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“Seeking Freedom for American Trapped in Bolivian Prison”

*Africa, Global Health and Human Rights Subcommittee
Excerpts of Remarks by Chairman Chris Smith
August 1, 2012*

Thank you for joining us this afternoon as the Subcommittee continues to shine a spotlight on and to search for a resolution of the extreme injustice being perpetrated by Bolivian government officials against Jacob Ostreicher, an American trapped in the infamous Palmasola prison. Charged with crimes for which the Bolivian Government has produced no evidence, either of the crimes themselves or that Mr. Ostreicher committed either one, he is being denied the most fundamental due process and human rights both under Bolivian law and international human rights standards.

On June 9th, Sheri Rickert, my Staff Director on the committee, and I went to Bolivia to meet with Mr. Ostreicher and to attend a court hearing for his release on bail which had been repeatedly delayed since September of last year. The testimony presented at the Subcommittee’s June 6th hearing about this case revealed the repeated due process violations being committed by Bolivian officials.

On June 11th, I had the opportunity to witness some of them myself. Two attorneys from the Bolivian Ministry of Government, who I understand should not be intervening in the case, aggressively threatened to take legal action against the judge if he refused to recuse himself. Although the judge rightly rejected the ludicrous reasons on which the Ministry of Government attorneys based their threat, they accomplished their goal of having the hearing postponed and Mr. Ostreicher returned to prison.

To underline the absurdity of the Bolivian judicial system, Mr. Ostreicher’s case was then referred to a court where the judge is detained in the same prison as Mr. Ostreicher. It took fully six weeks for the hearing to be rescheduled in another court that has a judge. I’ve been told that, unfortunately, the same scenario as occurred at the June 11th hearing took place again on July 23rd. The Ministry of Government attorneys injected themselves into the hearing and aggressively threatened the judge if she failed to recuse herself. The judge rejected out of hand

the bases asserted for the threat, but again postponed the hearing and returned Mr. Ostreicher to jail.

While in Bolivia, I met with the Vice Minister of Foreign Affairs Juan Carlos Alurralde, the Minister of Government Carlos Romero Bonifaz, and the Minister of Justice Cecilia Ayllón Quinteros to advocate for Mr. Ostreicher's release. Each one of them have made commitments with respect to this case but have not followed through.

And in the meantime, Mr. Ostreicher continues to face daily threats to his life in the violent, unsanitary, drug-infested Palmasola prison. He has been on a hunger-strike since April 15th, and he was already extremely frail and weak when I saw him over a month ago. Both a private and a Bolivian government doctor have examined Mr. Ostreicher and recommended that he be referred to a medical clinic for evaluation. Given everything else that has happened in this case, it is highly suspicious that the prison officials are unable to find police escorts to take him there.

Although our own State Department officials are finally acknowledging that Mr. Ostreicher's due process rights are being violated, they continue to seem hesitant and uncertain about what action to take on his behalf. The State Department was invited to testify at this hearing, but indicated that they were not available to do so this week. I look forward to arranging a follow-up hearing at the earliest possible date when they are prepared to discuss their efforts in this case.

Since undertaking my own advocacy efforts on Mr. Ostreicher's behalf in early June, I have received reports about several Americans who are imprisoned overseas and who are being denied their fundamental due process and human rights. Out of a sense of obligation to do all I can to help Mr. Ostreicher, but also to assist other U.S. citizens in similar situations, I will be introducing legislation this Friday that will hold accountable those foreign government officials who are responsible for the violation of due process and human rights of imprisoned Americans.

This legislation is entitled the "Justice for Imprisoned Americans Overseas Act" or "Jacob's Law." It is premised on the principle that foreign government officials responsible for violations of fundamental due process and human rights of imprisoned U.S. citizens, as well as their immediate family members, should not have the privilege of traveling to the United States while our citizens unjustly languish in their prisons.

The bill would prohibit the issuance of a visa and deny entry to any foreign government official who is violating, or failing to fulfill a responsibility to uphold, the rights of an imprisoned American. The legislation would also deny entry to such officials for 10 years if the American dies *from any cause* while in prison. These visa and entry prohibitions would likewise apply to these officials' immediate family members.

Entry to the U.S. would be denied only when an American's fundamental rights are being violated. Americans who violate the legitimate laws of foreign countries must accept the consequences of their crimes. But the United States cannot stand by and simply "monitor" the case when our citizens are being held hostage contrary to international human rights standards.

I would emphasize that already under current law, 22 U.S. Code Section 1732, the President must demand the release of any citizen who has been unjustly deprived of his liberty by or under the authority of any foreign government, and to undertake appropriate means to obtain the release of such citizen. This legislation provides the State Department with a tool that it should welcome in order to help it fulfill this responsibility.

We are privileged to have with us today two attorneys who are representing Mr. Ostreicher in the Santa Cruz courts. I would like to thank them for coming all the way from Bolivia to participate in this hearing on Mr. Ostreicher's behalf. We will also receive an update about the case from Mr. Ostreicher's wife, Ms. Miriam Ungar, and his daughter, a constituent who resides in my district in New Jersey, Ms. Chaya Weinberger. Finally, I would like to express my appreciation to Mr. Stephen Moore, a retired FBI special agent who has spent considerable time and effort investigating Mr. Ostreicher's case and who interrupted his book tour in Washington State in order to join us today.