de que, conforme parecer do Ministério da Justiça, a perda da nacionalidade brasileira só poderia ocorrer com manifestação de vontade inequívoca neste sentido, por meio do preenchimento de um formulário constante no site do Ministério das Relações Exteriores; (ii) a manutenção da nacionalidade brasileira da extraditanda, uma vez que se enquadra na exceção prevista no art. 12, § 4º, II, *b*, da Constituição Federal, dispositivo este instituído pela Emenda Constitucional de Revisão nº 03, de 1994, que, segundo alega, não torna automática a perda da nacionalidade brasileira em caso de aquisição de outra nacionalidade. Sustenta, ainda, com relação a esta questão, que o *greencard* restringia a sua liberdade, pois não permite que os seus portadores se ausentem do país por mais de 1 (um) ano, além de não permitir o exercício pleno da carreira de contadora, uma vez que as vagas de emprego de contador são destinadas apenas aos nacionais norte-americanos, de modo que, antes de adquirir a nacionalidade norte-americana, a extraditanda somente conseguia trabalhar como auxiliar contábil, recebendo um valor correspondente a um quinto do valor recebido por um contador.

10. Diante disso, a defesa alega que não se pode considerar completamente voluntária a aquisição da nacionalidade norte-americana.

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Para reforçar a ausência de voluntariedade, argumenta que o ato solene de juramento realizado nos Estados Unidos é semelhante a um contrato de adesão, uma vez que, para sua formalização, se deve obedecer às regras impostas sem possibilidade de alteração. Prossegue a sua defesa de mérito alegando: (i) a nulidade da sessão de julgamento do MS 33.864, em razão da ausência de intimação do advogado constituído à época, o que lhe causou prejuízo, consubstanciado no apertado resultado do julgamento, de modo que, a seu ver, uma sustentação oral poderia alterá-lo; (ii) a necessidade de aguardar o trânsito em julgado do MS 33.864, que sequer havia sido publicado, em razão de a questão aduzida no *writ* ser prejudicial ao presente processo de extradição.

11. A Defesa sustenta, ainda, a existência de pressão política exercida pelos Estados Unidos para a perda da nacionalidade brasileira da extraditanda. Neste ponto, alega que o governo norte-americano vem exercendo pressão sobre o governo brasileiro para que seja deferida a extradição de Cláudia Sobral e efetivada a sua entrega aos Estados Unidos. Como exemplos dessa pressão, cita a apresentação, pelo Deputado Tim Ryan, de dois projetos de lei no Congresso dos Estados Unidos, com o objetivo de suspender a assistência norte-americana ao Brasil e a concessão de vistos a nacionais brasileiros, até que se modificasse a regra constitucional que veda a extradição de brasileiros (fls. 160 e fls. 217). Cita a notícia publicada no *Blog do Pannunzio* (fls. 161 e fls. 218/219) de que o promotor americano responsável pelo caso, Denis Watkins, estaria movendo uma cruzada junto ao governo Obama para que pressionasse o governo brasileiro a mudar a Constituição e tornar possível a extradição de nacional. Busca demonstrar, através do quadro presente às fls. 160v e 161, que as principais decisões relativas a esse processo tiveram estreita relação com visitas de governantes norte-americanos ao Brasil e vice-versa. Sustenta que houve várias reuniões entre oficiais dos Estados Unidos e autoridades do governo brasileiro, nas quais se discutia se a lei brasileira permitiria a perda da nacionalidade brasileira pela extraditanda. Por fim, alega que existe a possibilidade de

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que a extraditanda seja processada e julgada no Brasil, impedindo eventual impunidade pelos atos praticados e que há uma questão humanitária neste caso, semelhante àquela do caso Cesare Battisti, em razão da ausência do compromisso formal assumido pelo Estado Requerente de comutar a pena de morte em privativa de liberdade, alegando que, se esta extradição for deferida, o Brasil romperia sua tradição humanitária.

12. Após a apresentação da defesa escrita (fls. 142/244), novo requerimento pela suspensão do processo de extradição foi protocolado (fls. 247/248), o qual foi indeferido por mim. (fls. 250/251). Nesta mesma ocasião, deferi a realização de entrevista da extraditanda pela empresa Folha da Manhã S/A, conforme requerido às fls. 240/244. Determinei, ainda, a remessa dos autos à Procuradoria-Geral da República para manifestação.

13. Em 08.09.2016, a Juíza da Vara de Execuções Penais do Distrito Federal informou que a extraditanda estaria articulando um plano de fuga, segundo informações obtidas por meio das agentes penitenciárias. Diante disso, remeti a referida petição ao Ministério Público Federal para adoção de providências cabíveis. Na mesma data, a magistrada autorizou entrevista da extraditanda a ser realizada pela TV Record, o que obteve manifestação favorável do Ministério Público Federal (fls. 255/256).

14. Em sede de alegações escritas, a Procuradoria-Geral da República opinou pelo deferimento do pedido de extradição (fls. 255/282).

15. É o relatório.

28/03/2017

PRIMEIRA TURMA

EXTRADIÇÃO 1.462 DISTRITO FEDERAL

VOTO:

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR):

I. ANTECEDENTES DESTA EXTRADIÇÃO: O MS 33.864

1. Consta dos autos que a ora extraditanda, nascida no Brasil e de pais brasileiros, radicou-se nos Estados Unidos da América, onde se casou, em 1990, com Thomas Bolte, razão pela qual obteve visto de permanência naquele país, o denominado "green card". Em 1999, quando ainda casada com Thomas Bolte, requereu a nacionalidade norte-americana, declarando "*renunciar e abjurar fidelidade a qualquer Estado ou soberania*".

2. Divorciada de Thomas Bolte, casou-se novamente com Karl Hoerig. Investigações policiais realizadas no Estado de Ohio revelaram que a extraditanda, em 10.03.2007, teria comprado um revólver Smith & Wesson, calibre 357, com visor laser incorporado, tendo praticado tiro ao alvo em polígono de tiro próximo ao seu local de residência. Ainda de acordo com as mesmas investigações, em 12.03.2007, um vizinho teria visto Cláudia deixar sua residência, não tendo ela jamais sido vista novamente nos Estados Unidos da América.

3. O corpo de seu marido foi encontrado três dias após na residência do casal com ferimentos à bala na cabeça e nas costas. Pouco dias depois, Cláudia chegava ao Brasil, de onde não voltaria para os Estados Unidos da América, país no qual foi formalmente acusada do homicídio de Karl Hoerig.

4. Em 12.09.2011, foi aberto de ofício o Procedimento Administrativo nº 08018.011847/2011-01, que culminou com a declaração

Supremo Tribunal Federal

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de perda da nacionalidade brasileira, veiculada na Portaria Ministerial nº 2.465/13.

5. Impugnando esta decisão, a extraditanda impetrou o Mandado de Segurança 33.864, julgado em 19.04.2016, em que foi denegar a segurança, mantendo-se a decisão administrativa de perda da nacionalidade brasileira.

6. Entendeu esta Primeira Turma, por maioria de votos, que em se tratando de ato do Exmo. Sr. Ministro de Estado da Justiça, praticado por delegação da Presidência da República que interfere, diretamente, em matéria extradicional, competia ao Supremo Tribunal Federal processar e julgar, originariamente, a impetração na medida em que eventual concessão da ordem poderia restringir (ou obstar) o exercício, pelo Supremo Tribunal Federal, dos poderes que lhe foram outorgados, com exclusividade, em sede de extradição passiva, pela Carta Política (CF, art. 102, I, g) nos termos do que já decidido no HC 83113/DF, sob relatoria do Ministro Celso de Mello.

7. No mérito, entendeu a Turma que Constituição Federal, ao cuidar da perda da nacionalidade brasileira, estabeleceu duas hipóteses: (i) o cancelamento judicial da naturalização, em virtude da prática de ato nocivo ao interesse nacional, o que só alcançaria brasileiros naturalizados (art. 12, § 4º, I); e (ii) a aquisição voluntária de outra nacionalidade secundária, o que alcançaria, indistintamente, brasileiros natos e naturalizados. Nesta última hipótese – de aquisição de outra nacionalidade –, não se perderia a nacionalidade brasileira em duas situações que constituem exceção à regra: (i) tratar-se não de aquisição de outra nacionalidade, mas do mero reconhecimento de outra nacionalidade originária, considerada a natureza declaratória deste reconhecimento (art. 12, § 4º, II, a); e (ii) ter sido a outra nacionalidade imposta pelo Estado estrangeiro como condição de permanência em seu território ou para o exercício de direitos civis (art. 12, § 4º, II, b), não se

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tratando a situação da então impetrante de qualquer delas.

8. Como se colheu dos autos daquela impetração, a ora extraditanda já detinha, desde muito antes de 1999, quando requereu a naturalização, o denominado “green card”, cuja natureza jurídica é a de visto de permanência e que confere, nos Estados Unidos da América, os direitos que alega ter pretendido adquirir com a naturalização, quais sejam: a permanência em solo norte-americano e a possibilidade de trabalhar naquele país.

9. Assim, entendeu a Turma desnecessária a obtenção da nacionalidade norte-americana para os fins que constitucionalmente constituem exceção à regra da perda da nacionalidade brasileira (alíneas *a* e *b* do § 4º, II, do art. 12 da CF). Ao revés, pretendeu a extraditanda integrar-se àquela comunidade nacional, o que justamente constitui a razão central do critério adotado pelo constituinte originário para a perda da nacionalidade brasileira, critério este, repise-se, não excepcionado pela EC 03/1994, que introduziu as exceções previstas nas alíneas *a* e *b* do § 4º, II, do art. 12 da CF.

10. Esse o quadro, não havendo razão para se falar em qualquer ilegalidade ou abuso de poder que tenha ferido direito líquido e certo da impetrante, na decisão administrativa, prolatada nos Autos do Procedimento de Perda de Nacionalidade de Ofício nº 08018.011847/2011-01. Como decidido por esta Turma, tudo se passou com observância do que disposto nos arts. 5º, LV, da CF e 23 da Lei nº 818/1949 e nas normas que regulam o processo administrativo federal, Lei nº 9.784/1999, porquanto fundamentado em previsão constitucional expressa, qual seja, a aquisição de outra nacionalidade, sem a subsunção a uma das exceções constitucionalmente previstas (art. 12, § 4º, II, alíneas *a* e *b*) daí haver o Tribunal denegado a segurança e revogado a liminar anteriormente concedida.

