

NATION & WORLD

Will ex-president be sent home to Panama to face charges? His fate up to Miami judge

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Miami federal judge must determine whether evidence provided by Panamanian authorities supports charges that the 65-year-old ex-President Ricardo Martinelli, above, orchestrated an espionage scheme against his rivals using a government-funded surveillance system. MIAMI HERALD *File*



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A Miami federal judge signaled Thursday that his mind is open about whether to send a former Panamanian president back home to face charges that he illegally spied on enemies and allies alike.

After hearing from federal prosecutors handling Panama's extradition request and the legal team defending ex-President Ricardo Martinelli, Magistrate Judge Edwin Torres said he would make a final decision after another hearing on Aug. 22. He didn't tip his hand one way or the other.

"In this case, I see both [sides'] arguments very well," he said.

Torres must determine whether evidence provided by Panamanian authorities supports charges that the 65-year-old Martinelli orchestrated an espionage scheme against rivals using a government-funded surveillance system.

Martinelli, a wealthy businessman who served as president of Panama from 2009-14, was living in the Miami area for two years before his arrest in June by federal marshals near his \$8 million Coral Gables waterfront home. Ever since, the once-powerful Central American politician has been held at the Federal Detention Center in Miami.

After Torres denied his bid for a bond, Martinelli's defense team filed an emergency motion last week to the U.S. Supreme Court to consider his request for bail. The emergency motion was denied on Wednesday, but the petition itself will be considered again in September.

The former president is accused of intercepting and recording the private conversations of political opponents and allies, along with judges, journalists, businessmen, union activists and even his mistress, according to a complaint filed by the U.S. Attorney's office in Miami, which cited Panama's extradition request.

Martinelli has been charged in Panama with interception of communications, and tracking, persecution and surveillance without judicial authorization, along with two additional embezzlement offenses, the complaint says.

The money used to pay for the surveillance system — about \$13.4 million — had been allocated to a fund that was supposed to "improve the quality of life for underprivileged persons," the complaint says. Instead, the funds bankrolled intelligence-gathering operations that produced daily reports for Martinelli and sometimes gleaned "particularly sensational audio or video," including of political opponents having sex, that the complaint says Martinelli instructed security personnel to upload to YouTube.

Lawyer Marcos Jimenez, a former U.S. attorney in Miami, has raised a host of defenses attacking Martinelli's detention and the extradition request, claiming that as a former Panamanian president he has immunity and there is no basis for the charges during his time in office.

He argued that the two main surveillance charges were not among the 13 criminal offenses listed in the original 1904 U.S.-Panama extradition treaty and that the two embezzlement counts were tacked on after Panamanian prosecutors realized their surveillance case was flawed.

"There's a rush to judgment," Jimenez argued. "There's a rush to charge him with triple hearsay [witnesses]. There's a rush to charge him with stealing \$13 million in [government] equipment."

Martinelli's defense team also claims the criminal complaint is the vengeful handiwork of his political rival.

"The charges against [former] President Martinelli are transparently motivated by politics, as evidenced by the fact that he fired the sitting president of the country that is seeking his extradition," Jimenez said in a court filing. He noted that in 2011, Martinelli fired Juan Carlos Varela as foreign minister after learning that he was allegedly receiving kickbacks from foreign consulate officers.

Assistant U.S. Attorney Adam Fels, who is representing Panama's extradition request, countered that Panama's treaty with the United States was updated in 2014 to include surveillance charges. He said they applied retroactively to Martinelli's surveillance offenses, making them valid.

Fels also argued "there is ample evidence" that Martinelli "authorized the embezzlement of government equipment" for his surveillance system. As for circumstantial evidence, the prosecutor said "there are enough recordings to show he directed the whole thing," including confronting certain witnesses captured on audio and video.

In court papers, Fels said the former president even boasted on a TV news show that he had "the dossier and pedigree on everyone, everything in this country" and that he knew "what each person has done and not done."

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