

No:

, ORIGINAL SEP 4 1987

JOSEPH F. SPANIOLO, JR.
CLERK

in the
Supreme Court
of the
United States

OCTOBER TERM 1986

In the Matter of the
REPUBLIC OF SURINAME,
ex Rel., ETIENNE BOERENVEEN,
Petitioner,

For a Writ of Habeas Corpus

ORIGINAL PROCEEDING FOR ISSUANCE
OF WRIT OF HABEAS CORPUS

MOTION, PETITION, BRIEF AND APPENDIX

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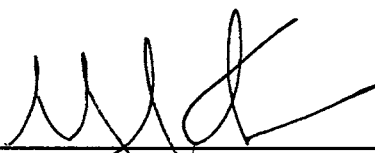
For a Writ of Habeas Corpus

MOTION FOR LEAVE TO FILE PLEADING

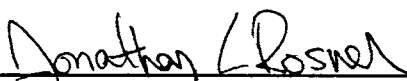
The Petitioner REPUBLIC OF SURINAME, by
its attorneys, Myles J. Tralins and
Jonathan L. Rosner, pursuant to the
provisions of Rule 9.3 of the Rules of the
Supreme Court of the United States, asks

leave of Court to file a Petition for a Writ of Habeas Corpus which is submitted herewith, and in support thereof, relies upon and adopts and incorporates herein the bases set forth in its supporting Brief which accompanies its Petition.

September 2 , 1987.



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PETITION FOR HABEAS CORPUS

To the Honorable, The Chief Justice
of the United States and the Associate
Justices of the Supreme Court of the
United States:

The Petition of the REPUBLIC OF
SURINAME, ex rel. Etienne Boerenveen
respectfully represents:

1. Etienne Boerenveen was and is a citizen of the Republic of Suriname and, prior to his detention, was and is now a member of the Military Authority, Commander of the Army and Chairman of the Fisheries Commission. In his capacity as a member of the Military Authority of the Government of Suriname, Etienne Boerenveen is one of four persons who may serve as the Leader of the Government of Suriname in the absence or performance of the Chairman of the Military Authority to so serve in accordance with the provisions of Suriname General Decree A-19, a copy of which is annexed as Exhibit 1.

2. This proceeding is within this Court's original jurisdiction, pursuant to Section 2, Clause 2, of the United States Constitution, and Title 28, United States

Code, Section 1251(b)(1), in that Etienne Boerenveen is a public minister of a foreign state.

3. Etienne Boerenveen is now and since March 24, 1986, has been unjustly and improperly detained and restrained of his liberty under color of the authority of the laws of the United States, and is presently in the custody of the Attorney General of the United States and situate in the Federal Correctional Institution, Danbury, Connecticut.

4. The sole authority upon which Etienne Boerenveen is detained and in the custody of the Attorney General of the United States and imprisoned and restrained by the Warden, Federal Correctional Institution, Danbury, Connecticut, is a Judgment and Commitment Order entered on November 17, 1986 in the

United States District Court for the Southern District of Florida.

5. Etienne Boerenveen's detention and restraint under the Judgment and Commitment Order is unjust and improper in that it is in violation of Etienne Boerenveen's status as the holder of a diplomatic passport issued by the Republic of Suriname bearing a diplomatic visa issued by the Embassy of the United States, a copy of which is annexed as Exhibit 2, at the request of the Minister of Foreign Affairs of the Republic of Suriname, a copy of which is annexed as Exhibit 3.

6. Etienne Boerenveen entered the United States under the diplomatic visa issued by the United States Embassy on March 21, 1986, in the company of the Prime Minister of the Republic of

Suriname, for the purpose of conducting official government business on behalf of the Republic of Suriname.

7. While in the United States, and prior to his detention on March 24, 1986, Etienne Boerenveen conducted official government business on behalf of the Republic of Suriname.

8. Notwithstanding the Embassy of the United States issued a diplomatic visa to Etienne Boerenveen as bearer of a diplomatic passport issued by the Republic of Suriname, subsequent to Etienne Boerenveen's detention and restraint on March 26, 1986, the United States Department of State advised that Etienne Boerenveen was not entitled to the privileges and immunities accorded persons who are entitled to and are granted diplomatic status.

9. A motion to dismiss charges against and discharge Etienne Boerenveen from custody was denied by the United States District Court for the Southern District of Florida on the bases that Etienne Boerenveen was not a "diplomatic agent" or "a part of the mission or performing mission functions" on behalf of the Republic of Suriname, copies of which are annexed as Exhibit 4.

10. Etienne Boerenveen is appealing to the United States Court of Appeals for the 11th Judicial Circuit from the Judgment and Commitment Order.

11. Petitioner the REPUBLIC OF SURINAME ex rel. Etienne Boerenveen respectfully submits that exceptional and exigent circumstances warranting this Court's issuance of the extraordinary writ include, without limitation:


Etienne Boerenveen's position as a member of the Military Council, Commander of the Army, Chairman of the Fisheries Commission, and alternate to the Leader of the Government of the Republic of Suriname empowered to serve in the absence of the Leader of the Government, make his continued detention and restraint unique in the jurisprudence of the United States;

Etienne Boerenveen's continued detention and restraint is contrary not only to the laws of the United States but to the laws governing relations between sovereign states.

