

**NO. 23-10833**

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In The  
**United States Court Of Appeals  
For The Eleventh Circuit**

**RICARDO ALBERTO MARTINELLI BERROCAL,**  
*Plaintiff - Appellant,*

v.

**ATTORNEY GENERAL OF THE UNITED STATES,  
U.S. SECRETARY OF STATE, THOMAS B HEINEMANN,**  
**Office of the Legal Adviser for Law Enforcement  
and Intelligence, United States Department of State,**  
*Defendants - Appellees.*

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA**

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**APPELLANT'S SUPPLEMENTAL BRIEF**

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**23-10833 *Berrocal v. Attorney General of the United States, et al***

**CERTIFICATE OF INTERESTED PARTIES**

Pursuant to Eleventh Circuit Rule 26.1-1, the Appellant certifies, to the best of his knowledge, the following is a comprehensive list of trial judges, attorneys, individuals, groups, companies, partnerships, associations or corporations that have a vested interest in the outcome of this case or appeal:

Blinken, Antony J., United States Secretary of State, Defendant-Appellee

Bloom, Beth, *District Court Judge for the Southern District of Florida*

Briggs, Jamie M., *Attorney for Defendants-Appellees*

Boynton, Brian, *Attorney for Defendants-Appellees*

Carrillo, Charlie, *Attorney for Plaintiff-Appellant*

Enlow, Courtney, *Attorney for Defendants-Appellees*

Garland, Merrick B., Attorney General of the United States, *Defendant-Appellee*

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Heinemann, Thomas B., *Defendant-Appellee*

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Martinelli-Berrocal, Ricardo Alberto, *Plaintiff-Appellant*

Monaco, Kerry, *Attorney for Defendants-Appellees*

Swingle, Sharon, *Attorney for Defendants-Appellees*

Torres, Edwin G., *Chief Magistrate Judge for the Southern District of Florida*

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Date: August 19, 2024

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**STATEMENT REGARDING ORAL ARGUMENT**

Plaintiff-Appellant Ricardo Alberto Martinelli Berrocal respectfully requests oral argument pursuant to Fed. R. App. P. 34(a)(1) and Rule 28-1(c) of the Eleventh Circuit Rules. He submits that the issues presented by this appeal are novel and difficult questions of law based on Article III standing as well as standing under the Treaty Between the United States of America and the Republic of Panama Providing for the Extradition of Criminals. Accordingly, Plaintiff believes that oral argument would assist this Court in making its decision in this matter.

Date: August 19, 2024

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**APPELLANT’S SUPPLEMENTAL BRIEF ON**  
**ARTICLE III STANDING**

**I. INTRODUCTION**

On August 5, 2024, the Court ordered supplemental briefings on the impact of President Ricardo Alberto Martinelli Berrocal’s (“Appellant” or “Martinelli”) recent conviction and the Panama Supreme Court’s rejection of his appeal on his Article III standing (*See* Order, ECF No. 45).

This case highlights the significant implications of the U.S. government’s breach of its international obligations under the TREATY PROVIDING FOR THE EXTRADITION OF CRIMINALS, U.S.-Pan., May 25, 1904, 34 Stat. 2851 (“the Treaty”). The Treaty obligates the U.S. to ensure that an extradited individual is prosecuted only for the specific offenses for which extradition was granted—a protection known as the “rule of specialty.” The State Department’s failure to uphold this rule and the procedures for lifting its protections not only breached the Treaty but also infringed upon Martinelli’s substantive rights under U.S. and international law.

Furthermore, Martinelli’s injury, directly caused by the State Department’s actions, remains a live controversy. By disregarding the rule of specialty and the Treaty’s terms, the State Department violated Martinelli’s constitutional right to due process, enabling Panama to indiscriminately prosecute him for offenses allegedly committed prior to his extradition, which were not part of the original extradition order or the State Department’s letter of assurances at the time of extradition.



## II. LEGAL STANDARD

To establish standing under Article III, a plaintiff must demonstrate three elements: (1) an injury in fact, (2) causation (or traceability), and (3) redressability. An “injury in fact” must be concrete, particularized, and actual or imminent. “Causation” requires showing that the injury is “fairly traceable” to the defendant’s challenged action, not the result of independent action by a third party not before the court. Finally, “redressability” mandates that it is “likely,” rather than merely “speculative,” that the injury will be redressed by a favorable decision (*Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *Simon v. Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 41-42 (1976)); *see also* U.S. CONST. art. III, § 2.

