

THE LEGAL ADVISER
DEPARTMENT OF STATE
WASHINGTON

July 14, 2006

Jeffrey S. Bucholtz, Esquire
Principal Deputy Assistant Attorney General
Civil Division
United States Department of Justice
10th Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Re: *Romero v. Drummond Co., et al.* CV-03-BE-0575-W
Rodriguez, et al., v. Drummond Co., et al. CV-02-BE-0665-W
Suarez, et al., v. Drummond Co., et al. CV-03-BE-1788-W
Ruiz, et al., v. Drummond Co., et al. CV-04-BE-0241-W
Doe, et al., v. Drummond Co., et al. CV-04-BE-0242-W

Dear Mr. Bucholtz:

By letter of May 15, 2006, U.S. District Judge Karon O. Bowdre posed three questions to the Department of State in connection with the above-captioned lawsuits. Judge Bowdre also requested a prompt response to an earlier request for visa records; the Assistant Legal Adviser for Consular Affairs responded to that request directly on June 1, 2006, in accordance with normal Department practice.

The first two questions posed to the Department are as follows:

- (1) Whether the State Department, at the appropriate level, is aware of and/or monitoring the cases listed above. If so, did the State Department make a prior decision not to intervene in these cases?
- (2) Whether the State Department has an opinion (non-binding) as to whether continued adjudication of this matter may have an adverse impact on the interests of the United States.

The third question posed to the Department, in substance, is as follows:

- (3) Whether Jimmy Rubio Suarez, a Colombian citizen now residing in Venezuela for whom an arrest warrant allegedly has been issued by Colombian authorities, should be permitted to maintain this action from, and be deposed in, a third country.

We would respond to these questions as follows, and request that you arrange for the Department of Justice to communicate our responses to the Court in an appropriate manner.

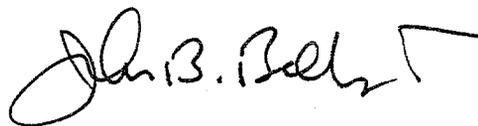
Question 1. The Department of State was aware of these cases. The Department of State does not routinely involve itself in district court cases to which the United States is not a party. Given the large number of such cases and the variety of considerations that affect whether the Department becomes involved in such cases, no inference should be drawn about the Department's views regarding a particular case in which it has not participated, or as to questions which it has not addressed.

Question 2. The Department of State does not have an opinion at this time as to whether continued adjudication of this matter will have an adverse impact on the foreign policy interests of the United States. The Department notes, however, that these cases involve claims asserted under the Alien Tort Statute (ATS). In its decision in *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004), rendered after the commencement of proceedings in these cases, the Supreme Court cautioned that courts should not exercise their common law authority to hear claims based on international norms that have "less definite content and acceptance among civilized nations than the historical paradigms" familiar when the statute was enacted in the 18th century. *Id.* at 732. As *Sosa* explained, this limit on the availability of claims is one manifestation of the "vigilant doorkeeping" (*id.* at 729) that courts should exercise in such cases.

Question 3. The Department of State is not aware of any foreign policy concerns that would be raised if this plaintiff were permitted to maintain this action from, or be deposed in, a third country.

The Department of State, of course, takes no position with respect to the merits of the litigation, and would not condone or excuse any violations of human rights or humanitarian law that may have occurred in connection with the incidents underlying this case.

Respectfully,

A handwritten signature in black ink, appearing to read "John B. Bellinger, III". The signature is fluid and cursive, with a large initial "J" and a stylized "B".

John B. Bellinger, III