WHEREFORE, Petitioner prays that a writ of habeas corpus issue from this Court to the Attorney General of the United States and Warden, Federal Correctional Institution, Danbury, Connecticut, commanding them to have the

body of Etienne Boerenveen before this Court at a date to be fixed by this Court, to there inquire into the cause of your Petitioner's detention, and to do and abide such orders as this Court may make in the premises; and,

Petitioner prays that thereupon this Court shall discharge Etienne Boerenveen from custody.



ARNOLD TH. HALFHIDE
Ambassador of the Republic of
Suriname to the United States

VERIFICATION

DISTRICT OF COLUMBIA) SS.:

ARNOLD TH. HALFHIDE, being first duly sworn, deposes and says:

He is Ambassador Extraordinary and Plenipotentiary of the Republic of Suriname to the United States of America; The Republic of Suriname ex rel. Etienne Boerenveen is Petitioner in the foregoing Petition; your affiant has read the

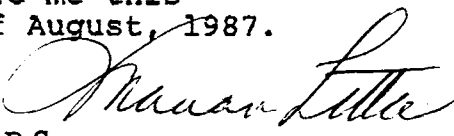
foregoing Petition and knows the contents thereof; the same is true to his own knowledge except as to matters set forth on information and belief; and as to those matters he believes them to be true.



ARNOLD TH. HALFHIDE

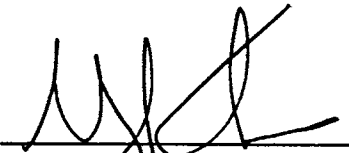
Ambassador of the Republic of
Suriname to the United States

Sworn to before me this
29th day of August, 1987.




MARIAN LITTLE
NOTARY PUBLIC, D.C.

My Commission Expires July 14, 1990



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BRIEF IN SUPPORT OF PETITION

The REPUBLIC OF SURINAME, by its attorneys, Myles J. Tralins and Jonathan L. Rosner, files its Brief in support of its Petition for a Writ of Habeas Corpus and states:

Etienne Boerenveen is one of five persons holding the highest rank in the

Surinamese Army, that of Commander of the Army.

Etienne Boerenveen is a member of the military authority which rules the Nation of Suriname.

Etienne Boerenveen holds the public office of Chairman of the State Fishery Commission for the Republic of Suriname, a position vital to the economic viability of his country.

Furthermore, Etienne Boerenveen was an alternate to the Leader of the Government for the Republic of Suriname who was empowered to serve in his stead in the event of his unavailability by virtue of the laws of Suriname.

Accordingly, Commander Boerenveen holds the equivalent positions in the Surinamese government as that of a cabinet minister, high commissioner and military

officer holding a rank not inferior to that of a brigadier general in the United States Army or Air Force.

The nature and purpose of Etienne Boerenveen's travel to the United States in March, 1986, was in conjunction with these official responsibilities. In particular, Commander Boerenveen's pre-planned itinerary concerned the purchase of refrigeration and mechanical equipment for use in the fisheries industry, the dealing with personnel problems in the Surinamese Consular office in Miami, the securing and negotiation of new Consular offices, and specific inquiry into investment potentiality for Suriname because of its economic crises.

Accordingly, on March 19, 1986, the Ministry of Foreign Affairs of the

Republic of Suriname delivered to the Embassy of the United States of America, in Paramaribo, "the Diplomatic Passport of Commander Etienne L. Boerenveen, Member of the Military Authority", advising that "the Ministry would very much appreciate if the Embassy could provide him with the appropriate visa, since Commander Boerenveen will travel to the United States in due time on official assignment."

In conjunction with this request, a non-immigrant visa application was prepared by the Surinamese protocol officer which was submitted to the Embassy, along with the aforestated letter from the Ministry of Foreign Affairs. The non-immigrant visa application specifically advised on its face that Commander Boerenveen was to travel as a member of

the Surinamese Military Authority on official assignment, paid for by his government. The following day, March 20, 1986, the United States Embassy issued its diplomatic non-immigrant visa No. 002300 in response to said request.

It is important to note that the request for issuance of a diplomatic visa for Commander Boerenveen by the Ministry of Foreign Affairs was accompanied with a non-immigrant visa application prepared by a protocol officer and not by Etienne Boerenveen; the application was not signed or verified by Etienne Boerenveen; Commander Boerenveen did not apply in person for the visa; that the application did not contain with it photographs of Commander Boerenveen signed by him; the application disclosed on its face that the

diplomatic passport issued to Commander Boerenveen by Suriname under which he was traveling had expired (which, indeed the United States Government was aware of); Etienne Boerenveen was not required to be fingerprinted; and no fees were charged by the United States for the issuance of said diplomatic visa.

Title 8 USC Section 1201(b) requires visa applications to be accompanied by photographs signed by the alien except "in the case of any alien who is granted a diplomatic visa or a diplomatic passport or the equivalent thereof".

