



DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, DC 20310-2200



REPLY TO
ATTENTION OF

February 2, 1990

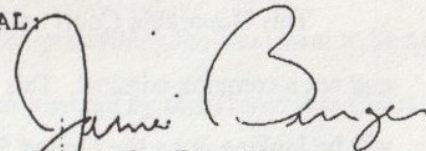
General Manuel Antonio Noriega
15801 Southwest 137th Avenue
Miami, Florida 33177

Dear Sir:

It is the policy of the United States to accord all regular foreign military personnel captured during hostilities the basic protections of the Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, TIAS No. 3364 ("Geneva Convention"). Pursuant to that policy, I have been appointed to oversee your detainment to ensure that it is in accordance with the relevant provisions of the Convention. I am a commissioned officer of the United States Army holding the rank of Colonel. Under Article 39 of the Convention, I am, under the direction of the United States Government, responsible for application of the provisions of the Convention in this facility.

With this letter I have provided you with copies of the Geneva Convention in your native language. You may contact me through Bureau of Prisons personnel, who have been instructed to respect the relevant terms of the Convention, and to bring to my attention any written or oral complaints you may have concerning your detainment. I have authority to ensure that you receive the benefit of the relevant protections of the Geneva Convention.

FOR THE JUDGE ADVOCATE GENERAL:


James A. Burger
Colonel, U.S. Army
Judge Advocate General's Corps.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

vs

GENERAL MANUEL A. NORIEGA,

Defendant.

CASE NO: 88-79-CR-HOEVELE

SENTENCE MEMORANDUM

Pope Pius XII once said:

The treatment of prisoners of war and of the civilian population of occupied areas is the most certain measure and index of the civilization of a people and of a nation.¹

This Honorable Court needs to weigh the fact that it is sentencing a prisoner of war and not a common criminal. This Honorable Court needs to be aware that the whole world will be looking upon the United States to see the outcome of what may be the first trial of a prisoner of war for a criminal act committed before his capture. The United States has always verbalized its great respect for international law and treaties, and now it is time to act in accordance with its promises and projected public image.

¹ Quoted in H.S. Levie, Protection of War Victims v (Newport, R.I.: Naval War College Press, 1977).

I. GENERAL MANUEL A. NORIEGA CANNOT BE COMMITTED TO THE BUREAU OF PRISONS AS THIS WOULD BE A VIOLATION OF THE SPECIFIC PROVISIONS AND THE GENERAL HUMANITARIAN SPIRIT OF THE GENEVA CONVENTION III

A. Committing General Manuel A. Noriega to the Bureau of Prisons Would Violate Specific Provisions of the Geneva Convention III pertaining to the treatment to be accorded to Prisoners of War

General Manuel A. Noriega is entitled to Prisoner of War status pursuant to the Geneva Convention III. His status has not been put at issue, and no hearing by a competent tribunal has established his status, therefore, Article 5 of the Geneva Convention III applies:

Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.

The Government has objected to such a hearing as not necessary since at this time they do not question General Noriega's Prisoner of War status.

Up until now, General Noriega has been subjected to repeated violations of the provisions of the Geneva Convention prescribing the treatment to be accorded to prisoners of war. These violations have been justified by this Honorable Court as necessary for the orderly conduct of the legal proceedings culminating in the trial of General Noriega.² Those proceedings are now over and with them the concerns for convenient access to the courtroom and defense counsel. Therefore, General Noriega is entitled to treatment in

² United States v. Manuel Antonio Noriega, et al., 746 F.Supp. 1506, 1527 (S.D.Fla. 1990).

accordance with the applicable provisions of the Geneva Convention III. General Noriega's inability to secure for himself before and during trial the treatment mandated by the Geneva Convention III in no way waives his right to such treatment:

Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 7, Geneva Convention III.

