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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

IN THE MATTER OF THE
EXTRADITION OF

ROGER LAWRENCE STRUNK,

No. MISC S-03-126 GGH

aka ROGER LAURENCE STRUNK,
aka ROD LAWRENCE STRUNK,
aka ROD LAUREN STRUNK,
aka RAD LAUREN STRUNK

ORDER

Introduction and Summary

Roger Lawrence Strunk, a United States citizen, is in custody pursuant to a complaint and warrant of provisional arrest issued on May 12, 2003, seeking Strunk's extradition to the Republic of the Philippines. The Philippines requests a certificate of extradition, pursuant to an extradition treaty between the Philippines and the United States, so that Strunk may stand trial in the Philippines for the murder of Nida Blanca.

Extradition proceedings are ones of extreme sensitivity between sovereigns. No country should allow a citizen or resident to avoid foreign, legitimate criminal proceedings simply by reason of absence from the seeking country. Especially after September 11, 2001, countries should be sensitive to harboring accused criminals, or worse yet, terrorists, because world order depends on international respect for the legitimate laws of individual sovereign

1 nations. Failure to respect extradition requests can lead to animosity between the countries
2 involved, including undignified reciprocity in the form of rejected extradition requests sought by
3 the previously rejecting country.

4 However, all provisions of the extradition treaty must be honored including those
5 which set minimum standards for permitting extradition in the first place. Article 7, Sec. 3 of
6 the United States/Philippines extradition treaty applicable here provides: “a request for
7 extradition of a person who is sought for prosecution shall be accompanied by such evidence as,
8 according to the law of the Requested State [the United States], would provide cause for his
9 arrest and committal for trial if the offense had been committed there.” Def.’s Ex. A filed May
10 27, 2003. The issue here is whether this binding standard has been met. For the reasons set forth
11 below at length, the court finds that it has not.

12 *Jurisdiction of the Undersigned*

13 Extradition proceedings are not Article III jurisprudential proceedings. Rather,
14 the proceedings derive from Article II of the Constitution, and have been interpreted by the
15 Supreme Court as necessarily involving the courts. See In re Kaine, 55 U.S. 103, 109, 14 L.Ed.
16 345 (1852); Matter of Requested Extradition of Smyth, 61 F.3d 711, 720 (9th Cir. 1995)
17 (“[E]xtradition hearings [are] conducted under the authority of a treaty enacted pursuant to
18 Article II.”). Title 18 U.S.C. § 3184 provides:

19 Whenever there is a treaty or convention for extradition between
20 the United States and any foreign government, or in cases arising
21 under section 3181(b), any justice or judge of the United States, or
22 any magistrate judge authorized so to do by a court of the United
23 States, or any judge of a court of record of general jurisdiction of
24 any State, may, upon complaint made under oath, charging any
25 person found within his jurisdiction, with having committed within
the jurisdiction of any such foreign government any of the crimes
provided for by such treaty or convention, or provided for under
section 3181(b), issue his warrant for the apprehension of the
person so charged, that he may be brought before such justice,
judge, or magistrate judge, to the end that the evidence of
criminality may be heard and considered.

26 Without a doubt, the statute authorizes a magistrate judge to conduct all extradition proceedings,

1 and equally without doubt is the fact that the Eastern District of California, by local rule, has also
2 authorized magistrate judges to conduct the proceedings. It is only because a court of this district
3 advised in dicta that magistrate judges do not have such authority, that the court discusses this
4 issue at some length. See In re Extradition of Singh, 170 F. Supp.2d 982, 992 (n.7) (E.D. Cal.
5 2001).

6 Eastern District Local Rule 72-302 sets forth the general assignments of cases and
7 matters to magistrate judges. Because statutory authorization for magistrate judge jurisdiction
8 appears in many different places throughout the United States Codes, and because new
9 authorizations appear from time to time, the initial section of the Rule provides:¹

10 **General.** It is the intent of this Rule that Magistrate Judges
11 perform *all duties* permitted by 28 U.S.C. §§ 636(a), (b)(1)(A), or
12 *other law* where the standard of review of the Magistrate Judge’s
13 *decision is clearly erroneous or contrary to law. Specific duties are*
enumerated in subsection (b) and (c) of the Rule; however, those
described duties are not to be considered a limitation of this
general grant.

14 (emphasis added).

15 As set forth above, the extradition statute is the “other law” which authorizes magistrate judge
16 jurisdiction, and the local rule authorizes the magistrate judge to act in such a situation.² As the
17 Rule expressly contemplates, the specific duties set forth in the local rule (for purposes of
18 notification convenience to practitioners) does not act as a limitation of the general grant. And,
19 the right of “review” enjoyed by the petitioner³ in an extradition proceeding, a habeas corpus
20 action, see Hooker v. Klein, 573 F.2d 1360, 1364 (9th Cir. 1978), has as its standard of review

21 ¹ The undersigned was the author of this particular rule along with Judge Moulds of this
22 district. Although the issue of jurisdiction is decided by the plain meaning of the Rule’s words,
23 to the extent there is any dispute about the underlying intent, the undersigned can speak with
some authority on that matter.

24 ² The general grant of authority in the local rule was designed such that it would not have
25 to be amended every time a new statutory authorization was added or one was deleted.

26 ³ Neither the requesting state, nor the extraditing state has a right of appeal, or of course,
a right to seek habeas corpus. See footnote 29 supra.

1 one of clearly erroneous on the facts and contrary to law (de novo) on legal issues. Mainero v.
2 Gregg, 164 F.3d 1199, 1205 (9th Cir. 1999) (clear error on the facts) (superseded ... see cite at
3 12); Theron v. United States Marshal, 832 F.2d 492, 495 (9th Cir. 1987) (contrary to law-de novo
4 on legal issues), abrogated on other grounds United States v. Wells, 519 U.S. 482, 117 S. Ct.
5 921(1997).

6 In re Extradition of Singh, supra, contains an exhaustive analysis of extradition of
7 law which is relied upon by the undersigned infra for his substantive analysis. By way of a one
8 sentence background introduction, Judge Wanger remarked that the local rules of this district did
9 not permit magistrate judges to conduct extradition proceedings. 170 F. Supp.2d at 992 (n. 7).
10 The issue of magistrate judge authority was in no way involved in that case, and no further
11 analysis of the issue was made. It is clear that Judge Wanger did not intend to analyze the issue;
12 therefore, the court follows the clear lines of authority set forth by the statute and local rule
13 authorizing magistrate judges to preside in extradition proceedings.

14 In an abundance of caution, and at the express request of the parties, the
15 undersigned submitted a referral order pursuant to § 3184 to the Honorable Garland E. Burrell
16 which he signed directing the undersigned to conduct the proceedings. The undersigned does not
17 believe such was necessary, but it exists for whoever would question the authority of the
18 undersigned to proceed.

19 *General Extradition Legal Standards*

20 The judge in an extradition proceeding applies a standard similar to that of a
21 preliminary hearing, determining whether the evidence justifies holding the accused for trial, not
22 whether the evidence may justify a conviction. See Matter of Extradition of Powell, 4 F.
23 Supp.2d 945 (S.D.Cal., 1998). The analysis is parallel to that used in determining whether
24 evidence demonstrates probable cause to charge the crime.

25 In order to find Strunk extraditable, the following must be shown:

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1 (1) The court has jurisdiction over the subject matter and the
2 fugitive;

3 (2) The crime for which surrender is requested is an extraditable
4 offense covered by a valid and enforceable treaty; and

5 (3) Competent evidence is sufficient to demonstrate probable
6 cause that the accused committed the alleged offense.

7 18 U.S.C. § 3184.

8 The parties do not dispute whether jurisdiction exists over the subject matter and
9 the fugitive, whether Strunk is the person sought by the Philippines, and whether the crime, also
10 a criminal offense in the United States, is an extraditable offense covered by a valid and
11 enforceable treaty. The court finds that the forgoing requirements for extradition exist. The only
12 dispute is whether competent evidence demonstrates probable cause that Strunk was involved in
13 the murder of Nida Blanca.⁴

14 The requesting country is not required to submit all its evidence, and the district
15 court considers only probable cause, not whether the evidence is sufficient to convict. Singh,
16 170 F. Supp.2d at 993. The district court determines only whether probable cause exists to
17 believe the extraditee committed the charged crimes. Quinn v. Robinson, 783 F.2d 776, 782-83
18 (9th Cir.1986). Another way of putting the matter is that extradition must be allowed if there is a
19 reasonable belief that the extraditee committed the crime and competent evidence supports that
20 belief. Mainero, 164 F.3d at 1205.

21 The probable cause standard is flexible. The Supreme Court has acknowledged:

22 Articulating precisely what “reasonable suspicion” and “probable
23 cause” mean is not possible. They are commonsense,
24 nontechnical conceptions that deal with the factual and practical
considerations of everyday life on which reasonable and prudent

25 ⁴ Nida Blanca was the stage name of Dorothy G. Jones. At times the evidence submitted
26 by the Philippines refers to the murder victim as “Nida Blanca,” at other times as “Dorothy
Jones” or “Dory” or “Tita Dory.” The court will refer to the victim as Nida Blanca, or Blanca.

1 men, not legal technicians, act. As such, the standards are not
2 readily, or even usefully, reduced to a neat set of legal rules.