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II. A QUESTÃO DISCUTIDA NA EXTRADIÇÃO

11. Como relatado, trata-se de pedido de extradição instrutória formulada pelo Governo dos Estados Unidos da América (fls. 2-106), com fundamento no Tratado de Extradicação Brasil-Estados Unidos, de janeiro de 1961, internalizado pelo Decreto nº 55.750/1965, encaminhado pela via diplomática, com o objetivo de processar e julgar a extraditanda pela prática do crime de homicídio doloso supostamente cometido no dia 12 de março de 2007, que tramita no Tribunal de Causas Comuns do Tribunal Distrital do Condado de Trumbull, Estado de Ohio.

12. O documento consular contém mandado de detenção internacional, descrição dos fatos imputados à extraditanda, identificação da extraditanda e cópias dos textos legais relativos aos delitos e à prescrição (fls. 22/23, tradução às fls. 69/70). Conforme art. 9º do Tratado, instruem o presente processo de extradição os documentos que integram o Processo-crime 07-CR-269 (fls. 08/57, tradução às fls. 76/106), entre eles o mandado de prisão emitido pelo Tribunal de Causas Comuns do Tribunal Distrital do Condado de Trumbull, Estado de Ohio (fls. 29, tradução fls. 76) e a acusação formal contra a extraditanda (fls. 25/26, tradução às fls. 72/73).

13. A conduta imputada à extraditanda é tipificada no Brasil no art. 121, § 2º, IV, do CP (*"homicídio qualificado em razão de ter sido cometido à traição, de emboscada ou mediante dissimulação ou outro recurso que dificulte ou torne impossível a defesa do ofendido"*) e encontra correspondência nas Seções 2903.01 (A) e (F), do Código Revisado de Ohio. Atende, por igual, ao disposto no art. II, item 1 do Tratado de Extradicação¹. Assim, está atendido o requisito da dupla tipicidade,

¹ "Serão entregues, de acordo com as disposições do presente Tratado, para serem processados quando tiverem sido inculcados, os indivíduos que hajam cometido qualquer dos seguintes crimes ou delitos:

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previsto no art. 77, II, da Lei nº 6815/80.

14. Há, também, o preenchimento do requisito da dupla punibilidade, nos termos do art. 77, VII, da Lei nº 6.815/1980, tendo em vista que não ocorreu a prescrição consideradas as legislações norte-americana e brasileira.

15. De acordo com a legislação norte-americana, Seção 2901.13 (A) (2), do Código Revisado de Ohio, o crime em questão é imprescritível (fls. 63).

16. Nos termos da legislação brasileira, a pena máxima cominada é de 30 (trinta) anos, considerada a qualificadora, e prescreve em 20 (vinte) anos (art. 109, I, do CP), prazo ainda não transcorrido desde a data do fato (12.03.2007).

17. Conclui-se, portanto, que permanece hígida a pretensão punitiva estatal, nos termos de ambos os ordenamentos jurídicos.

18. Observa-se, ainda, que não há qualquer óbice ao deferimento da extradição, entre aqueles fixados pelo art. 77 da Lei nº 6.815/1980: (i) a extraditanda, como se viu, não é nacional brasileira, (ii) sua extradição foi requerida por Estado que mantém Tratado de Extradição com o Brasil, (iii) a pena máxima prevista para os crimes comuns, pelo qual responde, é superior a 01 (um) ano de privação de liberdade (art. III, do Tratado de Extradição²), (iv) a prisão foi decretada

1. Homicídio doloso inclusive os crimes designados como parricídio, envenenamento e infanticídio, quando previstos como figuras delituosas autônomas;"

2 Salvo disposição em contrário do presente Tratado, o Estado requerido só extraditará o indivíduo acusado ou condenado por qualquer crime ou delito enumerado no Artigo II quando se verificarem ambas as condições seguintes:

1. A lei do estado requerente, em vigor no momento em que o crime ou o delito foi cometido, comina pena de privação da liberdade que possa exceder de um ano; e
2. A lei em vigor no Estado requerente comina, em geral, para o mesmo crime ou delito,

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por Juízo regularmente instituído (fls. 29, tradução fls. 76), (v) o Brasil não é competente para julgamento do crime; e (vi) o crime não possui conotação política.

19. Ressalta-se que, no exame de delibação próprio das decisões proferidas em processos de extradição, somente é possível a análise da legalidade extrínseca do pedido, sem o ingresso no mérito da procedência da acusação, da ordem de prisão instrutória ou executória. Vejam-se, nessa linha, os seguintes julgados: Ext 541, Redator para o acórdão o Ministro Sepúlveda Pertence, em 07.11.1992; Ext 703, Rel. Min. Sepúlveda Pertence, em 10.12.1997; e Ext 669, Rel. Min. Celso de Mello, em 03.03.1996.

20. Quanto à alegação defensiva de que não fora apresentada tradução juramentada para o português dos documentos que instruem o pedido, tem-se que a locução "*tradução oficial*", utilizada pelo art. 80 do Estatuto do Estrangeiro refere-se à tradução cuja autenticidade é certificada pelas autoridades do Estado requerente e que seu encaminhamento se dê por órgãos oficiais, o que confere a mencionada autenticidade. É o que se colhe do art. IX do Tratado ("*Os documentos que instruem o pedido de extradição serão acompanhados de uma tradução, devidamente certificada, na língua do Estado requerido*") e da jurisprudência desta Corte (Ext 1.100, Rel. Min. Marco Aurélio; Ext 1.171, Rel. Min. Celso de Mello).

21. No caso dos autos, a tradução foi certificada pelo Departamento de Estado dos Estados Unidos da América (fls. 8 e 58) e os documentos, encaminhados a esta Corte pelo Ministério da Justiça e pela via diplomática, não havendo falar-se em defeito de tradução.

22. Por fim, necessário salientar que não pode prosperar a cooperação quando houver o risco de imposição ao extraditando de quando cometido em seu território, pena de privação da liberdade que possa exceder de um ano.

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penas não admitidas no ordenamento jurídico brasileiro. Assim, pode o Estado que coopera em matéria penal exigir o compromisso formal de que tais penas não serão eventualmente aplicadas ao extraditando entregue ao Estado requerente.

23. Por tais razões, defiro o pedido de extradição condicionada a entrega ao Estado requerente ao compromisso formal de: (i) não aplicar penas interdidas pelo direito brasileiro, em especial a de morte ou prisão perpétua (art. 5º, XLVII, *a* e *b*, da CF); (ii) observar o tempo máximo de cumprimento de pena previsto no ordenamento jurídico brasileiro, 30 (trinta) anos (art. 75, do CP); e (iii) detrair da pena o tempo que a extraditanda permaneceu presa para fins de extradição no Brasil.

24. É como voto.

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DEBATE

O SENHOR MINISTRO LUIZ FUX - Senhor Presidente, só uma observação. Na verdade, o eminente Advogado, meu Colega de Tribunal e do Superior Tribunal de Justiça, Adilson Macabu, fez uma brilhante sustentação.

Nós estamos diante de uma questão prejudicial. Qual é a questão prejudicial? O art. 5º dispõe que o brasileiro nato não será extraditado e, mais adiante, no capítulo referente à perda da nacionalidade brasileira, no art. 12:

"Art. 12

...

§ 4º - Será declarada a perda da nacionalidade do brasileiro que:

...

II - adquirir outra nacionalidade por naturalização voluntária."

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – Vossa Excelência me permite?

O SENHOR MINISTRO LUIZ FUX - Claro.

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – Há dois tipos de brasileiros: o naturalizado e o nato.

O SENHOR MINISTRO LUIZ FUX - Sem dúvida, sem dúvida.

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – E a Constituição veda tratamento diferenciado, tendo em conta o nato e o naturalizado, exceto relativamente ao que nela previsto. Tem-se a cláusula vedadora da extradição do brasileiro nato. No tocante ao naturalizado, é preciso, para haver a extradição, até quanto a ele, que o crime seja anterior à naturalização ou de tráfico de drogas.

O SENHOR MINISTRO LUIZ FUX - Exato. Mas o que eu queria

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talvez destacar é essa questão prejudicial, que é muito importante. A Constituição fala "nenhum brasileiro será extraditado". Na naturalização, nesse caso... Depois, no outro capítulo, diz assim: "perde a nacionalidade brasileira, o brasileiro que adquire"...

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – Não precisava aludir ao nato.

O SENHOR MINISTRO LUIZ FUX - Mas quem perde a nacionalidade brasileira é brasileiro?

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – Perde o naturalizado. Colo interpretação sistemática à Constituição, considerados os vários dispositivos, concluindo que, nessa perda mencionada por Vossa Excelência, não está incluído o brasileiro nato.

O SENHOR MINISTRO LUIZ FUX - Ah! Entendi.

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – É uma concepção. Agora, digo – disse mais, na assentada – que a qualificação de brasileiro nato é indisponível, não pode ser colocada em segundo plano pela vontade do detentor.

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR) - Essa foi a posição defendida pelo Ministro Marco Aurélio no mandado de segurança. Mas a Constituição e a doutrina são pacíficas, a meu ver, com todas as vênias, no sentido de que qualquer pessoa tem o direito de adquirir uma nova nacionalidade e perder a nacionalidade originária. Faz parte da vida, faz parte do Direito Internacional. Ninguém está condenado a ter uma nacionalidade que não deseja se optar por adquirir outra. Portanto, o entendimento do Ministro Marco Aurélio é que ninguém nunca pode perder a nacionalidade brasileira.

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – Longe de mim condenar Vossa Excelência, caso renuncie à condição de brasileiro nato!

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR) - Pois, então, as pessoas têm o direito de fazer escolhas. Eu conheço muitas pessoas que adquiriram novas nacionalidades. Eu acho que faz parte da autonomia da vontade pessoa. A Constituição, claramente, diz

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qual é o efeito da aquisição de uma nova nacionalidade: é perder a originária.

O SENHOR ADILSON VIEIRA MACABU (ADVOGADO) - Não.

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR)

- Doutor, nós não estamos em debate.

O SENHOR ADILSON VIEIRA MACABU (ADVOGADO) - Eu sei, Excelência.

O SENHOR MINISTRO LUIZ FUX - Na Carta anterior, inclusive, quem se incorporasse a um exército estrangeiro perdia a nacionalidade.

O SENHOR ADILSON VIEIRA MACABU (ADVOGADO) - É uma matéria de fato.

