

**In the Matter of the Extradition of
Roberto Guillermo Bravo
Case No. 10-20559 MC**

EXHIBIT D

File Copy, February 14, 2008, from Chief of the Navy
General Staff to the Minister of Defense

Remittance of:

Report by the General Auditor of the Armed Forces

Dated December 5, 1972

“Year of Scientific Learning”
No. 83/08 2205
Letter SGNA. A1E

[Letterhead]
Chief of the Navy General Staff

/seal/
/Defense Ministry/
/ File No.1/

Buenos Aires, February 14, 2008

Madame Minster:

I am writing to you in relation to File MD No. 33627/07 – DDHH No. 626/07 sending to you the records entitled “N.N. REPORT (against the authors of the so called Trelew Massacre of August 22, 1972, on the Zar Naval Airbase, Trelew (that comes from the National Court No. 12, Secretariat No. 24 P.J.N.J.,” File No. 12, folio 122, year 2006, which was processed before the district court in Rawson, Chubut.

Regarding this, I wish to inform you that, the search did not turn up any other antecedents of summary No. 1/72 "S" File GFH 221115/8/72 entitled “Investigation into the actions of military personnel in relation to the attempted escape by the subversive group housed at the ADMIRAL ZAR NAVAL AIRBASE.” That which was already requested by the court's motion Letter [illegible] JEM SFY No. 17/06, dated March 17 of 2006, consisted of a copy of report No. 83 by the General Auditor of the Armed Forces, dated December 5, 1972, a copy of which is attached.

Best regards,

/seal/ [illegible]

/signature/
Jorge Omar Godoy
Admiral
Chief of the Navy General Staff

/stamp/ **33627/C7**
Private Office February 18, 2008
of the Minister of Defense
[illegible] No. 343/08
Date received [illegible]

TO THE MINISTER OF DEFENSE
DOCTOR NILDA CELIA GARRE

MR. CHAIRMAN OF THE COMMANDERS-IN-CHIEF JUNTA

This present legal proceedings was investigated as a result of the events that took place on August 22, 1972, during an escape attempt carried out by a group of terrorists, who were being temporarily housed at the ADMIRAL ZAR NAVAL AIRBASE in Trelew.

From the analysis of the evidence on record it appears that the attempted escape, previously mentioned, took place under the following circumstances: on August 22 of this year, at approximately 0300 hours, Corvette Lieutenant ROBERTO GUILLERMO BRAVO assumed guard duty over the extremists housed in the cells on the Naval Airbase, which contained members of that group, with Marine Corps Corporal Second Class M.R. 333.046 CARLOS AMADEO MARANDINO and M.R. 327.189 JUAN HIPOLITO MARCHAN, both armed with several P.A.M. machine guns. Said officer, explained, that he had heard whispering and suspicious noises coming from the cells, and for that reason he decided to order the detainees to come out of the cells where they were housed. Moreover, he order them to place their blankets and mats in the hall in front of the cells and to line up against the wall, facing the entrance, as shown in the photographs exhibited on pgs. 320/321.

Before the detainees finished forming a line, Marine Corps Corvette Captain, LUIS EMILIO SOSA Second Commander of the Marine Corps Battalion No. 4, officer in charge of guarding the prisoners, had entered the premises, followed by Navy Lieutenant EMILIO JORGE DEL REAL, and a few moments later by Corvette Captain JUAN CARLOS ANTONIO HERRERA.

Under these circumstances, Lieutenant BRAVO gave permission for corporal MARCHAN to go to the bathroom, leaving corporal MARANDINO as the only auxiliary personnel. For greater security, BRAVO states that he took one of the P.A.M. machine gun and he gave his 11.25 mm handgun to MARANDINO, and the other machine gun to Lieutenant DEL REAL. Captain HERRERA was unarmed.

