

FILED
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

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DISTRICT OF UTAH

DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal No. 2: 14CR00009-CW

JEREMY STONE,

Defendant.

PETITION OF THE GOVERNMENT OF BRAZIL IN ANCILLARY HEARING

THE GOVERNMENT OF BRAZIL asserts its interest as an innocent third-party with respect to property which has been forfeited to the United States in the above-styled case as follows:

1. THE GOVERNMENT OF BRAZIL asserts its interest in the property ordered forfeited to the United States in this court's forfeiture order of July 31, 2014, namely:

- Eight boa constrictors (seven living), all seven of which are currently housed at Hogle Zoo in Salt Lake City, Utah.

2. The circumstances under which the GOVERNMENT OF BRAZIL acquired its interest in the snakes are as follows:

In 2006, Brazilian military firefighters discovered a rare, leucitic boa constrictor living in the wild in the jungle region of Brazil, specifically, the State of Rio de Janeiro. Leucism is a rare condition found in animals characterized by reduced pigments which produces a white skin coloring. This particular breed also has the ability to generate descendants with a peculiar staining characteristic, known as "morph snakes," which are valued by snake collectors and breeders. After being discovered, the snake was transferred to the Niteroi Zoo (ZooNit) in Rio de Janeiro, Brazil.

In 2009, the snake was illegally smuggled into the United States by Jeremy Stone (Stone), the defendant in the captioned matter, who unlawfully purchased the snake from the then-administrator of ZooNit, Giselda D'Ameglio Candiotta (D'Ameglio). Stone is a U.S. snake breeder. At the time the snake was smuggled out of Brazil, it was the only known leucitic boa constrictor in the world.

Because the boa constrictor was an animal captured in the wild in Brazil, the snake and its offspring are the lawful property of the Government of Brazil, pursuant to the legal authority contained in Articles 23 and 225, VII, of the Brazilian Constitution; Article 2 of Brazil's National Environment Policies (also known as Law 6.938); and Article 29, Section 3 of Brazil's Environmental Criminal Law (also known as Law 9.605/1998), among other relevant Brazilian authority. These laws make it clear that Brazil considers animals caught in the wild to be the property of the Brazilian state, and therefore, no individual or entity can ever acquire lawful title to them without obtaining the express permission of the Brazilian Institute for Environment and Renewable Natural Resources (IBAMA), which is a federal administrative agency that operates under the Brazilian Ministry of the Environment. The agency is responsible for policing and enforcing Brazil's federal environmental laws, oversees the use of renewable resources, and grant permits. In this case, the IBAMA did not grant Stone, or anyone else, permission to possess and/or transport either the boa constrictor, or her offspring at any time.

Article 1 of Brazil's Law for the Protection of Fauna further supports Brazil's claim of ownership to the boa and its offspring. The statute (translated) provides, in pertinent part:

The animals of any species, at any stage of their development, and who live naturally out of captivity, constituting the wild fauna, as well as their nests, shelters, and natural breeding sites are property of Brazil. It is forbidden to use them; to track them down, to destroy them, to hunt them or to get hold of them.

Because the United States and Brazil are parties to the Convention on International Trade in Endangered Species of Fauna and Flora (CITES), the Brazilian boa constrictor was entitled to international trade protection, which required a CITES permit for export from Brazil, its country of origin. The Government of Brazil has been advised by the relevant U.S. authorities that since August 1, 2006, no CITES permit has been surrendered to the CITES management authority for the importation into the U.S. of any live and wild caught boa constrictors originating from Brazil, as required for lawful importation of a species.

Stone and D'Ameglio, the perpetrators of the crime, were accused before the 2nd Federal Justice Court in the State of Roraima on the 4th of October, 2013, in connection with the illegal exportation of the boa. The criminal complaint ("denuncia") was issued on the 11th of October, 2013, which is similar to an indictment. Both Stone and D'Ameglio were charged by the 2nd Federal Court of Justice in the State of Roraima with international trafficking of wildlife, in violation of Environmental Crime Law 9.605/98 and Article 334 of the Brazilian Penal Code. As a result of the Brazilian criminal case, U.S. law enforcement authorities seized eight offspring of the leucitic boa (seven living) from Stone's home and transferred them to the Hogle Zoo in Salt Lake City, Utah, where they are currently housed.

