

FEB 07 2019

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

TRUMBULL COUNTY, OH  
KAREN INFANTE ALLEN, CLERK

STATE OF OHIO,  
Plaintiff

-vs-

CLAUDIA C. HOERIG,  
Defendant

) CASE NO. 2007-CR-269  
)  
) JUDGE ANDREW D. LOGAN  
)  
) STATE'S SENTENCING  
) MEMORANDUM  
)

Now comes the State of Ohio, by Prosecuting Attorney Dennis Watkins and First Assistant Prosecuting Attorney Christopher D. Becker, who file this Sentencing Memorandum.

On January 24, 2019, after an eight-day trial, a duly empaneled Trumbull County jury found Defendant, Claudia C. Hoerig, guilty as charged in her indictment of Aggravated Murder with a Firearm Specification in the March 12, 2007 shooting death of her husband Major Karl Hoerig of Newton Falls, Ohio. This Court has set February 8, 2019 at 10:00 a.m. for sentencing.

HISTORY OF CASE

Following the murder, the Defendant had fled Ohio and the United States for her native country of Brazil where she remained for nearly eleven (11) years fighting her return to the United States on the basis of her Brazilian nationality in an attempt to avoid standing trial on the Aggravated Murder Indictment which was previously returned against her by a Trumbull County Grand Jury on April 24, 2007. In two separate decisions of Brazilian Supreme Court in 2016 and 2017, Brazil's high court ruled that Defendant, Claudia C. Hoerig, was an American citizen subject to extradition back to the United States to stand trial in Ohio. However, the Brazilian high court put conditions on that return which brought about diplomatic negotiations between the



United States Government and the Government of Brazil, and further brought about various communications between the Trumbull County Prosecutor, Dennis Watkins, officials of the United States Attorney's Office (Office of International Affairs, Washington, DC), the United States State Department, and one high official of the Brazilian Government. However, most of the communications and work regarding the Defendant's extradition to the United States were directly handled in the United States by the federal officials responsible for international extraditions (i.e. Office of International Affairs and State Department).

As previously discussed in the State's Answer and Memorandum to the Defendant's Motion to Dismiss Due to Speedy Trial Violation with its 16 Exhibits dated March 13, 2018, under the Constitution and laws of the United States, the federal government alone is to negotiate treaties between the United States and other sovereign nations of the world. The enforcement of those treaties also under law is exclusively given to the executive branch of the American government including the State Department, Justice Department, FBI, and United States Marshals. The sovereign State of Ohio must therefore rely on our federal partners to obtain custody of fugitives like the Defendant, who flee from the United States to a foreign country. That effort and reliance on federal officials was done in this case by Trumbull County officials, and because of the hard work and persistent effort by many American government and Brazilian government officials, over an eleven-year period, success was obtained on January 17, 2018 when federal authorities delivered the Defendant to the Trumbull County Sheriff's Office.

As this Honorable Court recognized in its Entry of March 22, 2018 denying dismissal of the charge against the Defendant for alleged speedy trial violations:

"In this case, the Court finds the State made reasonable efforts to extradite the Defendant almost immediately. United States v. Vasquez-Uribe, 426

F. v.   
 Fed. Appx. 131, 138 (3d Cir. 2011). Within a month of the alleged date of the murder, the State began pursuing all avenues to extradite the Defendant. To wit, on April 12, 2007, the State penned a letter to United States Marshal, Peter Elliott, indicating the information it had learned regarding the Defendant's location. In that epistle, the prosecutor acknowledged the status of the law in Brazil preventing extradition. However, the State indicated that it would pursue all means necessary to effectuate the extradition\*\*\*Since April 12, 2007, according to the evidence before this Court, the State has zealously pursued each and every opportunity for extradition of the Defendant in effort to bring her to trial.”

As the Court is aware, the unique circumstances of the Defendant's case and in the Court's words, the prosecutor's office “pursuing all avenues to extradite the Defendant,” brought about the direct involvement of the Trumbull County Prosecuting Attorney in the negotiations between the United States and Brazil. Since treaties between the United States and foreign governments fall under the Supremacy Clause of Article VI of the Constitution, their application to the States, including Ohio, must be considered and weighed. Our commitment to the United States and Brazil, which deals with sentencing, must be within the county prosecutor's authority under Ohio law, and at the same time, be made without offending federal law. It also should be made honestly and with openness so Brazil and the world will know our promises are good. With that, the United States of America speaks with one voice in international relationships. We will later outline that commitment with relevant attachments as Exhibits in this matter.

First, the Court carefully managed a difficult case which lasted appropriately 1 year. It heard many motions and conducted significant hearings regarding various issues including Speedy Trial rights and Suppression of evidence. It then conducted an eight (8) day jury trial with 16 witnesses and some 93 State's Exhibits as well as Exhibits of the defense, where a jury returned a guilty verdict on the charge against her after approximately three (3) hours of deliberations. This jury quickly rejected the notion that the Defendant was guilty of any lesser

offenses of murder or voluntary manslaughter. Furthermore, the Defendant chose to testify and tell a third version of a story that never made any sense. Thus, the State views the evidence as overwhelming and shows the Defendant committed a planned and brutal murder of her husband who was a sitting duck shot down in cold blood in his own home.