For declaratory relief, the plaintiff must demonstrate that the injury is ongoing or that there is a “substantial likelihood” of future injury. The Supreme Court has consistently held that past harm alone does not support a finding of an Article III case or controversy. In *City of Los Angeles v. Lyons*, the Court stated that “past exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief... if unaccompanied by any continuing present adverse effects” (*L.A. v. Lyons*, 461 U.S. 95, 102 (1983)). Additionally, the Court held that to satisfy the “case or controversy” requirement of Article III, a plaintiff must show that he has sustained or is immediately in danger of sustaining some direct injury as

a result of the challenged official conduct, and the injury or threat of injury must be “real and immediate,” not “conjectural” or “hypothetical.” (*Id.* at 101-102).

### III. STATEMENT OF FACTS

Martinelli was extradited from the U.S. to Panama on June 11, 2018, under the Treaty to face charges of unlawful surveillance and embezzlement. After being acquitted twice on these charges, he was subsequently charged with new money laundering offenses for alleged crimes committed during the same period (July 2010–July 2014).<sup>1</sup> These new charges were filed after his first acquittal on August 26, 2019.

On December 12, 2019, the State Department’s Thomas B. Heinemann (“Heinemann”) erroneously asserted in a letter to the former Attorney General of Panama, that the rule of specialty no longer applied since Martinelli had been “free to travel” since September 15, 2019.<sup>2</sup> However, Heinemann misapplied the Treaty’s specific language, which states that the rule of specialty ceases to apply only if the extradited individual “shall have had an opportunity of returning to the country from which he was surrendered,” the country being the U.S. (ECF Doc. 33-13 at 4). At

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<sup>1</sup> The federal test for double jeopardy is outlined in *Blockburger v. U.S.*, 284 U.S. 299 (1932), which holds that the Fifth Amendment’s protection against double jeopardy applies only to successive prosecutions by the same sovereign. *See In re Extradition of Coleman*, 473 F. Supp. 2d 713 (N.D.W.Va. 2007). Under U.S. law, President Martinelli had standing to challenge the retrial that occurred with the State Department’s acquiescence.

<sup>2</sup> Article III of the Treaty requires communications to be made through diplomatic agents or, in their absence, consular officers. Attorney General Kenia Porcell was neither. *See Exhibit UU*

the time Heinemann sent the letter, the State Department was precluded from waiving the rule of specialty because Martinelli had not yet had the opportunity to return to the U.S., the statute of limitations had lapsed, and Panama had not formally requested the lifting of the rule of specialty protections under the Treaty.<sup>3</sup> Further, the criminal case for which he was extradited was still pending appeal.

This case involves two criminal proceedings against Martinelli: the “*New Business*” and “*Odebrecht*” cases—charges that were not included in Martinelli’s original extradition package. Martinelli was convicted of money laundering on July 18, 2023, in the *New Business* case (related to the 2010 acquisition of a newspaper company), where he was sentenced to 128 months in prison and fined \$19.2 million.<sup>4</sup>

The Superior Court for Criminal Case Liquidation reviewed the appeal and affirmed the sentence for Martinelli. On February 2, 2024, the Panama Supreme Court rejected or did not admit his petitions for cassation, seeking a higher court’s review of the appellate court’s ruling. In March 2024, the Supreme Court upheld the

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<sup>3</sup>Article VII of the Treaty: Extradition shall not be granted under the Treaty if legal proceedings or the enforcement of the penalty for the alleged act is barred by the statute of limitations under the laws of the requested country. Under 18 U.S.C.S. § 3282, the government may not prosecute, try, or punish any person for a criminal offense unless the person is charged in an indictment or an information within five years of committing the offense. *Garcia-Godos v. Warden*, 853 F. App’x 404, 405 (11th Cir. 2021).

<sup>4</sup>Panama’s Ricardo Martinelli Sentenced to 10 Years for Money Laundering, BBC News, July 18, 2023). Available at: <https://www.bbc.com/news/world-latin-america-66235471>

electoral court’s decision barring him from running in this year’s presidential elections due to his money laundering conviction, despite his status as the frontrunner in May 2024.<sup>5</sup>

Following the rejection of his criminal appeals, Martinelli sought and was granted political asylum by the Nicaraguan government on February 7, 2024.<sup>6</sup> He has since remained at the Nicaraguan Embassy in Panama City. His legal team is actively challenging the actions taken against him in the *New Business* case through multiple legal avenues, and the case remains pending. Meanwhile, the *Odebrecht* case has yet to go to trial.