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR)

- Presidente, tenho todo apreço pelo Advogado, mas não vou debater com o Advogado, da tribuna.

O SENHOR ADILSON VIEIRA MACABU (ADVOGADO) - Eu não estou debatendo com Vossa Excelência.

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR)

- Então, Vossa Excelência, por favor.

O SENHOR ADILSON VIEIRA MACABU (ADVOGADO) - Pois não.

O SENHOR MINISTRO LUIZ FUX - Bom, nós estamos debatendo...

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR)

- Nós estamos debatendo aqui.

O SENHOR MINISTRO LUIZ FUX - É o nosso mister.

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) - Não estamos debatendo, estamos trocando ideias. E afirmei, quando fiz a saudação ao ministro Alexandre de Moraes, que nos completamos mutuamente. O Colegiado é um somatório de forças distintas. Por isso, ele existe.

O SENHOR MINISTRO LUIZ FUX - Eu só quis colocar para nós começarmos a debater com base nessa prejudicial.

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VOTO

O SENHOR MINISTRO ALEXANDRE DE MORAES - Cumprimentando o Doutor Adilson Vieira Macabu, defensor público, magistrado e professor de Direito Constitucional, que aqui ainda não foi lembrado, parabenizando-o pela brilhante sustentação.

Eu gostaria, inicialmente, de fazer um comentário. Já antecipo o meu posicionamento em relação ao que foi discutido no mandado de segurança. No mandado de segurança, do qual eu não participei - não havia tomado posse -, houve dois embargos de declaração...

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) - Vossa Excelência me permite?

O SENHOR MINISTRO ALEXANDRE DE MORAES - Por favor.

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) - O Código atual repete regra do Código de Processo Civil anterior: fundamento não faz coisa julgada.

O SENHOR MINISTRO ALEXANDRE DE MORAES - Aí, eu vou ao fundamento. A Constituição, entendo eu, como disse o Ministro Barroso, prevê, no § 4º do art. 12, duas hipóteses de perda de naturalidade. A primeira é a chamada perda-sanção, que é o cancelamento da naturalização, conforme diz o inc. I do § 4º do art. 12. É uma sanção àquele brasileiro naturalizado que - ele era estrangeiro, tornou-se brasileiro naturalizado -, por um ato ofensivo ao Brasil - e o estatuto do estrangeiro define quais são -, como sanção numa ação movida, inclusive, pelo Ministério Público Federal, perde a nacionalidade.

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) - Vossa Excelência me permite um aparte? Pego gancho no que Vossa Excelência acaba de dizer para constatar algo interessante. Que algo é esse? O naturalizado apenas perde, por sanção, essa condição por sentença judicial.

O SENHOR MINISTRO ALEXANDRE DE MORAES - Nessa

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primeira hipótese, Presidente. A Constituição traz a perda-sanção, e a perda voluntária, quando qualquer brasileiro, nato ou naturalizado, voluntariamente, pretende uma outra nacionalidade. E essa espécie de perda de nacionalidade não é uma jabuticaba, como se fala; não é uma criação brasileira. O Direito comparado tem várias exposições semelhantes, exatamente porque isso - alguém querer deixar de ser nacional para adquirir uma outra nacionalidade -, tradicionalmente, muitas vezes, ocorria no mundo todo, principalmente para não precisar servir às Forças Armadas em países mais belicosos, e, no Brasil, durante o Regime Militar, muitas vezes ocorreu também. Aquele que, voluntariamente, solicitar - não basta ele solicitar, mas solicitou e teve êxito, adquiriu outra nacionalidade -, essa pessoa perde a nacionalidade brasileira indistintamente, acredito eu, seja brasileiro nato, seja naturalizado.

Havia um grande problema até a Constituição de 88, que persistiu até a Emenda Constitucional de Revisão nº 3, em 93, um grande problema daquelas pessoas, como citado pelo Ministro Barroso, que tinham a chamada dupla cidadania: a pessoa nasceu em território nacional, mas tem pais italianos, avós italianos - para o Brasil, *jus solis*, a pessoa é brasileira nata; para a Itália, *jus sanguinis*, ela é italiana. A emenda de revisão constitucional modulou isso e permitiu que, no caso de, não uma aquisição voluntária simplesmente, mas um reconhecimento de algo que já existisse anteriormente, o reconhecimento de outra nacionalidade originária, não se perderia mais e também no caso de obrigatoriedade do país estrangeiro, para que o brasileiro ficasse em seu território ou para exercer determinada função, precisasse ele, brasileiro, adquirir outra nacionalidade ..

O *leading case* no Brasil é um caso, à época, que o então Ministro da Justiça, Nelson Jobim...

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) - Nelson Jobim. Posso dizer, inclusive, o primeiro nome da pessoa: Heloísa.

O SENHOR MINISTRO ALEXANDRE DE MORAES -

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Exatamente.

É o *leading case*, para exercer um cargo nos Estados Unidos. Esse, ao meu ver, é o parâmetro constitucional. O Direito norte-americano - se fôssemos discutir, a fundo, a questão - não exige, para que brasileiro case com norte-americano, que adquira a nacionalidade norte-americana - chamado *ius communicatio*, que a Suíça, por exemplo, exige. O brasileiro que casa com suíço obrigatoriamente adquire a nacionalidade, senão o casamento não é válido - para que ele possa, segundo as leis suíças, exercer todos os direitos decorrentes do casamento e o pátrio poder. Aí é uma obrigação imposta, não é algo voluntário - o que não existe nos Estados Unidos.

Então, entendo eu que situação trata-se de uma pessoa estrangeira, que foi brasileira nata e perdeu a nacionalidade, por decisão administrativa do Ministério da Justiça. Ela foi ao Judiciário, pleiteando - eu não diria a reanquirição -, mas a nulidade dessa decisão. O Supremo Tribunal Federal entendeu que não lhe cabia esse direito, então a situação dela é de estrangeira.

Enquanto estrangeira, entendo como o Ministro Barroso, que todos os requisitos para a extradição estão presentes, inclusive o que bem pontuado pelo Advogado, em alguns tópicos. A decisão é uma extradição instrutória, então não há a necessidade, obviamente, do título penal condenatório - às folhas 76 a 90 -, a cópia do mandado de prisão expedido, autoridade competente e a descrição do crime. Nos termos do tratado internacional Brasil-Estados Unidos, a tradução é uma tradução admitida - há inúmeros precedentes não só na Turma, mas na Corte - e a questão dos compromissos também já está assente. Eu mesmo, como Ministro da Justiça, tive a oportunidade de, várias vezes, ter contato com os embaixadores e autoridades estrangeiras - depois, aqui, no Tribunal -, para acertar os compromissos, para, só então, poder efetivar a extradição. Os compromissos devem ser assumidos, mas os compromissos não precisam estar presentes no momento do deferimento da extradição, e, sim, no momento do cumprimento da extradição.

Com essas considerações, parabenizando novamente o douto

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Advogado, eu sigo o Relator.

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28/03/2017

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RELATOR : MIN. ROBERTO BARROSO
REQTE.(S) : GOVERNO DOS ESTADOS UNIDOS DA AMÉRICA
EXTDO.(A/S) : CLAUDIA CRISTINA SOBRAL OU CLAUDIA
HOERIG OU CLAUDIA C. HOERIG OU CRISTINA
HOERIG OU CLAUDIA BOLTE OU CRISTINA
BOLTE OU CLAUDIA CRISTINA SOBRAL OU
CLAUDIA SOBRAL OU CRISTINA SOBRAL OU CRIS
OU CLAUDIA CRISTINA BOLTE
ADV.(A/S) : ADILSON VIEIRA MACABU
ADV.(A/S) : FLORIANO DUTRA NETO

VOTO - VOGAL

O Senhor Ministro Alexandre de Moraes: 1. O Governo dos Estados Unidos da América apresentou ao Estado brasileiro, pela via diplomática, pedido de extradição instrutória de CLÁUDIA CRISTINA SOBRAL, com base no Tratado de Extradicação celebrado entre os respectivos Estados soberanos e promulgado no Brasil pelo Decreto nº 55.750, de 11 de fevereiro de 1965 (Nota Nº 436, fl. 04/05; tradução fls. 05/06), a fim de submetê-la, naquele país, a processo penal pela prática do crime de homicídio qualificado.

O pedido de prisão preventiva para fins de extradição foi solicitado nos autos da PPE 694, tendo sido efetivado em 20 de abril de 2016 (fl. 415 da PPE 694). Notificado da custódia da extraditanda, o Estado requerente encaminhou, em 07/6/2016, o presente pedido extraditacional, atendendo ao prazo de 60 (sessenta) dias previsto no art. VIII do Tratado bilateral acima mencionado.

Ao receber o pedido, o Min. Relator, em obséquio ao disposto no art. 85, *caput*, da Lei 6.815/1980, designou o dia 28/6/2016 para o interrogatório da extraditanda, que foi efetivamente realizado, conforme Termo de Assentada constante dos autos (fl. 128).

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Na sequência, a extraditanda apresentou defesa escrita (fls. 142 a 168), na qual sustentara, em síntese: a) a usurpação da competência do STJ para processar e julgar mandado de segurança contra ato de Ministro de Estado; b) ausência de apresentação, pelo Estado requerente, de certidão da sentença penal condenatória ou de decisão penal proferida por juiz ou autoridade competente, nos termos do art. 80 da Lei 6.815/1980; c) inexistência de autenticidade e de tradução oficial para o idioma português dos documentos anexados ao pedido de extradição; d) falta de formalização do compromisso, pelo Governo americano, de computar o tempo de prisão preventiva que lhe foi imposto no Brasil e, ainda, de comutar em pena privativa de liberdade a pena corporal ou de morte que eventualmente lhe seja cominada; e) a perda da nacionalidade brasileira só pode ocorrer quando houver manifestação expressa do interessado nesse sentido, circunstância que não se lhe aplica, uma vez que jamais cogitou a possibilidade de perder a sua condição de brasileira nata; f) que requereu a naturalização americana para garantir o pleno exercício da profissão de contadora, razão por que incide na exceção prevista no art. 12, §4º, II, "b", da CF/1988; g) a nulidade da decisão adotada, pelo STF, no MS 33.864/DF, uma vez que o advogado da impetrante não foi intimado da data da sessão de julgamento, inviabilizando-lhe, assim, a possibilidade de sustentação oral; h) que tramita, no Ministério da Justiça, processo administrativo no qual manifesta expressamente a sua vontade pela manutenção da cidadania brasileira e tal fato não foi veiculado no mandado de segurança referido; i) a necessidade de suspensão do julgamento da presente extradição até que haja o trânsito em julgado da decisão prolatada no MS 33.864/DF, que ainda se encontra pendente de publicação; j) a existência de pressão política exercida pelos Estados Unidos em relação ao seu pedido de extradição; l) a possibilidade de ser processada ou de cumprir pena no Brasil, uma vez que o Poder Judiciário nacional seria o competente para processar e julgar a acusação, haja vista a incidência do art. 7º, II, "b", e §2º, do CP, c/c o art. V.1., do Tratado de Extradição Brasil-Estados Unidos.

