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WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name ROBERTS, JOHN: FILES

Withdrawer

RBW 8/4/2005

File Folder JGR/CHECA, RAFAEL A.

FOIA

F05-139/01

Box Number

COOK

13RW

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	EVALUATION	PERFORMANCE EVALUATION FROM MILITARY ACADEMY	2	2/15/1983	B6	482
2	EVALUATION	CLASSROOM EVALUATION	1	12/29/1982	B6	483
3	FORM	CTLT COUNSELING FORM	2	8/8/1981	B6	484
4	MEMO	R. MICHAEL MILLER TO LISA DUPERIER RE PERMANENT RESIDENCE	1	10/27/1983	B6	485
5	TELEGRAM	PRIV. BILL RADIOGRAM FROM MARGO F. CREELMAN TO INVEST. BRANCH RE INVEST. & STAY OF DEPORTATION	1	10/25/1983	B6	486

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

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B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

JGR

To _____

Date 6/6 Time 11:00

WHILE YOU WERE OUT

M. St. Col Summers

of _____

Phone 695-2661

Area Code Number Extension

TELEPHONED	<input checked="" type="checkbox"/> PLEASE CALL
CALLED TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	URGENT

RETURNED YOUR CALL

Message Casket Pemented

Operator A

THE WHITE HOUSE

WASHINGTON

May 24, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Rafael A. Checa

Craig Fuller has transmitted for our appropriate handling a letter from Rafael A. Checa to the President. Checa is a Nicaraguan citizen who entered the U.S. Military Academy in 1979, when the Somoza regime was still in power. Under 10 U.S.C. § 4344, persons from "the American Republics other than the United States" may be admitted to study at West Point, with the proviso that a person so admitted "is not entitled to an appointment in the United States Army by reason of his graduation from the Academy." 10 U.S.C. § 4344(c).

The Sandinistas took power while Checa was at West Point, and Checa's family was forced to flee to Peru. Their property was confiscated, and Checa fears persecution if he returns to Nicaragua. Checa will be graduated from the Academy on Wednesday, May 25, and would like to be commissioned as an officer in the U.S. Army along with his classmates. He has compiled a very good record at the Academy, and were he a regular cadet would receive a commission as a matter of course pursuant to 10 U.S.C. § 4353.

The hurdle to Checa's ambition is the requirement in 10 U.S.C. § 532(a)(1) that commissions may only be given to citizens of the United States. Checa notes in his letter to the President that he has been unsuccessful in his efforts to obtain citizenship through a private bill, and that he has been told it will take over a year to process his claim for political asylum. He asks the President to help him fulfill his ambition to become an officer.

I discussed Checa's case with Lisa Duperier of the Commissioner's office at INS and Department of Defense Deputy General Counsel Leonard Niederlehner. Neither see any possibility of assisting Checa under current law. Duperier had already agreed in response to previous inquiries to expedite Checa's request for political asylum. She estimated that Checa's request could be acted upon within one month rather than one year -- "assuming we can find the file up in New York." According to Duperier, Checa will be eligible for permanent resident status one year after

obtaining political asylee status, and eligible for naturalization four years after that. Under this scheme Checa could become a citizen and be commissioned in roughly five years.

Alternatively Checa could be commissioned in the Reserves under 10 U.S.C. § 591 once he "has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act" -- again, one year after grant of political asylum. Checa's letter indicates he is aware of this possibility. Were Checa to take this route and serve three years in the reserves, he would be eligible for naturalization under 8 U.S.C. § 1439, "Naturalization through service in the armed forces." Under this scenerio he could obtain citizenship and be eligible for a commission in the Regular Army in roughly four years.

The President cannot automatically grant Checa citizenship or permanent resident status, so he cannot unilaterally help Checa achieve his ambition of being commissioned with his classmates. The only option available for Presidential action is support for a renewed private bill effort. Checa's case is very sympathetic, and the President's recent statements concerning the situation in Nicaragua suggest he may be interested in helping Checa, who has performed well at West Point and whose family has suffered at the hands of the Sandinistas. The importance and sensitivity of Central American issues dictates, at the very least, that Checa's request be reviewed by those more directly concerned with those issues.

If Checa were made a citizen or given permanent resident status pursuant to a private bill, he would not automatically receive a commission -- due to the above-quoted proviso in 10 U.S.C. § 4344(c) -- but would presumably be fully qualified for one in light of his West Point training. It is obviously too late to give Checa an answer before graduation (tomorrow), but since he faces at least a four-year wait for a regular commission in the absence of special action, the matter is hardly moot.