3 Ornelas v. U.S., 517 U.S. 690, 695-96, 116 S. Ct. 1657, 1661 (1996) (quotations and citations
4 omitted); see also U.S. v. Schaafsma, 318 F.3d 718, 722 (7th Cir. 2003) (“The determination of
5 whether probable cause exists in a given situation involves examining the totality of the
6 circumstances in a common sense manner.”); U.S. v. Hayes, 236 F.3d 891, 894 (7th Cir. 2001)
7 (“The probable cause standard is a flexible, practical common-sense one which is met if the facts
8 are sufficient to warrant a person of reasonable caution to believe that an offense has been or is
9 being committed.”); U.S. v. Gilliam, 167 F.3d 628, 633 (D.C.Cir.1999) (“[A]rticulating when
10 probable cause exists is a ‘common sense’ determination, which turns on the ‘practical
11 considerations of everyday life.’”). “[T]he extradition judge makes credibility determinations as
12 to the competence of the evidence supporting probable cause.” In re Singh, 170 F. Supp.2d at
13 1023.

14 The court has limited discretion in determining what evidence to admit in
15 opposition to an extradition request. Singh, 170 F. Supp.2d at 993. The general “rule of non-
16 contradiction” holds that evidence may not be offered to contradict testimony or challenge the
17 credibility of a requesting country’s evidence. See, e.g., Justice Denied? The Adjudication of
18 Extradition Applications, 37 Tex. Int’l L.J. 277, 312 (2002); Hooker v. Klein, 573 F.2d 1360,
19 1369 (9th Cir. 1978). Anomalously, however, a fugitive nevertheless can “offer evidence that
20 tends to explain the government’s case of probable cause.” Id., at 1368 (citation omitted). The
21 distinction between evidence which “explains” and evidence which “contradicts” seems
22 metaphysical. On one side of the line, the court cannot weigh conflicting evidence to make
23 factual determinations. On the other side, an accused nevertheless is permitted to produce
24 evidence in an attempt to “negate” or “obliterate” probable cause. See e.g., Hooker 573 F.2d at
25 1369; Singh, 170 F.Supp. 2d at 994 (“In practice, the standard is extremely difficult to apply”);
26 Sandhu v. Burke, 2000 WL 191707 (S.D.N.Y., Feb 10, 2000); In re Extradition of Okeke, 1996

1 WL 622213 *3 (D.N.J., 1996). In permitting the introduction of explanatory evidence, “the
2 intention is to afford an accused person the opportunity to present reasonably clear cut proof
3 which would be of limited scope and have some reasonable chance of negating a showing of
4 probable cause.” In re Singh, 170 F. Supp.2d at 994 (quotation and citation omitted).
5 Seemingly, as the court has previously commented, the situation is analogous to a person
6 attempting to ignore an “elephant in the living room.” At some point, the “elephant” cannot be
7 ignored. Inconsistent evidence may cause the “elephant” to grow to such proportions that no
8 reasonable person or jurist would find it likely (as opposed to merely suspicious) that Strunk was
9 complicit in his wife’s murder.

10 International extradition proceedings are not governed by the Federal Rules of
11 Evidence, the hearsay prohibitions, or the Sixth Amendment speedy trial guarantee. See Fed. R.
12 Evid. 1101(d)(3); Quinn v. Robinson, 783 F.2d 776, 815 (9th Cir.1986); 18 U.S.C. §3172(2),
13 Jhirad v. Ferrandina, 536 F.2d 478, 485n.9 (2d Cir. 1976).

14 General Evidence of Record

15 The record in this case is a confusing mish-mash of declarations within
16 declarations, some containing argument, and some only facts. Other exhibits are interspersed
17 either on their own or as “support” for someone’s declaration. Moreover much individually
18 submitted evidence is duplicated as attachments to other submittals. The exhibits (sometimes
19 referenced as “annexes”) are labeled with a multitude of references. “Evidence” was also
20 submitted prior to the extradition hearing itself in connection with the bail proceeding. In order
21 to bring some order to the record, the court sets forth what it has and has not relied upon.

22 First, unless duplicated in filings at the extradition hearing itself, evidence
23 submitted prior to the extradition proceeding itself, e.g., bail issue, has not been considered. The
24 formal extradition “package” and other evidence proffered by the Philippines for the hearing
25 itself have been considered in their entirety. Given the standards regarding “conflicting”
26 evidence, only certain submittals proffered by Strunk at hearing have been considered, and those

1 are clearly identified below. The court will not consider the belated evidence submitted by the
2 Philippines filed November 3, 2003. This extradition proceeding is not some movable
3 feast—never to be finished as long as the parties drip evidence into the undersigned, when they
4 feel moved to do so, or after the undersigned makes a comment on the submitted evidence at
5 hearing or in writing. Due process required the parties to submit what evidence they desired at,
6 or in conjunction with, the hearing itself.

7 Framework of Analysis

8 The parties agree on certain facts and these will first be set forth. The initial
9 confession of Medel is clearly the pivotal evidence submitted by the Philippines in connection
10 with *Strunk's* complicity in the murder of Nida Blanca. It will be analyzed next, together with
11 circumstances surrounding the making of the confession as well as the facts and circumstances
12 of the asserted recantation. The remainder of the evidence submitted by the Philippines will then
13 be examined. The vast majority of this evidence has to do with corroboration of Medel's
14 participation in the murder. Strunk's counsel is correct to remind the court that the extradition
15 hearing here involves Strunk and not Medel, but he is incorrect as to the potential usefulness of
16 the Medel corroborating evidence. To the extent that aspects of Medel's confession are
17 corroborated by this other evidence, the more likely it becomes that his statements about Strunk
18 also are true. Of course, the opposite is true as well; to the extent that the asserted corroborative
19 evidence is itself inconsistent with Medel's confession or otherwise unreliable, it becomes less
20 likely that any statement by Medel is to be believed. After examination of all of the Philippines'
21 evidence, selected, appropriate evidence submitted by Strunk will be discussed.

22 Undisputed Facts

23 First, however, the following facts are not disputed. See declaration of Dina Joy
24 C. Tenala, State Counsel of the Department of Justice of the Republic of the Philippines,
25 Extradition Documents. Strunk's wife, Dorothy Jones, known by the stage name Nida Blanca, a
26 popular actress beloved in the Philippines, was found dead in her car in the parking garage of her

1 office building on the morning of November 7, 2001. Blanca died from multiple stab wounds in
2 her head, neck, and thorax, inflicted by a single bladed weapon measuring at least 5.5
3 centimeters. Annex D., ¶¶ 8-13; see also Annex E. The approximate time of her death was 4:00
4 a.m. Id., at ¶ 10. The forensic expert stated there were no defense wounds usually associated
5 with a struggle. Id., at ¶ 18. There were no signs of a struggle inside the vehicle. Id., at 24. On
6 November 18, Pedro Philip Medel, Jr., also known as Jun Medel, confessed to the Criminal
7 Investigation Detection Group of the Philippine National Police (CIDG-PNP) that he was the
8 killer.⁵ Medel’s statements implicating Strunk as the instigator of the crime were executed on
9 November 18, 2001, and November 19, 2001. See Annex F, G, & I. Although the exact amount
10 is in question, undisputed in this case is that at the insistent request of Medel, Medel’s family
11 was paid in consideration for Medel’s confession by Philippine government authorities: Supt.
12 Versoza declares Medel requested his family be sent 20,000 pesos, and that 10,000 pesos was
13 sent to Medel’s family. Annex M., ¶¶ 03.07; 03.13.⁶ At a televised preliminary investigation
14 held November 23, 2001, however, Medel recanted his confession in open court, alleging it had
15 been obtained through coercion and torture. See Annex K. The prosecutors then remanded the
16 case to the Philippine National Police (“PNP”) and the National Bureau of Investigation (“NBI”)
17 for further investigation. Id. Medel was transferred to the NBI for custody. Following another
18 preliminary investigation lasting several days, held on August 12 & 26, September 12, October 1
19 & 21, 2002, the investigating prosecutors found probable cause to indict and file murder charges
20 against Strunk and Medel.

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22 ⁵ In his confession, Medel’s name is given as Philip L. Medel, Jr. Annex F, G. In the
23 Information filed in Philippines Regional Trial Court, the name is Pedro Philip L. Medel Jr.
Annex A.

24 ⁶ Versoza’s declaration refers to a receipt attached as Annex K. The court was unable to
25 locate an Annex K to Annex M. In addition, AUSA Melkian confirmed that the evidence of
26 payment was undisputed. The court has struck the after-hearing submissions proffered by the
Philippines. However, it is interesting to note that the payment to Medel (his family) is again
confirmed by government authorities.

1 *The Medel Confession, Recantation and Circumstances Surrounding These Events*

2 Potentially, the most pertinent evidence connecting Strunk to the murder of Nida
3 Blanca is the November 18, 2001, confession of Medel. Annex F, G. It is the only evidence
4 given by someone with supposed direct, personal knowledge of Strunk’s involvement. Medel
5 declared that a Filipino named Mike Martinez recruited him in early October, 2001 to participate
6 in a project identified as the “Tantoco Project.” In late October, 2001, Martinez advised Medel
7 that the subject of the project was “the wife of a chinese who swindles.” Id. at ¶ 7. They were to
8 be paid 50,000 pesos to “observe” the project. Id. On Tuesday, November 6, 2001, Martinez
9 called Medel, and arranged a rendezvous with Medel at an agreed upon location. Id. at ¶¶ 8-9.
10 At approximately 5 p.m., a man with Caucasian features who was a passenger in a beige car,
11 pulled up to where Medel was waiting and asked him whether he was in fact Medel. Id. at ¶10.
12 When Medel confirmed and inquired as to the whereabouts of Martinez, Medel was directed to
13 get in the car. Id. They drove past the Kamayan Restaurant, where Medel had been told
14 Martinez was waiting, and then proceeded to another location where they arrived two hours later.
15 Id. “Rad” (presumably the Caucasian-featured passenger) rode around with Medel, looking for a
16 “troublesome person,” whom he did not find. They returned to the Kamayan Restaurant at
17 approximately 9:00 p.m. Id. “Rad” made cell phone calls and also instructed Medel while they
18 ate dinner. (Medel was to act as an observer and intimidate the “wife of the Chinese.”) Id.
19 Although Medel had expected Mike Martinez to accompany them, Martinez never showed up.