This Article, although entirely new, is closely linked with the preceding Article, and has the same object--namely, to ensure that prisoners of war in all cases without exception enjoy the protection of the Convention until they are repatriated. It is the last in the series of Articles designed to make that protection inviolable--Article 1 (application in all circumstances), Article 5 on the duration of application, and Article 6 prohibiting agreements in derogation of the Convention.

III International Committee of the Red Cross, Commentary on the Geneva Convention Relative to the Treatment of Prisoners of War, 87, J. Pictet (Ed. 1960).³

³ Howard S. Levie, the prominent international law historian and writer describes the production of the Commentaries as follows:

A number of years ago, the International Committee of the Red Cross (ICRC) produced lengthy, and what have subsequently become authoritative, commentaries with respect to each of the four 1949 Geneva Conventions. [Emphasis added]

"The Status of Belligerent Personnel 'Splashed' and Rescued by a Neutral in the Persian Gulf Area," 31 *Virginia Journal of International Law* 611, Summer 1991, at 613. The editor of the Commentaries, J. Pictet, explains in the foreword at 1,

"Once the [Geneva] Conventions [of 1949] had been drawn up the International Committee of the Red Cross decided to undertake a Commentary. This task was entrusted to members of the Committee's staff who had in most cases been working ever since the end of the last world conflict--and even before--on the revision of the Conventions, and were closely associated with the discussions of the Diplomatic Conference of 1949 and the meetings of experts which preceded it."

Even though he points out that:

"Although published by the International Committee, the Commentary is the personal work of the authors. The Committee moreover, whenever called

In addition, Article 85 provides: "Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall, retain, even if convicted, the benefits of the present Convention."

1. The Geneva Convention III explicitly bans the internment of prisoners of war in penitentiaries

Article 22 of the Geneva Convention III reads in part: "Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries." There is not another provision anywhere in the Geneva Convention III that abridges this right nor is there any registered objection to this clause by the United States at the time of ratification.

2. The treatment of prisoners of war required by the Geneva Convention III cannot be provided by a Bureau of Prisons penitentiary facility, therefore the internment in a penitentiary is banned by implication as well

Article 22 starts, "Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness." Some of the Bureau of Prisons' maximum security facilities, notably at Marion, Illinois, are underground. No doubt the Bureau of Prisons would want General Noriega under maximum security. Such

upon for an opinion on a provision of an international Convention always takes care to emphasize that only the participant States are qualified, through consultation between themselves, to give an official and, as it were, authentic interpretation of an intergovernmental treaty."

The pertinence and scholarly importance of the Commentaries as the most prominent dissertation in the field cannot be doubted, especially in the absence of official statement by the governments involved, even if it would not supersede an official governmental pronouncement to the contrary.

conditions are unacceptable as a violation of the Geneva Convention.

Article 22 continues, "Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate." Maximum security facilities are known to sacrifice some health concerns for the primary purpose of security. This kind of a compromise is not permitted under the Geneva Convention III. In addition, the standard of hygiene is not that required of penitentiaries but is rather that required by public authorities for the civilian population.⁴

Finally, Article 22 provides,

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

The Bureau of Prisons does not place prisoners together according to nationality, language and customs. In fact, it gives no consideration to these factors. The Bureau of Prisons places prisoners together according to the security it determines they will be placed under. In fact, even the conditions which General Noriega is under at M.C.C., a minimum security facility, violate Article 22. The Geneva Convention III clearly guarantees that a prisoner of war will not be treated the same as a criminal of the detaining country.

Article 21 prohibits close confinement:

Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the

⁴ III International Committee of the Red Cross, Commentary on the Geneva Convention Relative to the Treatment of Prisoners of War, 183, J. Pictet (Ed. 1960).

continuation of the circumstances which make such confinement necessary.

The conditions which General Noriega is under at M.C.C., a minimum security facility, violate Article 21, too.⁵ Therefore, what the Bureau of Prisons has done thus far and what they would have to do is prohibited by the Geneva Convention.

