

RELEASE IN PART B6

From: Abedin, Huma <AbedinH@state.gov>
Sent: Wednesday, December 23, 2009 12:18 PM
To: H
Subject: FW: Latest on Goldman Decision

From: Smith, Daniel B
Sent: Wednesday, December 23, 2009 11:58 AM
To: Mills, Cheryl D; Kennedy, Patrick F; Crowley, Philip J; Verma, Richard R; Abedin, Huma; Sullivan, Jacob J
Subject: FW: Latest on Goldman Decision

fyi

From: Slattery, Phillip T
Sent: Wednesday, December 23, 2009 11:54 AM
To: Macris, Gregory P; SES_DutyDeputies; S_SpecialAssistants
Cc: SES-O_SWO-Only; SES-O_Shift-II; SES-O_Shift-I; Bitter, Rena; Sullivan, Stephanie S
Subject: RE: Latest on Goldman Decision

Dan –

I just spoke with Marie Damour, CG at Embassy Brasilia, who provided an update on the Goldman case.

A scheduled 1100 EST press conference by the attorney for the Brazilian family did not take place. Damour reports the attorneys from both sides are still negotiating the details of the handover, as is the attorney for the Government of Brasil. According to the 2nd Regional Federal Court, the deadline for the turnover at the Consulate falls at 0600 local on 12/24. However, there may be a push to turn Sean over to the consulate today in order to permit him to travel to the U.S. on an overnight flight.

Damour will continue to update as events progress.

-Phill

From: Macris, Gregory P
Sent: Wednesday, December 23, 2009 7:21 AM
To: SES_DutyDeputies; S_SpecialAssistants
Cc: SES-O_SWO-Only; SES-O_Shift-II; SES-O_Shift-I; Bitter, Rena; Sullivan, Stephanie S
Subject: Latest on Goldman Decision

Dan,

I just got off the phone with Embassy Brasilia Charge Lisa Kubiske, who provided a recap of current developments in the Goldman child custody case. Summarizing:

-- David Goldman's Brazilian lawyer and the family's attorney are currently attempting to negotiate an "voluntary return."

- If those talks fail, Goldman will request the Brazilian police execute the involuntary return ordered yesterday by a Brazilian judge. This outcome would create a negative PR climate.
- Brazilian police "think" they know the boy's whereabouts.
- Return to US likely will occur on an NBC News-chartered aircraft, as Goldman has inked some sort of exclusive deal w/ NBC for the story.
- Post has been working with WHA and PD on a possible S statement.

Craig Kelly just called in for the latest developments, which I passed. gm

From: Macris, Gregory P
Sent: Wednesday, December 23, 2009 6:43 AM
To: Damour, Marie C
Cc: SES-O_SWO-Only
Subject: RE: Goldman Decision - update as of 01:30 local time - NO RETURN TONIGHT

Ms. Damour,

Do you have any updated information to report? As you could imagine, there is significant high-level interest in the Department on the Goldman case, and I am hoping to brief the Executive Secretary with the latest developments at 0745 EST.

Thanks.

Gregory Macris
Senior Watch Officer

From: Damour, Marie C
Sent: Tuesday, December 22, 2009 10:39 PM
To: Bond, Michele T; Pacheco, Martha A; 'gustafson_karen [REDACTED] Cardiel, Daisy; Jacobs, Janice L; Hickey, Mary E; Regan, Michael B; Simpson, Mordica M; Posivak, Stephen; Drucker, Milton K; SES-O; Blum, Orna T
Cc: Culver, Chris D; Arola, Heidi R; Kubiske, Lisa; Loh, Anthony X; Kelly, Craig A; McMullen, Christopher J; CAPRESSREQUESTS; WHA-Press; Johnson, James R; 'RAMSAY, JAIME T'; Brassanini, David G; Garrard, Steven D; Gonzalez, Juan S
Subject: RE: Goldman Decision - update as of 01:30 local time - NO RETURN TONIGHT
Importance: High

I have just heard from the team in Rio that there will be no return enforcement this evening:

- Tomorrow morning between 8-9, David Goldman's Brazilian attorney will go to the court to obtain the warrant enforcing the return of Sean Goldman to the U.S. He will wait there pending coordination with relevant police and judicial authorities to ensure that everything is ready, and they will depart for the family compound to take custody of Sean.
- Consulate General Rio will have cars ready at 9am for transport, and the team will be ready at the airport to facilitate departure.
- David's attorney has spoken to judicial authorities and believes that the motions filed at STJ will not be accepted by the court, so will not interfere with the return. This does not preclude some last minute legal maneuvers, but he seems confident that the decision by STF will effectively cut off other avenues. We will advise asap if this changes.

