

January 29, 1987

Axel Kleiboemer, Esquire
1850 M Street N. W.
Washington, D. C.

Re: United States v. Armando Fernandez Larios
Criminal Case No. 78-0367

Dear Mr. Kleiboemer:

As a result of recent meetings attended by yourself and several representatives of the Department of Justice, we understand that Armando Fernandez Larios wishes to dispose of the criminal charges in the above-captioned case with a plea of guilty. It is the position of the United States that Mr. Fernandez must plead guilty to Title 18, United States Code, Sections 1116 and 3 - Accessory After the Fact to Murder of an Internationally-Protected Person, which offense carries a maximum penalty of ten years incarceration. The Government agrees that a sentence of no more than seven years incarceration will be imposed pursuant to Rule 11(e)(1)(c) and 11(e)(3) Federal Rules of Criminal Procedure. The United States also believes that a plea to this charge properly reflects criminal conduct in which Mr. Fernandez participated.

Several interviews of Mr. Fernandez have occurred, conducted in your presence by Government attorneys and agents of the Federal Bureau of Investigation. During those interviews and in polygraph examinations conducted in conjunction with them, Mr. Fernandez revealed some of the details of his activities on behalf of the Government of Chile in regard to the killings of Orlando Letelier and Ronni Moffit, including: the identities of those who sanctioned and directed this criminal activity; the identities of others who planned and assisted in the killings of Orlando Letelier and Ronni Moffit; the extent of his personal involvement in the killings of Orlando Letelier and Ronni Moffit; the specific information he was requested to obtain by others involved in this crime; the means by which he acquired this information and passed it to them; and, his knowledge of and involvement in the cover up of this crime by Chilean officials. It should also be noted that the veracity of the foregoing information was, to a certain extent, confirmed through prior investigation and independently obtained information.

In consideration of Mr. Fernandez' guilty plea and the cooperation which he has provided and will continue to provide, the United States is prepared to dispose of the above-captioned case on the following terms and conditions:

1. Mr. Fernandez will voluntarily enter the United States, submit to arrest and place himself within the jurisdiction of the United States District Court for the District of Columbia.

2. Mr. Fernandez will waive indictment and plead guilty to a one (1) count Information, which charges him with Accessory After the Fact to the Murder of an Internationally-Protected Person, violation of Title 18, United States Code, Sections 1116 and 3. As noted above, the maximum penalty for this is 10 years imprisonment but pursuant to this plea agreement, the actual exposure to incarceration will be limited to seven years. The Court is also required to assess the amount of \$50.00 against a defendant for each felony count to which he pleads guilty, pursuant to Title 18, United States Code, Section 3013.

3. This plea agreement is entered into pursuant to Rule 11(e)(3) and (4) of the Federal Rules of Criminal Procedure. Pursuant to Rule 11(e)(3), should the Court accept this plea agreement, it will inform Mr. Fernandez that it will embody in the judgment and sentence the conditions of this plea agreement. Pursuant to Rule 11(e)(4), should the Court reject this plea agreement, Mr. Fernandez will be permitted to withdraw his plea and proceed to trial under the indictment in United States v. Armando Fernandez Larios, Criminal Case No. 78-0367. Mr. Fernandez admits that he is, in fact, guilty of the offense to which he will be pleading guilty and no others.

4. Mr. Fernandez agrees to cooperate with the Government on the following terms and conditions:

(a) Mr. Fernandez shall, upon execution of this agreement and prior to entry of his plea, submit to further interviews by United States Government attorneys and/or agents assisting the attorneys and submit to polygraph examinations if requested by the Government. Mr. Fernandez' failure to be truthful or his knowingly withholding of information concerning the killings of Orlando Letelier and Ronni Moffit or violations of law within the United States will nullify this plea agreement. After entry of his plea and/or imposition of sentence, Mr. Fernandez shall also submit to such further interviews and/or polygraph examinations as are requested by the Government and testify before the Grand Jury investigating this criminal offense and before other United States investigative bodies as required.

(b) Mr. Fernandez shall fully and truthfully respond to all questions put to him by Federal law enforcement authorities. Specifically, he shall fully and truthfully disclose to the Government everything he knows about the nature and extent of Chilean intelligence activities regarding the killing of Orlando Letelier and the cover up of these activities. He shall promptly turn over to the Government any property, documents or information in his possession or subject to his control that in any way reflect any such activities and matters.