20 “Rad” and Medel left the restaurant “at about past 10:00 p.m.” and drove, now in
21 an avocado green car, to the 6th floor of the Atlanta parking garage. Id. They parked next to a
22 dark green car, where they remained until about 12:00 a.m., when “Rad” told Medel he was
23 leaving and that Medel should wait in the back seat of the dark green car, which “Rad” then
24 unlocked. Id. Medel spent the time waiting in the back seat by texting messages to his friends,
25 and eventually fell asleep, until he was awakened about 1:00 a.m. by lights from a car parking in
26 the adjacent space. “Rad” and two other women got out of the car. The victim was dressed in “a

1 long vertical stripes long sleeved blouse with dark pants.” “Rad” pushed the victim into the back
2 seat. Id. “Rad” and the other woman kicked and struck the victim. Medel joined in, hitting the
3 victim and finally stabbing her with his knife in the left side of her body and neck. Id. Medel,
4 Rad, and the other woman then left the Atlanta garage at 2:00 a.m. Id. Medel was dropped off
5 and returned to his home where he hid the knife under his kitchen sink. Id. Medel was “shock”
6 to learn a couple of days later that the victim was Nida Blanca. Id.

7 On November 19, 2001, Medel executed another statement, affirming the
8 November 18, 2001 confession. Annex I. He stated that he first believed only Mike Martinez
9 was planning the crime, “but later found out that another person whom I was able to personally
10 meet and of whom I have identified as RAD, a caucasian with two(2) others were the
11 mastermind.” Id., at ¶17. Medel also stated that he had “no regrets except that I have been
12 continuously bothered by my conscience after finding out later on that the person I have killed
13 was NIDA BLANCA.” Id. at ¶18.

14 Inferences pertinent to Strunk’s case to be drawn from Medel’s confession that he
15 stabbed and killed Nida Blanca are that Strunk was the instigator of the crime; that Medel and
16 Strunk did not know each other prior to their November 6, 2001 meeting; that Medel did not
17 know Nida Blanca was the proposed victim; that, notwithstanding that he unhesitatingly killed
18 the victim, Medel was not initially recruited to kill; and that Medel did not know until two more
19 days later that the person he killed was the famous Nida Blanca.

20 The confessions themselves,⁷ superficially, might be sufficient to demonstrate a
21 reasonable belief that Strunk was complicit in his wife’s murder, but the court notes the initial
22 seeds of incredibility that will later grow into large trees. First, as is evident throughout most of
23 the declarations in this case, the first statement is never good enough. There always seems to be
24 a need to embellish what was initially said in order to make the case better. This fact is not

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26 ⁷ The court will term all statements as confessions in the plural.

1 necessarily detrimental, but importantly, the embellishments contain significant inconsistencies.
2 In the first confession, it is evident that Medel had never personally met Strunk until right before
3 the murder, but by the very next day of the second statement, Medel “later found out that another
4 person whom I was able to personally meet and of whom I have identified as RAD, a caucasian
5 with two(2) others were the mastermind” for the murder of a person he supposedly did not know
6 at the time. Going from Medel not knowing Strunk, to Medel knowing that Strunk was the
7 mastermind—all in the space of a day according to the two statements—would give pause to any
8 reader, and gives impetus to the idea that Medel was being fed facts.

9 The confessions receive their next body blow by recognition of the fact that Medel
10 received compensation for his family by virtue of his confession. Payment to a defendant to
11 confess his and others participation in a murder will cast doubt on the validity of the statement.
12 Napue v. Illinois, 360 U.S. 264, 269, 79 S. Ct. 1173, 1177 (1959) (“The [fact-finders] estimate of
13 the truthfulness and reliability of a given witness may well be determinative of guilt or
14 innocence, and it is upon such subtle factors as the possible interest of the witness in testifying
15 falsely that a defendant’s life or liberty may depend.”).⁸

16 This brings the court to the matter of the recanted confessions. Whether to admit
17 recantation evidence in an extradition hearing has not been decided by the Ninth Circuit. See
18 Mainero v. Gregg, 164 F.3d 1199, 1207, n. 7 (9th Cir. 1999) (superseded by statute on other
19 grounds, Cornejo-Barreto v. Seifert, 218 F.3d 1004 (9th Cir.2000)). Courts have been split on
20 the issue. See Singh, 170 F. Supp. 2d at 1016–1017 (collecting cases); United States v. Linson,
21 88 F. Supp.2d 1123, 1126 (D. Guam 2000) (citing cases). Where the only evidence to support
22 probable cause is the unrecanted confession, courts have admitted the recantation as obliterating
23 probable cause. See Linson, 88 F. Supp.2d at 1126; Matter of Extradition of Contreras, 800

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25 ⁸ The total sums involved, 10,000 or 20,000 pesos, while not large sums of money in
26 American dollar standards, may well be significant in the Philippines. And, it is not the actual
sum of money paid to Medel’s family which is important for credibility purposes, it is the
amount Medel *thought* he was being paid that matters with respect to *his* credibility.

1 F.Supp. 1462, 1469 (S.D. Tex. 1992). Comparing indicia of reliability of the original confession
2 and the recantation confession can also assist the court in determining whether to admit the
3 recantation. See Contreras, 800 F.Supp. at 1468 (considering reliability of recantations in light
4 of circumstances surrounding original statements); Eain v. Wilkes, 641 F.2d 504, 511-12 (7th Cir.
5 1981)) (recantation made in private not as reliable as inculcating statement made in open court).
6 The court determines to consider the recantation, since it was presented by the Philippines, and
7 will give it the weight that it deserves.

8 At a videotaped hearing held in the Philippines on November 23, 2001, Medel
9 dramatically repudiated the confessions. This video, introduced by the Philippines, was played in
10 the courtroom at the extradition hearing. Medel claimed the confession was extorted from him
11 by torture, he denied knowing Rod Strunk, and he denied any participation in the murder of Nida
12 Blanca. This recantation, by itself, would not persuade the court, in that the histrionics of the
13 occasion, as if Medel were possessed by demons, seemed a bit much to be worthy of credence.
14 (More will be said later on allegations of torture). It does, however, give the court pause to
15 wonder whether Medel could be believed on any particular day, whether he was confessing or
16 recanting. The contrast between the eerily casual atmosphere at his confession (this execution of
17 his confession was also played to the court in a video) and the dramatic recantation does not give
18 the court much confidence in the bona fides of either day.⁹

19 *Other Evidence Supplied by the Philippines*

20 Thus, the paid-for confessions, unbelievable in at least one important particular,
21 made by a person who seems generally unworthy of belief, are wobbly indeed at this point,
22 especially with respect to Strunk’s involvement. However, as stated above, corroboration of
23 Medel’s confessed activities might shore up these wobbly confessions vis-a-vis his allegations

25 ⁹ The court emphasizes that in order to gain a “common sense” impression of probable
26 cause, (reasonable belief supported by competent evidence), or the lack thereof, assessments
must be made of the collective evidence supplied by the Philippines.

1 against Strunk even if the corroboration does nothing more than solidify the case against Medel.
2 Unfortunately, the evidence supplied by the Phillipines government undercuts whatever support
3 the confessions have at this juncture.

4 To prove that Medel and Strunk were involved in the murder, the Philippines
5 proffers several sworn statements of Leonilo “Nilo” Gonzaga. The first statement, given
6 February 2, 2002, implicates Medel as the hired killer who knew Strunk and had been overheard
7 speaking to him on a cell phone. Although offered to corroborate Medel’s repudiated confession,
8 Gonzaga’s statement differs in several significant respects from Medel’s account. For example,
9 Gonzaga indicates that Medel knew Strunk well prior to the night the murder was committed,
10 that Medel was hired for the express purpose of killing Nida Blanca, whom Medel knew was the
11 intended victim, and that Medel had tried to recruit others to participate in the murder. Annex T-
12 2. The court has scrutinized the statements of Gonzaga carefully, and will summarize salient
13 parts of his statements, beginning with the February 2, 2002 statement, contained at Annex T-2.

14 Gonzaga, a security officer, and Medel resided in rooms at the same warehouse.
15 Id., ¶ 7. Gonzaga worked as a security officer for an agency of which Rolly Kintanar was
16 president. Id. at ¶2. Gonzaga first knew Medel when Medel lived in the home of Gen. Galileo
17 Kintanar.¹⁰ Id. at ¶ 7. Medel thereafter, in June, 2001, moved to the same place as Gonzaga,
18 where Medel occupied another room with Dodong Polinar. Id. Medel told Gonzaga he was one
19 of Gen. Kintanar’s “men.” Id. Medel and Polinar told Gonzaga that they “usually” went to a
20 sing along piano bar with Rod Strunk. Id., ¶ 19.

21 In October, 2001, Medel asked Gonzaga if he knew a killer because Medel wanted
22 to kill someone for money. Id. at ¶11. Gonzaga overheard Medel ask another friend, Major
23 Pates, the same question. Id. Medel a second time asked Gonzaga if he knew a killer, and the
24

25 ¹⁰ The court understands that Rolly Kintanar was the nephew of Gen. Galileo Kintanar.
26 See Strunk’s Ex. 8.