#### **IV. IMPACT OF MARTINELLI’S CONVICTION ON STANDING**

##### **A. Traceability of Martinelli’s Injury to U.S. Government Actions**

Martinelli’s argument for standing centers on the direct connection between his injury and Heinemann’s actions—misinforming Panamanian authorities, outside of proper diplomatic channels, in violation of the Foreign Affairs Manual (“FAM”), and without a formal request from Panama—that the rule of specialty no longer

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<sup>5</sup>Panama’s Martinelli appeals court decision ruling him ineligible for 2024 election. Available at: <https://www.reuters.com/world/americas/panamas-martinelli-appeals-court-decision-ruling-him-ineligible-2024-election-2024-03-07/>

<sup>6</sup>Martinelli Holed Up in Nicaraguan Embassy Seeking Political Asylum, Newsroom Panama, Feb. 7, 2024. Available at: <https://www.newsroompanama.com/news/martinelli-holed-up-in-nicaraguan-embassy-seeking-political-asylum>.

applied. This erroneous communication directly led to Martinelli's prosecution and conviction for offenses beyond those for which he was extradited. This violation deprived Martinelli of the Treaty's protections, particularly Article VIII,<sup>7</sup> which enshrines the rule of specialty.

The causal link between the State Department's conduct and the harm Martinelli continues to experience is clear and direct. This chain of events is analogous to cases where the courts have found standing based on the "predictable effect of Government action on the decisions of third parties" (*Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2566 (2019)). Martinelli's conviction does not sever the link of causation. The State Department's misinformation to Panamanian authorities directly led to Martinelli's prosecution and conviction, establishing the necessary causal link for standing, as demonstrated in court proceedings and filings in Panama.

### **B. Redressability and Likelihood of Relief**

The Government may argue that Martinelli's conviction in Panama represents a final, independent action by a sovereign nation, rendering any potential U.S. court ruling ineffective in providing redress. However, this perspective overlooks the broader implications of a favorable ruling by this Court under the Declaratory

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<sup>7</sup> Art. VIII of the Treaty: No person surrendered by either of the high contracting parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any crime or offense committed prior to his extradition, other than that for which he was delivered up, until he shall have had an opportunity of returning to the country from which he was surrendered.

Judgment Act, which was designed to offer relief from uncertainty and insecurity concerning rights, status, and other legal relations (*Atlanta Gas Light Co. v. Aetna Cas. & Sur. Co.*, 68 F.3d 409, 414 (11th Cir. 1995)).

The Eleventh Circuit in *Bolin v. Story* emphasizes that a constitutional violation is a crucial criterion for declaratory relief (*Bolin v. Story*, 225 F.3d 1234, 1242 (11th Cir. 2000) (citing *Newman v. Alabama*, 683 F.2d 1312 (11th Cir. 1982))). Martinelli's claim is rooted in a clear constitutional violation—the U.S. State Department's breach of the Treaty and international law, which infringed upon his due process rights.

Martinelli continues to suffer serious, ongoing harm as a direct result of the U.S. government's actions. His wrongful conviction, exile in the Nicaraguan Embassy, and ongoing legal battles in Panama represent a continuing irreparable injury. This situation aligns with the Eleventh Circuit's requirement in *Bolin* that there must be a serious risk of continuing irreparable injury if relief is not granted.

The Eleventh Circuit in *Bolin* recognized that the absence of an adequate remedy at law is a critical factor in granting declaratory relief (*Bolin v. Story*, 225 F.3d 1234, 1242 (11th Cir. 2000) (citing *Newman v. Alabama*, 683 F.2d 1312 (11th Cir. 1982))). There is no adequate remedy at law available to Martinelli outside of the declaratory relief sought. The limitations of Panama's legal system leave him

without further legal recourse to address the constitutional violations and ongoing harm directly caused by the State Department's misinformation.