A Procuradoria-Geral da República ofereceu parecer, no qual se

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manifesta pelo deferimento do pedido (fls. 257 a 282).

É o breve relato do essencial.

Hipótese constitucional presente. O presente pedido extradicional encontra respaldo no texto constitucional, que em seu artigo 5º, inciso LII, autoriza – como regra – a extradição de estrangeiros, condição suportada pela extraditanda, desde a edição da Portaria Ministerial nº 2.465, de 03/07/2013 (publicada no DOU de 04/07/2013), referente ao Processo Administrativo nº 08018.011847/2011-01, que decretou a perda de sua nacionalidade brasileira.

Importante destacar a plena validade da referida decisão administrativa de perda de nacionalidade, que, inclusive, já foi debatida por esta Primeira Turma no julgamento do MS 33864/DF (Rel. Min. ROBERTO BARROSO, julgado em 19/4/2016), cuja segurança foi denegada. Eis a ementa do julgado:

Ementa: CONSTITUCIONAL. MANDADO DE SEGURANÇA. BRASILEIRA NATURALIZADA AMERICANA. ACUSAÇÃO DE HOMICÍDIO NO EXTERIOR. FUGA PARA O BRASIL. PERDA DE NACIONALIDADE ORIGINÁRIA EM PROCEDIMENTO ADMINISTRATIVO REGULAR. HIPÓTESE CONSTITUCIONALMENTE PREVISTA. NÃO OCORRÊNCIA DE ILEGALIDADE OU ABUSO DE PODER. DENEGAÇÃO DA ORDEM. 1. O Supremo Tribunal Federal é competente para o julgamento de mandado de segurança impetrado contra ato do Ministro da Justiça em matéria extradicional. (HC 83.113/DF, Rel. Min. Celso de Mello). 2. A Constituição Federal, ao cuidar da perda da nacionalidade brasileira, estabelece duas hipóteses: (i) o cancelamento judicial da naturalização (art. 12, § 4º, I); e (ii) a aquisição de outra nacionalidade. Nesta última hipótese, a nacionalidade brasileira só não será perdida em duas situações que constituem exceção à regra: (i) reconhecimento de outra nacionalidade originária (art. 12, § 4º, II, a); e (ii) ter sido a outra nacionalidade imposta pelo Estado estrangeiro como condição de permanência em seu território ou para o exercício de direitos civis (art. 12, § 4º, II, b). 3. No caso sob exame, a situação da

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impetrante não se subsume a qualquer das exceções constitucionalmente previstas para a aquisição de outra nacionalidade, sem perda da nacionalidade brasileira. 4. Denegação da ordem com a revogação da liminar concedida.

O acórdão do julgado acima referido foi publicado no DJe em 20/9/2016. Contra ele foram interpostos dois embargos de declaração, ambos rejeitados por esta Primeira Turma em 22/11/2016 e 10/3/2017, respectivamente, nos quais foram discutidas inclusive as alegações de nulidade constantes da peça defensiva carreada aos presentes autos pela extraditanda. Ou seja, a matéria em apreço não comporta rediscussão nesta seara, devendo a extraditanda se utilizar dos mecanismos recursais adequados para impugnar a sobredita decisão que, acentue-se, examinou o mérito da demanda, em sede de cognição exauriente, e, portanto, revela-se apta à formação da coisa julgada.

Atendimento dos requisitos formais legais. Estando presente uma das hipóteses constitucionais que autoriza a extradição, compete a essa Corte Suprema verificar se o Estado estrangeiro requerente observou as exigências legais estabelecidas na Lei nº 6.815/80.

O Governo dos Estados Unidos da América indicou, em síntese objetiva e articulada, todos os fatos subjacentes à extradição, tendo limitado o âmbito temático de sua pretensão, como se exige para análise pelo Supremo Tribunal Federal (Plenário, Ext. 667-3, Rel. Min. CELSO DE MELLO, DJU, 29 set. 1995, p. 31.998).

Inexiste a alegada irregularidade formal sustentada pela extraditanda, sob o fundamento de que os documentos anexados ao pedido não foram autenticados e nem vertidos para a língua portuguesa por tradutor juramentado. Isso porque a Lei 12.878/2013, em sintonia com a jurisprudência remansosa do Supremo Tribunal Federal, alterou o §2º do art. 80 da Lei 6.815/1980, para dispor que encaminhamento do pedido pela via diplomática – tal qual se deu, *in casu* – confere autenticidade aos documentos. Também não se há falar na necessidade de profissional juramentado para a tradução dos documentos à língua pátria, à míngua

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de imposição legal nesse sentido. Note-se que o Tratado de Extradicação Brasil-Estados Unidos, em seu art. IX, não contempla tal exigência, ao dispor que *“Os documentos que instruem o pedido de extradição serão acompanhados de uma tradução, devidamente certificada, na língua do Estado requerido.”* O Estatuto do Estrangeiro tampouco reclama tal predicado, ao exigir, no §2º do art. 80, que os documentos instrutórios sejam acompanhados de versão oficial para o idioma português. Tal arcabouço normativo se encontra, ademais, em total harmonia com a jurisprudência desta Corte. Nesse sentido, confira-se, dado o seu teor pedagógico, precedente deste Tribunal:

A transmissão da Nota Verbal por via diplomática basta para conferir-lhe autenticidade, sendo dispensável a tradução por profissional juramentado. Ademais sequer cabe discutir eventual vício na Nota Verbal se os documentos que a acompanham contêm narração dos fatos que deram origem à persecução criminal no Estado requerente, viabilizando-se, assim, o exercício da defesa. (Ext 1.114, Rel. Min. Carmem Lúcia, julgamento em 28-2-2008, Plenário, DJE de 6-3-2008.) No mesmo sentido: Ext 1.255, Rel. Min. Marco Aurélio, julgamento em 5-6-2012, Primeira Turma, DJE de 28-6-2012; Ext 951, Rel. Min. Marco Aurélio, julgamento em 1º-7-2005, Plenário, DJ de 9-9-2005.

Acresça-se que a alegação, por parte da extraditanda, de que o Estado brasileiro estaria sofrendo pressão dos Estados Unidos em relação ao seu pedido de extradição, além de não estão comprovada nos autos, não ostenta coloração jurídica que permita interferir no julgamento do presente pedido.

A análise do presente pedido de extradição, portanto, aponta o cumprimento de todos os requisitos necessários ao seu deferimento, pois o crime de homicídio se insere entre aqueles que autorizam a extradição entre os Estados Unidos e o Brasil, na forma do art. II. 1, do Tratado celebrado entre as partes.

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Reciprocidade. O pedido extradicional somente poderá ser atendido quando o Estado estrangeiro requerente se fundamentar em tratado internacional ou quando, inexistente este, prometer reciprocidade de tratamento ao Brasil (STF – Ext nº 1.351/DF – Rel. Min. Luiz Fux; STF – 1ª T – Ext. nº 1206/República da Polônia – Rel. Min. Ricardo Lewandowski, decisão: 28-06-2011; STF – Pleno – Ext. nº 1.120 – República Federal da Alemanha – Rel. Min. Menezes Direito e STF – Pleno – Ext. nº 1.122/Estado de Israel – Rel. Min. Carlos Britto, decisão: 28-8-2009). Os documentos necessários à instrução do pleito foram juntados aos autos, nos termos do art. IX do referido Tratado de Extradicação celebrado entre os respectivos Estados soberanos e promulgado no Brasil pelo Decreto nº 55.750, de 11 de fevereiro de 1965, abaixo transcrito, *in verbis*:

ARTIGO IX

O pedido de extradição será feito por via diplomática ou, excepcionalmente, na ausência de agentes diplomáticos, por agente consular, e será instruído com os seguintes documentos:

1. No caso de indivíduo que tenha sido condenado pelo crime ou delito em que se baseia o pedido de extradição: uma cópia, devidamente certificada ou autenticada, da sentença final do juízo competente;

2. No caso de indivíduo que é meramente acusado do crime ou delito em que se baseia o pedido de extradição: uma cópia, devidamente certificada ou autenticada, do mandado de prisão ou outra ordem de detenção expedida pelas autoridades competentes do Estado requerente, juntamente com os depoimentos que servirem de base à expedição de tal mandado ou ordem e qualquer outra prova julgada hábil para o caso.

Os documentos relacionados neste Artigo devem conter indicação precisa do ato criminoso do qual o indivíduo reclamado, acusado ou pelo qual foi condenado e do lugar e data em que o mesmo foi cometido, e devem ser acompanhados

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de cópia autenticada dos textos das leis aplicáveis do Estado requerente, inclusive as leis relativas à prescrição da ação ou da pena, e dados ou documentos que provem a identidade do indivíduo reclamado.

Os documentos que instruem o pedido de extradição serão acompanhados de uma tradução, devidamente certificada, na língua do Estado requerido.

Competência exclusiva do Estado estrangeiro. Inexiste competência do Poder Judiciário brasileiro para processar e julgar a acusação formulada contra a extraditanda, devendo ser afastada a tese defensiva nesse sentido, pois inaplicável o art. 7º, II, "b", c/c o §2º do CP. Isso porque o suporte fático da norma evocada pressupõe, para a sua configuração, a condição de brasileiro do sujeito ativo do crime praticado em solo alienígena. Não é o que se tem na espécie, conforme já amplamente debatido por esta Turma. Há mais, porém. É que, ainda que houvesse o concurso de jurisdições entre Brasil e Estados Unidos para a repressão do fato criminoso em apreço – o que não é o caso da controvérsia *sub judice*, reitera-se –, a inexistência de deflagração da *persecutio criminis* no território nacional traduziria circunstância autorizadora do deferimento do pedido ora formulado, na linha de precedentes desta Corte:

"Concurso de jurisdição e inexistência, no Brasil, de procedimento penal-persecutório contra o extraditando: possibilidade de deferimento do pleito extradicional. Mesmo em ocorrendo concurso de jurisdições penais entre o Brasil e o Estado requerente, torna-se lícito deferir a extradição naquelas hipóteses em que o fato delituoso, ainda que pertencendo, cumulativamente, ao domínio das leis brasileiras, não haja originado procedimento penal-persecutório, contra o extraditando, perante órgãos competentes do Estado brasileiro. Precedentes." (Ext 683, rel. min. Celso de Mello, julgamento em 20-11-1996, Plenário, DJE de 21-11-2008.) No mesmo sentido: Ext 652, rel. min. Celso de Mello, julgamento em 13-6-1996,

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Plenário, DJE de 21-11-2008.

