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Advocating for American Jacob Ostreicher's Freedom after Two Years in Bolivian Detention

*Excerpts of Remarks by Rep. Chris Smith
Subcommittee on Africa, Global Health, Global Human Rights, and Int'l Orgs.
2172 Rayburn HOB
May 20, 2013*

Thank you for coming to this important hearing to press for the immediate freedom and repatriation of Mr. Jacob Ostreicher, a U.S. citizen from Brooklyn, New York, who has been detained in Bolivia for 718 days. I especially want to welcome and thank our distinguished witness, Mr. Sean Penn, for taking time out of his very busy schedule to testify before the subcommittee today.

This human rights panel in the 112th Congress held two hearings on Mr. Ostreicher's case, one in June and the second in August 2012. The witnesses included Mr. Ostreicher's wife, Miriam Ungar, his daughter, Chaya Weinberger, Steve Moore, a retired FBI agent who investigated Mr. Ostreicher's case on a *pro bono* basis, all three of whom are with us in the audience today, and Mr. Ostreicher's two Bolivian attorneys, Mr. Yimy Montaña and Mr. Jerjes Justiniano—who are not only extraordinarily effective and competent defense lawyers, but brave as well.

The record—including their testimonies—established that Mr. Ostreicher is innocent, and is the victim of an elaborate, high-level government extortion ring that has fleeced approximately \$27 million worth of assets from the rice operation that he had been managing.

It's time Jacob came home to his wife and family and friends. Basic justice and humanitarianism—Jacob is very ill—adds to the urgency that he be freed.

In one sense, a lot has happened since the hearing last August. Tragically, Mr. Ostreicher has developed the symptoms of Parkinson's Disease, likely due to the sustained, severe stress to which he has been subjected.

Immediately following meetings that I had with Bolivian officials in La Paz last June, including Carlos Romero, Minister of Government, Bolivia started to investigate whether Mr. Ostreicher was the victim of extortion. A total of 27 prosecutors, judges, and officials responsible for confiscated goods who were involved in Mr. Ostreicher's case have now had charges made against them. Currently, 13 of them are in the Palmasola prison, 9 are under house arrest, and 5 are fugitives.

One of those in prison, Fernando Rivera, is a Ministry of Government adviser who I personally witnessed threaten the judge presiding at one of Mr. Ostreicher's hearings in a Santa Cruz court room. Mr. Rivera recently apologized to Mr. Ostreicher during a bail hearing, claiming that he was only following orders from then- Minister of Government Sacha Llorenti. In one of the many bizarre twists to this story, Mr. Llorenti is now the Bolivian representative to the United Nations, living in New York just a few miles from Mr. Ostreicher's home.

I traveled for a second time to Bolivia in early December, this time with Representative Nydia Velázquez, to visit Mr. Ostreicher and again to press Bolivian officials to either produce the evidence that he has committed a crime or free him. High level officials assured us that Mr. Ostreicher's case would proceed fairly and expeditiously now that the extortion network was being exposed. Some officials even admitted to us privately that they believed Mr. Ostreicher is innocent.

Mr. Penn became involved in the case in October, and was instrumental in obtaining medical care for Mr. Ostreicher and for helping to secure his release from the Palmasola prison to house arrest on December 18th. With Mr. Penn's personal intervention with President Morales and with Mr. Penn in the court room, all of us hoped that Jacob would be at long last released and vindicated at a hearing in December. Inexplicably, that didn't happen.

The State Department references Mr. Ostreicher's case in its 2012 Country Reports on Human Rights Practices for Bolivia, and notes the arrest of government officials and the stolen assets as part of its section on "arbitrary arrest or detention."

However, in another sense, the most important aspects of the case have not changed. Mr. Jacob Ostreicher is still in the custody of the Government of Bolivia. On June 4th, it will be two years since he was imprisoned. Bolivian officials are employing delay tactics and giving excuses for his continued detention that we have heard before. No evidence whatsoever has been presented to indicate that Mr. Ostreicher is guilty of any crime. And there is no sign of the \$27 million in assets from his rice operation that were confiscated. Perhaps this last fact is the real reason why Mr. Ostreicher still is not home with his family in the United States.

Recently, there have been reports from credible sources that there is another "security threat" to Mr. Ostreicher's safety. These followed the sudden removal of Bolivian security

officers from the parameter of Mr. Ostreicher's residence, the day after Mr. Rivera implicated the current Bolivian representative to the U.N. in the extortion case. As long as Mr. Ostreicher is forced to remain in Bolivia, the government is responsible for and must take all necessary measures to ensure his safety.

As a result of the continued injustice in Mr. Ostreicher's case, and also in response to the growing number of cases of Americans being detained abroad in violation of their human and due process rights, I together with Rep. Velázquez have re-introduced the Justice for Imprisoned Americans Overseas Act, or "Jacob's Law." H.R. 1778 would deny visas to foreign government officials responsible for violating the human or due process rights of an American in their custody. The travel ban would also apply to the officials' immediate family members.

It is wrong for our government to give foreign officials and their families the privilege – and it is a privilege, not a right – to visit and study in the U.S. while those same officials are wrongfully detaining an American abroad.

While this bill works its way through the legislative process, my committee will continue to pursue every means possible to secure Mr. Ostreicher's safe return to his wife, children and grandchildren. And that is why we are holding this hearing.

President Morales is flying to Atlanta today for a meeting with former-President Jimmy Carter to ask for his assistance in negotiating land access through Chile to the Pacific Ocean.

While the Bolivian media is reporting on these events, I hope that they will also note that I am sending the former president the transcripts of the hearings that this subcommittee has held on the case of Jacob Ostreicher. I contacted the Carter Center earlier today to ask the former President Carter to intervene personally in Mr. Ostreicher's case. I was advised that Jacob's case is on the agenda today and would be raised.

It is very much a privilege to have Mr. Penn with us today, not only because of the fame that he has rightly garnered through his Academy Award-winning acting, and not only because of the highly commendable assistance he is bringing to the suffering people in Haiti through the relief organization that he founded, but also because of the extraordinary assistance that he has provided to Mr. Ostreicher, who he had never met and to whom he owed no obligation prior to being asked to assist with the case last fall. That assistance now includes joining us today to highlight Mr. Ostreicher's continued plight and to advocate for his freedom.

Before we hear Mr. Penn's testimony, I invite my distinguished colleagues to give any opening remarks.