A favorable ruling by this Court would result in a declaratory judgment recognizing the U.S. government's violations. Such a judgment would not be merely symbolic; it would significantly bolster Martinelli's efforts to seek redress and would influence Panama's legal decisions regarding his conviction as well as his ongoing prosecution in the *Odebrecht* case. This substantial likelihood of redress through declaratory relief meets the redressability requirement of standing.

### **C. Treaty Obligations and the Impact of a Favorable Judgment**

The Treaty is a binding law that obligates both nations to uphold its terms, particularly the rule of specialty, which restricts the prosecuting country from trying an extradited individual for crimes not covered by the original extradition request. The U.S., as the surrendering state, has a duty to ensure that these conditions are met, and any breach of this obligation directly impacts the rights of the extradited individual.<sup>8</sup>

A favorable judgment would require Panama to adhere to the Treaty's terms, particularly the rule of specialty. Such a ruling would not be merely symbolic; it would carry significant weight under the doctrine of comity, which strongly presumes the recognition of foreign judicial decrees (*United States ex rel. Saroop v.*

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<sup>8</sup>Article III: Extradition must be carried out in conformity with the laws regulating extradition for the time being in force in the state on which the demand for surrender is made. Const. of Panama Art. 4. Panama abides by the rules of International Law.

*Garcia*, 109 F.3d 165, 166 (3d Cir. 1997)). The principle of *pacta sunt servanda* further supports this, as it ensures that Panama must fulfill its Treaty obligations.

Just as Heinemann’s letters influenced Panama’s decision to prosecute Martinelli, a favorable declaratory judgment would significantly increase the likelihood of redress. The Treaty obligates Panama to follow its legal framework, particularly Article 548 of the Procedural Penal Code, which restricts the prosecution of extradited individuals without the consent of the surrendering state. Therefore, a favorable declaratory judgment from this Court would compel the Panamanian courts to annul Martinelli’s conviction and dismiss the pending charges.

## **V. MOOTNESS AND CONTINUING CONTROVERSY**

A plaintiff must maintain a personal interest throughout litigation. The doctrine of standing assesses whether that interest exists at the beginning, while mootness considers whether it persists. (*Uzuegbunam v. Preczewski*, 592 U.S. 279, 285 (2021)). Mootness does not apply when the plaintiff continues to suffer from the effects of the challenged action and the court can still provide relief. The Supreme Court has held that a case is not moot if there is a “credible threat of enforcement” or if the injury is “real and immediate,” not “conjectural” or “hypothetical” *Chafin v. Chafin*, 568 U.S. 165 (2013); *Lyons* at 101-102.

As the Supreme Court has stated, “Past exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief... if



unaccompanied by any continuing present adverse effects” *Lyons* at 102. The Eleventh Circuit has similarly held that “injury in the past... does not support a finding of an Article III case or controversy when the only relief sought is a declaratory judgment” unless there is a “substantial likelihood” of future injury *Cresthaven Ashley Master Ass’n, Inc. v. Empire Indem. Ins. Co.*, No. 23-12761 (11th Cir. 2024).

Martinelli’s current situation demonstrates that he continues to suffer from the effects of the State Department’s actions. His ongoing legal battles, including the *New Business* case and the pending *Odebrecht* case, ensure that his situation remains a live controversy. Given that Martinelli’s injury is ongoing, this Court can still address the controversy. A favorable ruling would significantly affect Martinelli’s legal status and influence Panamanian authorities. Therefore, this ongoing controversy prevents the case from being moot and underscores the necessity for judicial intervention. (*Lewis v. Continental Bank Corp.*, 494 U.S. 472, 478 (1990)).

## **VI. CONCLUSION**

For the foregoing reasons, this Court should find that Martinelli’s conviction does not negate his Article III standing. The injury he suffered is directly traceable to the U.S. government’s actions, and a favorable ruling by this Court would provide meaningful redress through declaratory relief. Therefore, the judgment of the District Court should be reversed, and the case should be remanded for further proceedings.

Date: August 19, 2024

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**CERTIFICATE OF COMPLIANCE**

1. This brief complies with the type-volume limitation of Fed. R. App. P.

32(a)(7)(B)(i) because:

this brief contains 2,408 words, excluding those parts of the brief exempted by Fed. R. App. P. 32(f) and does not exceed 10 pages, as ordered.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5)

and the type style requirements of Fed. R. App. P. 32(a)(6) because:

this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word in Times New Roman, 14-point.