In construing the language, "even if convicted," of Article 85 of the Convention, the International Committee of the Red Cross explains that "[prisoners of war] will serve their sentence under the same conditions as nationals of the Detaining Power, but at the same time they will enjoy certain rights under the Convention."⁶ This is a reference to Article 108 of the Convention which asserts:

In any case, prisoners of war sentenced to a penalty depriving them of their liberty shall . . . be entitled to receive and dispatch correspondence, to receive at least one relief parcel monthly, to take regular exercise in the open air, to have the medical care required by their state of health, and the spiritual assistance they may desire. Penalties to which they may be subjected shall be in accordance with the provisions of Article 87, third paragraph.

(See also Articles 34 and 38 regarding religious duties and recreation, study, sports and games). Article 87 proclaims that, "imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden. No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges." (See also

⁵ Howard S. Levie, in Protection of War Victims 332 (Newport, R.I.: Naval War College Press, 1977), explains that with reference to a security problem justification for close confinement,

It is highly improbable that the national security of a Detaining Power would ever be adversely affected by the failure to place in close confinement a single prisoner of war who is already confined behind the barbed wire of a prisoner-of-war camp.

⁶ Commentary on the Geneva Convention Relative to the Treatment of Prisoners of War, 423, J. Pictet (Ed. 1960).

Article 40). These conditions are not guaranteed in standard penitentiaries.

Additionally, the Geneva Convention provides some detailed descriptions of the minimum standards for internment:

Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

It is important to note that the minimum accommodations required are determined by comparison to the armed forces quarters in the vicinity, not to the quarters afforded common criminal nor to the quarters afforded a member of the Detaining Power's armed forces once convicted. However, "it is forbidden to intern prisoners of war in an underground fortress which does not meet the required conditions, even though the forces of the Detaining Power may be billeted there for long periods."⁷ The lighting must be adequate to read and write without difficulty.⁸

Therefore, because the Bureau of Prisons will not and cannot honor the requirements of the Geneva Convention III, General Noriega cannot be interned in one of their facilities, even if there was not the express prohibition against penitentiaries in Article 22 of

⁷ III International Committee of the Red Cross, *Commentary on the Geneva Convention Relative to the Treatment of Prisoners of War*, 194, J. Pictet (Ed. 1960).

⁸ III International Committee of the Red Cross, *Commentary on the Geneva Convention Relative to the Treatment of Prisoners of War*, 432, J. Pictet (Ed. 1960).

Convention.

B. Committing General Manuel A. Noriega to the Bureau of Prisons Would Violate the General Humanitarian Spirit of the Geneva Convention III

"Throughout the Third Geneva Convention there is a *tendance liberale* towards prisoners of war."⁹ As pointed out above, although the prisoner of war is to be tried as would a member of the Detaining Power's armed forces, he retains certain rights that the Detaining Power's armed forces might not have. Several articles of the Geneva Convention illustrate this primary humanitarian purpose, for example, Article 5 extending prisoner of war status until it is decided by a competent tribunal, Article 7 providing for the non-renunciation of rights, Article 13 requiring the basic humane treatment of prisoners and Article 14 adding to that mandatory respect for the person of prisoners, Articles 15, 21, 22, 23, 25, 26, 27, and 28 describing in the detail the minimum required conditions of internment, the right to medical attention guaranteed by Article 30, the right to religious activity guaranteed by Article 34, and the very liberal guarantees with reference to recreation, study, sports and games found in Article 38. Article 83 is especially indicative of this liberal tendency: "the Detaining Power shall ensure that the competent authorities exercise the greatest leniency and adopt, wherever possible, disciplinary rather than judicial measures." In addition, Article 87 provides: "The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed." In

⁹ "Liability of Prisoners of War For Offenses Committed Prior to Capture: The Astiz Affair," *International Comparative Law Quarterly*, Volume 32, October 1983.

addition to eliminating a minimum penalty, Article 87 also provides for a maximum penalty:

Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

This Honorable Court, in sentencing General Noriega, needs to consider the general humanitarian rights embodied in the Geneva Convention III. In general, this Honorable Court must consider that he may not be interned in a penitentiary, and that he must be assured of the rights guaranteed to a prisoner of war serving a sentence, such as internment above ground, in a dry, daylight facility, with opportunities for recreation, medical and spiritual assistance. In addition, special attention must be paid to other special guarantees under the Geneva Convention such as General Noriega's right to wear his uniform complete with designation of rank.