1 next day Medel specifically identified Nida Blanca as the person he planned to kill. Id. On
2 November 5, 2001, Gonzaga overheard Medel take a call on his cellphone. Id., ¶13. Speaking
3 English, Medel said, “Hi Rod, how are you?” Id. Gonzaga heard Medel make plans to meet the
4 caller. Id.¹¹

5 About 8:00 a.m. on November 7, 2001, (the morning the body of Blanca was
6 found), Gonzaga observed an agitated Medel complaining about being deceived and also
7 overheard him making plans to meet someone he called “Colonel.” Id. Medel was still in his
8 room at 9:00 a.m. when Gonzaga left. Id. That evening, Medel was still uneasy. Id., ¶ 15.
9 Medel left the house on November 8, 2001 and did not return until November 13, 2001.
10 Nevertheless, on November 10, 2001, Medel admitted to Gonzaga that he had killed Nida
11 Blanca. Id., ¶5. Seemingly, that conversation took place face to face—Gonzaga states Medel
12 “approached” him on that day to say he had “accidentally” killed Nida Blanca. Id., ¶15. Id. The
13 statement suggests Rolly Kintanar also was present on November 10. Id., ¶ 5 (“He told me that
14 he is the one who killed NIDA BLANCA. He likewise mentioned this to Rolly Kintanar in my
15 presence.”).¹²

16 In ¶ 15 of the February 2, 2002 statement, Gonzaga elaborates on Medel’s
17 supposed November 10, 2001 confession to him. Importantly, Gonzaga declares he then (on
18 November 10, 2001) called Col. Versoza of the CIDG-PNP and told him Medel wanted to
19 surrender. According to Gonzaga, Versoza and Medel then talked by telephone on that same
20 day. (“The two of them talked together (Col. VERSOZA and JUN MEDEL) over the phone and
21 they agreed to meet at Sta. Clara Church, Katipunan, Quezon City at around 5:00 in the morning
22 of November 17, 2001. At this point, JUN MEDEL asked me to accompany him on the said
23

24 ¹¹Gonzaga’s statement indicates that Medel was to meet someone, presumably Martinez
25 or Strunk, on the evening of November 5. However, the events recounted by Medel indicate that
the meeting took place on November 6.

26 ¹² Rolly Kintanar has since been murdered.

1 date.”) No explanation of why the PNP would delay one week before taking Medel into custody
2 is proffered. No explanation of why Medel agreed to surrender on November 17, but did not do
3 so until November 18, is proffered—“That is why on November 18, 2001 at around 5:00 in the
4 morning, I [went] together with PHILIP MEDEL . . . [who] voluntarily surrendered to them.”
5 Id., ¶ 15.

6 Gonzaga gave another statement approximately a year later on March 3, 2003.
7 Annex. U-1, affirming that he knew Rod Strunk, and had seen him twice, in September, 2001
8 and again on November 5, 2001, at the home of Gen. Kintanar. The sighting of Strunk on
9 November 5, 2001 at Kintanar’s home is surprising—Gonzaga’s February, 2002 affidavit, which
10 recounts the overheard November 5, 2001 call from Medel to “Rod,” fails to mention that
11 Gonzaga also had seen Strunk at Gen. Kintanar’s home on the same day. In fact, in the February
12 affidavit, Gonzaga states that he had been “home” in Samar since October 29, returning in the
13 company of a relative on November 5, 2001, when they (Gonzaga and his relative) “chanced
14 upon Medel” about 2:00 p.m. “putting some color in his hair and shining shoes.” ¶13. The
15 inference is that Gonzaga and his relative had just returned when they saw Medel. How or at
16 what time Gonzaga saw Strunk at Gen Kintanar’s home on the same day, and why he did not
17 earlier mention that fact, is unexplained.

18 On June 23, 2003, almost two years after the crime, and after this court entered its
19 order denying bail, Gonzaga gave a third statement. Annex V-1. Apparently responding to
20 concerns expressed by this court at the previous bail hearing, Gonzaga explains that he in fact did
21 speak face to face with Medel on November 10, 2001, but the 20 minute conversation took place
22 in his car in the parking lot of their apartments. Id., ¶¶6-7. Nothing indicates Kintanar was there
23 too. No mention is made of a telephone call to PNP official Versoza. Gonzaga declares Medel
24 was angry that Strunk had not paid him, wanted to surrender, to pinpoint Rod Strunk as the
25 mastermind, and to have Strunk arrested. Id., ¶ 8. In his June 23, 2003 statement, Gonzaga
26 states that Medel called him as often as 20 times a day after he left his apartment on November 8,

1 2001, and also reached him through “text” as often as 30 times, asking if people were looking for
2 him. Id., ¶¶ 9-12. In this most recent statement, Gonzaga recounts a specific meeting at General
3 Kintanar’s house in September or October, 2001 with Strunk, Noel De La Paz, Bernardita De La
4 Paz, Ding Ding Tantoco, Mike Matinez [sic] and Elena De La Paz.¹³ There is no mention of
5 Medel at the meeting. Gonzaga declares he had seen Strunk, together with the De La Paz family
6 members, as well as Tantoco and Martinez, at Kintanar’s home about four times. Id., ¶ 15-17.
7 That he had seen Strunk at Kintanar’s home four times contrasts with his previous statement that
8 he had seen Strunk there twice.¹⁴ Gonzaga also states that he was at General Kintanar’s house
9 after the press conference documenting Medel’s surrender, when he overheard Medel call
10 Kintanar and Kintanar inquire why Medel had surrendered. Id., ¶ 25. Kintanar passed the phone
11 to Gonzaga, who personally spoke to Medel, who said he would not have surrendered had
12 “Kano” paid him.¹⁵ Id.

13 Pedro Pates, Jr. executed an affidavit dated November 22, 2001. Annex W. Pates
14 declares he met Medel at Medel’s room on October 25 and November 13, 2001. Id., ¶ 1. He
15 declares Medel asked him on October 25 if he knew someone who would kill an actor or an
16 actress. Id., ¶2. Pates overheard Medel talking on a phone to “Rod.” Id. Pates saw Medel on
17 November 13, 2001 when Medel looked disturbed. Pates jokingly advised him of surveillance,
18

19 ¹³ With the exception of the recently “disappeared” Mike Martinez, who, as one will
20 recall was the primary planner of the murder according to Medel, and who remained surprisingly
21 unavailable and silent throughout the evidence in this case, the remainder of the persons involved
22 in the alleged meeting were either close friends, confidants or personal workers for Nida Blanca.
23 Thus, it is especially surprising that the identities of these persons at a meeting place with some
24 connection to Medel was not first and foremost in Gonzaga’s initial statement.

25 Various spellings of proper names appear in the submitted papers, although the identities
26 of the persons referred to are not in doubt. The De La Paz name is variously referred to by the
spelling “Dela Paz.” To be consistent, the court has spelled the name De La Paz, and proffers
apologies if the surname is misspelled.

¹⁴ No explanation has been proffered to explain the connection of Kintanar, if any, to the
murder.

¹⁵ “Kano” is slang for “American.”

1 and Medel stated he was not worried. Id. Gonzaga told Pates on November 18, 2001 that Medel
2 had confessed to the murder. Id. at ¶4.

3 Pates also executed a supplemental affidavit on June 25, 2003. Annex W-1.
4 Although it was offered to clarify a second sworn Pates statement dated July 30, 2002, the court
5 did not discover that affidavit in the materials submitted by the Philippines. Pates declares in the
6 June 23, 2003 affidavit that he was with Gonzaga at Gen. Kintanar's residence on November 19,
7 2001 after Medel recanted. He was aware of a text message on Kintanar's phone in which
8 Dodong Polinar¹⁶ advised Kintanar that Gonzaga was the "brains" behind Medel's surrender, an
9 idea Gonzaga in turn attributed to Medel himself. Id., ¶ 4. Pates overheard Kintanar and another
10 colonel discuss "damage control." Id. Moreover, Mrs. Kintanar told Pates she was worried that
11 Ding Ding Tantoco was frequently visiting her house. Id. ¶ 5. In July, 2002, after Pates executed
12 the second sworn affidavit, Kintanar called Pates to advise him that should Pates be approached
13 by a reporter, he (Pates) should clear Kintanar's name "by denying everything that was written
14 about him in the newspapers linking him to the murder of Nida Blanca." Id., at ¶6.

15 Again, the important aspect for Strunk's extradition case of recounting Gonzaga's
16 and Pates' statements is not, in the first instance, their internal inconsistencies, of which there are
17 many, but the fact that they completely shatter Medel's quite clear statements in his confession
18 that he did not know Strunk prior to the murder day. Moreover, rather than corroborating
19 Medel's confession that he did not know who the intended victim was, these statements entirely
20 rebut that fact. Thus, if Medel cannot be believed with respect to his not knowing Strunk, or the
21 intended victim, why is it that he should be believed regarding Strunk's complicity?

22 And, aside from their impact on the Medel confession, by no means do the
23 inconsistent statements stand on their own as probable cause for Strunk's involvement in murder.
24 The statements as a whole are implausible. In contrast to Medel's account that he was hired to

25 ¹⁶ Polinar was Medel's roommate. Apparently, he too has been charged in the murder of
26 Nida Blanca, although he was never mentioned in the Medel confession.