She took off for years and avoided justice for nearly twelve (12) years. She has never taken any responsibility for what she has done. She has instead blamed everyone else from the officials of the United States Government and the officials of the Brazilian Government to the local officials including prosecutors, defense attorneys, courts and even the jail personnel who housed her because of her own bad behavior. She further exacerbated her own predicament by filing pro se documents in Federal District Court and this Court which were filled with falsehoods and rife with vindictiveness towards most everyone, including the victim's family, secretaries who type transcripts, and even her own retained expert witness. Not one witness testified on her behalf. The reason is simple, she's guilty, and the evidence alone led a jury to convict her. The evidence alone led her to flee the United States. The evidence alone led the country of Brazil to extradite her.

This case, in the final analysis, has absolutely nothing to do with nationality. It has everything to do with immoral and criminal behavior that all civilized nations of the world work together to recognize as wrong and in American terms, some would simply say "thou shall not kill." If you murder someone in the United States, you should be tried in the United States. If you murder someone in Brazil, then you should be tried in Brazil. At no time has this Defendant really accepted full responsibility for what she has done. Her reckoning for punishment has been

put off to the last chapter in one long and disgusting book about narcissism, unnecessary violence and escaping justice.

As the Court is aware, the Defendant has from the beginning, never sought to negotiate to reach a plea agreement. Regarding the State's position on plea and sentence in this matter, the record establishes that on September 6, 2018, defense counsel inquired what plea offer could they take to the Defendant to resolve this case. The State told the defense that the prosecution would recommend a sentence of twenty (20) years to life imprisonment after serving a consecutive three (3) year mandatory sentence for using a firearm in her offense for a total of twenty-three (23) years to life imprisonment with parole eligibility after serving twenty-three (23) years in prison, and the Defendant would be given credit for time served from April 20, 2016 when she was arrested in Brazil. Further, the State would separately and in writing following sentencing, notify the Ohio Parole Board that the State would oppose the Defendant's release until she has served 30 full years in prison reduced by the time incarcerated in Brazil. This letter would be a recommendation supporting parole. There is not authority under Ohio law for a county prosecutor or judge to guarantee any inmate's release date where a life sentence is imposed. Under law only the Ohio Parole Board or Governor of Ohio can make the actual determination following their own guidelines when an inmate will be paroled from prison. This offer was immediately rejected by the Defendant.

Thereafter, the State proceeded to prepare for trial throughout this time period. This Defendant afterwards never made any effort to accept responsibility for her crime instead she made every effort to undermine or delay her trial in this matter by inappropriate filings in both this Court and Federal District Court (e.g. thirteen (13) page filed December 5, 2018 titled

“Subject: Pretrial Issues Not Being Addressed by Counsel or by Judge Andrew Logan”).

Throughout her onslaught of pro se filings, she viciously attacked the victim, the victim’s family, Trumbull County Sheriff officials and jail employees, federal and Brazilian officials, her own expert witness, her own attorneys, the prosecution team, and the Court.

When the State was approached again by defense counsel about another plea offer on December 28, 2018, the State, having prepared for trial, conferred with the victim’s family, and evaluated the total circumstances at the time (and believing that this Defendant had no genuine interest in accepting responsibility for her actions or pleading guilty to her crime), prepared a written plea offer dated January 2, 2019 which is marked as Exhibit #1 and attached hereto. That offer in relevant part states:

The State and Defendant would jointly recommend a sentence of life imprisonment with parole eligibility after serving twenty five (25) full years. That sentence would be consecutive to and after the imposition of the mandatory three (3) year firearm specification meaning the Defendant’s total sentence would be life imprisonment with parole eligibility after serving twenty-eight (28) full years imprisonment. Additionally the State would oppose parole up to thirty (30) years imprisonment and would argue to the parole board that the Defendant remain incarcerated until thirty (30) years of imprisonment was served.

As with the previous plea offer, the Defendant immediately rejected this offer.

On January 14, 2019 the Defendant’s jury trial began in Trumbull County Common Pleas. The State presented 16 witnesses, and the Defendant alone testified under oath on her own behalf. After short deliberations, she was convicted as charged in her indictment. It is the State’s strong belief that this Defendant changed her testimony and gave false evidence to the jury and absolutely throughout all the proceedings never showed or expressed one ounce of remorse for what she had done to her husband Karl Hoerig. He was ambushed, shot in the back

like a sitting duck in cold blood and left by the Defendant, covered-up with a tarp and bedcover, to rot in his own home, to provide her time to escape to Brazil to start a new life without any consequences. There she enjoyed the freedom of life and liberty by traveling, marrying again, building a home, earning a living until the Brazilian Supreme Court upheld the Brazilian Minister of Justice's decision of 2013 revoking the Defendant's Brazilian citizenship which subjected her, as a United States Citizen, to extradition back to the United States. Following this decision, the Defendant was arrested on April 20, 2016 and placed in custody but she still continued appealing the ruling and fighting her extradition back to the United States.