These were the circumstance, as it is recorded in the legal proceeding, that at that time Captain SOSA, who was carrying a 11.25 mm handgun in his holster, entered between the two lines of detainees, walking the back and forth down the hallway, while at the same time addressing the detainees, exhorting them to strictly respect the orders that were given and not to speak. It was at that moment, when he walked back and stopped at the side of the terrorist standing first in line – MARIO PUJADAS—that he was attacked by him from behind, using a “Karate” move, and his weapon was taken from him.///

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/// An immediate struggle ensued between the extremist PUJADAS and Captain SOSA, who was able to free himself and started to walk “crawl” to the place where the other officers and the corporal were. At the same time PUJADAS fired the weapon at the guard – the bullet hit the bathroom door - and the other extremist began to advance together on the other three officers and corporal MARANDINO.

The photographs on pgs. 322 to 325 illustrate the way in which the previously stated events took place, and the floor plan appearing on pg. 29 shows the positions occupied by all the protagonists.

Faced with this emergency, Lieutenant BRAVO started to fire his P.A.M. machine gun, followed by Lieutenant DEL REAL with a similar weapon, and Corporal MARANDINO with a 11.25 caliber handgun.

As a result of the attempted escape and the consequent shoot-out, sixteen extremists died: HUMBERTO ADRIAN TOSCHI, JOSE RICARDO MENA, ALEJANDRO JORGE ULLA, CLARISA ROSA LEA PLACE, MARIANO PUJADAS, MARIA ANGELICA SABELLI, HUMBERTO SEGUNDO SUAREZ, EDUARDO ADOLFO CAPELLO, ALBERTO CARLOS DEL REY, SUSANA LESGART, CARLOS HERIBERTO ASTUDILLO, MARIO EMILIO DELFINO, ANA MARIA VILLARREAL, MIGUEL ANGEL POLTI, RUBEN PEDRO BONET and ALFREDO ELIAS KOHON. RICARDO RENE HAIDAR, ALBERTO MIGUEL CAMPS and MARIA ANTONIA BERGER survived, and were subsequently transferred to the Naval Hospital in Puerto Belgrano. It should be stated here that a few minutes after the events took place the entire Health Care staff at the Naval base went into action in order to treat all those who had been shot.

The death certificates for the deceased appear on pgs. 140/170; there is also certification that the cadavers, as well as any personal effects, were delivered to the family members (pgs. 353/371, and pgs. 8/18 of file COOP.JI “Ad Hoc” 00023/72 “S”).

When the question of jurisdiction arose between the Federal Criminal Court of the Nation and the Military Investigative Judge that presides in these proceedings, the National Supreme Court determined that it corresponded to that member Court [Military Court] to hear the events related to the attempted escape, referred to in the prosecution of those accused: HAIDAR, CAMPS and BERGER (pgs. 3 of File COOP. JI. “Ad Hoc” No. 00023/72 “S”).

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/// As far as analyzing the conduct of the military personnel that intervened in the events, I should stress that, after a thorough analysis of the exhaustive investigation that was carried out, the sworn witness statements (pgs 8, 9, 30/35, 59/64, 308/310, 36/38, 65/68, 293/296, 39/42, 281/283, 43/48, 314/316, 52/55, 284/289, 56/58, 297, 68/70, 72/75, 305/307, 183/184, 192, 193/196, 226/232, 253/255, 259, 200/203, 233/237, 249/252, 257, 260/263, 275/280, 302/304, 311, 107/112, 290/292, 299/301), medical reports (77/80, 86/102 and 103), expert testimony on ballistics (pgs. 238/251, 332/337, 340/349) expert testimony on the wounds (pgs. 217 and 243), etc., I draw the conclusion that there is no convincing evidence, not even circumstantial evidence, which would allow criminal charges to be brought against the personnel who intervened in the suppression in order to prevent the escape and PUJADAS' rash behavior. In this sense, I agree with the opinion of the Investigative Judge, that the grounds for exemption from responsibility set out in Art. 34, paragraphs 4, 5, and 6 of the Criminal Code come into play here in relation to the military personnel's conduct.