I have drafted a memorandum to Fuller noting that the President's only option if he wants to help Checa is to support a private bill. The memorandum recommends staffing the question to Legislative Affairs and the offices and departments concerned with Central American issues, to obtain views on the desirability of helping Checa. I have also prepared a letter we would send Checa should the decision be made not to support a private bill.

Attachments

THE WHITE HOUSE

WASHINGTON

May 24, 1983

MEMORANDUM FOR CRAIG L. FULLER
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Rafael A. Checa

Counsel's Office has reviewed the letter to the President from Rafael A. Checa, requesting that the President assist Checa in achieving his ambition of being commissioned as an officer with his classmates at the United States Military Academy. Based on our review of the pertinent authorities and consultations with officials from the Department of Defense and the Immigration and Naturalization Service, we see nothing the President can do under existing law to help Checa. Checa must become a citizen before being eligible for a commission in the Regular Army, and must be lawfully admitted for permanent residence before being eligible for a commission in the Reserves. The requisite steps for naturalization and attaining permanent resident status are governed by statute. If Checa is granted political asylum, he could become a permanent resident in one year, and a citizen in four or five. The President cannot accelerate these time periods. INS has already agreed to expedite Checa's asylum request, and they expect a decision in one month.

If the President is interested in assisting Checa further, the only option is to support a private bill granting Checa permanent resident status or citizenship. In light of the sensitivity and prominence of Central American issues, this option should be considered by those directly concerned with those issues. Accordingly, I recommend staffing the question of whether to support such a private bill to Legislative Affairs, NSC, the Departments of Defense and State, INS, and any other affected agencies or offices. Checa graduates tomorrow, but that does not render his request for help moot.

I have also attached a reply which I would send to Checa should the decision be made not to support a private bill.

Attachment

FFF:JGR:aw 5/24/83 ✓
cc: FFFielding/JGRoberts/Subj./Chron

THE WHITE HOUSE

WASHINGTON

May 24, 1983

MEMORANDUM FOR CRAIG L. FULLER
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FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Rafael A. Checa

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Attachment

FFF:JGR:aw 5/24/83
cc: FFFielding/JGRoberts/Subj./Chron

THE WHITE HOUSE

WASHINGTON

May 24, 1983

Dear Mr. Checa:

Thank you for your letter of May 4 to the President. In that letter you detailed your present situation and your desire to be commissioned an officer in the United States Army along with your classmates at the United States Military Academy.

Please be assured that you have our sympathy for what has befallen your family, as well as our congratulations for what is by all accounts a splendid record at the Academy. I must advise you, however, that the President is not in a position to help you achieve your objective of being commissioned with your class. As you are aware, the pertinent statutes provide that only United States citizens may receive commissions in the regular army. To be eligible for a commission in the reserves, an individual must be either a United States citizen or admitted to permanent residence. The President cannot unilaterally alter these requirements. Attainment of naturalized citizenship or permanent resident status is also governed by statute, and the President cannot alter the statutory procedures, including time requirements, established by Congress in this area.

It is our understanding that you have applied for asylum. We have been advised that the Immigration and Naturalization Service will expedite your asylum request, so that you will have a decision much sooner than the year-long period referred to in your letter. The grant of asylum is the first step in the process leading to permanent resident status and eventual citizenship.

There is nothing we can do in response to your request other than expedite processing of your asylum claim. The eligibility requirements for commissioned officers, and the procedures for attaining citizenship and permanent resident status, are established by Congress and are beyond the control of the President. Your expressed commitment to the

values cherished by this Nation and your willingness to defend those values are indeed laudable. I am sorry we could not be more responsive to your request. Please accept again our congratulations for your distinguished performance at West Point.

Sincerely,

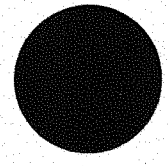
Fred F. Fielding
Counsel to the President

Cadet Rafael A. Checa
Company I, First Regiment
United States Corps of Cadets
West Point, New York 10997

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1



Name of Correspondent: Becky Dunlop

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Citizenship for West Point Cadet Candidate

ROUTE TO:	ACTION	Tracking Date	DISPOSITION	Completion Date
Office/Agency (Staff Name)	Action Code	YY/MM/DD	Type of Response Code	YY/MM/DD
<u>WHolland</u>	ORIGINATOR	<u>83,05,23</u>		<u>1 1</u>
<u>WAT 18</u>	Referral Note: <u>D</u>	<u>83,05,23</u>		<u>583,05,24</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>
	Referral Note:			