1 “observe” and did not know who the proposed victim was to be, Gonzaga declares in his first
2 affidavit that Medel confided to him sometime in October that he had been hired to kill Blanca.
3 Why Gonzaga did not report to authorities that Medel planned to kill a beloved and famous
4 actress is not explained. Gonzaga declares that, after the murder occurred, Medel left the
5 premises of the building where they lived and did not return for five days. Why Gonzaga did not
6 report the killer’s identity to the authorities after learning the murder had in fact occurred is
7 unexplained. Incredibly, during the time Medel was gone, Medel nevertheless met Gonzaga in the
8 parking lot of their apartments where Medel confessed he had done the deed. Even more
9 incredibly, after they called the Superintendent of the CDIG-PNP immediately after Medel
10 confessed, the Superintendent permitted Medel to remain at large for another week. Why the
11 Superintendent would permit the killer of a beloved Phillippines icon to remain at large for a
12 week is not explained. Most importantly, aside from an overheard phone conversation with a
13 “Rod,” and a claim that Medel and Strunk had frequented a piano bar together, no connection
14 between Strunk and Medel is proffered in Gonzaga’s first affidavit, leading to the conclusion that
15 although Medel had told Gonzaga before the crime occurred that he had been hired to perpetrate
16 it, and although Medel thereafter confessed he had done it, Medel apparently failed to tell
17 Gonzaga that Strunk was the mastermind. This conclusion, however, is repudiated by Gonzaga in
18 his two later affidavits.

19 In his second affidavit, Gonzaga declares he had seen Strunk at the home of Gen.
20 Kintanar on November 5, 2001. In his first affidavit, however, he stated he had been away at his
21 home from October 29 to November 5. November 5 was the day he returned in the company of
22 his wife’s cousin, and they saw Medel coloring his hair and shining his shoes before he
23 disappeared for the evening. The first affidavit does not mention a stop at the home of Kintanar—it
24 states Gonzaga was traveling that day and only saw Medel about 2 p.m. The time Gonzaga saw
25 Strunk at Kintanar’s home or why Gonzaga was at Kintanar’s home the day Gonzaga returned
26 from his visit is unexplained. The connection of Kintanar to the crime is unexplained.

1 Unexplained is how seeing Strunk at Kintanar's home on the same day Medel was primping
2 connects Strunk to the crime.

3 In the third affidavit, executed after the court commented on problems with
4 Gonzaga's declarations, including the inherent problem with Gonzaga's statement that Medel
5 confessed during the time Medel was gone, Gonzaga declares that the confession had occurred in
6 the parking lot of their apartments. In contrast to the conclusion to be drawn from the first
7 affidavit, Gonzaga specifically declares that Medel said he had been fooled by Strunk because
8 Strunk had reneged on payment. Medel told Gonzaga he wanted to surrender and to pinpoint Rod
9 Strunk as the mastermind and have him arrested. One would assume that information would have
10 been conveyed to Versoza in the subsequent phone call. Why Strunk was not apprehended as
11 soon as Versoza received that information is unexplained. Gonzaga also declares he had seen
12 Strunk at Kintanar's home about four times, in contrast to the previous declaration he had seen
13 Strunk twice at Kintanar's home. This time, Strunk attended the meetings at Kintanar's home in
14 the company of Ding Ding Tantoco, Mike Martinez, Elena, Bernadita, and Noel De La Paz. Why
15 these seemingly critical facts were not previously mentioned is unexplained. Moreover, Gonzaga
16 declares that after Medel recanted, Medel told Gonzaga in a telephone call to Kintanar's house
17 that he would not have surrendered if "Kano" [an American] had paid him. That Medel made
18 telephone calls to Gen. Kintanar after the press conference on November 19, 2001, (while he was
19 in custody of the PNP after his confession) strains belief. Moreover, the declaration of Versoza
20 concerning the events of November 19 belies the conclusion that Medel was able to make
21 telephone calls. See Annex M, 3.07-3.13 (Medel at 6 a.m on November 19 was emotionally
22 disturbed, hysterical and violent, and had to be handcuffed and leg restrained. On the same day,
23 he gave a supplemental statement, attended a press conference, was interviewed by Karen Davila,
24 attended an inquest before DOJ prosecutors, was interviewed a second time, and later again
25 became emotionally upset and tearful.) Versoza says Medel received medical attention on

26 \\\

1 November 20-21, 2001, the day after the recantation. Annex M., ¶¶ 03.15; 03.18-23. Medel was
2 in the hospital from November 21-23. Annex O, ¶2.

3 As to the Pates affidavits, the connection between Medel and Strunk is even more
4 tenuous. Only an overheard telephone conversation in which Medel was talking to a “Rod”
5 connects Medel to Strunk.

6 Moreover, there are other aspects of the evidence presented by the Philippines that
7 detract from the reasonableness of the Gonzaga/Pates statements. The date Medel called the
8 authorities to proffer his surrender varies from declarant to declarant. The August 1, 2002
9 affidavit of Police Chief Superintendent Jesus Ame Versoza of the PNP-CIDG contrasts with
10 Gonzaga’s account of when he and Medel called Col. Versoza. Annex M.¹⁷ Versoza states that
11 the call from Medel expressing his willingness to surrender came at noon on November 17, 2001.
12 Annex M, ¶ 02. Surprisingly, Versoza makes no mention of the November 10, 2001 call
13 described by Gonzaga in his February 2, 2002 statement. One would expect an earlier call to be
14 mentioned if it in fact occurred, and accordingly, the inference to be drawn from the Versoza
15 declaration is that the first time he spoke with Medel was on November 17, 2001.

16 A “Joint Counter Affidavit” executed on January 18, 2002 by four individuals
17 identified as “P/CINSP” also contradicts the statements of Gonzaga and Versoza. Annex N.
18 This affidavit apparently was prepared in opposition to a suit for abduction and torture filed by
19 Medel. The declarants were part of the Criminal Investigation and Detection Group of the
20 Philippine National Police, (“CIDG-PNP”) of which Versoza is identified as the Police Chief
21 Superintendent. In apparent contrast to Versoza’s statement, these individuals state that Medel
22 made telephone contact with CIDG on November 16, 2001—they do not indicate with whom the
23 contact was made. *Id.*, ¶ 3.0. The affidavit identifies November 12, 2001 as the date on which the
24 PNP became aware of “a group of persons, which include Medel [who] could have a hand in the

25 ¹⁷ The spelling of the superintendent’s name is given in some of the documentation as
26 “Versosa.”

1 DOROTHY JONES [Nida Blanca] case. . . .” Id. The implication is that prior to November 12,
2 the PNP did not suspect Medel was involved in the crime, which is implausible if Medel had
3 called on November 10 to arrange his surrender.

4 A part of the remaining evidence deals with a supposed motive held by Strunk to
5 kill his wife. Affidavits from Elena De La Paz, dated July 27, 2002 (Annex X), August 8, 2002
6 (Annex Y-1), and June 25, 2003 (Annex Z-1), also are in the extradition request.¹⁸ Elena De La
7 Paz was personal assistant to Nida Blanca. She indicated that Strunk’s drug and spending
8 problems had caused his relationship with Nida to sour. Annex X. Moreover, there had been
9 problems caused by Blanca’s purchase of a home in Los Angeles for her daughter, Kaye, which
10 did not include Strunk in the title. Id. In September, 2001, Blanca had instructed Elena not to tell
11 Strunk about a real estate transaction involving a San Mateo lot. Id. In a supplementary
12 statement on August 8, 2002, Elena declared Blanca had complained that Strunk was getting even
13 with her by excessive spending because of the fact he was not included in the title of the house she
14 had purchased for her daughter. Annex Y-1. Blanca mentioned the possibility of divorce. Id., ¶
15 09. Elena did not think Strunk appeared concerned about Blanca’s disappearance and did not
16 agree that he was the one who initiated the call to Elena’s niece, Dita De La Paz, on the night of
17 the murder. Id., ¶ 10. Strunk had a duplicate key to Blanca’s car. Id., ¶¶ 10-13. Although Elena
18 controlled Blanca’s cell phone, she did not know who had called Blanca’s home in White Plains
19 from that phone on the morning of November 6, 2001 at 8:45 a.m., 9:00 a.m., and 11:00 a.m. Id.,
20 ¶ 14.

21 Katherine Alba, bookkeeper for Blanca executed a statement on December 7, 2001.
22 Annex FF-1. She testified that Blanca provided financial support for Strunk, including personal
23 and business matters. Their relationship “went sour” because he was involved with alcohol,
24

25 ¹⁸ She executed two earlier affidavits, on November 9, 2001, and November 26, 2001.
26 These affidavits were submitted by Strunk in opposition to the extradition request and are
summarized below.

1 drugs, and extravagant expenditures. ¶ 09. Ding Ding Tantoco was a kind, supportive confidant
2 and buddy to Blanca, had been Blanca's friend since Blanca's daughter Kaye was in grade school,
3 and was Blanca's companion, together with Norma and Blanca's mother, when they visited the
4 casino. ¶¶ 13, 28-30.

5 Katherine Joan Jones Torres, Nida Blanca's daughter, gave a statement on
6 December 7, 2001. Annex HH. She declared that Strunk and her mother had quarreled over his
7 extravagant lifestyle, ¶ 12, that Strunk depended on her mother for "full financial support," ¶10,
8 and that he was "irresponsible, extremely lazy, extravagant and very fond of drinking," ¶ 11.
9 Strunk was not on the title of property owned by her mother, and her mother had insurance, with
10 Strunk as one of several beneficiaries who shared in relatively modest proceeds. Id., ¶¶ 13-16.

11 In the June 25, 2003 statement, Elena declares that she still resided in the home in
12 White Plains, that it had three entrance/exit doors, and that the door most frequently used by
13 Strunk when he lived there was near his private music room and hidden to the public. Annex Z-1.
14 It was possible for Strunk to leave the house without anyone in the house noticing, and Strunk
15 often did not advise others when he was leaving the house. Id.