The rules and regulations promulgated by the Secretary of State require every alien seeking a non-immigrant visa . . . to apply in person before a consular officer" except "an

applicant for a diplomatic or official visa". (22 CFR Chapter 1, Sec. 41.114)

The rules and regulations promulgated by the Secretary of State require the fingerprinting of non-immigrant aliens except for "an alien who is granted a diplomatic visa on a diplomatic passport". (22 CFR Chapter 1, Sec. 41.116(b)(1)(i))

The rules and regulations promulgated by the Secretary of State require every applicant for a non-immigrant visa to have a passport valid for the period of travel except that the consular official issuing a diplomatic visa may waive the requirement for the same when issuing a diplomatic visa. (22 CFR Chapter 1, Sec. 41.112)

The rules and regulations promulgated by the Secretary of State

require signature and verification of the application in the presence of the consular officer except for the waiver of appearance afforded applicants for diplomatic visas. (22 CFR Chapter 1, Sec. 41.117)

The laws of the United States, as well as the rules and regulations promulgated by the Secretary of State, require the collection of fees for the issuance of visas, except for specific categories of foreign government representatives including "non-immigrants who are issued diplomatic visas". (Title 8 USC Section 1351; Title 22 USC Sec. 215; 22 CFR Chapter 1, Sec. 41.21(b))

Thus, the actions of the Embassy Official attached to the United States diplomatic mission to Suriname under these

facts and circumstances cannot be construed in any way other than providing Commander Boerenveen and the Surinamese government with an acknowledgment of his acceptance as an accredited representative of Suriname intending to engage solely in official activities for said foreign government while in the United States. (22 CFR Chapter 1, Sec. 41.20(a)). Indeed, Commander Boerenveen's diplomatic status had been previously recognized three other times by the United States government when it issued him diplomatic visas on April 5, 1984, October 2, 1984, and October 1, 1985, copies of which are included in Commander Boerenveen's diplomatic passport annexed as Exhibit 2.

Finally, it is important to note that while each of Commander Boerenveen's diplomatic visas were marked with

different classifications (C-3, B-2, G-2 and B-2, respectively), said classification symbols are not applicable to diplomatic visas.

A non-immigrant alien who is in possession of a diplomatic passport or its equivalent shall, if otherwise qualified, be eligible to receive a diplomatic visa irrespective of his classification under Sec. 41.12 . . . (22 CFR Chapter 1, Sec. 41.102(a); (emphasis supplied))

See also: 22 CFR Chapter 1, Sec. 41.1 diplomatic visa; 22 CFR Ch. 1, Sec. 41.20(a)(b)

Thus, the fact that Commander Boerenveen's visa carried a B-2 symbol (or a C-3 or a G-2) has no bearing on the diplomatic status of the same. If the United States wished to refuse acknowledgment of his diplomatic status, it should have refused to issue him a

diplomatic visa. (22 CFR Chapter 1, Sec. 41.1 official visa, regular visa)

On March 21, 1986, the day following issuance of the diplomatic visa, Commander Boerenveen left for official business in the United States traveling with the Prime Minister of the Republic of Suriname in the first class section of a Suriname Airways airplane. Upon arriving in Miami, the Commander and the Prime Minister were not required to clear customs or immigration, as were the other passengers on the Surinamese flight, but rather, were afforded the treatment their diplomatic visas required in accordance with the established protocols pertaining to those with diplomatic status and immunities.

It is against this factual

background that the United States Department of State advised the Petitioner Republic of Suriname, through its Ambassador to the United States, that it would not recognize that Etienne Boerenveen was entitled to the privileges and immunities accorded persons who are entitled to and are granted diplomatic status, and the District Judge ruled that Etienne Boerenveen was not an individual entitled to diplomatic privileges and immunities as a matter of international and United States law, and thus entitled to immunity from the criminal jurisdiction of the United States.

First of all, Title 8, USC Section 1101(a)(11) provides a clear and unambiguous definition of "diplomatic visa":

The term "diplomatic visa" means a non-immigrant visa bearing that title and issued to a non-immigrant in accordance with such regulations as the Secretary of State may prescribe.

"Non-immigrant visa" is then defined to mean: a visa properly issued to an alien as an eligible non-immigrant by a competent officer, as provided in this Chapter." Title 8 USC Section 1101(a)(26). It is undisputed that the subject non-immigrant visa was properly issued by a competent officer in the United States Embassy in Paramaribo, Suriname, and that the same is a diplomatic visa as is stamped across its face. (Exhibit 2).

In addition to the definitions contained in the Immigration and Nationality Act (Title 8 USC Section 1101, et. seq.), the Secretary of State has

prescribed additional definitions and regulations governing the issuance of visas at 22 CFR Chapter 1 (e), Section 41.1, et. seq. Accordingly, the diplomatic passport issued to Etienne Boerenveen by Suriname is "a national passport bearing that title and issued by a competent authority of a foreign government".¹ (22 CFR Chapter 1 (e), Section 41.1). Furthermore, Etienne Boerenveen was an accredited alien for

1

Indeed, it is the foreign country that actually ranks its envoys, not the State Department. Compare to: Abdulaziz v. Metropolitan Dade County 741 F.2d 1328 at 1331 (11th Cir. 1984), where Prince Turki, a member of the ruling family of Saudi Arabia, residing in a luxury South Florida Condominium and in this country without any diplomatic status whatsoever, brought suit for civil rights violations because of a "scuffle" with police officers investigating allegations that he was holding an Egyptian servant in bondage,

purposes of having a diplomatic visa issued in that he held "an official position, other than an honorary official position, with the government . . . he represents, and who is in possession of

1 (Cont.)

and thereafter obtained diplomatic immunity in order to avoid liability for a counterclaim asserted by the police officers on the basis that he was designated an "after the fact" special envoy for matters concerning his country. The State Department then recognized Prince Turki as a diplomat. In the instant case, following Commander Boerenveen's arrest, the Ambassador of Suriname to the United States requested that the State Department honor the immunities attendant to the diplomatic visa it had previously issued to Etienne Boerenveen and under which the Commander traveled to the United States on official business as a member of his government's ruling authority. Even though the State Department inexplicably declined to do so, it certainly should be held to the same standard as the courts. "We hold that once the United States Department of State has regularly certified a visitor to this country as having diplomatic status, the

a travel document or other evidence showing that he seeks to enter . . . the United States for the purpose of transacting official business for that government" (22 CFR Chapter 1, Section 41.1).