(c) As defined in paragraph 4(a) above, Mr. Fernandez shall cooperate completely with Federal law enforcement authorities in any matter as to which his cooperation may be sought.

(d) Mr. Fernandez shall testify fully and truthfully during any Grand Jury, trial or other proceeding in which his testimony is required.

(e) Mr. Fernandez agrees to being held in the custody of the United States Marshals' Witness Security Program and will not seek release upon bond pending sentencing on his plea in this case.

5. In return for the complete fulfillment by Mr. Fernandez of all of his obligations under this agreement, the Government agrees as follows:

(a) At sentencing, the Government will inform the Court of the nature and extent of his cooperation and testimony. Because of the nature of the information Mr. Fernandez has provided and will provide to the Government, it is understood that particular representations concerning his cooperation may have to be made in the Court in camera.

(b) The Government retains full right of allocution at all times and will be free to correct any misstatements of fact at the time of sentencing, including representations of the defendant and his counsel in regard to the nature and extent of Mr. Fernandez' cooperation. The Government and Mr. Fernandez understand that as a matter of law, Mr. Fernandez will receive credit for time he was under detention in connection with the extradition proceedings in this case.

(c) The Government agrees to make known to the Court, should Mr. Fernandez file a motion to Reduce Sentence pursuant to Rule 35 of the Federal Rules of Criminal Procedures, and/or to the Parole Commission, the nature and extent of Mr. Fernandez' testimony and continued cooperation. However, the Government retains full right of allocution in connection with any Rule 35 motion, and/or proceedings before the Parole Commission.

(d) The Government agrees that, other than the offense to which Mr. Fernandez has agreed to plead guilty, he will not be charged with any other violations of Federal criminal law related to his involvement in the killings of Orlando Letelier and Ronni Moffit. Upon sentencing, the Government will move to dismiss the indictment in this case as to Mr. Fernandez, pursuant to Rule 48 of the Federal Rules of Criminal Procedure.

(e) The Government agrees that, upon his entry into the United States, Mr. Fernandez will, within ten (10) days, be brought before the United States District Court for the District of Columbia for arraignment and plea in this case. Thereupon, pursuant to this agreement, he will remain in the custody of the United States Marshals' Witness Security Program until, at least, his sentencing on his plea. Counsel for Mr. Fernandez, family and appropriately-cleared invitees will be allowed reasonable access to Mr. Fernandez in accordance with applicable security procedures. While all proceedings in connection with this case will be in Mr. Fernandez' true name and be open to the public, unless otherwise ordered by the Court, Mr. Fernandez will be placed in the custody and under the protection of the United States Marshals for placement in the Witness Security Program.

(f) Should the Court sentence Mr. Fernandez to a period of incarceration upon his plea in this case, he will be placed at a Government facility consistent with the security requirements of the Witness Security Program. Further, upon his release, the United States will maintain his enrollment in the United States Marshals' Witness Security Program and allow him to apply for travel documents, if he desires, for travel outside of the United States consistent with internal requirements of the Witness Security Program.

(g) The Government also agrees that, it will neither seek to deport Mr. Fernandez from the United States back to Chile nor cooperate in his extradition to Chile. This does not preclude his extradition from the United States to any country other than Chile for criminal activities not the subject of his plea herein. Should Mr. Fernandez be convicted of another crime not covered by this agreement which would subject him to deportation, the Government will be free to seek his deportation.

6. If Mr. Fernandez should fail in any way to fulfill completely each and every one of his obligations under this agreement, then the Government will be released from its commitment to honor any and all of its obligations to him. Thus, for example, if at any time after execution of this agreement Mr. Fernandez should fail to cooperate as required, knowingly withhold evidence or information from the Government or otherwise not be completely truthful with the Government during interviews or in his testimony, then the Government will be free to (i) prosecute him for murder, conspiracy, illegal use of explosives, perjury, false declaration, false statement and/or obstruction of justice; (ii) prosecute him for other offenses, if any, that he has committed; (iii) use against him in all of these prosecutions the information and documents that he himself has disclosed to the Government during the course of his cooperation; (iv) deport him to Chile; and, (v) cooperate in any extradition proceedings.