Date: August 19, 2024

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**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that on August 19, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished using the appellate CM/ECF system.

Date: August 19, 2024

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## **EXHIBIT UU**

LETTER, A.J. – MIRE-2024- 057600, DATED JULY 11, 2024, SIGNED BY DR. FERNANDO GOMEZ ARBELAEZ, DIRECTOR OF INTERNATIONAL LEGAL AFFAIRS AND TREATIES OF THE MINISTRY OF FOREIGN AFFAIRS FOR THE REPUBLIC OF PANAMA

Republic of Panama  
National Government  
Ministry of Foreign Affairs

July 11, 2024  
A.J. – **MIRE-2024-057600**

The Honorable **CARRILLO GOMILA AND ASSOCIATES,**

I am pleased to address you on the occasion of referencing the request submitted to this Ministry, received by this office on May 7 and 11, 2024.

Regarding this matter, I am pleased to specifically address the following inquiries that were requested:

1. This Directorate has no record of a request from the First Specialized Prosecutor's Office against Organized Crime related to the lifting of the Rule of Specialty concerning Mr. Ricardo Alberto Martinelli Berrocal in the case of New Business.
2. This Directorate has no record of a request from the Specialized Anti-Corruption Prosecutor's Office of the Attorney General's Office related to the lifting of the Rule of Specialty concerning Mr. Ricardo Alberto Martinelli Berrocal in the case of Odebrecht.
3. This Directorate has no record of a request from the Second Liquidating Court of the First Judicial Circuit of the Republic of Panama related to the lifting of the Rule of Specialty concerning Mr. Ricardo Alberto Martinelli Berrocal in the aforementioned cases.
4. This Directorate has no record of any request related to the lifting of the Rule of Specialty concerning Mr. Ricardo Alberto Martinelli Berrocal, requested by the Court of Justice of the Republic of Panama or by the Office of the Attorney General.

The Ministry of Foreign Affairs of the Republic of Panama is the only competent channel responsible for processing requests for the exception to the Rule of Specialty. Furthermore, it is important to reference the ruling by the Supreme Court of Justice – Administrative Contentious Chamber dated August 29, 2017, which establishes that "the Ministry of Foreign Affairs of the Republic of Panama is solely the appropriate conduit or channel of communication between Panamanian judicial authorities and foreign authorities for procedures related to Active Extraditions."

5. The Extradition of Mr. Ricardo Martinelli Berrocal was granted to the Republic of Panama under the Rule of Specialty as established in the State Department's Note of 2018. (A certified copy is attached).
6. The Ministry of Foreign Affairs communicated to the judicial authorities that Mr. Martinelli Berrocal was under the orders and custody of the Supreme Court of Justice, as established by the Note sent by the United States Department of State.

*It is important to mention.../...*

To the Honorable  
**CARLOS EUGENIO CARRILLO GOMILA**  
City

*Page 2*

Republic of Panama  
National Government  
Ministry of Foreign Affairs

July 11, 2024  
A.J. – MIRE-2024-\_\_\_\_\_

7. It is important to mention that Via Note NG-18-161 dated June 8, 2018, the Embassy of Panama in the United States of America sent the Note from the Department of State, in which the Secretary of State of the United States of America formally delivered Mr. Martinelli Berrocal to the Panamanian authorities, under the Rule of Specialty. (Authenticated copy attached).

I take this opportunity to reiterate the assurances of my highest consideration.

*Signature*  
**DR. FERNANDO GÓMEZ ARBELÁEZ**  
Director of International  
Legal Affairs and Treaties

*Signature*  
DIRECTOR OF INTERNATIONAL  
LEGAL AFFAIRS  
AND TREATIES

REPUBLIC OF PANAMA

TRUE COPY OF THE ORIGINAL

*Seal*                      *Seal*                      *Seal*

REPUBLIC OF PANAMA

**APOSTILLE**

(La Haye Convention of October 5, 1961)

1. In Panama, the present public document
2. Has been signed by **Fernando Gómez Arbelaéz**

- 3. Who is acting in his role as **Director**
- 4. Carries the seal/stamp of **Ministry of Foreign Affairs - General Directorate of International Legal Affairs and Treaties**