16 The declarations of Elena and others close to her, including those which were not
17 included in the Philippines' submission, are reviewed in the next section in that whatever support
18 remains to corroborate Medel's confession is obliterated by these declarations.

19 The remaining evidence supplied by the Philippines is now described. However,
20 this evidence does little to connect Strunk with the crime. An affidavit dated June 15, 2003 of
21 NBI Special Investigator Federico O. Criste states that he conducted a test drive from the White
22 Plains Subdivision to the Atlanta Centre and concluded it took only 5-6 minutes travel time
23 between 10 p.m. and 2 a.m. Annex AA.

24 White Plains security guard Noel Machado executed an affidavit on December 12,
25 2001, (Annex BB-1), in which he declared that he observed Strunk coming into the subdivision at
26 about 3:10 a.m. on the morning of November 7, 2001. BB-1, ¶ 16. Machado was on duty at Gate

1 2 of White Plains from 11 p.m. on November 6 to 7 a.m. on November 7. Id., ¶¶ 8-10. He has
2 been told that another guard observed Strunk leave again about 3:30 a.m. Id., ¶ 20. Although
3 unaccompanied visitors in vehicles without stickers were required to present identification to
4 enter the subdivision, Machado did not notice any Strunk relatives or members of Blanca's
5 household enter or leave White Plains that night. Id., ¶¶ 15-26. White Plains security Guard
6 Reynante Cuaton declared he recognized Strunk driving his vannette and leaving the subdivision
7 through gate 2 about 3:30 a.m.¹⁹ Annex CC-1, ¶ 15-18.

8 A security guard at the home of Gen. Kintanar, Rogelio Salutin, declared on July
9 27, 2002 that he had seen Strunk visit once at the home of Kintanar in September or October,
10 2001. Annex DD-1 (now alleged to be a coerced statement). He also testified that Medel and
11 Polinar, together with others who were mostly Kintanar's men, were present when Strunk visited
12 Kintanar. Id., ¶ Q-25. No mention is made of the De La Paz family members, or of Tantoco or
13 Martinez.

14 Rosalinda Molina, administrator of the Atlanta Centre, declares that she saw Medel
15 at the scene of the crime wearing "black long sleeves" about 9:30 a.m. on the morning of
16 November 7, 2001. Annex EE-1, ¶¶ 4-5. She saw him again in the elevator lobby on the same
17 day. She noticed him because she thought his outfit, with black long sleeves, was "weird." Id., ¶
18 11. When she saw Medel on television, she realized she had seen him at the Atlanta Centre the
19 morning of the crime. Id.²⁰

21 ¹⁹ Guard Cuaton testified that the three gates were not always open. Gate 3 opened at 5
22 a.m. and closed at 11 p.m. As to gates 1 and 2, gate 1 was the 24 hour gate from the 1st through
23 the 15th of the month. Annex CC-1, ¶ 11. Presumably, whichever gate was not the 24 hour gate
24 had the same 5a.m.-11 p.m. hours as gate 3. The court in any event assumes that only the 24
hour gate would be open at 3 a.m. If so, unexplained is why guards Cuaton and Machado were
observing Strunk coming and going at gate 2 at 3-3:30 a.m. on the 7th of the month when gate 1
was the 24 hour gate on that day of the month.

25 ²⁰ Molina did not know Medel, but only recognized him from television reports of
26 Medel's arrest and subsequent events. It is interesting to note that Medel was given a long
sleeved black shirt by Filipino authorities only after his arrest and long after Molina's reported

1 Norma Sideco, Medel's landlady, executed an affidavit on July 19, 2002.

2 Although she also had executed an affidavit on November 21, 2001, the Philippines did not
3 include that affidavit in the extradition packet. Sideco stated that she had a ten minute
4 conversation with Medel at 8:30 a.m. on November 7, 2001, in which he announced to her that
5 Nida Blanca had been murdered. Annex GG-1. He stayed outside "texting and talking with
6 someone through his cellular phone." *Id.* at ¶04. He was wearing a white undershirt, shorts, and
7 slippers. *Id.* at ¶ 08. She did not know whether he had left thereafter, but she did observe his door
8 was slightly open that afternoon. *Id.* at ¶06. She observed everyone to be calm on November 18,
9 2001 when Medel surrendered. *Id.* at ¶ 14.

10 In sum, even ascribing the possibility of a motive to Strunk, however, tenuous, the
11 court cannot ignore the implausibilities and inconsistencies in the declarations *submitted by the*
12 *Philippine government*. The evidence in this case is a tangled web of accusation followed by
13 supplementation, and sometimes even further supplementation without regard to consistency of
14 accusation. The significant aspects of the vast majority of "other" evidence submitted by the
15 Philippines squarely rebuts the confession of the one person (Medel) who by reported personal
16 knowledge links Strunk with the murder. Whatever the state of the evidence against Medel, the
17 evidence at this point is simply not reasonably competent to link Strunk with the murder.

18 *Evidence Submitted by Strunk*

19 It is not critical at this point to weigh Strunk's evidence since that submitted by the
20 Philippines when viewed as a whole does not impart a reasonable belief in Strunk's complicity.
21 However, one aspect of the Strunk evidence is important because it completely obliterates an
22 important, indeed, essential, part of Medel's confession. That is, the declarations of persons who
23 saw and talked to Strunk at his home on the evening/night of the murder make rendition of events
24 on the night of the murder essentially impossible. And again, if important underpinnings of

25 _____
26 sightings.

1 Medel's confession have been completely ripped away, as they have in the respects discussed
2 above, the case against Strunk cannot survive this one more serious blow, even to the extent it has
3 survived at all.

4 For completeness sake, the court will first categorize the Strunk evidence. Keeping
5 in mind that, at an extradition hearing, "facts contradicting the requesting country's proof of
6 probable cause. . . are inadmissible," Singh, 170 F. Supp. 2d 982, 993, the court has reviewed the
7 thirteen exhibits submitted by Strunk.

8 *Exhibit 1.* Medel declaration. This declaration has numerous attached exhibits,
9 including a statement of Prosecutor Emmanuel Velasco, Annex A., defending his handling of the
10 case against Medel and Strunk, apparently proffered to counter an assertion that the case against
11 them had been dismissed. A 74 page "Consolidated Affidavit of Recantation and Counter-
12 Affidavit," apparently submitted to a Philippine court at the October 21, 2002 preliminary
13 hearing, is attached as Annex B. Attached to Annex B are several exhibits, confusingly
14 designated as Annex A, B, C, D, E, F, H, and Q.²¹ Several of these exhibits are not in English.
15 Some of the exhibits are handwritten and barely legible (Annex A, for example). They include
16 Annex D, the same statement of Prosecutor Emmanuel Y. Velasco, which apparently is a copy of
17 the statement previously referred to as Annex A. Annex B is a memorandum from Roberto C.
18 Omandam of the Public Attorney's office of the Department of Justice in Quezon City, recounting
19 the events leading up to the recantation—out of order in Annex B is an unmarked copy of a letter
20 from Medel asking for admission to the witness protection program of the NBI.

21 As to the 74 page affidavit of recantation, the court will admit it into evidence, in
22 light of the fact that it explains the recantation in open court already reviewed at the extradition
23

24 ²¹ The court has encountered considerable difficulty enumerating the exhibits to exhibits
25 which are attached to the material submitted by Strunk because of the out-of-sequence lettering
26 of the exhibits to the exhibits. Moreover, several exhibits have multiple designations appearing
variously at the top or at the bottom of the pages, apparently because they have been used and
reused as exhibits in various proceedings in the Philippines.

1 hearing, and considering that the corroborating evidence surrounding the original confession is so
2 contradictory, vague, and conflicting. As to the rest of the Medel declaration, including the
3 exhibits to the recantation and the other exhibits, the court finds them cumulative, offered to
4 contradict the evidence presented by the Philippines, and unnecessary to resolution of this case.

5 ***Exhibit 1A.*** Rod Strunk Statement of November 10, 2001. The court will admit
6 this declaration as explanatory of the whereabouts of Strunk on the night of the crime. Strunk
7 stated that the De La Paz family returned to White Plains about 12:30 a.m. to report on the results
8 of their visit to the Atlanta Centre. He went to the Atlanta Centre about 2-3 a.m. to check himself.
9 There was no guard on duty. Elena and Ding-Ding took his van about 5-6 a.m. to check at the
10 casino. At 8 a.m, Dita called to inform him the body of Blanca had been found. He arrived back
11 at the Atlanta Centre about 8:30-9 a.m.

12 ***Exhibit 2.*** Translations by attorney Mallonga of various declarations prepared in
13 connection with the investigation into the Nida Blanca murder. Many of the family members gave
14 several sworn statements, not all of which were presented by the Philippines in support of the
15 extradition request. The material in exhibit 2 includes three declarations by Elena De La Paz
16 which were not included with the declaration by the same witness submitted by the Philippines.
17 Declarations by the same witnesses which explain those proffered by the Philippines to support
18 the extradition request are admissible in this extradition proceeding, and the court will consider
19 them. Strunk also submitted declarations of De La Paz family members Noel and Bernadita De
20 La Paz. These declarations, too, are explanatory of Elena's declarations and also of Strunk's
21 whereabouts on the night of the crime, and the court also will consider them. They are
22 summarized as follows. The numbering and lettering of these declarations, submitted apparently
23 in Tagalog and in English, is confusing, but the court has attempted to use the same designations
24 as submitted by Strunk.