TRUMBULL COUNTY PROSECUTING ATTORNEY  
DENNIS WATKINS'  
ASSURANCES TO THE COUNTRY OF BRAZIL

Following the historic 2016 decision of the Brazilian Supreme Court holding that native Brazilian Claudia Hoerig was subject to extradition back to the United States as an American citizen, the Defendant continued to appeal and delay any return to the United States to stand trial. On March 28, 2017, Brazil's Supreme Court reaffirmed its decision to extradite Hoerig. However, under the ruling and the law of Brazil, two additional steps remained prior to her surrender to the United States: First, an appeal by Hoerig for the sole purpose of clarifying the ruling, and second, the final decision which will be made by the Brazilian Executive Authority (President and Minister of Justice) as to whether Brazil, after considering all the circumstances, will in fact surrender her to the United States for prosecution.

On March 29, 2017, Trumbull County Prosecutor Dennis Watkins received an unannounced long distance phone call from Vladimir Aras, Federal Appellate Prosecutor, Head of International Cooperation Unit (SCI) Office of the Brazilian Prosecutor General (PGR Mr.

Rodrigo Janot). Mr. Aras informed Prosecutor Watkins that he was calling him directly on behalf of the Brazilian government concerning the Brazilian Supreme Court ruling, its conditions, and the possible extradition of Claudia Hoerig back to the United States and Ohio for prosecution. This phone conversation lasted approximately 30 to 40 minutes and dealt with two main issues: (1) that Claudia Hoerig receive credit for time served while in jail in Brazil pending her extradition to the United States, and (2) that she not be subject (in Ohio under its laws) to the death penalty, or life imprisonment. Mr. Aras informed Prosecutor Watkins that the Brazilian Supreme Court decision providing a “no life imprisonment” condition from the United States in order to go forward with her extradition meant that she was to serve a maximum of 30 years in prison for the murder of Karl Hoerig (which was in fact a Brazilian law provision applied to persons prosecuted in Brazil for the crime of murder when committed there).

Prosecutor Watkins informed Mr. Aras that Claudia Hoerig would be given credit for all time spent in Brazilian jail pending her return to the United States. However, with respect to the second issue, Prosecutor Watkins made it clear to Mr. Aras, that despite of some public reports in Brazil, Claudia Hoerig’s indictment of aggravated murder was not a capital offense under the law of Ohio. He was further assured that the original indictment against her would not change with her return to Ohio and that no new charges would be added by the State of Ohio. Aras was also told that under Ohio law, if convicted, she most certainly would face, some form of life sentence. It was further explained to him, under the Constitution of the United States and the established principle of federalism we have lived by over 200 years, we have a system of dual sovereignty in this country. Ohio and all of the other states (49 of them) have separate state criminal justice systems from that of the federal government. Therefore, Ohio has laws different



from all the others which in effect protects all citizens from too much authority in the hands of one centralized government. Additionally, it was explained to Mr. Aras that once a person is convicted in Ohio for aggravated murder or murder and is given an indeterminate life sentence in a state prison, the local prosecutor and common pleas court lose jurisdiction over the case as to parole and the release of a defendant. Therefore, as an absolute fact no prosecutor or court could guarantee a flat 20 or 30 year sentence under Ohio law. The only crime in Ohio which could get Claudia Hoerig a definite sentence would be Voluntary Manslaughter which would provide a maximum of 11 years of imprisonment.

Prosecutor Watkins told Mr. Aras “that I, as an elected prosecutor for Trumbull County, would violate my oath of office to offer Voluntary Manslaughter to Hoerig under the known evidence.” It would, in effect, benefit defendants who run from justice more than those who stay and have their day in court where they committed the crime. Mr. Aras seemed to understand the fairness of this policy and why as prosecutors, we were unable to provide any guarantee as to the sentence for aggravated murder. However, it was presented to him, that under the circumstances (Claudia Hoerig’s crime, her age, and lack of a criminal history) that she could receive a sentence where she would be eligible for parole within the 30-year period. It was again emphasized to him that “eligibility for parole” means an opportunity to be released as determined by the Ohio Parole Authority or the Governor of Ohio. There is no guarantee. Prosecutor Watkins emphasized to him that some defendant’s serving life sentences in Ohio and including Trumbull County have been in fact released from Ohio prisons after serving 30 or less years by the Ohio’s parole board. This is especially true if a “person who has no criminal background and

has shown good behavior while in prison...” See Watkins’ letter to Aras marked as Exhibit #3 and attached hereto.

