

3-16-2005

U.S. States Ordered to Review Cases of Dozens of Mexicans on Death Row

LADB Staff

Follow this and additional works at: <https://digitalrepository.unm.edu/sourcemex>

Recommended Citation

LADB Staff. "U.S. States Ordered to Review Cases of Dozens of Mexicans on Death Row." (2005). <https://digitalrepository.unm.edu/sourcemex/4844>

This Article is brought to you for free and open access by the Latin America Digital Beat (LADB) at UNM Digital Repository. It has been accepted for inclusion in SourceMex by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu.

U.S. States Ordered to Review Cases of Dozens of Mexicans on Death Row

by LADB Staff

Category/Department: Mexico

Published: 2005-03-16

The US government has agreed to review the cases of dozens of Mexican citizens facing the death penalty in nine US states. The majority of the death-row prisoners are being held in California and Texas, but a handful are located in the penal systems in Arizona, Arkansas, Florida, Nevada, Ohio, and Oregon.

In a brief filed before the US Supreme Court on Feb. 28, US President George W. Bush announced that his administration would comply with a 2004 ruling from the International Court of Justice (ICJ) that the rights of the Mexican nationals were violated because they were not allowed access to Mexican consular personnel at the time of their arrest (see SourceMex, 2004-04-14). The right to consular representation is spelled out in the Vienna Convention on Consular Relations, a treaty the US ratified in 1969.

"The United States will discharge its international obligations under the decision of the International Court of Justice," Bush said in a press conference. US Secretary of State Condoleezza Rice later reiterated that commitment during a trip to Mexico City in early March. "We will comply with the CIJ ruling," Rice said in a meeting with members of President Vicente Fox's Cabinet. "[President Bush] has instructed the states to review the cases of the 51 Mexicans on death row."

Shortly after Bush announced his decision to review the cases, however, his administration revealed its decision to withdraw from the convention. In a two-paragraph letter dated March 7, Rice informed UN Secretary General Kofi Annan that the US "hereby withdraws" from the Optional Protocol to the Vienna Convention on Consular Relations. For now, Bush said he has instructed state courts to allow new hearings for Mexicans facing capital punishment on their claims that they were denied meetings with diplomats from their nation.

Bush administration complies with international ruling

The administration's decision to comply with the ICJ ruling came a month before the Supreme Court was scheduled to hear arguments in the case of Texas death-row inmate Jose Ernesto Medellin Rojas, one of five gang members implicated in the murder and rape of two teenagers in Houston in 1993. The high court agreed to hear the case after attorneys for the Mexican government unsuccessfully argued the issue in federal courts in Texas.

In one of those rulings, a US Court of Appeals had ruled that the ICJ's decision did not give Medellin a right to a new hearing under US law. Medellin has challenged his conviction as a violation of due process. Texas authorities have acknowledged that he was never advised that he could seek assistance from the Mexican consul in Houston. Medellin's appeal to the Supreme Court, scheduled to be heard on March 28, has received support from a wide range of interests, including foreign governments, legal-rights organizations, and human rights advocates.

In addition, several former US diplomats have spoken in favor of Medellin's case. As of mid-March, the court had not given any indication of whether the Bush government's decision would affect the hearing scheduled for end of the month. Legal experts say the case presents an interesting test on which branch would have jurisdiction in a matter so closely related to US foreign policy. In filing the brief before the Supreme Court, acting Solicitor General Paul Clement underscored the administration's position that the decision on whether the US complies with international law is the domain of the executive branch and not the courts.

As expected, Medellin's lawyers were pleased with Bush's intervention. "We welcome the president's commitment to ensure that Texas will provide Mr. Medellin the review and reconsideration of his conviction and sentence to which the International Court of Justice ruled that he and 50 other Mexican nationals are entitled," said Medellin's attorney Donald Donovan.

The issue also potentially brings states into conflict with the federal government. Some states like Texas are already claiming that the Bush order violates the concept of state rights, a policy that Bush has championed. "We respectfully believe the executive determination [issued by Bush] exceeds the constitutional bounds for federal authority," said the statement issued by Texas attorney general Greg Abbott.

Conversely, the state of Oklahoma already took unilateral steps to comply with US international obligations. In 2004, Oklahoma Gov. Brad Henry removed Mexican citizen Osvaldo Torres Aguilera from death row, citing the CIJ ruling (see SourceMex, 2004-05-19).

In addition to Torres, five other Mexican nationals have been removed from death row. In the most recent case, the Supreme Court effectively commuted the sentence of three Mexican citizens who were minors at the time of their arrest. In a 5-4 decision on March 1, the court ruled that the execution of anyone who committed a crime when they were under the age of 18 is unconstitutional. The ruling affects 69 persons on death row, including Mexican nationals Martin Raul Fong Soto, Tonatiuh Aguilar, and Oswaldo Regalado Soriano. Fong Soto and Aguilar were facing the death penalty in Arizona and Regalado Soriano in Texas.

While human rights advocates applaud the Bush administration's decision to comply with the ICJ ruling, there is some concern about the administration's future position regarding the death penalty. Critics say this concern is evidenced by the decision to withdraw from the Vienna Convention on Consular Relations.

Political analyst Sanjuana Martinez, who writes a syndicated column for Agencia de noticias Proceso (apro), suggested Attorney General Alberto Gonzales may have had a strong say in the Bush administration's decision to withdraw from the convention. She said Bush, while governor of Texas, often relied on Gonzales' advice in clemency cases involving prisoners on death row. Clemency was almost always denied. "Gonzales is famous in Texas as a staunch defender of the death penalty," said Martinez. (Sources: Notimex, 01/26/05, 03/01/05; El Universal, 03/02/05; Spanish news service EFE, 01/19/05, 03/08/05; La Cronica de Hoy, 03/02/05, 03/08/05; The Dallas Morning News, Associated Press, 03/08/05; The Herald-Mexico City, Los Angeles Times, 03/09/05; The

Washington Post, 03/08/05, 03/10/05; The New York Times, 03/09/05, 03/10/05; The Chicago Tribune, 03/10/05; La Crisis, 03/11/05; Agencia de noticias Proceso, 03/01/05, 03/16/05)

-- End --