

5-16-2007

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U.S. Seeks Extradition of Tijuana Cartel Leader Benjamin Arellano Felix

by LADB Staff

Category/Department: Mexico

Published: 2007-05-16

In mid-May, the US government requested the extradition of notorious drug-cartel leader Benjamin Arellano Felix so that he could be tried in California on charges of drug trafficking. Arellano Felix was considered the brains behind the Tijuana cartel at the time of his arrest in 2002 (see SourceMex, 2002-10-02). Arellano has been held in the maximum-security prison El Altiplano (formerly La Palma) for the past five years.

Even in jail, Arellano has had a major influence on the cartel's operations (see SourceMex, 2005-01-12). Even though the US government only now requested Arellano Felix's extradition, arrest orders had been pending in California since 1989 and 1992. In the first instance, Arellano was accused of conspiracy to import and distribute cocaine in the state of California.

The second arrest order involved charges of cocaine trafficking and money laundering. Arellano Felix is one of the last major cartel leaders in Mexico not yet sent to the US to face trial. If the extradition request is successful, he will follow 15 other major drug traffickers who were sent to the US in January, including Osiel Cardenas of the Gulf cartel and Hector "El Guero" Palma, a key leader in the Sinaloa cartel. The extraditions are part of President Felipe Calderon's comprehensive anti-drug effort launched at the beginning of the year (see SourceMex, 2007-01-24).

Questions arise about delayed paperwork

According to McClatchy News Service, Arellano Felix could have been included in the list of drug traffickers sent to the US in January, but US officials mishandled the paperwork and failed to file an extradition request in a timely manner.

Critics say, however, that the paperwork for Arellano Felix's extradition was delayed on purpose to help prosecutors in California ask for the death penalty against his brother, Francisco Javier Arellano Felix, who was detained off the coast of Baja California in August 2006 (see SourceMex, 2006-09-27).

Benjamin and Francisco Javier presumably would be facing similar charges of drug trafficking, racketeering, money-laundering, and conspiracy. The death penalty is applicable for Francisco Javier because he was taken into custody by US authorities.

Capital punishment could not be sought against Benjamin because the US extradition treaty with Mexico stipulates that any suspect turned over to US authorities not be subject to the death penalty.

"It's my contention that, if Benjamin is extradited here, where he will not face the death penalty, then it weakens their case in regard to the factors that justify the death penalty for the youngest and

less-culpable brother," Francisco Javier's defense lawyer David Bartick told The San Diego Union-Tribune. "If in fact Benjamin was in custody and being prosecuted (here), we would certainly be able to argue that Benjamin is being prosecuted for the same crimes as Javier, and even more, but he's not exposed to the death penalty."

Bartick asked a judge in San Diego to force federal authorities to turn over the extradition request for Benjamin on the grounds that it affected the ability of his legal team to argue against the death penalty for Javier. The judge refused the request. A third Arellano brother, Francisco Rafael, is also in US custody, but he would also not be subject to the death penalty because he was extradited by Mexican authorities in September 2006. Another brother, Ramon, died in a shoot-out in the coastal city of Mazatlan in Sinaloa state in 2002 (see SourceMex, 2002-03-06).

The extradition request for Benjamin Arellano Felix comes one month after a Mexican judge sentenced the Tijuana-cartel leader to five years in prison for arms possession. Other much more serious charges are pending against him, including drug smuggling and organized-crime activities.

Americo Delgado de la Pena, Benjamin's attorney, said he will fight the extradition by questioning the legality of the extradition treaty between Mexico and the US. Mexico's high court (Suprema Corte de Justicia de la Nacion, SCJN) in 2001 ruled that the Mexican government has the authority to extradite Mexican citizens to the US without violating the Constitution (see SourceMex, 2001-01-24).

In 2006, the high court eased the process even further by removing a requirement that US prosecutors not seek a life sentence for any suspect extradited to the US (see SourceMex, 2006-02-22). Delgado said he was planning to present an appeal to delay Arellano Felix's extradition by mid- to late May. Any appeal made to the courts will ultimately go to the Secretaria de Relaciones Exteriores (SRE), which is the entity that will decide whether an extradition will take place. If he is extradited, he will face trial in the same court in San Diego as his brother Francisco Javier.

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