- | | | |
|--|---|---|
| <p>ACTION CODES:</p> <ul style="list-style-type: none"> A - Appropriate Action C - Comment/Recommendation D - Draft Response F - Furnish Fact Sheet to be used as Enclosure | <ul style="list-style-type: none"> I - Info Copy Only/No Action Necessary R - Direct Reply w/Copy S - For Signature X - Interim Reply | <p>DISPOSITION CODES:</p> <ul style="list-style-type: none"> A - Answered B - Non-Special Referral C - Completed S - Suspended |
|--|---|---|

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

OFFICE OF CABINET AFFAIRS ACTION TRACKING WORKSHEET

Action resulting from:

- document (attached)
- telephone call
- meeting (attach conference report if available)

Document Date: / /

From: Rafael Checa

Date Received: / /

Subject: Citizenship for West Point Cadet Candidate

ACTION CODES:

- | | | |
|----------------------------|--|-------------------------|
| A — Appropriate Action | D — Draft Response | R — Direct Reply w/Copy |
| B — Briefing Paper | F — Furnish Fact Sheet | S — For Signature |
| C — Comment/Recommendation | I — Info Copy Only/No Action Necessary | X — Interim Reply |

ROUTE TO:

Date Sent	Name	Action Codes	Date Due	Action Taken
83 / 05 / 19	Fielding	A	83 / 05 / 25	
/ /			/ /	
/ /			/ /	
/ /			/ /	
/ /			/ /	
/ /			/ /	

COMMENTS: Letter from Checa asking Administration assistance for him to become a citizen or to gain permanent resident status so he can graduate with his class at West Point and become a commissioned officer in the U.S. Army.

Originator: Dunlop Faoro Fuller Gonzalez Hart Hodapp

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING MATERIAL AND WHEN THE ASSIGNED ACTION IS COMPLETE, RETURN TO:

THE WHITE HOUSE

WASHINGTON

May 19, 1983

MEMORANDUM FOR FRED FIELDING

FROM: CRAIG L. FULLER

SUBJECT: ATTACHED LETTER

The attached letter is self-explanatory. It seems to me that we should be able to do something to help this young man.

Please note the short time frame necessary for action.

Please advise on outcome.

Thanks.



UNITED STATES MILITARY ACADEMY
West Point, New York

May 4, 1983

President Ronald Reagan
Office of the President
The White House
Washington, D.C.

Dear Mr. President:

First let me apologize for taking some of your very valuable time which must be utilized on much more important matters than this. Unfortunately, other approaches at arriving at what I want have not been successful.

I am a Nicaraguan citizen who entered the United States Military Academy at West Point in 1979. I am graduating on May 25, 1983. I entered West Point when the Somoza government was on the verge of collapse. The United States has paid for my entire stay at West Point. I wish to repay this by serving as an officer in the U.S. Army. During the five years that I have lived here I have come to love this country as much as any other American that is graduating with me in May. I would be willing to give my life in order to preserve the freedom and opportunity that this land guarantees.

I do not wish to return to Nicaragua. My family was forced to flee days before the collapse of former President Somoza's government. They feared reprisals and the establishment of a communist regime. All my family's property was confiscated. Thus, I have neither property nor family for which to return. In addition, I fear I would be persecuted due to my political opinions which are in direct conflict with the marxist principles of the present Sandinista regime.

I believe that I would make an excellent officer. My superiors and teachers at West Point also have the same opinion. My cadet records can substantiate this opinion. I thought it would be easy to obtain citizenship since the United States has spent a substantial sum of money in training me to become an officer. I need to be a citizen because this is the only way a person can be commissioned into the regular army. I could also be commissioned into the active duty reserves if I became a dependent resident. I would very much like to be commissioned with my classmates if this is possible.



UNITED STATES MILITARY ACADEMY
West Point, New York

I have sought a congressional bill to make me either a citizen or a permanent resident but my attempts and the academy's attempts have been unsuccessful until now. I have also asked for political asylum but this process takes at least a year to come up with a decision. One can only achieve permanent resident status only after a year following a positive decision. Thus, I would have to wait two years to be eligible to become an officer. I believe that my case is exceptional and that it would be in the national interest to make me a citizen in order that I may become an officer in the U.S. Army.

I am therefore pleading, sir, that you may help me in my efforts to serve this great country.