Mr. Aras was told that the Trumbull County Prosecutor’s Office would be willing to recommend a sentence which provided for parole eligibility in 30 years or less if this could help negotiate a return of Hoerig to Ohio. Mr. Aras was also told that the trial judge in this case, Judge Andrew Logan, would decide, in his own discretion, under Ohio law, what form of life sentence she would receive. Aras was told that Judge Logan was experienced, very fair judge, and generally followed joint recommendations of the prosecutor and defense counsel regarding sentences.

At all times, Mr. Aras understood that he would have to deal with the United States Government officials, who have been working on Defendant’s extradition for many years, on behalf of Trumbull County and Ohio. During the conversation between Mr. Aras and Prosecutor Watkins, Aras made it clear that he could not promise anything, and that if the extradition details could not be worked out between the countries, then the only available recourse for Trumbull County would be to have Claudia Hoerig prosecuted in Brazil. Aras said he would get back to the Trumbull County Prosecutor’s Office by e-mail me regarding the telephone conversation. See Aras’ e-mail of March 29, 2017 1:44 p.m marked as Exhibit #2 and attached hereto.

Shortly thereafter, the prosecutor’s office received an e-mail from Mr. Aras and after reviewing the e-mail, one paragraph and one sentence in that e-mail appeared to leave some hope that a compromise may be obtainable through continued negotiations by the United States State Department and the United States Justice Department’s Office of International Affairs with their Brazilian counterparts. It read:

She is now entitled to an appeal called “embargos de delaracao” (an appeal for the sole purpose of clarifying the ruling). After that, the Ministry of Justice will decide on the surrender, considering the conditions imposed by the Supreme Court: 30 years in prison maximum (under section 75 of the Brazilian Criminal Code and Article 5 of the Constitution). In my view, this condition is compatible with a longer sentence with the right to parole after 30 years in prison.

Exhibit #2. (Emphasis added)

Following Mr. Aras e-mail on Thursday, March 30, 2017, Prosecutor Watkins e-mailed Mr. Aras a letter about their conversation and his e-mail to the Trumbull County Prosecutor’s Office. In this two (2) page letter an effort was made to explain “...my concerns (Prosecutor Watkins) and a possible accommodation by my office which may meet your conditions and serve the interests of both the United States (and Ohio) and Brazil and resolve this case with Ms. Hoerig’s extradition to Ohio.” See Exhibit #3.

After the March 2017, Brazilian Supreme Court decision allowing Ms. Hoerig’s possible extradition to the United States and the further communication between Brazil and the Trumbull County Prosecutor’s Office, activity markedly increased between the Prosecutor’s Office and the United States Government about her extradition (It is noted that a great deal of work and effort was put forth by various federal officials including Congressman Tim Ryan and others between 2007 and 2018 covering three different Presidential Administrations-the Prosecutor’s Office, victim’s family and friends and citizens of Trumbull County are forever grateful for all who helped along the road to justice.)

The Prosecutor’s Office especially appreciated the trip to Trumbull County by John M. Gilles, Associate Director, Office of International Affairs, Criminal Division, U.S. Department of Justice and Tom Heinemann of the United States State Department on April 27, 2017 to meet

with Prosecutor Watkins to work out details about assurances which could reasonably put forward to hopefully finalize Ms. Hoerig's possible rendition to the United States and Ohio. This cooperation continued throughout the spring and summer of 2017.

Then in the fall of 2017, the Brazilian Supreme Court held that in all respects that Defendant Hoerig was a United States citizen subject to extradition, and dismissed the case effectively leaving her with no other legal remedy. On September 15, 2017 at 12:25 p.m., John Gilles wrote Prosecutor Watkins regarding what the United States Government response should be when Brazil request assurances regarding possible penalties she would face once returned to Ohio. Mr. Gilles proposed the following language for the prosecuting attorney's approval:

HOERIG will not be sentenced to death or unalterable term of life imprisonment. If HOERIG is convicted, within the limits of the United States constitutional system and applicable legal framework, the relevant prosecutorial authority has committed to take all reasonably available steps to satisfy the assurance requested by the Brazilian Supreme Court that HOERIG will serve no more than thirty years' imprisonment, including by seeking a sentence that makes her eligible for parole in 30 years or less and by supporting such parole being granted.

See September 15, 2017 e-mail of John Gilles on Assurances, marked as State's Exhibit #4 and attached hereto.

Prosecutor Watkins approved these assurances which were given to the Country of Brazil pursuant to the Extradition Treaty between the United States and Brazil and which appears to have influenced or led Brazil through its President Michael Temor and Minister of Justice to effectuate on January 17, 2018 Claudia Hoerig's transfer and rendition to the United States to stand trial in Ohio. State's Exhibit #4.