25 Annex A-1 to Mallonga declaration. November 9, 2001 statement of Elena De La
26 Paz. Nida Blanca left home, driving her own car, about 12:30 in the afternoon on November 6,

1 2001. She did not come back home that day. Elena was told that Ding Ding Tantoco²² and
2 Norma visited Blanca that morning. Elena spoke by telephone to Blanca twice that afternoon.
3 When Blanca had not returned home by 10 p.m., Elena called Ding Ding,²³ another friend, and
4 Noel De La Paz.²⁴ Noel, his wife Dita,²⁵ and their child went with Elena to the Atlanta Centre
5 about 11:30 that night. She asked a guard to check the 6th floor for Blanca's car, and, after going²²
6 to check, the guard reported it was still there. They got back to the house around 1:00 a.m. on
7 November 7, 2001, and told Strunk that they had not found Nida. About 6:30 a.m., Elena and
8 Ding Ding Tantoco looked for Nida at Casino Filipino, but she was not there. Blanca had one
9 insurance policy naming her daughter, Katherine Torres, as beneficiary. Blanca had no problems
10 with her family.

11 Annex B-1. November 21, 2001 statement of Elena. In this statement, Elena
12 elaborates concerning calls she made between 9-10 p.m. to other friends of Blanca. She saw
13 Strunk between 9:30-10:00 p.m, in his room, where she advised him she was worried about
14 Blanca. Around 11 p.m. when Dita and Noel arrived, Strunk also spoke to them. He was left at
15 home when they went to the Atlanta Centre in case Blanca called. They arrived back home
16 around 11:30-11:45, where they spoke with Strunk. Because a guard at Casino Filipino advised
17 Noel by telephone that Blanca had been seen there around 11 p.m., Elena then went to bed. She
18 awoke around 2-3 a.m., and again spoke to Strunk who was waiting for Blanca. He told Elena he
19 had been to the Atlanta and looked in Blanca's car and had not seen anything. Rod drove Elena to
20 Ding Ding's house around 6 a.m., and the two women drove to the casino, using Strunk's car. At
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22 ²² The name is spelled "Deng-deng."

23 ²³ She did not speak to Tantoco, who was reportedly asleep at her home.

24 ²⁴ The surname is spelled "Dela Paz."

25 ²⁵ The court is not sure whether the correct spelling of the name is "Dita" or "Ditas."
26

1 that point they were advised, contrary to the guard's report, that Blanca had not been seen at the
2 casino. Elena then called a secretary at the Atlanta Centre, who returned the call to report guards
3 had found the body of Blanca in her car.

4 Annex C-1. November 27, 2001 affidavit of Elena. Elena's account in this
5 statement essentially corroborates her previous statements, although some of the times vary.
6 Between 10 and 11 p.m., Elena contacted Dita and Noel about Blanca's failure to return home.
7 They went to the Atlanta Centre where a guard advised them Blanca's car was still there. Noel
8 called the casino around 11 p.m. She saw Strunk about 2 a.m. and he advised her that he had gone
9 to the Atlanta Centre, looked inside the car, and saw no one. She and Ding Ding drove to the
10 Casino about 5 a.m. They called the secretary who later reported in a return call that the body of
11 Blanca had been found.

12 Annexes D, D-1, E, E-1, F, F-1, G, G-1, Annex H. Statements of various Filipinos
13 to establish that the Salutin affidavit was coerced. The court will admit these statements as
14 tending to explain the circumstances surrounding the Salutin affidavit.

15 Annex I-A-B. Bernardita De La Paz ("Dita"), a relative of Elena, gave a statement
16 on December 15, 2001. She spoke with Elena several times on the evening of November 6, 2001.
17 Elena called her around 10:30 to report she was getting very worried, and Dita and her husband
18 Noel left for White Plains to get Elena and start looking for Blanca. Dita saw both Elena and
19 Strunk at 11 p.m. Dita, her husband, and Elena arrived at the Atlanta Centre about 11:15 p.m. and
20 returned to White Plains a little before midnight, where they saw Rod Strunk at the house and
21 talked with him for about 15 minutes. Noel called the casino about 12:20 a.m. They left between
22 12:30 and 12:45 a.m., arriving at their home a little before 1 a.m. Elena sent Dita text messages,
23 using Blanca's phone, every hour from 2 a.m. to about 6 a.m., informing Dita that Blanca had not
24 arrived home. Elena, who then was with Ding Ding Tantoco, called about 8:30 to ask Noel to
25 pick up Rod because the body of Blanca had been found in her car at the Atlanta Centre. Noel left
26 for White Plains.

1 Annex J, A-B. Noel De La Paz executed a declaration on November 9, 2001.²³
2 Annex J. He verified that he, his wife and daughter went to White Plains to pick up Elena and
3 search for Blanca. They drove to the Atlanta Centre, and did not find her there. They returned to
4 White Plains, where he saw and talked to Strunk and called the casino. After returning home, he
5 observed his wife exchanging text messages with Elena between 1-2 a.m. Sometime after 8 a.m.,
6 they learned from Elena that Blanca’s body had been found in her car, and he left to pick up
7 Strunk. They then drove to the Atlanta Centre.

8 ***Exhibit 3.*** Second declaration of Filipino attorneys with various pieces of
9 evidence not presented by the Philippines. In addition to photographs, evidence collected at the
10 crime scene, investigation and laboratory reports, including DNA and polygraph tests, this
11 declaration includes duplicates of the declarations of Elena and Dita discussed above, as well as
12 Annex J, a second affidavit of Norma Sideco, executed September 11, 2002.²⁴ In this declaration,
13 proffered to clarify her earlier statements of November 21, 2001²⁵ and July 22, 2002, Ms. Sideco
14 states, inter alia, that she saw Medel at his apartment every day between November 6, 2001 and
15 November 16, 2001. Annex. J. at ¶¶ 9-13. The court will admit this as evidence as explanatory of
16 the Sideco affidavit submitted by the Philippines and has considered it. Sideco declares that she
17 saw Medel about 8:20 a.m. on November 7, 2001, and again about 10:30 a.m. She saw him on
18 November 8, 9, 10, 11, 12, 14, 15, and 16. The affidavit apparently is meant to clarify when
19 Medel told Sideco that Nida Blanca was a murder victim. Unfortunately, it is unclear whether the
20 time was 10:30, 8:30, or 9:30 a.m. The typewritten time of 10:30 is crossed out, and handwritten
21 times of 8:30 a.m. and 9:30 a.m. are both interlined in the document. Annex J, ¶ 18. Attached as
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23 ²³ He also executed an supplemental affidavit dated November 21, 2001. See pp. 12-13,
24 Def’s Ex. 3.

25 ²⁴ Unclear is why there are several copies of this declaration in Exhibit 3, identified
26 variously as Annex J, Annex M, and Annex Q.

²⁵ The court has not located this statement anywhere in the file.

1 Exhibit M is the declaration of Mary Jane P. Aguirre, executed on November 21, 2001. The court
2 will admit this declaration as explanatory of the whereabouts of Strunk on the night of the murder.
3 Ms. Aguirre was a foster child of Nida Blanca who lived at the White Plains home. When she
4 arrived home at 6:30-7 p.m., only the Nissan vanette was in the garage. She saw Strunk on the
5 night of the murder at the home at 7:30 p.m. When she went to bed around 10 p.m., the vanette
6 was still parked outside.

7 The court also will admit the laboratory reports, discussed later.

8 ***Exhibit 4.*** Declarations of Noel and Dita De La Paz. Attached as Annex A and B.
9 to Exhibit 4 are affidavits of Noel De La Paz dated November 9, 2001 and November 21, 2001.²⁶
10 The court already has admitted and considered the November 9, 2001 affidavit. In the November
11 21, 2001 affidavit, Noel sets out a more specific timeline for the night of the murder. He confirms
12 that he, his wife, and daughter arrived at the White Plains home at 11:00 p.m. They saw Rod
13 there. They, with Elena, were at the Atlanta Centre between 11:05- 11:30 p.m. They returned to
14 the White Plains home about 11:40. They remained at the home until midnight or 12:20 a.m. He
15 picked Rod up at 8:10 a.m. and took him to Atlanta Centre. Exhibit 4 also contains a new
16 affidavit of Noel dated August 8, 2003, Annex E., denying the meeting at Gen. Kintanar's house,
17 which the court declines to consider, as it is proffered merely to contradict the Gonzaga affidavit.
18 Annex C is a statement of Bernadita dated November 9, 2001. The court was unable to locate an
19 English translation of this statement. A declaration dated December 15, 2001, identified on the
20 bottom of the page as Annex T, is also attached. The court has already reviewed the December
21 15, 2001 affidavit of Bernadita. The court declines to consider the new affidavit of Dita, Annex
22 F, dated August 8, 2003, for the same reasons it declined to consider the affidavit of Noel
23 executed the same day. Finally, attached as Annex U, marked at the bottom of the page, is the
24 affidavit of Patricia Erika Dela Paz , the daughter of Dita and Noel. The court will admit this
25

26 ²⁶ This affidavit also is attached as Annex L to Exhibit 3.

1 affidavit and consider it as explanatory of the whereabouts of the De La Paz family on the night of
2 the crime. Patricia accompanied her parents to the home at White Plains about 11:00 p.m.
3 Patricia states they were at the Atlanta Centre between 11:15 and 11:50 p.m. They returned to
4 White Plains and left there about 12:30 a.m.

5 **Exhibit 5.** Declaration of Filipino Counsel consisting of argument, which the court
6 declines to admit as evidence.

