

6 nations refused to take Posada

As Cuban exile militant Luis Posada Carriles asked a federal magistrate to release him, the U.S. government revealed that at least six other countries had refused to take him in.

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EL PASO - The U.S. government revealed Monday that it has asked six countries, including Mexico and Canada, to take Cuban exile militant Luis Posada Carriles -- but they all refused.

The disclosure came during a two-hour hearing in federal court, in which an elegantly attired Posada asked U.S. Magistrate Norbert Garney to free him from immigration detention. Posada, 78, has been in the custody of U.S. Immigration and Customs Enforcement in an El Paso detention facility since immigration officers detained him in Miami-Dade County on May 17, 2005.

Venezuela and Cuba accuse the CIA-trained Posada of terrorism, including the bombing of a passenger jet in 1976 that killed 73 people. Posada has long denied involvement.

Monday was the first time the U.S. government has publicly disclosed the number and names of foreign countries it has approached in an effort to remove Posada from the United States. An El Paso immigration judge last year prohibited his deportation to Cuba or Venezuela but ordered his expulsion to any other country willing to take him.

Besides Canada and Mexico, the other countries that rejected Posada were Honduras, Costa Rica, Guatemala and El Salvador.

Eduardo Soto, Posada's lead attorney, told Garney that the government's disclosure -- made by an ICE officer called as a witness -- proves the United States cannot deport Posada and, thus, he should be released. Failure to do so, Soto added, would violate the 2001 U.S. Supreme Court decision against indefinite detention of foreign nationals who cannot be deported.

Ethan Kanter, a Justice Department attorney, who represented the U.S. government at the hearing, asked Garney to deny Posada's request for release because efforts to expel him are continuing and because the high court's 2001 ruling allowed for the indefinite detention of detainees deemed a "danger to the

community." An ICE letter to Posada in March said he continued to "present a danger to the community" and "a risk to the national security of the United States."

Garney told Posada that he would issue his decision later. Felipe Millan, an El Paso attorney retained by Posada, said he expected Garney's ruling in the next few days.

Posada was charged with being illegally in the country and placed in deportation proceedings. The ICE letter listed all of the charges and allegations against Posada outside the United States. These include the bombing of a Cuban jetliner off Barbados in 1976, the bombing of hotels and tourist spots in Cuba in 1997 and 1998 and a thwarted assassination plot against Fidel Castro in Panama in 2000. Posada has denied all the allegations.

Posada's daughter, Janet Arguello, 35, was among a small group of supporters at the hearing. Outside the courtroom, Arguello wiped away tears as she spoke about her elderly father.

"He is getting old . . . and he is suffering from a heart condition," Arguello said, adding that her father had fainted several times while in detention in El Paso. "My fervent hope is that he spend his last years in freedom, with his family."

The hearing was the first in Posada's efforts in federal court to obtain freedom. Though he won protection in immigration court from removal to Cuba or Venezuela, ICE has decided to keep him in custody. Posada was born in Cuba but is a naturalized Venezuelan citizen.

Soto said if the ruling goes against Posada, then he would appeal all the way to the Supreme Court if "necessary." If the case goes that far, it could be the first test of the high court's 2001 ruling exemption for "dangerous" detainees.

The 2001 ruling said foreign nationals who cannot be deported must be released under conditions of supervision no later than six months after deportation orders have become final and there is no likelihood any country will take them. But the ruling indicated that exceptions could be made for "specially dangerous individuals."

Even if Garney decides Posada should be released, his ruling may not result in immediate freedom. It would amount to a recommendation to U.S. District

Judge Philip Martinez who is overseeing Posada's lawsuit against the federal government seeking release.