Blackberry service does appear to be down, so if there are any questions tonight, please contact me directly on my cell at [REDACTED] as I am getting offline in approximately five mins. We are 3 hours ahead of DC time at the moment, but please do not hesitate to call.

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From: Damour, Marie C
Sent: Wednesday, December 23, 2009 1:03 AM
To: Bond, Michele T; Pacheco, Martha A; 'gustafson_karen [redacted] Cardiel, Daisy; Jacobs, Janice L; Hickey, Mary E; Regan, Michael B; Simpson, Mordica M; Posivak, Stephen; Drucker, Milton K; SES-O; Blum, Orna T
Cc: Culver, Chris D; Arola, Heidi R; Kubiske, Lisa; Loh, Anthony X; Kelly, Craig A; McMullen, Christopher J; CAPRESSREQUESTS; WHA-Press; Johnson, James R; 'RAMSAY, JAIME T'; Brassanini, David G; Garrard, Steven D; Gonzalez, Juan S
Subject: RE: Goldman Decision - update as of 00:45 local time

B6

Given the hour here, I am less optimistic that we will pull off a return tonight, but we are still working to that end.

- The Brazilian Central Authority confirms that the office of Regional Federal Court President Paulo Espirito Santo has received the decision of STF President Gilmar Mendes. It is Paulo E-S who will be responsible for enforcing the decision from Mendes, i.e. the return of Sean Goldman to the U.S.
- BCA has promised to reinforce for Interpol the urgent necessity of police in Rio monitoring the location of Sean Goldman. Embassy LEGAT office is double-tracking. We cannot, of course, ask them to enforce anything until the proper judicial authority has sent them instructions, but we strongly urge them to be prepared.
- BCA has turned over operational jurisdiction to Daniel Levy, from the AGU's office in Rio, to coordinate with David Goldman's attorney and with the court in Rio. I have asked David's attorney to try and get some understanding from Mr. Levy as to the timeline we can expect to see in this case.

What remains unclear:

- We do not know if the judge from the Regional Federal Court intends to issue an execution order from his home tonight at this late hour, or if he will wait until opening of business tomorrow morning. Note that OOB here generally means 10am for a court. This only underscores the need to ensure that there is sufficient monitoring of Sean's whereabouts.
- We do not know how Judge Paulo E-S will interpret an "immediate" return order – it could mean right this instant, or it could mean some brief period of time where the family is ordered/encouraged to turn Sean over at the Consulate or some other site.
- We are working to obtain some sense of whether this is likely to happen tonight, or if we are better served getting some rest now and starting first thing OOB which for us means 7-8am.
- We have not had confirmation regarding the resolution of the motions in STJ, but frankly, I don't foresee receiving an answer on that before mid-day Wednesday.

From: Damour, Marie C
Sent: Tuesday, December 22, 2009 11:05 PM
To: Bond, Michele T; Pacheco, Martha A; 'gustafson_karen [redacted] Cardiel, Daisy; Jacobs, Janice L; Hickey, Mary E; Regan, Michael B; Simpson, Mordica M; Posivak, Stephen; Drucker, Milton K; SES-O
Cc: Culver, Chris D; Blum, Orna T; Arola, Heidi R; Kubiske, Lisa; Loh, Anthony X; Kelly, Craig A; McMullen, Christopher J; CAPRESSREQUESTS; WHA-Press; Johnson, James R
Subject: Goldman Decision - update as of 22:50

PLEASE NOTE – I am aware of the intense interest back in DC about this case and will be passing information just as soon as I receive it. This means that in most cases, I will not be able to confirm the information. Will try to identify credible sources vice what rumor/press/others are saying.

Brazilian Central Authority (BCA) coordinating with David's attorney and the Federal attorneys in Rio to ensure that the President of the Regional Federal Court in Rio has a copy of the STF order and is submitting the official request to federal police to enforce. BCA says they still believe they can effect the turnover tonight and are at their office working to that end. If/when the Federal Police enforce, their stated preference is to go to the airport and effect the handover there. This is a scenario we've planned for.