7 **Exhibit 6.** Martinez Habeas decision on appeal. Judicial notice may be taken of
8 court records. Valerio v. Boise Cascade Corp., 80 F.R.D. 626, 635 n.1 (N.D. Cal. 1978), aff'd,
9 645 F.2d 699 (9th Cir.), cert. denied, 454 U.S. 1126 (1981)). The court takes judicial notice of
10 this court record to establish the recent disappearance of Mike Martinez.

11 **Exhibit 7.** Conditions in Philippine Jails. The court declines to consider this
12 exhibit as it is insufficiently probative to make any comment on jail conditions. The court rejects
13 any argument that conditions in the Philippine jails warrants non-extradition.

14 **Exhibit 8.** Rolly Kintanar newspaper reports. The court declines to consider the
15 material in this exhibit, except to establish the fact of Rolly Kintanar's relationship to General
16 Kintanar.

17 **Exhibit 9.** Newspaper report re Nida Blanca death. The court takes notice of the
18 fact that the report was made.

19 **Exhibit 10.** October 3, 2002 newspaper account of shooting of former soldier who
20 claimed to have been offered 100,000 pesos to kill Blanca. The court declines to consider this as
21 evidence.

22 **Exhibit 11.** Videotape of news coverage of Blanca murder. The court did not
23 consider this item.

24 **Exhibit 12.** Videotaped television documentary. The court did not consider this
25 item.

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1 **Exhibit 13.** Compact disc with Medel signing confession, recantation, and search
2 of Medel apartment for knife. This video was submitted by the Philippines and reviewed by the
3 court at the extradition hearing. It has been considered.

4 The court focuses on only two aspects of the evidence submitted by Strunk.²⁷ First
5 of all, the declarations regarding Strunk’s presence in his home on the evening/night of the murder
6 completely refute any notion that he was continuously with Medel from the early evening of
7 November 6 through midnight or thereabouts. These declarations, made by persons who
8 apparently had no interest to protect Strunk, and indeed, some of whom supplied their thoughts
9 about a possible motive for Strunk to have committed the crime, unequivocally demonstrate that
10 Medel’s timeline was impossible. While the exact times members of the De La Paz family saw
11 Strunk at White Plains differ somewhat, Strunk cannot be running about town with Medel
12 throughout the evening and night, looking for Martinez, eating at restaurants, looking for the
13 “wife of the Chinese,” and arriving at the Atlanta Centre when at that same time Strunk is talking
14 to various persons at his home. If Medel’s chronology is to be believed, he and Strunk were
15 parked adjacent to Blanca’s car at the very time the Atlanta Centre security guards were checking
16 Blanca’s car at the request of the De La Paz family. While Strunk may have been able to leave the
17 White Plains house without being observed, the court finds it unlikely that he could come and go
18 and commit the murder after the De La Paz family members knew Blanca was missing and in
19 between the times the De La Paz family members were searching for Blanca and returning to the
20 home to discuss the results of their search with Strunk. If Medel’s confession is so refuted in this
21 important chronology of Strunk’s complicity, *it cannot be believed in any material respect.*

22 |||||

24 ²⁷ The court will make no formal finding on Medel’s accusation of torture. The written
25 evidence is insufficient for that purpose. The court reiterates that it has no confidence in
26 anything that Medel states whether he is implicating or exculpating himself and others.
Moreover, the Philippines has presented evidence outside of government officials, that of media
reporters, tending to show that Medel did not appear to have been tortured.

1 Moreover, the court watched the video of the police entering Medel’s apartment to
2 retrieve the murder weapon initially confessed by Medel to have been hidden under the sink.
3 First, as the court recollects, the knife was found in a place where knives would usually be found—
4 in the open part of the kitchen and not under the sink where Medel had indicated that the knife
5 was hidden. Moreover, this kitchen knife tested negative for the presence of human DNA.
6 Strunk’s Annex X, Ex. 3. Medel did not declare that he cleaned the knife before hiding it, and the
7 uncleaned murder weapon would surely have had human DNA on it. Moreover, the hair and fiber
8 samples taken from the scene could not be matched to Medel. Strunk’s Ex. 3, Annex G, H.²⁸
9 Again, the court’s point is that if Medel’s participation in the murder cannot be supported by
10 objective evidence, Strunk’s reported involvement by Medel is only that much more tenuous.

11 Norma Sideco’s affidavit goes no distance in implicating Strunk. The declaration
12 of Rosalinda Molino has nothing to do with Strunk. As to Medel, if it is proffered to establish
13 that Medel remained at the scene of the crime on the morning the body was discovered, it is
14 contradicted by both Gonzaga and Sideco, who saw Medel at his apartment during the same time
15 frame—Molina’s testimony as to when she saw Medel is inconsistent with the declaration of
16 Gonzaga that Medel was at his apartment during that time. Sideco’s declarations she observed
17 Medel at his apartment between 8:30 and 10:30 a.m. the morning after the murder, wearing shorts
18 and an undershirt, are inconsistent with the declaration of Molina declaring she saw him at the
19 Atlanta Centre at 9:30 a.m. wearing a black long sleeved shirt.

20 *Evidence Not Submitted*

21 While the Philippines is not required to submit all their evidence against the
22 extraditee with a request for extradition, the lack of probable cause connecting Strunk to the crime
23 is highlighted by the fact that corroborating evidence which could have bolstered the case is

24 ²⁸ Although the court’s copy of Annex H is not readable, the court accepts the
25 representation from Strunk’s attorneys, Ex. 3 at 7-8, that the Annex H report discloses that fibers
26 from clothing Medel purportedly wore the night of the crime did not have characteristics similar
to fibers recovered from Blanca’s car.

1 missing. For example, although the evidence is replete with references to critical cell phone
2 communications, not a single cell phone record is proffered to substantiate that any of those
3 communications took place. Although Strunk reportedly frequented a piano bar with Medel and
4 Polinar, not a single affidavit of a person who observed them there is proffered. Although Strunk
5 purportedly accompanied Medel to a restaurant where they spent over an hour the night before the
6 crime, no person or record is proffered to establish that the restaurant was open at the time in
7 question or that Strunk and Medel were seen together there. Apparently no statement was ever
8 taken from supposed organizer Mike Martinez, even though he was at one time in the custody of
9 the Philippine police. Incredibly, a police official testified in a Philippines judicial proceeding
10 that the police were “too busy” to talk with the testified-to-by-Medel organizer of Blanca’s
11 murder. Strunk Exhibit 1, annex B at p.21. If Strunk was coming from and going to the Atlanta
12 Centre from White Plains during the night Blanca was missing, the court did not discover a record
13 or declaration from the security guards posted at the Atlanta Centre to establish such goings and
14 comings. To the extent that Strunk’s connection to the crime is built upon Medel as the killer, not
15 a single hair or fiber or fingerprint or other piece of physical evidence connecting Medel to the
16 crime has been presented.

17 Finally, Strunk’s motive for the crime is not readily apparent. Some testimony
18 suggests that the wife who had supported him had threatened to divorce him. Equally, if not
19 more, compelling is other evidence that Strunk had little, if any, financial gain to expect from the
20 murder. He was not on the title of property owned by his wife because they were not legally
21 married in the Philippines, a fact which must have been known to him since Blanca’s divorce and
22 remarriage to Strunk had taken place in the United States. He stood to collect little, if anything,
23 from insurance. In short, it appears from this record that Strunk had little to gain and much to lose
24 from the murder.

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1 Conclusion

2 Keeping in mind that the purpose of this proceeding is to connect *Strunk*, not
3 Medel, to the murder of Blanca, the evidence *submitted by the Philippines* concerning Strunk’s
4 participation in the murder of Blanca is so inconsistent and conflicting that it provides little
5 competent evidence to support the conclusion that Strunk hired Medel to murder Blanca. Dealing
6 the final blow to a case that was already on the ground, the competent, admissible evidence
7 *submitted by Strunk* obliterates the case presented by the Philippines resting on the Medel
8 confession. In sum, on the totality of the record, the court cannot find probable cause to
9 reasonably believe that Strunk likely conspired with Medel to have Nida Blanca killed.
10 Accordingly, the court denies the request for a certificate of extradition.

11 Many persons are deeply concerned about the tragic death of a beloved citizen of
12 the Philippines. All desire that the totality of persons involved in that murder be brought to
13 justice. This decision does not say that the Philippines could never make a case against Strunk
14 should new, competent evidence be submitted.²⁹ This decision does say that such a case has not
15 presently been made even given the rather de minimis standards for extradition.³⁰

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21 ²⁹ The Philippines/United States has no right to appeal a decision not to extradite. United
22 States v. Doherty, 786 F.2d 491, 501 (2nd Cir. 1986); Hooker v. Klein, 573 F.2d 1360, 1365 (9th
23 Cir. 1978). However, double jeopardy principles are not in play, and a later, good faith attempt
at extradition can be made. Id. at 1366-68.

24 ³⁰ The court states that nothing in this opinion is meant to criticize the presentation of the
25 case by AUSA Ken Melikian. Mr. Melikian did his customary, professional presentation of
evidence, and his customary, informative legal briefing. However, as the decision makes clear,
26 the evidence given to Mr. Melikian was not competent. Good as he is, Mr. Melikian could not
perform legal alchemy.

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Accordingly, the request for a CERTIFICATE OF EXTRADITION IS DENIED.

IT IS FURTHER ORDERED THAT Roger Lawrence Strunk is to be released from custody immediately.

DATED: November 12, 2003.

GREGORY G. HOLLOWS
U. S. MAGISTRATE JUDGE

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strunk.wpd