Very respectfully and truly yours,

Rafael A. Checa

RAFAEL A. CHECA
Cadet Sgt. '83

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<i>NO Document Description</i>	<i>pages</i>		<i>tions</i>

1	EVALUATION	2	2/15/1983	B6	482
	PERFORMANCE EVALUATION FROM MILITARY ACADEMY				

Freedom of Information Act - [5 U.S.C. 552(b)]

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No of Doc Date Restriction
pages *tions*

2 EVALUATION

1 12/29/1982 B6

483

CLASSROOM EVALUATION

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MACC-1

18 February 1983

SUBJECT: Letter of Commendation

Cadet Rafael Checa
Company I, First Regiment
United States Corps of Cadets
West Point, New York 10997

1. I would like to commend you for earning Dean's List status during the first term of Academic Year 1982-83.
2. This accomplishment marks you as an individual who has met the academic challenge of the most demanding undergraduate institution in the country, you should be justifiably proud of your performance; only cadets with a term average over 3.0 earn the distinction of being named to the Dean's List. I encourage you to maintain this level of dedication this semester and throughout the remainder of your stay at the Military Academy.
3. Again, congratulations on your noteworthy achievement. You have shown that you are a winner; an achiever who has excelled in academics. Well done!
4. I-1 AND PROUDI

GREGORY C. GARDNER
Captain, Infantry
Tactical Officer, Company I-1

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3 FORM

2 8/8/1981 B6

484

CTLT COUNSELING FORM

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JUNGLE OPERATIONS TRAINING CENTER

Certificate

This is to certify that
Having
successfully completed
the

Jungle Warfare Training Course

RAFAEL CHECA

is hereby designated a

Jungle Expert

Awarded This 21 Day
Of July 19 81
At Fort Sherman, Panama

Ray D. Newman
Ltc, Infantry
Commandant

JUNGLE OPERATIONS TRAINING CENTER

Certificate

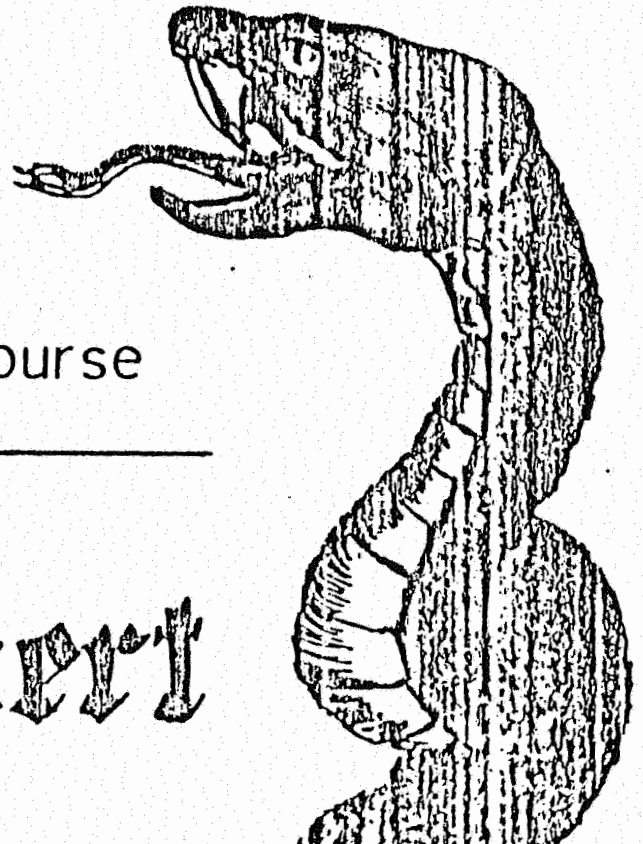
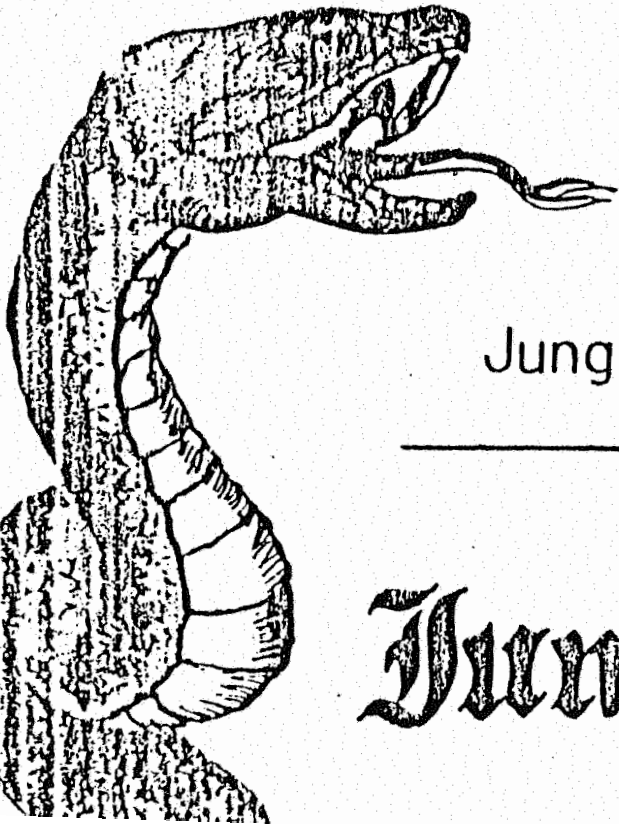
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Jungle Expert