The Secretary of State has further distinguished the character of visas as regular, official and diplomatic. (22 CFR Chapter 1, Section 41.100). A regular visa is defined at 22 CFR Chapter 1, Section 41.1 as any visa "which does not bear the title diplomatic or official".

1 (Cont.)

courts are bound to accept that determination, and that the diplomatic immunity flowing from that status serves as a defense to suits already commenced." Abdulaziz, supra, at 1329 and 1330.

An official visa may be issued to an alien who is ineligible to receive a diplomatic visa because he is not in possession of a diplomatic passport or its equivalent or because he falls into an official category with his government which is less than the status defined for the classes of aliens eligible to receive diplomatic visas. (22 CFR Chapter 1, Section 41.104).

The Secretary of State has specifically defined those non-immigrant aliens who are eligible, if otherwise qualified, to receive a diplomatic visa, as "heads of states and their alternates", "high commissioners and similar high administrative or executive officers of a territorial unit and their alternates",

"cabinet ministers and their assistants holding executive or administrative positions not inferior to that of the head of a departmental division, and their alternates", "public ministers", and, among others, "military officers holding a rank not inferior to that of a brigadier general in the United States Army or Air Force". (22 CFR Chapter 1, Section 41.102).

Inasmuch as the undisputed evidence establishes conclusively that Etienne Boerenveen meets this criteria by being an alternate to the Head of State, a high commissioner and executive officer with cabinet rank, and a military officer holding a rank not inferior to that of a brigadier general in the United States

Army or Air Force², he was entitled to and was properly issued the subject diplomatic visa by a competent consular officer of the United States Government serving in the Embassy to Suriname.

2

It must be noted in light of the unusual circumstances of Commander Boerenveen's arrest that, in fact, Boerenveen was entitled to the protection of the United States Government while in this country pursuant to the provisions of Title 18 USC Section 1116 because of his status as a foreign official as therein defined.

"Foreign official" means:

(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

Thus, when said visa was issued, the procedure for the same prescribed by the Secretary of State at 22 CFR Chapter 1 (e), Section 41.124(d)(2), was followed:

The format of a diplomatic visa shall be the same as a regular non-immigrant visa, except that it shall bear the title "DIPLOMATIC".

In the same context, Etienne Boerenveen is a "diplomatic agent" within the purview of the Vienna Convention on Diplomatic Relations adopted and ratified by the United States. (Title 22 USC

2 (Cont.)

(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

Section 254(a) et. seq.) Article 1(e) of the Vienna Convention defines a "diplomatic agent" as: "the head of a mission or a member of the diplomatic staff of the mission". Article 14 of the Vienna Convention defines "heads of mission" in a broader category than the permanent diplomatic staff attached to the mission; the definition is inclusive of "ambassadors or nuncios accredited to heads of state and other heads of mission of equivalent rank", and "envoys, ministers and internuncios accredited to heads of state". There can be no dispute that accredited foreign officials traveling to the United States with a duly issued diplomatic visa on official governmental business associated with that country's permanent mission are diplomatic

agents within the meaning of the Vienna Convention and thus entitled to immunity. Etienne Boerenveen was accredited within the purview of 22 CFR Chapter 1, Section 41.1 by meeting the criteria for foreign government officials set forth in 22 CFR Chapter 1, Section 41.20, resulting in the issuance of his diplomatic visa by a consular officer acting on behalf of the Secretary of State. Accordingly, he is entitled to the criminal immunity provided for in Article 31 of the Vienna Convention and codified at Title 22 USC Section 254(d), as well as being entitled to the same because of his additional status as a visiting head of state under the criteria of 22 CFR Chapter 1, Sec. 41.102(a).

The issuance of the diplomatic visa by the Secretary of State constituted an acceptance of Boerenveen as a diplomatic

envoy from a foreign government. Once Boerenveen was so accepted, the government cannot then change the rules after the fact in order to suit its purposes.

It either accepts or rejects the diplomat in its sole and absolute discretion and, if he is received, he thereby is entitled, without more, under the law of nations, to full diplomatic immunity. United States v. Fitzpatrick, 214 F.Supp. 425 (S.D. N.Y. 1963).

See also, Abdulaziz v. Metropolitan Dade County, supra, at 1329-1330.

To allow a deviation from the modern law of diplomatic immunity derived from centuries of practical dealings among nations (United States v. Enger, 472 F.Supp. 490 (Dist. N.J. 1978) at 504), would be destructive of the fundamental principles involved in the Law of Nations. Thus,

there are many and varied reasons why diplomatic agents, whether accredited or not to the United States, should be exempt from the operation of the municipal law at [sic] this country. The first and fundamental reason is the fact that diplomatic agents are universally exempt by well-recognized usage incorporated into the common law of nations and this nation, bound as it is to observe international law in its municipal as well as its foreign policy, cannot, if it would, vary a law common to all. United States v. Enger, supra, at 504.

