

5 October 1995

Further information on UA 440/94 (AMR 19/25/94, 13 December 1994) and follow-up (AMR 19/02/95, 2 February 1995; AMR 19/04/95, 31 March, AMR 19/10/95, 21 June) - Fear for Safety

BRAZILWagner dos Santos, aged 22, witness to "Candelária Massacre"

Amnesty International is seriously concerned for the safety and well-being of Wagner dos Santos, the only adult witness in the trial of those accused of the "Candelária Massacre" of 23 July 1993 in which seven street children and a youth were killed. He left state protection on 21 September 1995 and has since been in hiding in the interior of Rio de Janeiro state.

After being discharged from the Public Servants Hospital in May 1995, Wagner dos Santos was given military police protection at the state's Witness House, where conditions were extremely poor. As the trial for the massacre approached, Wagner dos Santos was put under increasing pressure to make further identifications, on the request of defence lawyers for the three military police and one civilian charged with the killings. On 15 September, depressed by the conditions at the Witness House, and fearful of the consequences of appearing in court, after which he believed he would not be adequately protected, he reportedly cut his wrists, leaving superficial injuries.

On 19 September, the public prosecution service told Wagner dos Santos that he would be transferred to the Command Centre for Military Policing in the Interior of Rio de Janeiro State (*Comando do Policiamento do Interior - Policia Militar, Estado de Rio de Janeiro, CPI-PMERJ*) - a military police battalion in the city of Niteroi, across the Guanabara Bay from the city of Rio de Janeiro.

Fourteen members of the military police of Rio de Janeiro, charged with the massacre of 21 shanty town residents in Vigario Geral, Rio de Janeiro on 30 August 1993 are being detained at the CPI-PMERJ. These detainees are commonly known as members of the *Cavalos Corredores*, the Race Horses - a "death squad" held responsible for the Vigario Geral massacre and other killings in recent years. Although the public prosecution service is reported to believe that some of these detainees may be innocent of the Vigario Geral massacre, Wagner dos Santos was terrified at the prospect of being housed in the same establishment as them.

On 21 September Wagner dos Santos visited the II Jury Court house in Rio de Janeiro and expressed his wish to be excused from further appearances in court and the desire to be able to lead a normal life. He said that he would keep in contact with the court and consider further appearances later, provided he received adequate protection. As Wagner dos Santos has already made identifications and statements before court in relation to the Candelária massacre, the case is not technically affected by his absence during the jury trial stage, and he remains a state witness. In a letter to Amnesty International which he presented to the court, he wrote, "*I want to thank all the Amnesty International people for everything they did for me... I struggled until I could, but I can't manage anymore... It was really difficult taking this decision, but I think it is the right moment, because justice in Brazil is not working. So they have beaten me through tiredness... I don't feel defeated, but worn out by the length of time the battle has lasted*". He then left the city of Rio de Janeiro and travelled to a secret destination in the interior of the state, assisted by non-governmental organizations, without police protection. Since then, he has reportedly had to move location on

several occasions, in fear for his safety, and currently has no long-term place of refuge.

BACKGROUND INFORMATION

Wagner dos Santos was both a witness and a survivor of the Candelária massacre in which he was beaten and shot. On 9 December 1994 he suffered a further attempt on his life, whilst staying at the Witness House in Rio de Janeiro, and still suffers from partial facial paralysis as a result, for which he still requires physiotherapy. There has been little progress in the investigation of this attempt on his life.

On Brazil's National Independence Day, 7 September, President Cardoso made a televised speech on "human rights - the new name for the struggle for freedom and democracy". He announced that "a proposal submitted to Congress this year seeks to protect witnesses in criminal investigations processes because, as a result of the lack of a protection programme, witnesses have often felt inhibited and have been unable to testify about what they truly know. Thus, society cannot meet its objective of restoring public dignity and, on other occasions, of deterring violations of human rights through the judicial system." He also cited the Candelária massacre as one of the cases that had "not be cleared up" and that required "instruments that can ensure the stiff punishment of these crimes".

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in Portuguese or in your own language:

- calling on the federal authorities to meet their obligation to protect Wagner dos Santos and provide him with a place of safety in order to ensure his well-being;
- welcoming President Cardoso's stated commitment to establishing a witness protection program, and urging that Wagner dos Santos' case be made a first priority;
- pointing out that the Rio de Janeiro authorities have shown that they are either unwilling or unable to adequately protect Wagner dos Santos, as demonstrated by the inhumane proposal to house him in the CPI-PMERJ together with military police charged with the Vigário Geral massacre;
- stating that, as acknowledged by President Cardoso, the Candelária massacre is a case whose outcome will be a test for Brazil's commitment to tackle impunity for human rights violations and that it will continue to be watched by the international community.

APPEALS TO:

PRESIDENT

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Faxes: +55 61 226 6241

Telegrams: Presidente Cardoso, Brasilia, Brazil

Salutation : Vossa Excelência / Your Excellency

MINISTER OF JUSTICE

Exmo. Sr. Ministro da Justiça
 Dr. Nelson Jobim

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COPIES TO:

ATTORNEY GENERAL

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and to diplomatic representatives of Brazil accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
or your section office, if sending appeals after 20 November 1995.