“Extradição – Inquérito policial no Brasil – Neutralidade. A simples possibilidade de instauração de inquérito policial no Brasil não é óbice ao deferimento da extradição.” (Ext 1.100, rel. min. Marco Aurélio, julgamento em 11-9-2008, Plenário, DJE de 3-10-2008.) Vide: Ext 1.197, rel. min. Ricardo Lewandowski, julgamento em 25-11-2010, Plenário, DJE de 13-12-2010.

Existência de título penal condenatório ou de mandado de prisão emanados de juiz, tribunal ou autoridade competente do Estado estrangeiro. A presente hipótese contempla pedido de extradição instrutória, autorizada pelo item 2 do tratado Brasil – Estados Unidos, razão por que não se impõe a juntada de cópia de sentença penal condenatória, tal qual sugerido pela defesa. Faz-se necessária apenas a remessa de cópia do mandado de prisão expedido por autoridade competente do Estado acreditante, juntamente com os depoimentos que serviram de base à expedição de tal mandado, o que foi feito, na espécie (fls. 76 a 90). Ademais, a jurisprudência desta Suprema Corte é pacífica quanto à admissibilidade da extradição instrutória. Confira-se, a título ilustrativo, excerto da ementa publicada na Ext 652 (Rel. Min. CELSO DE MELLO, Tribunal Pleno, DJe de 21/11/2008):

INEXISTÊNCIA DE SENTENÇA PENAL CONDENATÓRIA CONTRA O EXTRADITANDO: FATO QUE NÃO OBSTA A ENTREGA EXTRADICIONAL. PEDIDO EXTRADICIONAL DE CARÁTER INSTRUTÓRIO (LEI Nº 6.815/80, ART. 78, II). - O sistema extradicional brasileiro admite, ao lado da extradição executória (que supõe sentença penal condenatória), a figura da extradição de caráter instrutório, que pressupõe - para efeito de sua efetivação - a mera existência de procedimento persecutório instaurado no exterior, desde que exista ordem de prisão emanada de autoridade competente do Estado requerente (Lei nº 6.815/80, art. 78, II). (...)

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Dupla tipicidade e não sujeição do extraditando a julgamento, no Estado requerente, perante tribunal ou juízo de exceção. O deferimento do pedido extradicional exige a presença do requisito da dupla tipicidade (STF – Ext 1196/Reino da Espanha – Rel. Min. Dias Tóffoli, decisão: 16-6-2011), pois como definido por essa Corte Suprema, “revela-se essencial, para a exata aferição do respeito ao postulado da dupla incriminação, que os fatos atribuídos ao extraditando – não obstante a incoincidência de sua designação formal – revistam-se de tipicidade penal e sejam *igualmente* puníveis tanto pelo ordenamento jurídico doméstico quanto pelo sistema de direito positivo do Estado requerente” (STF – Pleno – Extradução nº 669/EUA – Rel. Min. Celso de Mello – *Diário da Justiça*, Seção I, 29 mar. 1996, p. 9.343).

A acusação formal apresentada no Tribunal de Causas Comuns, do Condado de Trumbull, Estado de Ohio (fls. 25/26, tradução às fls. 72/73), órgão jurisdicional competente para o processo e julgamento da causa, aponta que a extraditanda causou efetiva e premeditadamente a morte de seu marido, Karl Hoering. Consta do processado a descrição detalhada dos fatos (fl. 65):

22. Em 10 de março de 2007, CLAUDIA HOERIG comprou um revólver Smith and Wesson de calibre 357 com visor de laser incorporado. Ela praticou tiro ao alvo em um polígono de tiro que ficava próximo, fazendo perguntas sobre diferentes tipos de munição. Há provas que indicam que CLAUDIA HOERIG comprou munição mais tarde naquele mesmo dia, que coincide com o tipo discutido mais cedo no polígono de tiro. Em 12 de março de 2007, um vizinho viu CLAUDIA HOERIG sair de sua residência e nunca mais a viu retornar.

23. O corpo de Karl Hoerig foi descoberto na residência três dias depois por um policial do Departamento de Polícia de Newton Falls, após ter sido contactado por parentes, preocupados com o bem-estar de Karl Hoerig. Um exame do corpo de Karl Hoerig efetuado por peritos legistas revelou duas feridas por arma de fogo nas costas e uma na cabeça.

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Fragmentos de bala encontrados no corpo e nas áreas à sua volta indicaram que a vítima havia sido atingida pela mesma arma que CLAUDIA HOERIG havia comprado dois dias antes da morte de Karl Hoerig.

24. Provas indicam ainda que em 10 de março de 2007 CLAUDIA HOERIG acessou um cofre pessoal em seu banco. Dois dias depois, US\$10.000,00 foram depositados em uma conta em seu nome no mesmo banco, tendo a maior parte desta quantia sido transferida em seguida para seu pai no Brasil. Em 12 de março de 2007, CLAUDIA HOERIG pegou um vôo no Aeroporto Internacional de Pittsburgh para Nova Iorque. Sabe-se que ela chegou ao Brasil pouco tempo depois e informou aos membros de sua família que lá residem, inclusive à sua irmã Simone Batista Sobral da Silva, que KARL HOERIG estava morto.

Assim, infere-se que o requisito da dupla tipicidade foi respeitado, na espécie. Isso porque o crime de homicídio qualificado encontra-se tipificado tanto na legislação do Estado requerente (Seção 2903.01. (A) e (F) do Código Revisado de Ohio), quanto no estatuto repressivo pátrio, em seu art. 121, §2º, IV. Confira-se ambos os preceptivos:

Código Revisado de Ohio

Seção 2903.01. Homicídio Qualificado.

(A) Nenhuma pessoa poderá intencional e premeditadamente causar a morte de outra ou o término ilícito da gravidez de outrem.

(F) Toda pessoa que violar esta seção será considerada culpada por assassinato qualificado e será punida segundo o estabelecido na seção 2929.02 do Código Revisado.

Código Penal Brasileiro:

§ 2º Se o homicídio é cometido:

IV - à traição, de emboscada, ou mediante dissimulação ou outro recurso que dificulte ou torne impossível a defesa do

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ofendido;

Inocorrência de prescrição da pretensão punitiva ou executória.

O requisito da dupla punibilidade, por seu turno, também se revela atendido. No Estado requerente, não há prazo para que se deflagre a persecução penal em relação à prática do crime de homicídio qualificado, conforme consta da norma hospedada na seção 2901.13 (A) (2), do Código de Ohio: "*Não há prazo prescricional para instauração de processos de casos de acusação de violação da seção 2903.01 ou 2903.02 do Código Revisado.*" Na legislação pátria, por sua vez, o prazo seria de 20 anos, nos termos do art. 109, I, do CP. Como a consumação do delito ocorreu em abril de 2007, não se há falar em prescrição.

Ausência de caráter político da infração atribuída ao extraditando.

Previsão pela legislação brasileira de penal superior a um ano de prisão. Não se verifica a configuração de nenhuma das circunstâncias previstas nos incisos do art. 77 da Lei 6.815/80 e do art. V do Tratado de Extradicação Brasil-Estados Unidos, cuja presença impediria o deferimento da extradição solicitada. Com efeito, não se trata, em quaisquer dos países: de crime político; de crime puramente militar (art. V.5, do Tratado de Extradicação); e nem de crime punido com pena inferior a 01 (um) ano.

Compromissos formais do Estado requerente perante o Brasil. Não merece acolhida a alegação da defesa que aponta a inviabilidade do deferimento do pedido, porquanto o Estado requerente não teria assumido o compromisso formal de promover a detração e nem de comutar, em pena privativa de liberdade, a pena corporal ou de morte que eventualmente lhe seja cominada. Consoante entendimento pacífico desta Suprema Corte, a ausência de tais compromissos nesta fase do procedimento extradicional não embaraça a possibilidade de deferimento do pleito, uma vez que se trata de requisito exigido tão somente para a entrega do extraditando à custódia da soberania alienígena:

Os compromissos inerentes à detração (Decr-Lei 941/69,

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art. 98, inciso II) e à comutação da eventual pena de morte (idem, ibidem, inciso III) devem ser prestados pelo Estado requerente ao governo da República, constituindo pressupostos da entrega do extraditando, e não do deferimento da extradição pelo Supremo Tribunal Federal. (Ext 342, rel. min. Cordeiro Guerra, julgamento em 24-8-1977, Plenário, DJ de 21-10-1977.)

Extradição — Pena de morte — Compromisso de comutação. — O ordenamento positivo brasileiro, nas hipóteses de imposição do *supplicium extremum*, exige que o Estado requerente assuma, formalmente, o compromisso de comutar, em pena privativa de liberdade, a pena de morte, ressalvadas, quanto a esta, as situações em que a lei brasileira — fundada na Constituição Federal (art. 5º, XLVII, a) - permite a sua aplicação, caso em que se tornará dispensável a exigência de comutação. Hipótese incorrente no caso. A Convenção de Viena sobre Relações Diplomáticas - Artigo 3º, n. 1, a - outorga, à Missão Diplomática, o poder de representar o Estado acreditante (État d'envoi) perante o Estado acreditado ou Estado receptor (o Brasil, no caso), derivando, dessa função política, um complexo de atribuições e de poderes reconhecidos ao agente diplomático que exerce a atividade de representação institucional de seu País. Desse modo, o Chefe da Missão Diplomática pode assumir, em nome de seu Governo, o compromisso oficial de comutar, a pena de morte, em pena privativa de liberdade. Esse compromisso pode ser validamente prestado antes da entrega do extraditando ao Estado requerente. O compromisso diplomático em questão traduz pressuposto da entrega do extraditando, e não do deferimento do pedido extradicional pelo Supremo Tribunal Federal. (Ext 744, rel. min. Celso de Mello, julgamento em 1º-12-1999, Plenário, DJ de 18-2-2000.) No mesmo sentido: Ext 1.176, rel. min. Ricardo Lewandowski, julgamento em 10-2-2011, Plenário, DJE de 1º-3-2011; Ext 633, rel. min. Celso de Mello, julgamento em 28-8-1996, Plenário, DJ de 6-4-2001.