The action of the United States in issuing its diplomatic visa to Boerenveen is presumptive of his status and his entitlement to immunity from the criminal jurisdiction of the United States. As the Court distinguished in United States v. Egorov, 222 F.Supp. 106 (Eastern Dist. N.Y. 1963), at 107:

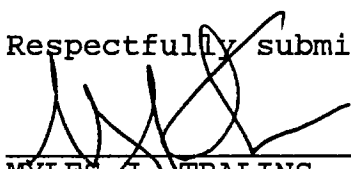
The visa issued to Egorov was not a diplomatic visa but a G-4 visa, which is issued to

officers and employees of international organizations and bore the notation "employee of U.N. Secretariat". A diplomatic visa is defined by Section 1101(a)(11) of Title 8 USC as a "non-immigrant visa bearing that title and issued to a non-immigrant in accordance with such regulations as the Secretary of State may prescribe". (Emphasis is the Court's)

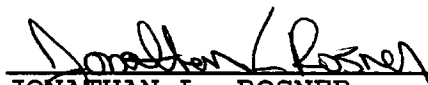
Issuance of the diplomatic visa to Egorov would have constituted the "acceptance and recognition of his claimed diplomatic status" entitling Egorov to "diplomatic immunity" following the government's exercise of "its sovereign right to pass upon the acceptability to it of diplomatic representatives of foreign governments". United States v. Egorov, supra, at 108. Here, issuance of the diplomatic visa to Etienne Boerenveen meets the Egorov, supra, test. Accordingly, Etienne Boerenveen is a

diplomat in accordance with both the Law of Nations and the Laws of the United States. Commander Boerenveen's continued detention and restraint is contrary to said laws, and accordingly, the Republic of Suriname respectfully requests the United States Supreme Court to discharge Commander Boerenveen from custody.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that three true and correct copies of the foregoing Motion, Petition, Brief and Appendix were personally served this 4th day of September, 1987 to: THE SOLICITOR GENERAL OF THE UNITED STATES, Department of Justice, Office of the Solicitor General, 10th and Constitution Avenue, N.W., Room 5143, Washington, D.C. 20530.



MYLES J. TRALINS, ESQ.

A P P E N D I X

1. General Decree
2. Passport of
Etienne Boerenveen
3. Request of Ministry of
Foreign Affairs
4. Order on Motion to Dismiss
Based on Diplomatic Immunity

1. General Decree

1985

STATUTE PAPER
of the
REPUBLIC OF SURINAME

NO. 54

GENERAL DECREE A-19

DECREE issued on the 21st day of August
1985 the provision of the Government of
Suriname (Decree Government of Suriname).

THE PRESIDENT OF THE REPUBLIC OF
SURINAME

HAVING considered that it is desirable
to make provisions for the Government of
Suriname,

HAS - after hearing the Advisory
Council - in mutual consultation with the
National Assembly and the Council of
Ministers, MADE THE FOLLOWING DECREE:-

Article 1

1. The supreme administrative power in
Suriname shall lie with the Government of

Suriname which shall consist of the Military Authority and the Council of Ministers. The Military Authority shall consist of: the Commander of the National Army as Chairman and the following members:- the Chief of Staff, the Battalion Commander, the Chief G-3 and the Chief G-4 of the National Army.

2. The Chairman of the Military Authority shall be the Leader of the Government of Suriname.

3. In the absence or prevention of the Leader of the Government of Suriname a member designated by the Military Authority from their numbers shall take his place.

Article 2

Without prejudice to the provisions of existing legislation regarding the duties

and powers of the Military Authority and the Council of Ministers the Leader of the Government of Suriname shall especially have powers:-

1. to see to the proper observance and implementation of the objectives of the revolution

2. to see to the proper observance and implementation of the programs of the Government of Suriname

3. to protect the sovereignty and internal safety of the State of Suriname

4. to safeguard the general interests of the State of Suriname.

Article 3

1. The Leader of the Government of Suriname shall convene meetings of the Government as often as he thinks desirable. The Leader of the Government

shall act as Chairman of such meetings consisting of members of the Military Authority and the Members of the Council of Ministers.

2. In the case of prevention to attend the meeting as referred to in the preceding paragraph members shall notify the Leader of the Government of Suriname in time.

3. At a meeting van the Government further rules may be made on the proceedings of the meeting referred to in this Article 3.

Article 4

1. As long as the further rules referred to in paragraph 3 of Article 3 have not yet been established the Decree Establishment Standing Orders for the Council of Ministers (S.P. 1982 No. 65)

shall apply correspondingly as far as necessary to the meeting of the Government of Suriname with due observance of the provisions of the present Decree.

2. Without prejudice to the provisions above further regulations may be made by Government Resolution which Resolution shall be countersigned by the Leader of the Government of Suriname.

Article 5

The Decree on the establishment of legal regulations (S.P. 1982 No. 62) shall be amended as follows:-

Article 1 shall read as follows:-

"A regulation of general binding force approved by the Military Authority, the Council of Ministers and the National Assembly and after countersignature by the chairman of the Military Authority and one

or more Ministers ratified by the President, shall be designated as "DECREE".

Article 2 shall be supplemented by a second sentence reading as follows:-

"In case it is a resolution of the Government of Suriname it shall be countersigned by the Leader of the Government of Suriname".