Under the Constitution of the United States Article VI in relevant part it states: "This Constitution, and the Laws of the United States which shall be made pursuance thereof; and all

Treaties made, or which shall be made, under the Authority of the Unites States shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, and Thing in the Constitution of Laws of any State to the Contrary notwithstanding.” With this in mind Trumbull County Prosecutor Dennis Watkins on March 9, 2018 received, by e-mail and FedEx, a letter from Vaughn A. Arg Director, by John N. Blum Trial Attorney, Office of International Affairs, U.S. Department of Justice captioned re: Extradition from Brazil of U.S. Citizen Claudia Hoerig; OIA Reference Number: 95-100-17538 which outline the agreement not to prosecute the Defendant for any offenses other than the specific offense for which she was extradited, to wit: Aggravated Murder. As agreed by the Trumbull County Prosecutor’s Office, the following additional assurances were provided to the Government of Brazil:

Hoerig will not be sentenced to death or an unalterable term of life imprisonment. If Hoerig is convicted, with the limits of the United States constitutional system and applicable legal framework, the relevant prosecutorial authority has committed to take all reasonably available steps to satisfy the assurance requested that Hoerig will serve no more than thirty years’ imprisonment, including by seeking a sentence that makes her eligible for parole in 30 years or less and by supporting such parole being granted.

See: March 9, 2018 signed letter from John N. Blum, Office of International Affairs marked as Exhibit #5 and attached hereto.


This is the same language sent to the Prosecutor’s Office by John Gilles on September 15, 2017.

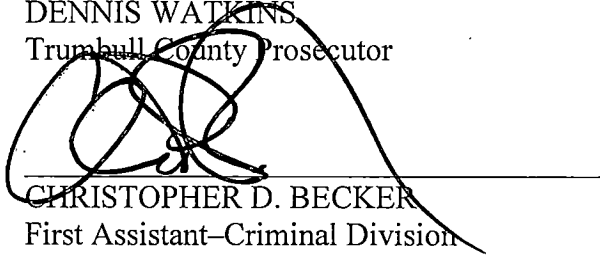
In short, the Trumbull County Prosecutor’s Office believes it has and will take “all reasonably available steps to satisfy the assurance(s)” in this matter including writing a letter to the Ohio Parole Board supporting the Defendant’s release upon serving 30 years in prison.

Therefore, and in conclusion, for the above-given reasons, the Trumbull County Prosecutor's Office recommends that on the Aggravated Murder conviction with a Firearm Specification in this matter that:

- 1) Defendant Claudia C. Hoerig be sentenced to life imprisonment with parole eligibility after serving twenty-five (25) full years;
- 2) That said sentence would be consecutive to and after the imposition of the mandatory three (3) year firearm specification meaning the Defendant's total sentence would be life imprisonment with parole eligibility after serving twenty-eight (28) full years;  
**and**
- 3) That said Defendant receive credit for time served pursuant to her indictment and extradition proceedings in Brazil from April 20, 2016 to February 8, 2018.

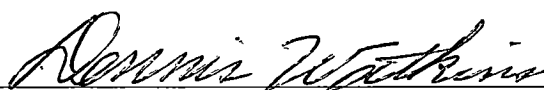
Respectfully submitted,

  
DENNIS WATKINS  
Trumbull County Prosecutor

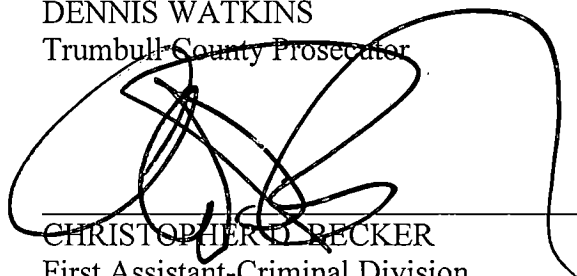
  
CHRISTOPHER D. BECKER  
First Assistant-Criminal Division  
Trumbull County Prosecutor's Office  
160 High Street, NW 4<sup>th</sup> Floor Admin. Bldg.  
Warren, OH 44481

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing State's Sentencing Memorandum was hand delivered to Attorneys John R. Cornely and David T. Rouzzo at the Trumbull County Branch of the Office of the Ohio Public Defender at 112 E. Market Street, Warren, OH 44481 this 7<sup>th</sup> day of February, 2018.



DENNIS WATKINS  
Trumbull County Prosecutor



CHRISTOPHER D. BECKER  
First Assistant-Criminal Division  
Trumbull County Prosecutor's Office

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*Chief-Juvenile Division*  
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## DENNIS WATKINS

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January 2, 2019

David T. Rouzzo, Esq. & John Cornely, Esq.  
Office of the Ohio Public Defender  
112 East Market Street  
Warren, Ohio 44481

Via Email

Re: State v. Claudia Hoerig, 07-CR-269

Dear Counselors:

On Friday, December 28, 2018, you contacted First Assistant Chris Becker and inquired about a formal plea offer in the above styled case. As you are aware the State made an offer for the Defendant to plead to the indictment in the chambers of Judge Andrew D. Logan on September 6, 2018. That offer was rejected as indicated by your statements at the time and on the record at the September 6, 2018 pretrial.