¹ On August 29, pursuant to 28 U.S.C. § 2467, the Asset Forfeiture and Money Laundering Section (AFMLS) of the Criminal Division of the United States Department of Justice, acting upon a Mutual Legal Assistance Treaty request from the Government of Brazil to enforce a seizure order issued in connection with parallel Brazilian criminal charges, obtained an Order from a Federal District Court sitting in the District of Columbia involving the property now forfeited by this Court. See Attachment 1. Pursuant to that District Court's Order, which enforced the Brazilian seizure order against the boa constrictor and its offspring, the U.S. Marshals Service seized 8 snakes (7 now living and currently housed at Hogle Zoo) that are the offspring of the original snake. AFMLS has advised the Government of Brazil that it will move to dismiss the enforcement

On January 8, 2014, the United States Attorney's Office in the District of Utah filed an indictment against Stone for violations of Title 18, United States Code, Section 371 (conspiracy to knowingly import merchandise contrary to law); Title 18, United States Code, Section 545 (knowingly importing merchandise contrary to law; transporting merchandise knowing it was imported into the United States contrary to law); and Title 16, United States Code, Sections §3372(d) and 3373(d) (3) (A) (i) (knowingly making and submitting false records for wildlife imported into the United States).

On July 31, in the captioned criminal proceeding, Stone pled guilty to a violation of Title 16, United States Code, Section 3372 (d)(2) (transporting wildlife taken, acquired, or transported in violation of federal law). In his guilty plea, Stone admitted that on January 29, 2009, four boa constrictors were transported from Miami, Florida to Utah, one of which was the leucitic boa referenced above, which Stone admitted had been caught in the wild in Brazil. Stone further admitted that the snakes were illegally smuggled out of Brazil and transited through Guyana before arriving in the United States. This conduct was a violation of Title 16, United States Code, Section 3372 (d) (2). Thus, Stone's guilty plea supports the Government of Brazil's claim that the boa constrictor was Brazil's property, and was stolen and illegally smuggled into the United States from Brazil. As such, the Government of Brazil has a superior legal right, title or interest in the boa constrictor than anyone else at the time the snake was smuggled out of Brazil.

The seven living snakes that are subject to this Court's preliminary order of forfeiture were bred by Stone from the illegally smuggled Brazilian boa constrictor, which died in January 2013. Although the offspring were bred in the United States, they constitute proceeds of the crimes that Stone committed. But for Stone's criminal violations, Stone would not have possessed the seven living snakes that are the offspring of the Brazilian boa constrictor. Thus, the offspring are also the national property of the government of Brazil.

3. In light of the authority referenced above, and pursuant to Title 21, United States Code, Section 853(n) (6), the petitioner, GOVERNMENT OF BRAZIL, has a prior vested or superior interest in the property.

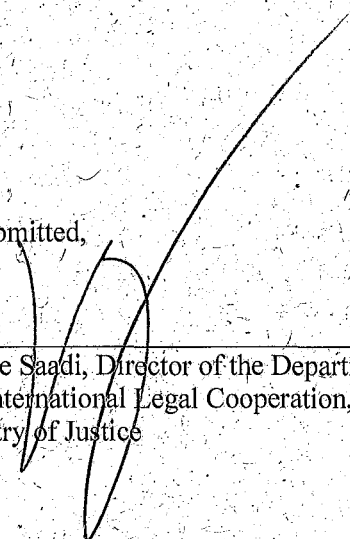


action pending in the District Court for the District of Columbia should this Court rule in favor of the Government of Brazil on this Petition.

4. The petitioner seeks relief from this court's preliminary order of forfeiture and hereby requests that this Honorable Court issue a final order of forfeiture to recognize fully the interest of the GOVERNMENT OF BRAZIL as it is set forth herein, but the petitioner does not seek a hearing pursuant to Title 21, United States Code, Section 853(n)(5) unless other parties a claim to the forfeited property.

DATED: September, 26th, 2014

Respectfully submitted,

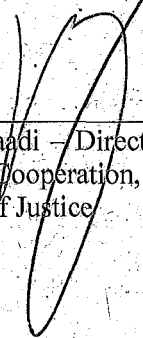


Ricardo Andrade Saadi, Director of the Department of Asset
Recovery and International Legal Cooperation,
Brazilian Ministry of Justice

DECLARATION

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September, 26th, 2014, at Brasilia, Distrito Federal, Brazil.



Ricardo Andrade Saadi – Director of the Department of Asset Recovery and
International Legal Cooperation,
Brazilian Ministry of Justice