Article 6

1. This Decree may be cited as "Decree Government of Suriname" and shall become immediately operative.

2. It shall be published in the Official Gazette of the Republic of Suriname.

3. On the commencement of this Decree Paragraph 2 of Article 2 of the General Decree of 4th February 1982 on the accession and execution of the power of

government by the Military Authority (S.P.
1982 No. 21 as amended by S.P. 1982 No.
75) shall become inoperative.

GIVEN at Paramaribo this 21st day of
August 1985

2. Passport of Etienne Boerenveen

PENGAD-849000, N. J.
DEFENDANT'S
EXHIBIT
A
B-30-EN-1000

Diplomatiek paspoort
Diplomaatc passport
Pasaporte Diplomático



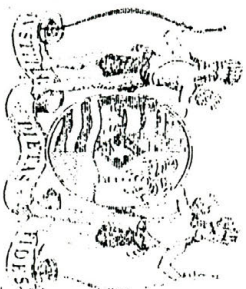
Republiek Suriname



Republiek Suriname
Republic of Surinam República de Surinam

Diplomatiek paspoort

Diplomatic passport
Pasaporte Diplomático



Republiek Suriname

11501090

Model 1975

115010711

L.S.,

HET DIPLOMATIEK/DIENSTPASPOORT WELK IN
UW BEZIT IS, WERD DOOR HET MINISTERIE
VAN BUITENLANDSE ZAKEN IN BRUIKLEEN AAN U
AFGESTAAN VOOR OFFICIELE DOELEINDEN.
IN VERBAND HIERMEDE MOGEN WIJ U DRINGEND
VERZOEKEN BETREFFEND REISDOCUMENT NA
TERUGKEER IN SURINAME BINNEN MAXIMAAL
48 UREN TE RETOURNEREN OP DE AFDELING
PROTOCOL.
BIJ NIET NALEVING HIERVAN ZULLEN DE
RELEVANTE MAATREGELEN GETROFFEN WORDEN.

DE DIREKTEUR VAN BUITENLANDSE ZAKEN,
VOOR DEZE,

a. chm
H.A. RAMDAT MISTER
CHIEF PROTOCOL

in naam van de President
van de Republiek Suriname

verzoekt de minister van Buitenlandse Zaken alle
burgerlijke en militaire overheden van bevriende
mogendheden, aan de houder van dit diplomatieke
paspoort

Doerenveer
Etienne Lionell

Datallions Commandant

met al zijn reisgoed vrije doorgang te verlenen en
hem alle hulp en bijstand te verschaffen.

09010711

in the name of the President
of the Republic of Surinam

the minister of Foreign Affairs requests all civil and
military authorities of friendly powers to allow
bearer of the present diplomatic passport

Boerenveen
Etienne Mionell

Batallion Commander

to pass freely with all his luggage and to afford him
every assistance and protection.

3

117010711

en nombre del Presidente
de la República de Surinam

el ministro de Relaciones Exteriores ruega a todas
las autoridades civiles y militares de potencias
amigas que dejen pasar libremente al portador de
este pasaporte diplomático

Boerenveen
Etienne Mionell

Batallion Comandante

con su equipaje y le presten toda ayuda y protección.

4

117010711

naam van de houder
name of bearer | apellido del portador

Boerenveers

signalement | description | descripción

length | height | altura
eyes | color de los ojos

1.95 m Dr. Bruin.

foto van de houder | photo of bearer | fotografía del portador

Etienne Lionell

nationality | nacionalidad

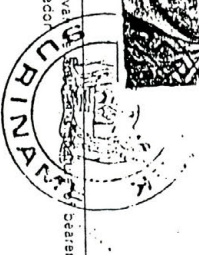
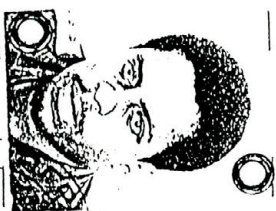
SURINAAMSE/SURINAMESE/SURINAMES

geography | place of birth | lugar de nacimiento

Paramaribo

geocorredatum | date of birth | fecha de nacimiento

14 Juni 1957/14-VI-57



handtekening van de houder
firma del portador

01010711

de geldigheidsduur van dit paspoort eindigt op
this passport expires on | este pasaporte vence el

18 OKT. 1984

landen waarvoor het paspoort geldig is valid for | válido por

alle landen van de wereld
all countries of the world
todos los países de mundo

afgegeven door issued by | expedido por

De President van Suriname

datum date fecha

19 OKT. 1982



[Handwritten signature]

11701090

aanvullingen en opmerkingen
additions and observations by Surinam
authorities
adiciones y observaciones de las
autoridades Surinamesas

DP010711

verlenging | renewal | renovación

verlengd tot | renewed until | renovado hasta

2 OKT. 1986

landen waarvoor het paspoort geldig is | valid for | válido por

alle landen van de wereld
all countries of the world
todos los países del mundo

verlengd door | renewed by | renovado por

De President van Suriname

datum | date | fecha

3 OKT. 1984

stempel en handtekening | seal and signature | sello y firma

de Minister van

de Minister van



[Signature]