Não é outra a inteligência que se extrai da dicção do art. 91, II e III,

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da Lei 6.815/1980, que exige o empenho de tais compromissos apenas para a entrega do extraditando ao Estado requerente. Eis o seu teor:

Art. 91. Não será efetivada a entrega sem que o Estado requerente assuma o compromisso: (Renumerado pela Lei nº 6.964, de 09/12/81)

(...)

II - de computar o tempo de prisão que, no Brasil, foi imposta por força da extradição;

III - de comutar em pena privativa de liberdade a pena corporal ou de morte, ressalvados, quanto à última, os casos em que a lei brasileira permitir a sua aplicação;

Detração penal e comutação de pena de morte ou de prisão perpétua em pena privativa de liberdade com o prazo máximo de 30 anos. Por fim, verifico que a Seção 2929.02, do Código Revisado de Ohio, comina pena de morte ou de prisão perpétua para aqueles que forem declarados culpados pela prática do crime de homicídio qualificado. Assim, deve o Estado requerente assumir o compromisso, por ocasião da entrega do extraditando, de – além de assegurar a detração – comutar tais penalidades em pena privativa de liberdade com o prazo máximo de 30 anos, conforme assentado na jurisprudência desta corte, explicitada no precedente abaixo transcrito:

“O Supremo Tribunal Federal, em recente revisão da jurisprudência, firmou a orientação de que o Estado requerente deve emitir prévio compromisso em comutar a pena de prisão perpétua, prevista pela legislação argentina, para a pena privativa de liberdade com o prazo máximo de trinta anos. Esse entendimento baseia-se na garantia individual fundamental prevista pelo art. 5º, XLVII, b, da Constituição Federal do Brasil.” (Ext 985, rel. min. Joaquim Barbosa, julgamento em 6-4-2006, Plenário, DJ de 18-8-2006.) No mesmo sentido: Ext 1.197, rel. min. Ricardo Lewandowski, julgamento em 25-11-2010,

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Plenário, DJE de 13-12-2010.

Issò posto, defiro o pedido de extradição, com os condicionamentos acima discriminados.

É como voto.

28/03/2017

PRIMEIRA TURMA

EXTRADIÇÃO 1.462 DISTRITO FEDERAL

VOTO

A SENHORA MINISTRA ROSA WEBER - Senhor Presidente, eu peço desculpas ao Ministro Luís Roberto, porque me afastei durante o voto de Sua Excelência, mas, além de estar com a cópia do voto aqui, eu segui ouvindo – foi em função da tosse. Saúdo o Doutor Adilson pela bela sustentação oral.

O tema é de uma delicadeza ímpar – e, confesso, difícil para mim –, mas eu assumi uma posição, ao julgamento do mandado de segurança, e, de lá até aqui, a leitura que faço do texto constitucional é exatamente na linha proposta pelo eminente Relator, ou seja, o texto constitucional contempla, como hipótese de perda da nacionalidade brasileira, a aquisição voluntária de outra nacionalidade. Essa hipótese abrange tanto o brasileiro nato quanto o brasileiro naturalizado. E ela implica, como regra, o quê? Ela implica a perda da nacionalidade brasileira, exceto em duas hipóteses que a Constituição explicita e em que, sequer se alega, se insere a extraditanda.

Por isso eu peço vênia às compreensões contrárias e acompanho o voto do eminente Relator.

28/03/2017

PRIMEIRA TURMA

EXTRADIÇÃO 1.462 DISTRITO FEDERAL

VOTO

O SENHOR MINISTRO LUIZ FUX - Senhor Presidente, eu suscitei a questão exatamente para que nós tivéssemos a oportunidade desse debate.

Então, pelo princípio da unidade da Constituição os seus dispositivos não são colidentes. Uma coisa é dizer: não se extradita brasileiro; e outra coisa é dizer: perde-se a nacionalidade brasileira pela aquisição voluntária de outra nacionalidade. O que significa dizer, no fundo, um desprezo cívico do cidadão pela sua nacionalidade.

A *ratio legis* da Constituição Federal é exatamente essa. É uma Constituição baseada na cidadania e que prestigia o brasileiro que quer ser brasileiro. Agora, o brasileiro que vai para o exterior, abdica de sua nacionalidade, adquire, voluntariamente, a nacionalidade estrangeira, para que fim for, esse cidadão está abdicando daquilo que a Constituição garante a ele.

Na verdade, o que está por detrás dessa regra constitucional da perda da nacionalidade brasileira é exatamente motivar o cidadão brasileiro a ter amor ao seu País. E quem tem amor ao seu País não abre mão da sua nacionalidade.

E este caso tem uma peculiaridade, porque o resgate dessa nacionalidade brasileira tem como finalidade algo que não é desejável, porque é possível, obviamente, que, por ideologia, haja - o que deve ser muito difícil - hoje um brasileiro apaixonado pela moderna ideologia americana inaugurada há pouco meses. E ele chegue lá e, bom, agora eu quero optar por essa nacionalidade - difícil, mas eventualmente. Mas nesse caso estaria aí - digamos assim - uma pureza ética da aquisição de outra nacionalidade.

Aqui, essa discussão da nacionalidade, *mutatis mutandis*, visa a empreender aquilo que, por exemplo, o STJ nunca admitiu em termos de pessoa jurídica, ou seja, pessoa jurídica lavra um compromisso arbitral,

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compromete-se alhures e depois vem se esconder por detrás da Justiça brasileira, dizendo que não pode cumprir aquele compromisso arbitral, porque fere a ordem pública.

E o que ocorre no caso específico, infelizmente? Nós estamos diante de um caso em que houve a aquisição da nacionalidade americana; posteriormente - se não me falha a memória, na época do julgamento do mandado de segurança -, essa ex-nacional foi processada, acusada da prática de um homicídio contra seu consorte - até a palavra não combina bem. Agora, ela pretende readquirir a nacionalidade brasileira, no meu modo de ver, com esse escopo.

É verdade, o Código Penal dispõe que o brasileiro que comete crime no estrangeiro pode responder aqui no Brasil. Só que ele, brasileiro, responde perante a Justiça brasileira por crime cometido no estrangeiro desde que ele não tenha optado por outra nacionalidade; porque, se ele optar por outra nacionalidade, ele não cumpre a pena no Brasil, ele é extraditável. E é assim que os penalistas analisam a situação dos brasileiros que cometem o crime no exterior.

De sorte, Senhor Presidente, eu também votei no mandado de segurança, a questão delicada, talvez nós pudéssemos adotar o entendimento do nosso querido Mestre Barbosa Moreira: "só não muda de opinião quem já morreu"; e nós queremos viver muito.

Na verdade, eu vou manter o que eu já decidi no mandado de segurança com esses fundamentos, pedindo vênias aos entendimentos contrários, e acompanhar o voto do eminente Relator, sem prejuízo da magnífica sustentação oral lavrada da tribuna.

28/03/2017

PRIMEIRA TURMA

EXTRADIÇÃO 1.462 DISTRITO FEDERAL

VOTO

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – A esta altura estou mais tranquilo, porque vejo que os Colegas distinguem entre nacionalidade e cidadania. E eu já estava pensando em recuar no que venho buscando junto ao país irmão, Portugal, a minha cidadania portuguesa. E, talvez, pudesse ser ameaçado quanto a perda da cadeira de Ministro do Supremo, já que se exige, para a ocupação, que seja brasileiro nato.

Uma primeira vez tem que ser a primeira vez, até pela própria nomenclatura. Vejo que este Colegiado - que não é o colegiado maior, que realmente personifica o Supremo - está para inaugurar a entrega de uma brasileira nata, ante extradição, a um governo irmão.

Repito o que eu disse quanto aos fundamentos que levaram o indeferimento da ordem no Mandado de Segurança nº 33.864.

O Código de Processo Civil em vigor repetiu norma do Código de Processo Civil anterior, revelando que não fazem coisa julgada os motivos, ainda que importantes, para determinar o alcance da parte expositiva da sentença - entenda-se, aqui, sentença como decisão, gênero, apanhando também acórdãos - e a verdade dos fatos estabelecida como fundamento da sentença.

Por isso se sustentou, da tribuna, a impossibilidade de se reconhecer, como viável, a entrega da extraditanda, pelo Executivo, ao Governo americano.

A matéria está em aberto. Não estou querendo tornar prevalecente o que veiculei quando votei no mandado de segurança a que me referi. E, àquela altura, sustentei, em primeiro lugar, que a competência para julgar aquele mandado de segurança - porque dirigido contra ato do Ministro de Estado da Justiça - seria do Superior Tribunal de Justiça, e não do Supremo. Fiquei vencido. Mas, nesses vinte e seis anos, diria, nos trinta e oito anos de judicatura, acostumei-me a ficar vencido. E há sempre falar

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que o ofício judicante não me deixa estressado. Que entro numa sessão e saio da sessão com o mesmo sorriso, já que não disputo nada, apenas veiculo uma forma de pensar quanto ao Direito posto, quanto ao Direito positivo.

A Constituição - para utilizar um vocábulo do Ministro Sepúlveda Pertence - decaída o que previa quanto à perda da nacionalidade por brasileiro?

I - por naturalização voluntária, adquirir outra nacionalidade;

II - sem licença do Presidente da República, aceitar comissão, emprêgo ou pensão de govêrno estrangeiro;

III - em virtude de sentença judicial, tiver cancelada a naturalização por exercer atividade contrária ao interêsse nacional.

Parágrafo único. Será anulada por decreto do Presidente da República a aquisição de nacionalidade obtida em fraude contra a lei"

Sem dúvida alguma, esse dispositivo sempre se referiu ao brasileiro naturalizado, e não ao brasileiro nato.