Aside from this, as far as HAIDAR's and CAMPS' affirmations are concerned (pgs. 193, 226, 253, 259, 200, 233, 249, 257), the charges that they made in their statements against the military personnel – that they had tried to kill them after the shoot-out had ended – the medical and ballistics expert testimonies completely disprove them and demonstrate their falseness.

In effect, all of them limited [their actions] to comply with their obligation of guarding these extremely dangerous subjects, acting appropriately. Criminal Law essayists, when referring to the fulfillment of a duty, exercise of authority or charge, affirm that: “An action that takes place in the fulfillment of a duty is just when that duty was legally imposed or when the authority or the charge was functionally conferred by the law; whoever complies with a duty that is imposed by the law or exercises authority or a charge, performs a typical act that the law orders to be carried out; given certain circumstances, it is not committing a crime rather the law is taking action (Soler, Tratado de Derecho Penal[Treatise on Criminal Law], II-359).” “... the use of weapons by public security forces under authorized conditions established by regulations, for example, to suppress an armed resistance, is justified (aut.cit.ob.cit. pg.361, Manigot, Codigo Penal de la Nacion Argentina Anotado Y Comentado[Annotated version of the Criminal Code], pg.72).

On the other hand, I believe that the riot and the escape from Rawson Penitentiary, which had taken place only days before, by the extremist group that was later housed at the Naval Airbase, should certainly have been irrefutable proof of the operative capacity and danger of their members. It was therefore essential, in my understanding, faced with such history, to adopt exceptional security and custody measures in dealing with the detainees, and to act with necessary swiftness and vigor - as did occur - so that none of those measures would be too fragile or weak, in case the events repeated themselves, which would have been inconceivable when it is the armed forces who should be acting.

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/// The Investigative Judge provides in pgs. 397 several disciplinary sanctions for Corvette Lieutenant GUILLERMO BRAVO, and for Marine Corps Corvette Captain LUIS EMILIO SOSA.

As far as Lieutenant BRAVO, I agree with what was stated in pgs. 406/407 by the Chairman of the Joint Chiefs of Staff who had determined that the previously named officer should not be sanctioned. I should add that in my opinion BRAVO acted appropriately when faced with a very difficult circumstance in which he had to fulfill his task, as the leader of the guard responsible for guarding the fanatically dangerous detainees. It is evident that through his actions he not only saved the life of an officer, but also prevented the escape and the almost certain occurrence of other events with unforeseeable consequences. Simple routine compliance with the instructions he had received, to open fire immediately, would without a doubt have caused the death of Captain SOSA, given the way in which the events took place.

As far as Captain SOSA, I agree that it should not be considered as prior appraisal the aggression he was subjected to, since all the detainees were particularly covered by two officers armed with machine guns, and one Corporal with a standard-issue handgun. It would not be too far fetched to maintain, on the other hand, that even if he had been unarmed while walking between the detainees, the extremist PUJADAS would still have overpowered him from behind, in order to take him hostage and attempt to escape with the others. I understand that his ability for precaution was due to the safety that was given by his comrades.

Given everything that was stated, and based on the facts and laws I have indicated, I believe that it is appropriate to resolve this case with a definitive acquittal, as provided by Art. 338, section 2 of the CNM.

ADDITIONAL: s/acum. two packets, one containing three pieces of clothing that were the object of expert testimony and another containing a green olive parka; file. COOP-JI AD-Hoc No. 00023/72 "S" of pg. 12.

FULL INTERVENTION: Frigate Captain, Auditor MANUEL ENRIQUE VALENTINI

/stamp/
DEPT.
NAVY
/initials/

Buenos Aires, December 5, 1972.

/seal/
Ministry of Defense

/signature/
Brigadier, JULIO ARNALDO GOMEZ
GENERAL AUDITOR OF THE ARMED FORCES