9

11901090

verlenging | renewal | renovación

verlengd tot | renewed until | renovado hasta

landen waarvoor het paspoort geldig is | valid for | válido por

alle landen van de wereld
all countries of the world
todos los países del mundo

verlengd door | renewed by | renovado por

datum | date | fecha

stempel en handtekening | seal and signature | sello y firma

09010711

10

verlenging | renewal | renovación

verlengd tot | renewed until | renovado hasta

2 OKT. 1986

ALLEN WANNOPOR NI PASOON PEGU IS VANDI TOE VANDIC DOE
alle landen van de wereld
all countries of the world
todos los países del mundo

verlengd door | renewed by | renovado por

De President van Suriname

datum | date

3 OKT. 1984

SINCE SO ORDERING SEE THE SIGNATURE IS C.V.T.M.A

de Minister van

de Minister van



9

1401070

verlenging | renewal | renovación

verlengd tot | renewed until | renovado hasta

ALLEN WANNOPOR NI PASOON PEGU IS VANDI TOE VANDIC DOE
alle landen van de wereld
all countries of the world
todos los países del mundo

verlengd door | renewed by | renovado por

datum | date

SINCE SO ORDERING SEE THE SIGNATURE IS C.V.T.M.A

1401071

10

visa

040301 1531
062 10



IMMIGRATIE
UT: 13
SURNAME

IMMIGRATIE
IN: 09 MAART 1984
SURNAME

visa

EMBAIXADA DO BRASIL EM PARAMARIBO

VISTO DIPLOMÁTICO GRATIS N.º 09 -
NOME: Etienne Lionell Boerenveen
VÁLIDO PARA UMA ENTRADA NO BRASIL
DEPARTO DE 00 DIAS.



29 de fevereiro de 1984
Francisco Alcany de Felle Filho

VISA

U.S. IMMIGRATION
080 MIA 310

APR 06 1984

ADMITTED CLASS
M-1



U.S. IMMIGRATION
160-LOS C-13023
APR 14 1984
VISA
- 9 APR 1984
U.S. DEPARTMENT OF STATE
OFFICE OF THE INSPECTOR GENERAL
WASHINGTON, D.C. 20520

ADMITTED
L-1

APR 14 1984

CLASS

13

11701000

VISA

DIPLOMATIC



PARIMARIBO

5 APR 1984

MULTIPLE

- 4 OCT. 1984

BEARER



Kevin J. Harris
Vice Consul of the
United States of America

14

visa

IMMIGRATION
UIT: 25-3-85
SURINAME
M.P. *Lebrun*

IMMIGRATION
UIT: 06 APR. 1985
SURINAME
M.P. *Lebrun*

visa

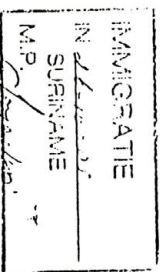
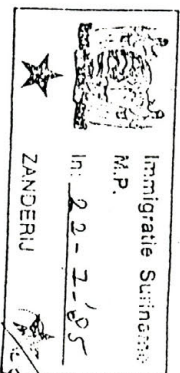
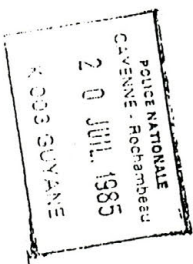
IMMIGRATION
IN: 16 APR. 1984
SURINAME
M.P. *Lebrun*

IMMIGRATION
UIT: 05 OKT. 1984
SURINAME
M.P. *Lebrun*

POLICE NATIONALE
CENTRE ROCHAMBAUD
10 OCT 1984
GUYANE
K019

IMMIGRATION
IN: 02 OCT 1984
SURINAME
M.P. *Lebrun*

Visa



17

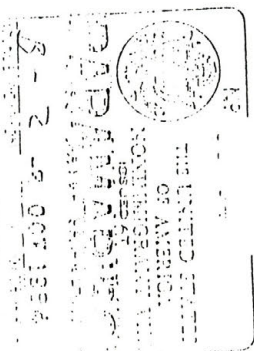
Visa

U.S. IMMIGRATION
CSO IMA C-10556

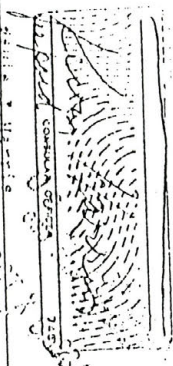
MAR 25 1985

DIPLOMATIC

ADMITTED
UNTIL
(CROSS)



RECEIVED



18

visa

visa

NEW YORK N.Y. 1904

OCT 20 1935

ADMITTED 41
UNTIL RUSS.

CONSUL
DIPLOMATIC

IMMIGRATIE
UIT 20-10-85
SURNAME
M.P. de V.

IMMIGRATIE
UIT: 21/3/86
SURNAME

G-2

-9 JAN. 1986

[Signature]
CONSUL OFFICE

visa

SECTION

visa

See Other Side

STAPLE HERE

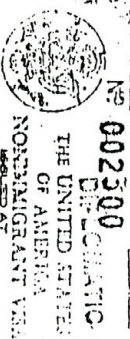
21

359373466 00

Departure Number

Immigration and
Naturalization Service
Departure Record
1-94

Family Name
First (Given) Name
Country of Citizenship
Date of Birth (Day/Month/Year)
11/4/20/57
SEP 20, 86



PARAMARIBO

B-2 20 MAR 1986

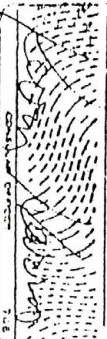
CLASSIFICATION: IMMIGRATION

USE FOR MULTIPLE

APPLICATIONS FOR ENTRY UNTIL

MAR 19 1987

ISSUED TO: BEARESCA



22

visa

visa

23

24

visa

visa

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visa

visa

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3. Request of Ministry of
Foreign Affairs

No. 4599/RO/js

The Ministry of Foreign Affairs of the Republic of Suriname presents its compliments to the Embassy of the United States of America and has the honour to endorse herewith the diplomatic passport of Commander Etienne L. Boerenveen, Member of the Military Authority.