Por que posso afirmar isso? Porque, numa interpretação sistemática, constato que essa mesma Constituição, ela brecou a extradição de brasileiro nato em qualquer situação. Deixe-me ver o preceito respectivo - já que, matando a cobra, eu devo mostrar o pau com que a matei - da Constituição decaída. É o § 19 do art. 160 da Constituição pretérita:

"Não será concedida a extradição do estrangeiro por crime político ou de opinião," - aí vem a cláusula final - "nem em caso algum," - nem em caso algum - "a de brasileiro."

Aqui, evidentemente, na interpretação sistemática, o brasileiro nato, e não o naturalizado.

Volto à Carta de 1988, que foi apontada por um grande homem público paulista, Ulysses Guimarães, como uma Carta cidadã, uma Carta que, pela primeira vez, versou - consideradas as Constituições republicanas - os direitos sociais antes de versar a própria estrutura do Estado, tamanha a ênfase dada à cidadania. Essa Constituição realmente prevê que será declarada a perda da nacionalidade do brasileiro que:

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"I - tiver cancelada sua naturalização," - aí nós temos a perda-sanção - "por sentença judicial," - exige-se, portanto, pronunciamento judicial para que até mesmo o brasileiro naturalizado perca essa condição - "em virtude de atividade nociva ao interesse nacional;

II - adquirir outra nacionalidade, salvo nos casos:

a) de reconhecimento de nacionalidade originária pela lei estrangeira;

b) de imposição de naturalização, pela norma estrangeira, ao brasileiro residente em estado estrangeiro, como condição para permanência em seu território ou para o exercício de direitos civis."

Posso alargar o que se contém nesse dispositivo? Não. Não posso partir para uma interpretação ampliativa, muito menos restritiva. Considero esse dispositivo interpretado, tendo em conta o grande todo que é a Constituição Federal. E, logicamente, busco o sentido dessa alusão à perda da nacionalidade brasileira no rol das garantias sociais, o principal rol da Carta de 1988, ou seja, no artigo 5º, e aí chego ao inciso LI. Não me impressiona a arma "Magnum" 357 colt, referida pelo Ministro-Relator, não sou muito entendido em armamento. O que se contém nesse dispositivo?

"LI - nenhum brasileiro será extraditado, salvo o naturalizado, em caso de crime comum, praticado antes" - ele busca a naturalização como se ela fosse um verdadeiro escudo, considerada uma entrega a um país irmão - "da naturalização, ou de comprovado envolvimento em tráfico ilícito de entorpecentes e drogas afins"(...) - segunda exceção.

E aí pouco importa se praticado esse crime antes ou depois da naturalização. O tráfico sempre é móvel para concluir-se pela possibilidade de entrega de um brasileiro naturalizado a um governo requerente da extradição.

E vem aí a conclusão. Essa especificação que se segue ao óbice à extradição de brasileiro, salvo naturalizado, encerra que o brasileiro nato - estou há 26 anos no Supremo e até aqui eu não vi julgamento algum concluindo-se pela entrega de brasileiro nato em extradição ou a viabilidade de entrega, já que a entrega fica a cargo do Chefe do Poder

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Executivo.

Em síntese, não há como se cogitar da entrega de um brasileiro nato a um governo requerente para que responda a uma persecução criminal, nada impedindo, considerado o Tratado, considerado até o princípio da reciprocidade, que se remeta peças ao Ministério Público para que, aqui no território brasileiro, seja processado por um possível crime cometido alhures, cometido no estrangeiro.

Dir-se-á que ela renunciou à extradição. E o primeiro caso envolveu uma pessoa que conheci na cidade maravilhosa do Rio de Janeiro, que era até vizinha dos pais da minha atual e sempre - porque se eu falar atual mulher podem pensar que fui casado anteriormente, jamais fui -, que era a Heloísa, que buscou a nacionalidade americana para ser promotora, e é promotora, em Nova Iorque.

Não há como o brasileiro nato, porque não estamos aqui diante de direito disponível, renunciar ao fato de ser brasileiro nato, consideradas uma das hipóteses previstas no artigo 12, inciso I, da Constituição Federal:

"a) os nascidos na República Federativa do Brasil," - é o caso - "ainda que de pais estrangeiros," - parece que não é o caso - "desde que estes não estejam a serviço de seu país;

b) os nascidos no estrangeiro, de pai brasileiro" - também não é o caso - "ou mãe brasileira, desde que qualquer deles esteja a serviço da República Federativa do Brasil;"

E por último:

"c) os nascidos no estrangeiro de pai brasileiro ou de mãe brasileira, desde que sejam registrados em repartição brasileira competente ou venham a residir na República Federativa do Brasil e optem, em qualquer tempo, depois de atingida a maioridade, pela nacionalidade brasileira;"

Nós devemos estimular o casamento, mas o casamento com o estrangeiro não conduz, implicitamente, à perda da condição de brasileiro ou brasileira nata; não, não conduz.

O SENHOR MINISTRO LUIZ FUX - Mas Vossa Excelência citou um dispositivo onde Vossa Excelência dizia o seguinte: adquire a

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nacionalidade estrangeira por força da lei de lá, que passa a considerá-lo também nacional daquele país. É uma *ex lege*. Quer dizer, há brasileiros que também podem ter outra nacionalidade, por força da lei estrangeira.

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – Ministro, longe de mim submeter a ordem jurídica brasileira à legislação estrangeira; longe de mim!

O SENHOR MINISTRO LUIZ FUX - Claro. Mas é possível ter um brasileiro que, pela lei de outro país, adquire também aquela nacionalidade. Esse não perde.

O SENHOR MINISTRO MARCO AURÉLIO (PRESIDENTE) – Em primeiro lugar está documento que precisa ser um pouco mais amado – a Constituição Federal. E não sei por que tiraram do Código Civil o vocábulo "amor" que nele se continha, quanto à atuação do procurador.

Será que não houve, antes deste caso, situação semelhante a esta apreciada pelo Plenário, nesses anos todos? Vamos inaugurar, num precedente, a meu ver, extremado, a possibilidade de entrega pelo Governo brasileiro de brasileiro nato a um país amigo, a um país irmão?

O passo, para mim, é demasiadamente largo. E, tendo em conta a compreensão da Lei Básica do País, não consigo dá-lo.

Reitero o que tive oportunidade de veicular em termos de fundamentos, no que, julgado o mandado de segurança não para mim, fizeram coisa julgada. Reitero o que tive oportunidade de consignar e, com base nessa circunstância de persistir a condição de brasileira nata, da extraditanda, porque aqui nascida e de pais brasileiros, indefiro a extradição.

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PRIMEIRA TURMA

EXTRATO DE ATA

EXTRADIÇÃO 1.462

PROCED. : DISTRITO FEDERAL

RELATOR : MIN. ROBERTO BARROSO

REQTE.(S) : GOVERNO DOS ESTADOS UNIDOS DA AMÉRICA

EXTDO.(A/S) : CLAUDIA CRISTINA SOBRAL OU CLAUDIA HOERIG OU CLAUDIA C. HOERIG OU CRISTINA HOERIG OU CLAUDIA BOLTE OU CRISTINA BOLTE OU CLAUDIA CRISTINA SOBRAL OU CLAUDIA SOBRAL OU CRISTINA SOBRAL OU CRIS OU CLAUDIA CRISTINA BOLTE

ADV.(A/S) : ADILSON VIEIRA MACABU (47808/DF)

ADV.(A/S) : FLORIANO DUTRA NETO (20499/DF)

Decisão: Por maioria de votos, a Turma assentou a possibilidade de entrega da Extraditanda ao Governo requerente, nos termos do voto do Relator, vencido o Senhor Ministro Marco Aurélio, Presidente. Falou o Dr. Adilson Vieira Macabu, pela Extraditanda. Primeira Turma, 28.3.2017.

Presidência do Senhor Ministro Marco Aurélio. Presentes à Sessão os Senhores Ministros Luiz Fux, Rosa Weber, Luís Roberto Barroso e Alexandre de Moraes.

Subprocurador-Geral da República, Dr. Paulo Gustavo Gonet Branco.

Carmen Lillian Oliveira de Souza
Secretária da Primeira Turma

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25/08/2017

PRIMEIRA TURMA

EMB.DECL. NA EXTRADIÇÃO 1.462 DISTRITO FEDERAL

RELATOR : MIN. ROBERTO BARROSO
EMBTE.(S) : CLAUDIA CRISTINA SOBRAL OU CLAUDIA HOERIG OU CLAUDIA C. HOERIG OU CRISTINA HOERIG OU CLAUDIA BOLTE OU CRISTINA BOLTE OU CLAUDIA CRISTINA SOBRAL OU CLAUDIA SOBRAL OU CRISTINA SOBRAL OU CRIS OU CLAUDIA CRISTINA BOLTE
ADV.(A/S) : ADILSON VIEIRA MACABU
ADV.(A/S) : FLORIANO DUTRA NETO
EMBDO.(A/S) : GOVERNO DOS ESTADOS UNIDOS DA AMÉRICA

EMENTA: EXTRADIÇÃO. EMBARGOS DECLARATÓRIOS. INEXISTÊNCIA DOS VÍCIOS PREVISTOS NO ART. 1.022 DO CPC. PRETENSÃO DE CARÁTER INFRINGENTE. REJEIÇÃO.

1. Não há ambiguidade, obscuridade, contradição ou omissão no acórdão questionado, o que afasta a presença de qualquer dos pressupostos de embargabilidade, nos termos do art. 1.022 do CPC.

2. Justamente ao revés, todos os pontos suscitados foram expressamente enfrentados pela Turma. A via recursal adotada não se mostra adequada para a renovação de julgamento que se efetivou regularmente.

3. O pedido de destaque, fora do ambiente virtual, justificava-se quando as listas eram apresentadas na Turma, e visava a dar conhecimento mais detalhado aos demais Ministros da matéria em discussão. Na nova sistemática, a decisão recorrida e a proposta de nova decisão, bem como as peças processuais, ficam à disposição de todos os Ministros, no próprio ambiente virtual. Diante disso, somente por exceção, que não ocorre no caso em tela, se justificaria o destaque da matéria.

4. Embargos de declaração rejeitados.

ACÓRDÃO

Supremo Tribunal Federal

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Vistos, relatados e discutidos estes autos, acordam os Ministros da Primeira Turma do Supremo Tribunal Federal, em Sessão Virtual, na conformidade da ata de julgamento, por unanimidade de votos, em rejeitar os embargos de declaração, nos termos do voto do Relator.

Brasília, 18 a 24 de agosto de 2017.