At this time the State would be willing to offer the following plea: The Defendant would plead to the indictment charging her with Aggravated Murder in violation of section 2903.01(A)&(F) of the O.R.C. and the three year firearm specification in violation of section 2941.145 of the O.R.C. The State and Defendant would jointly recommend a sentence of life imprisonment with parole eligibility after serving twenty five (25) full years. That sentence would be consecutive to and after the imposition of the mandatory three (3) year firearm specification meaning the Defendant's total sentence would be life imprisonment with parole eligibility after serving twenty eight (28) full years imprisonment. Additionally the State would oppose parole up to thirty (30) years imprisonment and would argue to the parole board that the Defendant remain incarcerated until thirty (30) years of imprisonment was served.

This offer will remain open until the conclusion of the pretrial on Thursday, January 10, 2019. If you have any questions regarding this matter please do not hesitate to contact me at (330) 675-2426.

Very truly yours,

Dennis Watkins  
Prosecuting Attorney  
Trumbull County, Ohio

**CONFIDENTIAL**





**Joyce Hoffman**

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**From:** Vladimir Aras - PRR (PGR) [REDACTED]  
**Sent:** Wednesday, March 29, 2017 1:44 PM  
**To:** Prosecutor  
**Cc:** Geórgia Diogo (PGR); Ludmila Arantes Hugo Freire (PGR)  
**Subject:** Claudia Hoerig case

Dear Mr. Watkins,

Thank you for taking my call.

As I told you over the phone, I will provide you with a copy of the Brazilian Supreme Court ruling as soon as I get it.

Mr. Rodrigo Janot is Brazil's Attorney General and he is in charge of this subject. I am a federal circuit prosecutor responsible for international cooperation matters within his Office (Procuradoria-Geral da Republica). He has delivered his opinion in favor of US extradition request. As you already know, the Supreme Court granted this request to surrender Ms. Hoerig.

But there two more steps to go before she can face trial in Ohio.

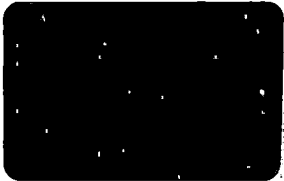
She is now entitled to an appeal called "embargos de declaração" (an appeal for the sole purpose of clarifying the ruling). After that, the Ministry of Justice will decide on the surrender, considering the conditions imposed by the Supreme Court: 30 years in prison maximum (under section 75 of the Brazilian Criminal Code and Article 5 of the Constitution). In my view, this condition is compatible with a longer sentence with the right to parole after 30 years in prison.

If this is not possible under Ohio Constitution, we can prosecute her in Brazil according to the principle "extradite or prosecute" ('extraditare vel iudicare').

Let's wait for the next steps while we try to find a proper solution.

Best regards,

**Vladimir Aras**  
Federal Appellate Prosecutor  
Head of the International Cooperation Unit (SCI)  
Office of the Brazilian Prosecutor General (PGR)  
Email: [REDACTED]  
Twitter: [REDACTED]  
Phone: [REDACTED]  
Cell phone: [REDACTED]  
Website: [REDACTED]



ran Hively

Vladimir Aras - PRR (PGR)  
RE: Claudia Hoerig case

To:  
Subject:

FROM: DENNIS WATKINS, Trumbull County Prosecutor - [Prosecutor@co.trumbull.oh.us](mailto:Prosecutor@co.trumbull.oh.us)  
SENT: Thursday, March 30, 2017  
TO: VLADIMIR ARAS, Federal Appellate Prosecutor - [REDACTED]  
SUBJECT: CLAUDIA HOERIG CASE

Dear Mr. Aras:

Thank you for calling me yesterday regarding Claudia Hoerig. It was truly appreciated and informative. On behalf of all the citizens of Trumbull County I serve and the victim's family, we applaud the great work done by Attorney General Rodrigo Janot's office in this matter and the latest ruling of Brazilian Supreme Court.

I await a copy of the opinion once you get it. I further understand that there are two more steps before she can face trial in Ohio as you have outlined in your e-mail to me: (1) Claudia Hoerig's right to appeal and obtain a clarification of the ruling, and (2) a determination by the Ministry of Justice as to whether to surrender Ms. Hoerig in light of the conditions imposed by the Supreme Court.

Specifically regarding Brazil's sentencing condition, you write: "30 years in prison maximum (under section 75 of the Brazilian Criminal Code and Articles of the Constitution). In my view, this condition is compatible with a longer sentence with the right to parole after 30 years in prison."

As I spoke with you on the phone on this issue, I would like to give you my concerns and a possible accommodation by my office which may meet your conditions and serve the interests of both the United States (and Ohio) and Brazil and resolve this case with Ms. Hoerig's extradition to Ohio.

First, I would mention that under Ohio law, the aggravated murder indictment returned against Ms. Hoerig is not a death penalty case. Second, in this case, she should receive credit for time served from the time she was arrested and jailed or imprisoned in Brazil.