II. THE GENEVA CONVENTION III'S BAN ON MULTIPLE PUNISHMENT FOR ONE OFFENSE PROHIBITS THE SENTENCING OF GENERAL NORIEGA TWICE FOR THE SAME ACT BY PUNISHING HIM ONCE FOR THE SUBSTANTIVE OFFENSE AND SEPARATELY FOR THE VIOLATION OF THE RICO ACT BY THE OFFENSE

Article 86 declares clearly: "No prisoner of war may be punished more than once for the same act or on the same charge." As pointed out in the Commentaries to the Geneva Convention, "[Article 86] embodies a well-known legal principle and its inclusion was approved 'unanimously without comment.'"¹⁰ In comparison with the United States Constitutional (Fifth Amendment) double jeopardy clause, the Geneva Convention's general

¹⁰ III International Committee of the Red Cross, Commentary on the Geneva Convention Relative to the Treatment of Prisoners of War, 427, J. Pictet (Ed. 1960).

ban is broader in scope. While Article 86 prohibits more than one punishment for an "act" or a "charge," the double jeopardy clause of the Fifth Amendment does not encompass "acts," and therefore United States case law has allowed more than one punishment in situations like one offense involving a conspiracy to commit a substantive offense and the substantive offense. Article 86's inclusion of the word "act" makes it a single transaction rule, and therefore, if General Noriega is sentenced for the RICO counts of which he has been convicted, he cannot be sentenced for the substantive counts underlying the RICO offense.

A. There Is Some Doubt in U.S. Caselaw As To Whether Prosecution for RICO and for the Substantive Underlying Offense Violates the Double Jeopardy Clause of the Fifth Amendment

The current caselaw is split on the issue of whether prosecution for RICO and for the substantive underlying offenses violates the double jeopardy clause of the Fifth Amendment. The case of Garrett v. United States, 471 U.S. 773 (1985), held that (1) Congress intended CCE to be a separate offense and to permit prosecution for both predicate offenses and CCE offense, (2) prosecution for continuing criminal enterprise, after earlier prosecution for marijuana importation, did not violate double jeopardy clause; and (3) double jeopardy clause did not bar cumulative punishments for continuing criminal enterprise and underlying predicate offense of importation of marijuana. A later case, however, Grady v. Corbin, 495 U.S. 508 (1990), has led some circuits to believe that Garrett has been overruled. Grady involved a defendant who had pled guilty to misdemeanors of driving while intoxicated and failing to keep to the right of the median. He was subsequently indicted with reckless manslaughter, criminally negligent homicide, and third-

degree reckless assault, based on the same incident which had given rise to misdemeanor charges. The Supreme Court held that the double jeopardy clause bars subsequent prosecution if to establish an essential element of an offense charged in that prosecution, government will prove conduct that constitutes an offense for which the defendant has already been prosecuted. The opinion explains that the purpose of the double jeopardy clause is to protect against multiple punishments for the same offense.¹¹

Some Courts have tried to distinguish *Grady* as involving a "single, discrete act of drunken driving" and not "successive prosecutions in compound-complex felonies such as RICO."¹² The Court in *O'Connor* wrote:

We are not the first circuit to confront the question of whether *Garrett*'s vitality remains undisturbed by *Grady*. Not surprisingly, a number of RICO and CCE appeals followed on the heels of *Grady*. Thus, we are aided in our analysis by recent decisions in several circuits: *United States v. Evans*, 951 F.2d 729 (6th Cir.1991); *United States v. Arnold*, 947 F.2d 1120 (4th Cir.1991); *United States v. LeQuire*, 943 F.2d 1554 (11th Cir.1991); *United States v. Gonzalez*, 921 F.2d 1530 (11th Cir.1991), *cert. denied*, --- U.S. ---, 112 S.Ct. 178, 116 L.Ed.2d 140 (1991); *United States v. Gambino*, 920 F.2d 1108 (2d Cir.1990), *cert. denied*, --- U.S. ---, 112 S.Ct. 54, 116 L.Ed.2d 31 (1991); *United States v. Scarpa*, 913 F.2d 993 (2d Cir.1990); *United States v. Esposito*, 912 F.2d 60 (3d Cir.1990), *cert. dismissed*, --- U.S. ---, 111 S.Ct. 806, 112 L.Ed.2d 1032 (1991); *United States v. Pungitore*, 910 F.2d 1084 (3d Cir.1990), *cert. denied*, --- U.S. ---, 111 S.Ct. 2009, 114 L.Ed.2d 98 (1991); *United States v. Russo*, 906 F.2d 77 (2d Cir.1990). [footnote omitted] With the exception of *Russo*, [footnote omitted] these cases all have reached the conclusion that *Garrett* remains controlling precedent in RICO and CCE cases.¹³

The Court summarily distinguishes *Russo*, but the case is a relevant RICO case:

¹¹ *Grady* at 516.

¹² *U.S. v. O'Connor*, 953 F.2d 338, 342 (7th Cir. 1992), *cert. denied*, 112 S.Ct. 19 (1992).

¹³ *O'Connor* at 341.

In *Russo*, the defendant was acquitted in a RICO prosecution and was later retried and convicted for conduct which had been alleged as a predicate act in the RICO prosecution. *Grady* was decided after the oral argument in *Russo*, and the court directed the parties to submit briefs on *Grady*'s impact on the case. In its brief, the government conceded that the later prosecution was inconsistent with *Grady* and moved to remand for entry of a nolle prosequi. The Second Circuit granted the government's motion.¹⁴

In addition, the Court admits that, "the Tenth Circuit has suggested in dictum that *Grady* does bar successive prosecutions for predicate acts and the RICO offense. See *United States v. Felix*, 926 F.2d 1522, 1527 n. 5 (10th Cir.), *cert. granted*, --- U.S. ---, 112 S.Ct. 47, 116 L.Ed.2d 25 (1991) [Fifth Amendment barred prosecution for conspiracy, manufacturing and possessing with intent to distribute methamphetamine after conviction on a single count of attempt to manufacture methamphetamine].¹⁵ Therefore, the caselaw is not settled yet as to whether the double jeopardy clause of the Fifth Amendment bars prosecution for the underlying predicate acts and the RICO offense or whether the double jeopardy clause is not violated when a complex, conspiracy crime is involved.

- B. Even if the U.S. Caselaw Permitted Separate Punishment for Predicate Acts and Conspiracy Arising From the Same Act, the Geneva Convention, as the Supreme Law of the Land and as an Instrument Intended to Provide Prisoners of War with Uniform Humanitarian Treatment Notwithstanding the Law of the Detaining Power, Forbids Multiple Punishments for One Act

Article 6, paragraph 2 of the United States Constitution states:

This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treatise made under the authority of the United States shall be the supreme law of the land and the judges in every state shall be bound thereby.

¹⁴ *O'Connor* at 341, n.6.

¹⁵ *O'Connor* at 341, n.6.

The Supreme Court in The Paquete Habana, 175 U.S. 677 (1900) at page 700, ruled that a treaty "stands on the same footing of supremacy as do the provisions of the Constitution and laws of the United States. It operates of itself, without the aid of any legislation, state or national; and it will be applied and given authoritative effect by the courts." The Supreme Court reinforced this fact when it held in Asakura v. Seattle, 265 U.S. 332, 341 (1924), that "the construction of treaties is judicial in nature, and courts when called upon to act shall be careful to see that international agreements are faithfully kept and observed..." See Sullivan v. Kidd, 254 U.S. 433, 442 (1921), and Cook v. United States, 288 U.S. 102 (1933).