The Ministry would very much appreciate if the Embassy could provide him with the appropriate visa, since Commander Boerenveen will travel to the United States in due time of official assignment.

The Ministry of Foreign Affairs of the Republic of Suriname avails itself of this opportunity to renew to the Embassy of the

United States of America the assurances of
its highest consideration.

Paramaribo, March 19, 1986

The Embassy of the United States
of America
Paramaribo

4. Order on Motion to Dismiss
 Based on Diplomatic Immunity

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE SOUTHERN DISTRICT OF
FLORIDA MIAMI DIVISION

CASE NO. 86-305-Cr-SMA

UNITED STATES OF AMERICA,

Plaintiff,

ETIENNE BOEREN-VEEN,
RICARDO HEYMANS and
CILVION HEYMANS,

Defendants.

Courtroom 10
301 North Miami Ave.
Miami, Florida
Friday, 2:30 p.m.
July 11, 1986

Pages 19 - 23: . . .

THE COURT: This matter is before
the Court upon an appeal by the defendant,
Etienne Boeren-Veen or sometimes referred
to objection to the report of and
recommendations submitted by the United
States Magistrate herein, under dates of

April 24, 1986, and July 9, 1986.

The defendant, Etienne Boeren-Veen, is a twenty-one year old citizen of the Republic of Suriname, who is one of five persons holding the highest rank in the army, that of commander of the army of Suriname. As such, he is a member of the military authority, a body politic, which together with other groups rules the Nation of Suriname.

Prior to Comander Boeren-Veen's arrival in the United States on or about March 24, 1986, the Ministry of Foreign Affairs of the Republic of Suriname sent a letter and presented Comander Boeren-Veen's diplomatic passport to the Embassy of the United States in Paramaribos, Suriname, so that the embassy would issue a visa to Commander Boeren-Veen to enter the United

States to conduct official business.

The United States Government issued Commander Boeren-Veen a visa classified as B-2, tourist.

While Commander Boeren-Veen was in the United States, on or about March 24, 1986, he was arrested in Miami, Florida, along with two codefendants, all of whom were charged with various narcotic conspiracies and related offenses based upon which a Miami Grand Jury returned an indictment against the defendants on April 2, 1986.

It is to that indictment that this motion to suppress on the grounds of diplomatic immunity is addressed.

I have carefully reviewed the report and recommendations, both of them, the other orders that have been entered by the United States Magistrate in the course of his continuing efforts to afford a basis

for additional evidentiary matters and information to be supplied and the patience which he exhibited in permitting and allowing that defendant to move for reconsideration from the Department of State regarding its official ruling, declaring that the defendant does not have and did not enter the United States with or under diplomatic immunity.

Having also reviewed all other pertinent and applicable portions of the record and all memoranda of law, this Court thereupon adopts, ratifies and affirms the report and recommendation of the United States Magistrate set forth in the document filed herein under date of April 18, 1986, Docket Entry No. 21, and as supplemented in the order wherein a recommendation is contained with regard to

the same subject matter dated July 9, 1986.

Both recommendations were for denial of the motion to dismiss on the grounds of diplomatic immunity.

Having ratified, affirmed and adopted the foregoing, I hereby order and direct that the motion to dismiss for Governmental immunity filed by Etienne Boeren-Veen be and the same is hereby denied.

Now, I call specific attention or direct specific attention to Page 12 of Magistrate Smargon's original report and recommendation dated April 18, 1986. Therein he said he, meaning Commander Boeren-Veen, was not a part of a mission performing mission functions under the terms of the Vienna Convention. His appointment to a mission and request for

diplomatic status was neither properly notified to nor recognized by the United States. No facts or governing legal principles presented by the defendant warrant disturbing the decision of the executive branch to refuse recognition of the diplomatic status of Commander Boeren-Veen.

Going further and addressing that last point, the Eleventh Circuit has addressed a somewhat similar matter in Abdulaziz, A-b-d-u-l-a-z-i-z, versus Metropolitan Dade County 741 F2d. 1328, wherein at Page 1329 the court held, "We hold that once the United States Department of State has regularly certified a visitor to this country as having diplomatic status, the courts are bound to accept that determination and that the diplomatic

immunity flowing from that status serves as a defense to suits already commenced."

This is the law established and set in the Eleventh Circuit. Applying that law to a circumstance in which the United States Department of State has now refused to certify the defendant, Etienne Boeren-Veen, as having diplomatic immunity status, this Court holds that the same result should ensue, namely, that this Court is bound to receive and accept that determination of the Department of State, barring circumstances, abuse of discretion or other very high and substantial standards which would create a reasonable basis for a court to attempt to intercede with its own judgment.

Alternatively, I find that if the same status were not to be accorded by the Court to the Department of State's refusal

to grant or recognize diplomatic status, that having reviewed the record herein and heard the matters presented and the arguments before this Court, that there has not been shown an abuse of discretion by the Department of State in such circumstances as would induce the Court to intervene and interject its own determination in a matter which normally rests with the executive branch, and particularly the Department of State.

Now, that is the ruling with regard to that motion.