7. Nothing in this agreement shall be construed to protect Mr. Fernandez in any way from prosecution for perjury, false declaration or false statement, in violation of Title 18, United States Code, Sections 1621, 1623 or 1001, Obstruction of Justice in violation of Title 18, United States Code, Sections 1503, 1505, 1510, 1512 or 1513 or any other offense committed by him after the date of this agreement. The information and documents that he discloses to the Government pursuant to this agreement may be used against him in any such prosecutions.

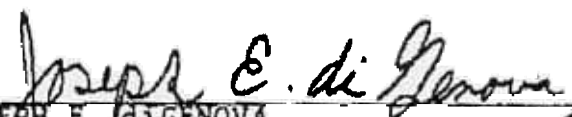
8. Mr. Fernandez waives and agrees to waive any rights concerning the timing of his plea and sentencing, including those under the Speedy Trial Act, and he understands that his sentencing may be delayed at the Government's request.

9. Should Mr. Fernandez at any time author any book or other writing or otherwise provide information for purposes of publication or dissemination, written or oral, he hereby agrees to first submit said book, writing or information to the Attorney General for prepublication review and deletion of information which, in the sole discretion of the Attorney General, is classifiable according to law and which prepublication review the Attorney General will conduct

within a reasonable period of time. Furthermore, at the time of his acceptance of the instant plea offer, Mr. Fernandez agrees to execute an Assignment to the United States of any profits or proceeds which may be obtained by or become payable to Mr. Fernandez, his designees, agents, heirs or assigns in connection with any publication or dissemination, written or oral, describing his employment by intelligence agencies of Chile, his activities on behalf of the Government of Chile or the facts and circumstances leading to his plea in this criminal case. The Assignment is attached hereto as Exhibit A and is incorporated herein by reference. Mr. Fernandez has requested that any such profits or proceeds be distributed by the Government equally to the families of Orlando Letelier and Ronni Moffit.

10. There are no other agreements, promises, undertakings or understandings between Mr. Fernandez and the Government other than those set forth in this agreement.

Very truly yours,

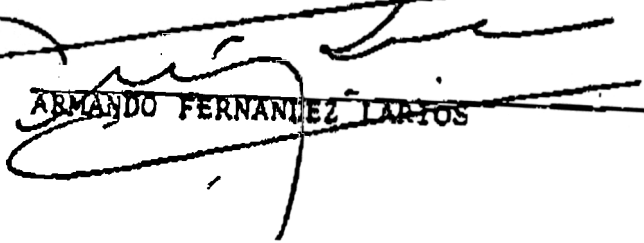

 JOSEPH E. di GENOVA
 United States Attorney


 TIMOTHY J. REARDON III
 Principal Assistant United States Attorney


 DAVID E. GENESSON
 Assistant United States Attorney

I have carefully reviewed every part of this agreement with... my attorney. I understand it and I voluntarily agree to it.

Date: 1/29/87


ARMANDO FERNANDEZ LARIOS

I am Mr. Fernandez' attorney. I have carefully reviewed every part of this agreement with him. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

Date: 1/29/87


AXEL KLEIBOEMER, Esquire
Attorney for Armando Fernandez Larjos

ASSIGNMENT

I, Armando Fernandez Larios, in consideration of my preexisting desire not to profit from the deaths of Orlando Letelier and Ronni Moffit and in consideration of the covenants set forth in the plea agreement in the matter of United States v. Armando Fernandez Larios, Criminal Case No. 78-0367 dated January 29, 1987, do hereby assign and transfer to the Government of the United States of America all of my right, title and interest in any proceeds or profits which may be obtained, received or generated in connection with any book, magazine article, publication, interview, speech, movie, screenplay, theatrical or television production and any other depiction or commercial venture, regarding: (a) any aspect of my employment by the Government of Chile or any entity related thereto; or, (b) any of the facts and circumstances leading to my plea to violation of Title 18, United States Code, Sections 1116 and 3 This Assignment shall be binding upon my designees, agents, heirs and assigns.

Date: 4/29/87



ARMANDO FERNANDEZ LARIOS

Exhibit A