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No. 97-1390

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1997

REPUBLIC OF PARAGUAY, et al.,

- Petitioners,

V.

JAMES S. GILMORE III,

Governor of the Commonwealth  
of Virginia, et al.,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

MOTION FOR LEAVE TO FILE  
STATEMENT *AMICUS CURIAE* OF  
INTERNATIONAL LAW PROFESSORS  
GEORGE A. BERMAN, DAVID D. CARON, ABRAM CHAYES,  
LORI FISLER DAMROSCH, RICHARD N. GARDNER, LOUIS HENKIN,  
HAROLD HONGJU KOH, ANDREAS F. LOWENFELD, W. MICHAEL REISMAN,  
OSCAR SCHACHTER, ANNE-MARIE SLAUGHTER, AND EDITH BROWN WEISS

IN SUPPORT OF PETITIONERS' SUPPLEMENTAL APPLICATION  
FOR STAY OF OR INJUNCTION AGAINST EXECUTION

Lori Fisler Damrosch  
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International Law Professors George A. Bermann et al.  
respectfully request leave to file a Statement Amicus Curiae in  
support of Petitioners' Supplemental Application for Stay of or  
Injunction Against Execution. The interest of Amici is described  
in the Statement at pp. 1-2. Counsel for Petitioner has

consented to the filing of the Statement Amicus Curiae. Consent from counsel for Respondents has not been obtained. Counsel for Amici endeavored unsuccessfully to obtain Respondents' consent under the following circumstances:

On April 9, 1998, the International Court of Justice (ICJ) granted the request of petitioner Republic of Paraguay for provisional measures of protection running against the United States of America, respondent in the ICJ. That provisional measures ruling -- entered in the urgent circumstances of the scheduled execution of a Paraguayan national in the United States set to take place on April 14, 1998 -- triggered a number of new legal issues in which Amici, as professors of international law, have a special interest and expertise.

On April 10, 1998, counsel for Amici prepared a draft of the attached Statement of Amici Curiae and telephoned counsel for Petitioners and Respondents in order to secure their consent to the filing of the Statement. Although counsel for Petitioners did give consent, counsel for Amici was unable to obtain consent from counsel for Respondents. Counsel of record for Amici, Lori Fisler Damrosch, spoke to Mr. Donald R. Curry by telephone on the afternoon of April 10, 1998; his position was that the time for amicus filings had already closed and on that basis he withheld consent. Ms. Damrosch attempted to reach Mr. Ara L. Tramblian by telephone and learned from Ms. Ruth Barth of his office that he would be away from the office until Monday, April 13, 1998.

Amici respectfully urge that the ICJ's action of April 9,

1998 has decisively changed the legal situation; they therefore seek leave to file an amicus Statement for the purpose of bringing to this Court's attention the special considerations of international law that could not have been known to any of the parties or Amici prior to April 9, 1998. In view of the urgency of the execution date set for April 14, 1998, this motion is being filed forthwith so that the views of Amici may be brought to the attention of the Court in connection with the consideration of Petitioners' Supplemental Application for a Stay of or Injunction Against Execution.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Lori Fidler Damrosch, counsel of record for Amici Curiae International Law Professors George A. Bermann et al., hereby certify that on April 13, 1998, I caused a copy of the Motion for Leave to File Statement Amicus Curiae of International Law Professors George A. Bermann et al. to be served by overnight mail upon and sent a copy also by telecopy to:

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American Branch, International Law Association,  
and Lawyers Committee for Human Rights

Dated: April 13, 1998  
New York, NY

*Lori Fisler Damrosch*

Lori Fisler Damrosch