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Nicaragua: Aleman Loses Immunity

by LADB Staff

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Arnoldo Aleman, erstwhile (1997-2002) president of Nicaragua, has been found guilty of several crimes, the culmination of prosecutorial and political efforts spanning years (see other article, this edition). Aleman had shielded himself with the immunity granted him as a member of the Asamblea Nacional (AN), but that shield was wrested from him on Dec. 12 by the Asamblea on a 47-0 vote.

Those who voted were 38 Frente Sandinista de la Liberacion Nacional (FSLN) legislators and nine members of Aleman's Partido Liberal Constitucionalista (PLC) who are loyal to President Enrique Bolanos, also of the PLC (see NotiCen, 2002-07-18). The 35 other PLC legislators, "Arnoldistas," walked out of the chamber prior to the vote, but left a quorum behind them. Some of the Arnoldista deputies took to the streets to burn tires in protest. They proclaimed Aleman to be equal in stature to former dictator Anastasio Somoza, intending the comparison as an accolade, and then went on to hang in effigy Mariano Suarez, the PLC deputy who cast the decisive 47th vote. Police and soldiers kept the violence to a minimum.

The next day Aleman filed a legal appeal, claiming that while he had lost his shield, he still had his cloak, the immunity he enjoys as a member of Parlamento Centroamericano (Parlacen). The seat is a distinction awarded all former Central American presidents. On Dec. 17, Judge Gertrudis Arias ruled against Aleman, saying that he cannot invoke "double immunity." Aleman did not go to jail; he was sent to house arrest at his private compound, El Chile, 26 km outside of Managua. The decision to force the former president to face justice appears to have overwhelming public support in the capital. La Prensa, the leading newspaper, commissioned a telephone poll in which 77% of respondents supported the legislature's action. The results of the poll are hedged by the fact that most of Aleman's traditional support is in rural areas that the sampling did not reach. Once deprived of his institutional cover, justice was swift for Aleman.

On Dec. 22, still proclaiming his innocence and the incompetence of the courts to try him, Aleman was found guilty, by Judge Ilena Perez, of the crimes of fraud and conspiracy against the state, and, by Judge Juana Mendez, of money laundering, fraud, embezzlement, misappropriation of public funds, and electoral crime (see NotiCen, 2002-04-04). The separate decisions reflect the Nicaraguan legal procedure, which does not employ oral argument in open courtrooms, and which assigned the cases according to which prosecutor filed them. Aleman's attorney said he would appeal.

The Procuradoria General de Justicia said the fraud conviction was for US\$1.3 million bilked from the state-owned television channel, and the money laundering and other convictions involved an as-yet-untold sum that could reach US\$97.2 million, according to prosecutors. Aleman was accused of having stolen this money from his government and hidden it in bank accounts in Panama and elsewhere. But these amounts were not enough to send Aleman to jail. Rejecting the prosecution's petition, Judge Perez sent Aleman home to serve an indeterminate sentence under complex conditions. Judge Mendez did not alter that sentence.

Neither ruling is final under Nicaraguan procedure; an appeal was filed with the Corte de Apelaciones de Managua, which has not ruled. The house arrest was ordered despite pleas from the prosecutors that the gravity of the crimes justified a maximum sentence of 30 years to be served in a penitentiary. El Nuevo Diario, a Managua daily, reported that it had learned, "de manera extraoficial," that the softer sentence had been brokered by President Enrique Bolanos and approved by FSLN leader Daniel Ortega. Bolanos made the deal in return for assurances by PLC deputies that he would be allowed to govern and begin the process of reunification of the ruling party, which has been fragmented by the ongoing campaign to topple Aleman. Twenty-four deputies were reported to have promised to break from the Arnoldista hard-liners, giving Bolanos a large majority within his party.

An unnamed foreign embassy, "whose economic aid has been fundamental," was reported by the paper to have played a significant part in cementing the deal. The source, identified as having participated in the negotiations, said that Bolanos also agreed to Cabinet changes that would put his former adversaries in control of "some ministries and several departmental secretariats. "We raised a series of points, I think six, to be discussed with the president, and I confess that at first the meeting was very tense, but little by little the positions moderated," said the informant.

The resulting deal was designed, said the source, to return control of the Asamblea Nacional to the PLC, which had lost power to a coalition of the FSLN and the minority of PLC members loyal to Bolanos. "We can tell you with total frankness that Dr. Aleman is not going to determine any of the candidates to the Junta Directiva of the Asamblea, and he repeated that many times before he lost his immunity," said the informant, adding that the group was strongly motivated by the substantial gains of political space that the FSLN was able to make because of the debacle within the PLC. The source said these gains were also a concern for the diplomatic delegation that interceded.

Concerns that Aleman might continue to exercise control from home may be at the root of elaborate conditions imposed on his house arrest. He is to be confined to the main house, described as small, and will not be allowed to use the telephone or have visitors in excess of what he would have been entitled to in prison. The house and grounds were inspected by Judge Mendez, the police, and authorities of the Sistema Penitenciario Nacional prior to Aleman's internment, and he will be guarded 24 hours a day by a staff of between 15 and 30 officers.

In lifting Aleman's immunity, deputies may have blown the lid off Pandora's box. On Dec. 27, Judge Mendez asked the Asamblea to lift the immunity of two other PLC deputies, one, David Castillo, for money laundering and electoral fraud, and another, Oscar Moreira, for complicity in the Aleman case. She also said that she was investigating the president of the PLC, Jorge Castillo, and chiefs of Bolanos' election campaign Leonardo Domarriba and Roberto Vassali.

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