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TELEGRAM

47
Rui 13319
11/5/68

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ACTION ARA 16

INFO RSR 01, CIAE 00, DODE 00, GPM 04, H 02, INR 07, L 03, NSC 10, P 04,

RSC 01, SP 02, SS 25, USIA 12, NSA 02, AID 28, PC 04, /121 W
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R 052009Z NOV 68
FM AMEMBASSY RIO DE JANEIRO
TO SECSTATE WASHDC 5169
INFO AMEMBASSY BRASILIA
AMCONSUL SAO PAULO
AMCONSUL RECIFE
USCINCSO

LIMITED OFFICIAL USE RIO DE JANEIRO 13319

SUBJECT: ACTION IN HERMANO ALVES CASE

REF: RIO 13217

1. PUBLIC PROSECUTION NOV 4 FILED INFORMATION (DENUNCIA) AGAINST FEDERAL DEPUTY HERMANO ALVES IN RIO NAVAL COURT. JUDGE REPORTEDLY WILL THIS WEEK SEND TO CHAMBER PETITION SEEKING PERMISSION TRY CASE. CHARGES BASED ON SEVEN ARTICLES PUBLISHED BETWEEN JANUARY 25 AND OCTOBER 3, 1968. SPECIFIC COUNTS ARE ARTICLES 14, 23, 29, 31, 33 (PARA 1 AND 3), AND 45 OF NATIONAL SECURITY LAW AND ARTICLE 66 OF MILITARY PENAL CODE.

2. PROSECUTOR'S INFORMATION ALSO STATED HERMANO ALVES HAD INFRINGED NATIONAL SECURITY LAW BY FOUR SPEECHES MADE IN CONGRESS BETWEEN FEBRUARY 6 AND AUGUST 28 BUT THESE NOT BEING CHARGED BECAUSE OF "IMMUNITY ASSURED BY ARTICLE 34 OF CONSTITUTION." THEY WERE HOWEVER CITED AS DEMONSTRATIVE OF ALVES' INTENT IN WRITING THE NEWS ARTICLES.

3. PROCEDURAL ARTICLE 45 NOT PREVIOUSLY CITED ESTABLISHES TRIAL IN MILITARY FORUM. CITED AS ANSWER TO COMPLAINTS

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THAT TRIAL SHOULD BE UNDER PRESS LAW. CHARGE UNDER
ARTICLE 30 APPARENTLY DROPPED BY PROSECUTOR.

4. COMMENT: IT INTERESTING THAT PROSECUTOR CITES HARMANO
ALVES' IMMUNITY FOR SPEECHES MADE ON FLOOR OF CONGRESS AT
SAME TIME ATTORNEY GENERAL SEEKING LIFT IMMUNITY MARCIO
HGREIRA ALVES FOR SUCH ACTSM TUTHILL

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