Therefore, the Geneva Convention III is the United States' supreme law of the land and as such is superior to caselaw interpreting domestic legislation. Accordingly, the Geneva Convention III's prohibition, in Article 86, against multiple punishment for one act must be observed notwithstanding any possible U.S. caselaw against a single transaction rule for its own citizens convicted of a complex, conspiracy-type offense. Hence, General Noriega may be sentenced for either the RICO offense or the substantive underlying offenses but not both.

III. GENERAL NORIEGA CANNOT BE SENTENCED BY THIS COURT BECAUSE THE OFFENSES HE IS CONVICTED OF ARE NOT EXTRADITABLE OFFENSES

Article 85 of the Geneva Convention III states that: "Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention." In interpreting the phrase, "acts committed prior to capture," the International Committee of the Red Cross Commentary

explains:

Lastly, it may be said that, in general, acts not connected with the state of war may give rise to penal proceedings only if they are punishable under the laws of both the Detaining Power and the Power of origin. As a parallel, reference may be made to extradition agreements or to the customary rules concerning extradition. An act in respect of which there could be no extradition should not be punished by the Detaining Power. [Emphasis added]¹⁶

Turning to the extradition treaty between the Republic of Panama and the United States of America, concluded on May 26, 1904, ratified by the President January 20, 1905, Article 2 lists which offenses are extraditable. Article 2 clearly states as follows:

Extradition shall be granted for the following crimes and offenses:

1. Murder
2. Arson
3. Robbery
4. Forgery
5. Counterfeiting
6. Embezzlement
7. Fraud and Breach
8. Perjury
9. Rape
10. Willful and Unlawful Destruction or Obstruction of Railroads which Endangers Human Life
11. Crimes Committed at Sea
 - a. Piracy
 - b. Revolt
 - c. Wrongful Sinking

¹⁶ III International Committee of the Red Cross, Commentary on the Geneva Convention Relative to the Treatment of Prisoners of War, 419, J. Pictet (Ed. 1960).

d. Assaults on Board a Ship

12. Crimes and Offenses Against the Laws of Both Countries for the Suppression of Slavery and Slave Trading

13. Bribery

General Noriega was not convicted in the United States District Court of any of the thirteen (13) crimes which are extraditable offenses. Therefore, as a prisoner of war under Article 85 of the Geneva Convention III, he may not be sentenced in the United States District Court unless it is for one of the above enumerated crimes, if he can be sentenced at all.

In addition, Article 5 of the treaty between Panama and the United States clearly prohibits extradition of its own citizens when it states:

"Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulation of this Treaty."

Since General Noriega is in fact a citizen and subject of the Republic of Panama, his extradition is specifically prohibited by this Treaty, which has now been in effect over eight (8) years.

CONCLUSION

This Honorable Court needs to consider the fact that the whole world will be observing the sentencing of this one man because of the international policy consideration involved. If General Noriega's sentence is not in accord with the Geneva Convention III's requirements, it will not only show an inconsistency with the humanitarianism provided in the Geneva Convention III and the respect for it pledged by the United States, it will also serve to lessen the United States' trustworthiness in the eyes of the world. This would surely encourage other nations, insecure then of the United States' commitment, to violate

international accords at their whim. The implications of this Honorable Court's sentencing are monumental due to the historical humanitarian role model the United States has professed itself to be.

Respectfully submitted,

FRANK A. RUBINO, ESQUIRE
Attorney for the Defendant.
2601 South Bayshore Drive
Suite 1400
Coconut Grove, FL 33133
(305) 858-5300
Fla. Bar No: 209171

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to Patrick Sullivan, Assistant United States Attorney, 155 South Miami Avenue, Miami, Florida, this the 1st day of July 1992.

FRANK A. RUBINO, ESQUIRE

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