BCA has mentioned the STJ motions filed by the Brazilian family as a potential obstacle, but thru their contacts in Mendes' office at STF, have heard that Mendes intends to reach out to the reporting judge at STJ to resolve that issue. As mentioned in an earlier update today, we have not had any confirmation that the STJ judge has accepted to hear the motions filed by the Brazilian family, and has the option to decline to hear them.

From: Damour, Marie C

Sent: Tuesday, December 22, 2009 10:41 PM

To: Bond, Michele T; Pacheco, Martha A; 'gustafson_karen [REDACTED] Cardiel, Daisy; Jacobs, Janice L; Hickey, Mary E; Regan, Michael B; Simpson, Mordica M; Posivak, Stephen; Drucker, Milton K; SES-O

Cc: Culver, Chris D; Blum, Orna T; Arola, Heidi R; Kubiske, Lisa; Loh, Anthony X; Kelly, Craig A; McMullen, Christopher J; CAPRESSREQUESTS; WHA-Press

Subject: RE: Goldman Decision

If the family sees the writing on the wall (frankly unlikely at this point) and agrees to abide by the order of immediate return, then in theory the handover would happen at the consulate and there is a plan in place for that.

Plans in motion to prevent them slipping away and Patricia Lamego is working with the police as we speak. Federal Police repeatedly assured us they were prepped and ready to move but could take no action absent an order. They know now there is one, so BCA will get them moving.

If the handover occurred tonight, I'm told we need 3 hours to get the plane off the ground, so overnight in the hotel.

From: Bond, Michele T

Sent: Tuesday, December 22, 2009 10:30 PM

To: Damour, Marie C; Pacheco, Martha A; 'gustafson_karen [REDACTED] Cardiel, Daisy; Jacobs, Janice L; Hickey, Mary E; Regan, Michael B; Simpson, Mordica M; Posivak, Stephen; Drucker, Milton K

Cc: SES-O_SWO; Culver, Chris D; Blum, Orna T; Arola, Heidi R; Kubiske, Lisa; Loh, Anthony X

Subject: RE: Goldman Decision

Marie, if there is a handover tonight: that would be at the Consulate in Rio, right? Grandparents would bring Sean and he'd spend the night...in David's hotel or at the Consulate?

It seems very, very unlikely that will happen tonight.

But if handover is delayed until morning, the family may try to slip away tonight. Can we ask the police to prevent that?

From: Damour, Marie C

Sent: Tuesday, December 22, 2009 6:53 PM

To: Pacheco, Martha A; 'gustafson_karen [REDACTED] Cardiel, Daisy; Bond, Michele T; Jacobs, Janice L; Hickey, Mary E; Regan, Michael B; Simpson, Mordica M; Posivak, Stephen; Drucker, Milton K

Cc: SES-O_SWO; Culver, Chris D; Blum, Orna T; Arola, Heidi R; Kubiske, Lisa; Loh, Anthony X

Subject: FW: Goldman Decision

Importance: High

Here is what we know:

- STF Pres. Gilmar Mendes upheld the motion by the AGU and David's attorney requesting he overturn the stay imposed by Justice Marco Aurelio, based upon a motion filed by the maternal grandmother.
- The order at first read appears to require immediate return of Sean.
- The BCA is calling the Interpol director responsible for enforcing such actions to see if they will get set to move. HOWEVER, BCA does not/not yet have a copy of the order, and it is the judge in the lower court in Rio that would generally receive the order from STF and then contact DPF to enforce.
- Sergio Brito, the prosecutor who has assisted David's attorney on the Hague case is attempting to contact the judge in the court of first instance in an effort to move as quickly as possible. Note that the court of first

instance is on recess and the "duty court" judge will need to take action, but magistrates in Rio are keenly aware of the status of the case and may be prepared to move this evening.

- BCA is hoping to effect handover tonight, and will plan to send their psychologist to Rio if the handover must happen tomorrow morning.

What we don't know:

- No details yet on what else is contained in the order, which is likely to affect the next steps taken by the Brazilian family.
- No details as yet on what, if anything the Brazilian family has done in response to the news from STF.

Embassy staff are in the room with David's Brazilian attorney and will report just as soon as we have any details to offer. Please advise me if you have any specific questions we need to pose to the team.