Regarding the penalty for aggravated murder in Ohio, Ohio Revised Code Section 2929.03 provides the following possible sentences: (1) Life imprisonment without parole; (2) Life imprisonment with parole eligibility after serving twenty (20) years of imprisonment; (3) Life imprisonment with parole eligibility after serving twenty-five (25) full years of imprisonment; and (4) Life imprisonment after serving thirty (30) full years of imprisonment. Under Ohio law, the trial judge gives the sentence after a conviction at trial or plea of guilty. The judge also has discretion as to which life sentence option is imposed.

In the Claudia Hoerig case as I know the evidence to show it is very likely that she would not be entitled to a lesser included offense to jury instruction other than murder under Ohio law. Of course, one never knows for sure these things until the case is actually tried. I would note that under Ohio law a defendant convicted of the lesser offense of murder, would still receive a life sentence of 15 years to life with parole eligibility after serving 15 years in prison (there would be some good time credit as there would be in an aggravated sentence of twenty years to life).

Further, I would tell you that throughout my long career as prosecutor, I have never offered manslaughter to any defendant in similar circumstances (I have been Trumbull County's elected prosecutor since 1984 and have tried 45 murder cases to juries). Under Ohio law there are no comparable provisions to Brazil's law where a court could give a definite sentence of 30 years or even 20 years in prison for homicide. The crime of voluntary manslaughter in Ohio



provides a maximum penalty of 11 years in prison. Therefore under Ohio law and the law and evidence in the Hoerig case, I am duty bound as a public prosecutor to act in good faith and enforce the law as I see the facts. This is no manslaughter case.

Therefore, hopefully in comity and with mutual respect for each other's separate criminal justice systems, we can find a way to end this long legal journey to justice which has gone on for more than ten (10) years.

Here is what I can do in good conscience and serve the people of Ohio and my oath of office. If Brazil would extradite and release Claudia Hoerig to United States authorities, I would, in writing and in motion, go to the Trumbull County Common Pleas Court and drop and not seek in this case a life without parole sentence even if she would decide to assert her constitutional right to have a jury trial hear her case. Therefore, under all circumstances, if she would be returned to Ohio, she would be guaranteed of being eligible for parole after serving 20 years, 25 years or 30 years in prison on the aggravated murder charge ( would note that she also faces a separate 3 year consecutive sentence for using a firearm-I include it in my pledge to guarantee eligibility for parole in 30 or less years in prison.)

Now to the question as to "the right to parole." Under Ohio law anyone who is sentenced to a life sentence, the local judge and prosecutor (i.e. Trumbull County Authorities) lose jurisdiction to decide when the convicted murderer is paroled. Under our law the Ohio Parole Board and Governor of Ohio have exclusive jurisdiction to decide the release date of prisoners serving indeterminate sentences (e.g. 20 years to life, etc.). The parole board looks at everything in determining whether a prisoner is suitable to be released on parole. I can tell you that having argued many cases over the years to the parole board, that many times a person who has no criminal background and has shown good behavior while in prison, is released within the 30 years period. I am including aggravated murder cases.

Therefore, I hope my offer to you is considered. In closing, I want you to understand that whenever I or my office staff of attorneys take on a criminal case, it does not matter where a person is arrested, or what nationality, race or religion they may have, we simply apply the law to the facts before us. We do not favor or discriminate in our decisions. For us to have credibility with the public (and sleep at night) equal treatment for all is not only a goal, it is a mission. Some might say that the world should have one law for all. Who's law, yours or mine? Until that day, we need to respect each others laws and customs.

I hope my response is not too long for you. I know some of my judges find me too windy (talkative). Thanks, hope to hear from you.

Best Regards,

DENNIS WATKINS  
Trumbull County Prosecuting Attorney

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**From:** Vladimir Aras - PRR (PGR) [mailto: [REDACTED]]  
**Sent:** Wednesday, March 29, 2017 1:44 PM  
**To:** Prosecutor  
**Cc:** Geórgia Diogo (PGR); Ludmila Arantes Hugo Freire (PGR)  
**Subject:** Claudia Hoerig case

Dear Mr. Watkins,

Thank you for taking my call.

As I told you over the phone, I will provide you with a copy of the Brazilian Supreme Court ruling as soon as I get it.

Hi, Dennis. As we just discussed on the phone, senior State Department officials from our Embassy in Brasilia are meeting today with Brazilian authorities to discuss a number of matters, including the current status of Claudia Hoerig's extradition to the United States. Although Brazil has not yet sent us their standard request for assurances (e.g., no death penalty, no life sentence, no sentence greater than 30 years), the U.S. Department of State and U.S. Department of Justice have drafted the following proposed response for your review, comments, and concurrence so that we will be ready to respond immediately when we receive the assurance request from Brazil; the most relevant portion is highlighted below in yellow).