Certificate

No. 762604

- 5. At **Ministry of Foreign Affairs**
- 6. On the date **August 1, 2024**
- 7. By **Department of Authentication and Legalization**
- 8. Number **2024-503453-990529**
- 9. Seal/Stamp
- 10. Signature of the official

*Signature*

Jennifer Perez Guevara

Seal

QR Code

**CERTIFICADOR**



**EMBASSY OF PANAMA  
UNITED STATES  
OF AMERICA**

Seal  
NG-18-161  
June 8, 2018

Madam Vice President and Minister,

I have the honor to address Your Excellency to forward the verbal note dated June 8, 2018, through which the United States Department of State refers to our Note No. NV-16-058 dated September 26, 2016, regarding the Request for Extradition against the Panamanian citizen **RICARDO ALBERTO MARTINELLI BERROCAL**, who is required by the Panamanian judicial authorities.

In this regard, I am pleased to inform Your Excellency that the Department of State has authorized the Request for Extradition against RICARDO MARTINELLI, so that he may stand trial for the following crimes:

- 1) Crime against the Inviolability of Secret and the Right to Privacy (Interception of private Telecommunications without Judicial Authority).
- 2) Crime against the Inviolability of Secret and the Right to Privacy (Tracking, Persecution, and Surveillance without Judicial Authority).
- 3) Crime against the Public Administration, Different Kinds of Embezzlement (Embezzlement through Theft or Misappropriation).
- 4) Crime against the Public Administration, Different Forms of Embezzlement (Embezzlement of Use).

***Likewise.../***

*To Your Excellency*

**ISABEL DE SAINT MALO DE ALVARADO**  
Vice President of the Republic and Minister  
Ministry of Foreign Affairs  
Panama, Republic of Panama

C.C. To his excellency  
**LUIS MIGUEL HINCAPIE**  
Vice Minister of Foreign Affairs

MINISTRY OF FOREIGN AFFAIRS  
MAILING DEPARTMENT

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**EXT-MIRE-2018-12965**

Code: 998CD945

Registered by: Pineda, Celso

Date: 20 June 2018 at 09:28:11

Destination area: Upper office

For questions, call telephone (507)511-  
4100-4200

BE ADVISED: Contains confidential  
information. To be used exclusively by the

EMBASSY OF PANAMA  
UNITED STATES  
OF AMERICA

Seal

Likewise, the Department of State communicated that the aforementioned individual is available for immediate transfer. The Department of State indicated that the Rule of Specialty, as contained in Article VIII of the Extradition Treaty between Panama and the United States of 1904, is applicable. It should be noted that the Department of State also mentioned that the Surrender Order will be received subsequently.

Regarding the foregoing, the Department of State informed that Mr. Martinelli has been receiving medical treatment for chronic conditions during his detention in the United States. Consequently, the Department of State requests that medical attention be provided upon his arrival in the Republic of Panama.

I take this opportunity to reiterate the assurance of my highest respect.

*Illegible Signature*

**EMANUEL GONZALEZ-REVILLA**

Ambassador

Seal

*Illegible Signature*

**DIRECTOR OF INTERNATIONAL LEGAL  
AFFAIRS AND TREATIES**

TRUE COPY OF THE ORIGINAL

**Certificate of Translation**

I, Sandra S. Weyman, being first duly sworn, on oath depose and say that I am thoroughly familiar with both English and Spanish; that I am a qualified and experienced translator from each of the said languages into the other; that I have prepared the English translation from the attached document, **Letter, A.J. – MIRE-2024- 057600, dated July 11, 2024, signed by Dr. Fernando Gómez Arbeláez, Director of International Legal Affairs and Treaties of the Ministry of Foreign Affairs of the Republic of Panama**, written in Spanish, as set forth and as corresponds with the attached; and that to the best of my knowledge and belief the translation attached hereto is a true and accurate version of the aforesaid document.

Sandra S. Weyman  
Sandra S. Weyman

602 Mary St, Frederick, MD 21701 | 240-315-4004

STATE OF MARYLAND

COUNTY OF FREDERICK

Sworn and subscribed before me, this the 16<sup>th</sup> day of August, 2024.