U.S. Department of Justice
Immigration and Naturalization Service
Office of the Commissioner

Washington, D.C. 20536

November 25, 1983

TO : John Roberts
Associate Counsel
White House

FROM: Lisa Duperier ^{LD}
Special Assistant
to the Commissioner

John, thought you might like to see
this. Au revoir!

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*Restric-
tions*

4 MEMO

1 10/27/1983 B6

485

R. MICHAEL MILLER TO LISA DUPERIER RE
PERMANENT RESIDENCE

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5 TELEGRAM

1 10/25/1983 B6

486

PRIV. BILL RADIOGRAM FROM MARGO F.
CREELMAN TO INVEST. BRANCH RE INVEST. &
STAY OF DEPORTATION

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COMMITTEE ON THE JUDICIARY
U.S. House of Representatives
Washington, D.C. 20515

October 21, 1983

Re: H.R. 4026

Rafael A. Checa

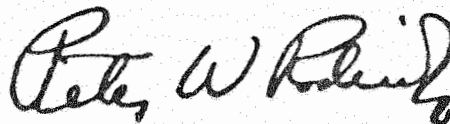
The Commissioner
Immigration and Naturalization Service
Department of Justice
Washington, D.C.

Dear Sir:

Enclosed herewith are copies of the above-
captioned bill, pending before this Committee.

Please forward a report of the facts in
the case as disclosed by the files in your office.

Sincerely yours,



PETER W. RODINO, JR.
Chairman

RECEIVED
OCT 25 1983
P.D. 510

98TH CONGRESS
1ST SESSION

H. R. 4026

For the relief of Rafael A. Checa.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 1983

Mr. FISH introduced the following bill; which was referred to the Committee on
the Judiciary

A BILL

For the relief of Rafael A. Checa.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, for the purposes of the Immigration and Nationality
4 Act, Rafael A. Checa shall be held and considered to have
5 been lawfully admitted to the United States for permanent
6 residence as of the date of the enactment of this Act, upon
7 payment of the required visa fee. Upon the granting of per-
8 manent residence to such alien as provided for in this Act,
9 the Secretary of State shall instruct the proper officer to
10 deduct one number from the total number of immigrant visas
11 which are made available to natives of the country of the
12 alien's birth under section 203(a) of the Immigration and Na-

- 1 tionality Act or, if applicable, from the total number of such
- 2 visas which are made available to such natives under section
- 3 202(e) of such Act.

○

CO 105.25-C

Rafael Checa

Ken Starr
Counselor
to the Attorney General

Lisa Duperier
Special Assistant
to the Commissioner
Immigration and Naturalization

Attached is a draft response for the Attorney General's signature to the Minister of Justice of Peru. I was somewhat at a loss to respond to the last paragraph regarding drug enforcement activities.

Attachment

CC: LISA DUPERIER
OFFICIAL FILE
COADN LOG
DOCKET Room 7228
COADN:JDCuddihy:ds:8/16/83

Armondo Buendia Gutierrez
Ministro de Justicia
Lima, Peru

Dear Mr. Gutierrez:

Thank you for bringing the case of Rafael Checa to my attention by your letter of June 23, 1983. I am pleased to report that this fine West Point graduate will be able to fully pursue his career in the United States Armed Forces.

The Immigration and Naturalization Service informs me that Mr. Checa's request for political asylum in the United States has been approved. He has now been granted asylee status for a period of one year, after which he may apply for permanent resident status. Mr. Checa, through General Davison, is now working with the proper authorities of the United States Army to fulfill the requirements to accept his commission as an officer.

I am certain that through continued dialogue we can progress toward solutions to the problems of common concern to our countries. I sincerely appreciate your efforts to move toward a resolution of these problems. I very much enjoyed my visit to your beautiful country, and look forward to returning.

With warm personal regards.

Sincerely,

William French Smith

CC: OFFICIAL FILE
KEN STARR
LISA DUPERIER
COADN LOG
DOCKET Room 7228
COADN: JDCuddihy:ds:8/16/83