[Complimentary opening] refers to Diplomatic Note \*\*, dated \*\*, which informed the Embassy that CLAUDIA HOERIG is ready to be returned to the United States on the condition that the United States provide the assurances required by Article 91 of Brazil's domestic law, as well as additional assurances related to sentencing. The Government of the United States of America hereby refers to Embassy's note No. 279, dated July 23, 2009, which assures the Government of Brazil of the commitments and actions taken by the United States with respect to all extraditions from Brazil to the United States and the manner in which they accord with the provisions of Article 91, Law 6.815 of August 18, 1980, modified by Law 6.864/81. Accordingly, in the event that HOERIG is found guilty, any prison sentence will be reduced by the amount the subject was imprisoned pending extradition.

The Government of the United States of America reiterates the fact that the Treaty of Extradition Between the United States of America and the United States of Brazil signed on January 13, 1961 (the "Extradition Treaty"), and the Additional

Protocol signed on June 18, 1962, does not provide a basis for conditioning extraditions on assurances with respect to a maximum term of years. While the United States is not, therefore, obligated to provide the assurances requested, in consideration of the request of the Government of Brazil and given the intentions of the relevant prosecutorial authority, the United States is prepared in this particular case to further inform the Government of Brazil of the following:

HOERIG will not be sentenced to death or an unalterable term of life imprisonment. If HOERIG is convicted, within the limits of the United States constitutional system and applicable legal framework, the relevant prosecutorial authority has committed to take all reasonably available steps to satisfy the assurance requested by the Brazilian Supreme Court that HOERIG will serve no more than thirty years' imprisonment, including by seeking a sentence that makes her eligible for parole in 30 years or less and by supporting such parole being granted.

Just to be clear, this proposed language has not been shared outside of the U.S. government team, so please keep it close hold. We will not give any response to Brazil in this regard without your clearance. As an FYI, I'm copying Tom Heinemann from the U.S. State Department and OIA Associate Director Chris Smith, who leads our office's Litigation and Legal Policy Team. We hope to get a readout later today on how our Embassy's meeting went. I will let you know if I learn of any further developments.

So that you have time to review and consider the proposed language, I'd like to propose that we have a conference call sometime early next week, maybe on Monday. Please let me know if this works for you, and if you have any questions, issues, concerns, etc.

Thanks and have a great weekend!

John M. Gillies



U.S. Department of Justice

Criminal Division

VAA:WHG:FC:JNB:tms

Office of International Affairs

Washington, D.C. 20530

March 9, 2018

**By Email and FedEx**

Dennis Watkins  
Prosecuting Attorney  
Trumbull County, OH  
160 High Street, NW  
Warren, OH 44481

Re: Extradition from Brazil of U.S. citizen Claudia Hoerig; OIA Reference Number: 95-100-17538

Dear Prosecuting Attorney Watkins:

The Government of Brazil has granted the request of the United States for the extradition of Claudia Hoerig and surrendered her to U.S. authorities on January 18, 2018. The specific offense for which extradition has been approved is identified in the enclosed decision *Oficio n° 25403/2017*, dated November 14, 2017, issued by the Brazilian Supreme Court in support of its decision. As the documents are in Portuguese, your office will need to translate them into English.

The specific offense for which extradition has been approved is:

- (1) Aggravated murder.

The detention, trial or punishment of a fugitive extradited from Brazil for any offenses beyond those for which extradition was granted is strictly barred by the Extradition Treaty between the United States of America and the United States of Brazil, signed on January 13, 1961, entered into force in 1964 (the Treaty). The Government of the United States has a legally binding obligation to abide by the provisions of the Treaty, and the Office of International Affairs, Criminal Division, U.S. Department of Justice, is to advise the U.S. prosecutor that as a condition of extradition, (1) the defendant cannot be prosecuted for any offenses other than those approved by Brazil in its extradition decree; and (2) any other conditions of extradition, including obligations to the Rule of Specialty assurances governed by Article 21 of the Treaty, to the effect that the defendant shall not be detained, tried, or punished for any offenses other than those for which extradition was granted. Please contact me if you have questions about the application of the Rule of Specialty or any of its exceptions. Your office is not authorized to

proceed in any fashion against Hoerig in reliance upon any of the exceptions to the Rule of Specialty without first consulting with OIA.

As agreed to by the Trumbull County Prosecutor's Office, the following additional assurances were provided to the Government of Brazil:

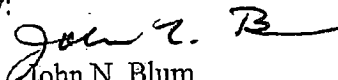
Hoerig will not be sentenced to death or an unalterable term of life imprisonment. If Hoerig is convicted, within the limits of the United States constitutional system and applicable legal framework, the relevant prosecutorial authority has committed to take all reasonably available steps to satisfy the assurance requested that Hoerig will serve no more than thirty years' imprisonment, including by seeking a sentence that makes her eligible for parole in 30 years or less and by supporting such parole being granted.

Please do not hesitate to contact our office if you have any questions.

Sincerely,

Vaughn A. Ary  
Director

By:

  
John N. Blum  
Trial Attorney

Enclosures:

1. Oficio n° 25403/2017, dated November 14, 2017, from the Brazilian Supreme Court