[Signature]

Notary Public

My commission expires: May 24, 2025



CLAUDIA L. WILLS  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires May 24, 2025

REPÚBLICA DE PANAMÁ  
GOBIERNO NACIONAL

MINISTERIO DE  
RELACIONES EXTERIORES

11 de julio de 2024

A. J. - MIRE-2024-057400

Honorable Señor **CARRILLO GOMILA y ASOCIADOS**:

Tengo el agrado de dirigirme a usted en ocasión de hacer referencia a la solicitud presentada en esta Cancillería, recibida en este despacho el día 7 y 11 de mayo de 2024.

Sobre el particular, tengo a bien responder concretamente las siguientes interrogantes solicitadas:

1. En esta Dirección no consta solicitud por parte de la Fiscalía Primera Especializada contra el Crimen Organizado relacionada con el levantamiento del Principio de Especialidad del señor Ricardo Alberto Martinelli Berrocal en el caso de New Bussines.
2. En esta Dirección no consta solicitud por parte de la Fiscalía Especializada Anticorrupción de la Procuraduría General de la Nación, relacionada con el levantamiento del Principio de Especialidad del señor Ricardo Alberto Martinelli Berrocal en el caso de Odebrecht.
3. En esta Dirección no consta solicitud por parte del Juzgado Liquidador Segundo del Primer Circuito Judicial de la República de Panamá relacionada con el levantamiento del Principio de Especialidad del señor Ricardo Alberto Martinelli Berrocal en los casos antes mencionados.
4. En esta Dirección no consta solicitud relacionada con el levantamiento del principio de especialidad del señor Ricardo Alberto Martinelli Berrocal, solicitada por el Tribunal de Justicia de la República de Panamá o por parte de la Procuraduría General de la Nación  
El Ministerio de Relaciones Exteriores de la República de Panamá es el único conducto competente a quien le corresponde realizar los trámites para la excepción del Principio de Especialidad. Aunado a lo anterior es importante hacer referencia al fallo de la Corte Suprema de Justicia – Sala Contencioso Administrativo de 29 de agosto de 2017, donde establece que "el Ministerio de Relaciones Exteriores de la República de Panamá es únicamente el conducto o el canal idóneo de comunicación entre las autoridades jurisdiccionales panameñas y las autoridades extranjeras para los trámites relacionados con las Extradiciones Activas".
5. La Extradición del señor Ricardo Martinelli Berrocal fue concedida a la República de Panamá bajo el Principio de Especialidad establecido en la Nota del Departamento de Estado de 2018. (se adjunta copia autenticada).
6. El Ministerio de Relaciones Exteriores comunicó a las autoridades jurisdiccionales que el señor Martinelli Berrocal quedaba a órdenes y custodia de la Corte Suprema de Justicia tal como lo estableció la Nota remitida del Departamento de Estado de los Estados Unidos de América.

Es preciso mencionar...

Al Honorable Señor  
**CARLOS EUGENIO CARRILLO GOMILA**  
Ciudad



MINISTERIO DE RELACIONES EXTERIORES

11 de julio de 2024

A. J. - MIRE-2024-.....

7. Es preciso mencionar que Mediante Nota NG-18-161 de 8 de junio de 2018, la Embajada de Panamá en los Estados Unidos de América remitió la Nota del Departamento de Estado en la cual el Secretario de Estado de los Estados Unidos de América realizaba formalmente la entrega a las autoridades panameñas del señor Martinelli Berrocal a las autoridades panameñas, bajo el Principio de Especialidad. (Se anexa copia autenticada).

Aprovecho la oportunidad para reiterarle las seguridades de mi distinguida consideración.

*Fernando Gómez Arbeláez*  
**DR. FERNANDO GÓMEZ ARBELÁEZ**  
Director de Asuntos Jurídicos Internacionales y Tratados

*[Signature]*  
**DIRECTOR (M) DE ASUNTOS JURÍDICOS INTERNACIONALES Y TRATADOS**



FIEL COPIA DE SU ORIGINAL



  
**REPÚBLICA DE PANAMÁ**

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**APOSTILLE**  
(Convention de la Haye du 5 octobre 1961)

1. En Panamá el presente documento público
2. ha sido firmado por **Fernando Gómez Arbeláez**
3. quien actúa en calidad de **Director**
4. lleva el sello/timbre de **Ministerio de Relaciones Exteriores - Dirección General de Asuntos Jurídicos Internacional y Tratados**

Certificado

5. en **Ministerio de Relaciones Exteriores**
6. el día **1 de agosto de 2024**
7. por **Departamento de Autenticación y Legalización**
8. Número **2024-503453-990529**
9. Sello / Timbre
10. Firma del funcionario

