

# Chilean Judge Bars Extradition In Letelier Case

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SANTIAGO, Chile, May 14—The president of Chile's Supreme Court refused today to order the extradition of three Chilean military officers whom the United States wants to put on trial for the assassination of Chilean exile leader Orlando Letelier and an American aide in 1976.

The United States is expected to recall Ambassador George W. Landau to protest the decision by Supreme Court President Israel Borquez. It is considered likely to damage the already strained relations between the Carter administration and the military government of Gen. Augusto Pinochet.

The likelihood of the three officers going on trial here seems small.

In his ruling, Borquez said he will send his written decision to a military court in Santiago, which could decide to initiate proceedings against the three officers without waiting for instructions from the civilian Supreme Court. He said he would not himself order the three officers tried in Chile.

Alfredo Etcheberry, a Chilean lawyer who represented the U.S. Justice Department during the extradition proceedings, said the judge's ruling was "unsatisfactory" and added that he was "disappointed."

Etcheberry said he will appeal Borquez' ruling to the full Supreme Court, which could overrule Borquez and order the three officers—Gen. Juan Manuel Contreras Sepulveda,

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Col. Pedro Espinoza and Capt. Armando Fernandez Larios—extradited or tried here.

Most observers here though it unlikely, however, that the military court would act on its own. Etcheberry said that a military trial would be "unsatisfactory from the U.S. point of view."

U.S. officials here and in Washington had never really expected Borquez to order the three officers extradited to stand trial in the United States. But it had been hoped that the Supreme Court president would order a trial in Chile based on the same evidence that a federal court jury in Washington found persuasive enough

to convict three Cubans for their role in killing Letelier, once defense minister in the leftist government of Salvador Allende, and Ronni Moffitt, who was riding in Letelier's car when it was destroyed by a bomb in September 1976.

The evidence centered largely on the testimony of Michael Townley, who admitted organizing and carrying out the assassination and who said Letelier's death had been ordered by Gen. Contreras, then the head of Chile's secret police, known as DINA, and by Espinoza, then a high ranking DINA official. Fernandez Larios, according to Townley, had helped plan the assassination.

In his 46-page opinion, Borquez said

Townley's accusations against the three officers could not be considered impartial because Townley had made a deal with U.S. prosecutors to cooperate with their investigation of the Letelier murder in return for a reduced sentence.

While such deals are common in the United States, they are not used in Chile.

Borquez also ruled that photographs, a movie and other evidence presented by the United States—and acceptable in U.S. court proceedings—were inadmissible under Chilean procedures. Therefore, he ruled they could not be considered as evidence against Contreras, Espinoza and Fernandez Larios, who have been detained in a military hospital here since September, when the United States first asked for their extradition.

Borquez released copies of his opinion this morning after it was read to Contreras, Espinoza and Fernandez Larios during a 1½-hour proceeding in Chile's Supreme Court building in downtown Santiago.

Contreras said afterward that he "expected a decision like this" and that he was satisfied that Borquez had done a "professional" job in weighing the evidence. Contreras, who was a close confidant of Pinochet's until he was named in the Letelier case, said he thought Townley's deal with U.S. prosecutors, which resulted in Town-

ley's getting less than four years in jail for his role in killing Letelier and Moffitt, was "a monstrosity." Asked whether he thought Townley, an American citizen who has said he hopes to return to Chile, should be allowed to return, Contreras said: "One more undesirable in Chile is not necessary."

In Washington, American officials said they were not surprised by Borquez' ruling.

Assistant U.S. Attorney E. Lawrence Barcella Jr. said he was "disappointed" because the United States had presented nearly 700 pages of information documenting the case against the Chileans.

Michael Moffitt whose wife, Ronni, was slain with Letelier said the decision was what he had expected.

Noting that Borquez was appointed by Pinochet, Moffitt said. "I don't think any decision reached by the Chilean Supreme Court since the military dictatorship took over could be considered fair and impartial."

Moffitt and Letelier's widow, Isabel, called for the immediate severing of "all diplomatic, commercial and financial ties with Chile."

Karen DeYoung and Kenneth Brede-meier contributed to this report.