MINISTRO LUÍS ROBERTO BARROSO - RELATOR

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PRIMEIRA TURMA

EMB.DECL. NA EXTRADIÇÃO 1.462 DISTRITO FEDERAL

RELATOR : MIN. ROBERTO BARROSO
EMBTE.(S) : CLAUDIA CRISTINA SOBRAL OU CLAUDIA
HOERIG OU CLAUDIA C. HOERIG OU CRISTINA
HOERIG OU CLAUDIA BOLTE OU CRISTINA
BOLTE OU CLAUDIA CRISTINA SOBRAL OU
CLAUDIA SOBRAL OU CRISTINA SOBRAL OU CRIS
OU CLAUDIA CRISTINA BOLTE
ADV.(A/S) : ADILSON VIEIRA MACABU
ADV.(A/S) : FLORIANO DUTRA NETO
EMBDO.(A/S) : GOVERNO DOS ESTADOS UNIDOS DA AMÉRICA

RELATÓRIO

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR):

1. Trata-se de Embargos de Declaração opostos em face acórdão que julgou a Extradicação 1.462, em que se deferiu a extradicação da embargante.

2. A parte embargante sustenta a ocorrência de obscuridade, contradição e omissão no acórdão embargado e pleiteia sejam sanados tais vícios. Requer a concessão de efeitos infringentes para denegar a segurança.

3. Para tanto, a parte embargante sustenta, em síntese, ter o acórdão recorrido: (i) usurpado competência do Superior Tribunal de Justiça para a matéria; (ii) não ter enfrentado a questão suscitada quanto à ausência de intimação dos advogados constituídos; (iii) não ter enfrentado a questão referente ao art. 5º, LI, da CF quanto à impossibilidade de extradicação de brasileiro nato; (iv) não ter enfrentado o enquadramento da situação da ora Embargante nas exceções de que cuida o § 4º, do art. 12, da CF; e (v) ter sido omissos quanto aos efeitos do

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compromisso do Estado Requerente de comutar a pena a ser aplicada e detrair o tempo em que a extraditanda permaneceu presa no Brasil por força deste processo.

4. É o relatório

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PRIMEIRA TURMA

EMB.DECL. NA EXTRADIÇÃO 1.462 DISTRITO FEDERAL

VOTO

O SENHOR MINISTRO LUÍS ROBERTO BARROSO (RELATOR):

1. Conheço dos embargos, porque tempestivos.

2. No mérito, o recurso deve ser rejeitado. Não verifico a ocorrência das alegadas obscuridade, contradição ou omissão no acórdão questionado, o que afasta a presença dos pressupostos de embargabilidade (art. 1.022 do CPC). Trata-se de reiteração da mesma pretensão já exaustivamente examinada e rechaçada pela Corte, pelos mesmíssimos fundamentos invocados, em embargos de declaração opostos em face do acórdão que denegara a segurança no MS 33.864.

3. Assim, quanto à sustentada usurpação da competência do Superior Tribunal de Justiça para o processo e julgamento da ação mandamental, o Tribunal, como se disse nos primeiros e segundos embargos de declaração opostos no MS 33.864, esclareceu que sua competência se impunha em razão do fato de que a decisão a ser proferida no *writ* impactaria, necessariamente, o julgamento da extradição para a qual era competente, daí porque avocado o feito. No ponto, o precedente citado, HC 83113/DF, se identifica à sociedade com o caso dos autos. Diz-se naquele julgado que o fato de a ação - ali de *habeas corpus*, cuja natureza de remédio constitucional se equipara à do mandado de segurança -, versar tema de competência do Supremo atrai sua competência.

4. Quanto à intimação do advogado, a questão já fora longa e minudentemente enfrentada na Questão de Ordem decidida em 4 de abril de 2016, conforme afirmado nos primeiros e segundos embargos de

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declaração opostos no MS 33.864.

5. Quanto à observância do inciso LI do art. 5º, reitera-se aqui que a questão versada nos autos não cuida de dupla nacionalidade, ou seja: conflito positivo de nacionalidade – o que, como se sabe, só ocorre quando verificadas duas ou mais nacionalidades originárias, obtidas por distintos critérios legais. O dispositivo invocado se refere ao caso de estrangeiros naturalizados brasileiros, e não do contrário, de modo que nenhuma pertinência tem com o que se encontra em causa nesta Extradução, considerada a perda da nacionalidade brasileira.

6. Ainda quanto à suposta aplicação do art. 5º, LI, da CF ao caso sob exame, o voto condutor do acórdão embargado deixa claro que a nacionalidade brasileira foi perdida porque a aquisição de outra nacionalidade, secundária, de forma voluntária, não se enquadra nas hipóteses constitucionais em que tal aquisição não implica perda da nacionalidade brasileira, quais sejam: (i) reconhecimento de outra nacionalidade originária; ou (ii) aquisição de nacionalidade secundária quando o Estado a impuser como condição de permanência no território ou do exercício de direitos civis.

7. No caso sob exame, o acórdão esclareceu que o fato de possuir autorização (visto) de permanência nos EUA há mais de 10 anos deixava claro não necessitar a embargante da obtenção voluntária de nacionalidade estrangeira para permanência em seu território, ou para o exercício de direitos civis, daí não se subsumir sua situação às hipóteses constitucionais de exceção à regra da perda de nacionalidade brasileira por aquisição voluntária de outra nacionalidade.

8. Por outro lado, não é correto, nem se disse no acórdão, ter havido a situação de o Estado estrangeiro, por lei própria, haver-lhe reconhecido a condição de titular de nacionalidade originária pertinente a esse mesmo Estado justamente porque a nacionalidade obtida pela

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Impetrante é secundária, por naturalização, requerida e obtida por meio de manifestação inequívoca de vontade.

9. Já no que diz respeito às exceções de que cuida o § 4º do art. 12, como se disse, o tão só fato de que a Impetrante vivia e trabalhava nos EUA há mais de 10 anos, quando de sua naturalização, já revela a desnecessidade da mencionada obtenção de nacionalidade norte-americana, como expressamente explicitado pelos Estados Unidos da América nos autos.

10. Quanto aos efeitos dos compromissos de comutar a pena e de detração do tempo em que permaneceu presa por força deste processo, a serem assumidos pelo Estado Requerente, tem-se que a existência, no Estado Requerente, de penas não admitidas pelo ordenamento jurídico brasileiro não obsta o deferimento da extradição, mas sim à entrega e isto somente no caso de o Estado Requerente não assumir os compromissos formais de não aplicá-las. A fiscalização deste compromisso não é papel do Poder Judiciário brasileiro, mas do Poder Executivo, a quem compete, nos termos da Constituição Federal, a gestão das relações com estados estrangeiros. Saliento que a fase jurisdicional do processo de extradição se exaure com o trânsito em julgado do acórdão proferido pelo Supremo Tribunal Federal, cabendo ao Poder Executivo decidir sobre a viabilidade da ou não da entrega da extraditanda.

11. No que se refere à preocupação quanto à situação dos brasileiros naturalizados, ressalto que a resposta está no art. 12, § 4º, da Constituição Federal, de modo que aquelas pessoas que se enquadrarem na exceção não perderão a nacionalidade, ao passo que aquelas que não se enquadrarem nela poderão perdê-la, tal como ocorreu com a extraditanda. É o que expressamente determina a Constituição Federal.

12. Por fim, quanto ao pedido de não submissão a julgamento em Plenário virtual, a embargante requer a retirada do feito do

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juízo em ambiente eletrônico. O pedido de destaque, quando as listas eram apresentadas na Turma, visava a dar conhecimento mais detalhado aos demais Ministros da matéria em discussão. Na nova sistemática, a decisão recorrida e a proposta de nova decisão, bem como as peças processuais, ficam à disposição de todos os Ministros, no próprio ambiente virtual. Diante disso, somente por exceção, que não ocorre no caso em tela, se justificaria o destaque da matéria.

13 Assim, os presentes embargos de declaração veiculam novamente pretensão infringente, como, mais uma vez, expressamente se vê da inicial de oposição dos embargos. Objetivam, tão somente, o reexame de pedido já repelido pela Turma. E os embargos não podem conduzir à renovação do julgamento, ainda que não unânime, que não se resente de nenhum vício. Muito menos à modificação do julgado.

14. O Supremo Tribunal Federal já fixou o entendimento de que não cabem embargos de declaração quando, a pretexto de esclarecer uma inexistente situação de obscuridade, omissão ou contradição, vêm a ser opostos com o objetivo de infringir o julgado, para viabilizar um indevido reexame do caso (AI 177.313 AgR-ED, Rel. Min. Celso de Mello).

15. No caso presente, a decisão recorrida foi amplamente discutida e a hipótese, sem desmerecer os argumentos apresentados pela embargante, não apresenta qualquer novidade, diante do que indefiro o pedido.

16. Este o quadro, rejeito os embargos.

17. É como voto.

Supremo Tribunal Federal

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PRIMEIRA TURMA

EXTRATO DE ATA

EMB.DECL. NA EXTRADIÇÃO 1.462

PROCED. : DISTRITO FEDERAL

RELATOR : MIN. ROBERTO BARROSO

EMBTE.(S) : CLAUDIA CRISTINA SOBRAL OU CLAUDIA HOERIG OU CLAUDIA
C. HOERIG OU CRISTINA HOERIG OU CLAUDIA BOLTE OU CRISTINA BOLTE OU
CLAUDIA CRISTINA SOBRAL OU CLAUDIA SOBRAL OU CRISTINA SOBRAL OU
CRIS OU CLAUDIA CRISTINA BOLTE

ADV.(A/S) : ADILSON VIEIRA MACABU (47808/DF)

ADV.(A/S) : FLORIANO DUTRA NETO (20499/DF)

EMBDO.(A/S) : GOVERNO DOS ESTADOS UNIDOS DA AMÉRICA

Decisão: A Turma, por unanimidade, rejeitou os embargos de declaração, nos termos do voto do Relator. Primeira Turma, Sessão Virtual de 16 a 24.8.2017.

Composição: Ministros Marco Aurélio (Presidente), Luiz Fux, Rosa Weber, Luís Roberto Barroso e Alexandre de Moraes.

Disponibilizou processo para esta Sessão o Ministro Edson Fachin, não tendo participado do julgamento desse feito o Ministro Alexandre de Moraes por sucedê-lo na Primeira Turma.

Carmen Lilian Oliveira de Souza
Secretária da Primeira Turma