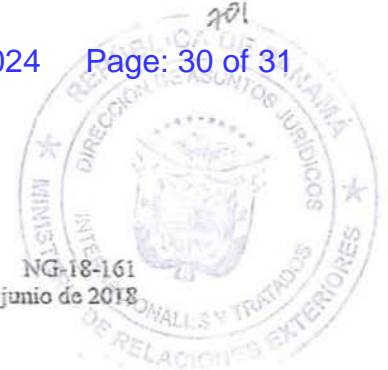
*Jennifer Pérez Guevara*  
**Jennifer Pérez Guevara**  
CERTIFICADOR



No 7626071



EMBAJADA DE PANAMA  
ESTADOS UNIDOS  
DE AMERICA



NG-18-161  
8 de junio de 2018

Señora Vicepresidenta y Ministra:

Tengo el honor de dirigirme a Vuestra Excelencia, en ocasión de remitir la nota verbal de 8 de junio de 2018, mediante la cual el Departamento de Estado de los Estados Unidos de América hace referencia a nuestra Nota No. NV-16-058 de 26 de Septiembre de 2016 en relación a la Solicitud de Extradición en contra del ciudadano panameño RICARDO ALBERTO MARTINELLI BERROCAL, el cual es requerido por las autoridades judiciales panameñas.

Sobre el particular, tengo a bien informar a Vuestra Excelencia que el Departamento de Estado ha autorizado la Solicitud de Extradición contra RICARDO MARTINELLI para que comparezca por los siguientes delitos:

- 1) Delito contra la Inviolabilidad del Secreto y el Derecho a la Intimidad (Interceptación de Telecomunicaciones sin Autorización Judicial).
- 2) Delito contra la Inviolabilidad del Secreto y el Derecho a la Intimidad (Seguimiento, Persecución y Vigilancia sin Autorización Judicial).
- 3) Delito contra la Administración Pública, Diferentes Formas de Peculado (Peculado por Sustracción o Malversación).
- 4) Delito contra la Administración Pública, Diferentes Formas de Peculado (Peculado de Uso).

Del mismo modo, .../

A Su Excelencia  
ISABEL DE SAINT MALO DE ALVARADO  
Vicepresidenta de la República y Ministra  
Ministerio de Relaciones Exteriores  
Panamá, República de Panamá.

Cc. A Su Excelencia  
LUIS MIGUEL HINCAPIE  
Viceministro de Relaciones Exteriores

MINISTERIO DE RELACIONES EXTERIORES  
DEPARTAMENTO DE CORRESPONDENCIA

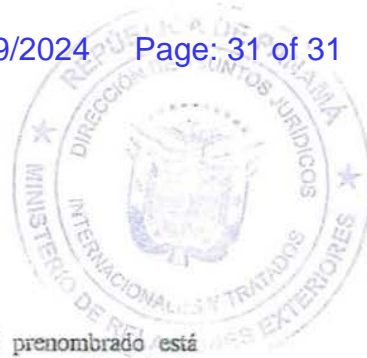
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**EXT-MIRE-2018-12965**

Palabra Clave: 998CD945  
Registrado por: Pineda, Celso  
Fecha: 20- jun-2018 a las 09:28:11  
Area destino: Despacho Superior

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Del mismo modo, el Departamento de Estado comunicó que el prenombrado está disponible para traslado inmediato. El Departamento de Estado comunicó que el Principio de Especialidad contenido en el artículo VIII del Tratado de Extradición entre Panamá y los Estados Unidos de 1904 es aplicable. Cabe mencionar que el Departamento de Estado comunicó que posteriormente se recibirá la Orden de Entrega.

En relación a lo anterior, el Departamento de Estado informó que el señor Martinelli ha estado recibiendo tratamiento médico por condiciones crónicas durante su detención en los Estados Unidos. En consecuencia, el Departamento de Estado solicita que se le brinde atención médica a su llegada a la República de Panamá.

Aprovecho la oportunidad para reiterarle las seguridades de mi más profundo respeto.

EMANUEL GONZALEZ-REVILLA  
Embajador



DIRECTOR (A) DE ASUNTOS  
JURÍDICOS INTERNACIONALES  
Y TRATADOS

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