

## THE CASE OF MR. ANDREW P. TAHMOORESSI

### *FACTSHEET*

#### FACTS:

1. This past April 1st, U.S. citizen Andrew Paul Tahmooressi was detained in Tijuana, Mexico, after crossing the international border at the “El Chaparral” entry point while traveling in his pickup truck, as a civilian. He was neither in uniform, nor was he on active duty, nor was he on official business, nor was he driving an official vehicle at that time. He was carrying firearms and ammunition that, under Mexican law, may only be used by the armed forces. A federal judge ordered him to be held in prison pending the completion of legal proceedings (a trial) against him, which is a standard practice. Mr. Tahmooressi has publicly acknowledged that he had recently crossed into Mexico before on at least 4 occasions, all for private purposes. He is under constant medical observation because he has claimed to suffer from PTSD. Mr. Tahmooressi’s case is not in the hands of the Mexican Executive branch but in the Mexican judiciary, as such, only the Federal Judge in charge of his case can and will make a ruling as to his guilt or innocence, and ultimately his release or imprisonment.

At the time he was detained, Mr. Tahmooressi was carrying:

- 1 12-gauge shotgun, made by BENELL, loaded with four 12 caliber rounds;
- 1 5.56-caliber rifle, M6A2-SPARTAN ALPHA make and model, loaded with a 5.56-caliber 30 round clip;
- 2 boxes of ammunition, one with twenty-seven rounds, and the other with eleven rounds, both 12-gauge;
- 1 45-caliber pistol, loaded with ten 45-caliber rounds;
- 2 45-caliber clips, one with seven 45-caliber rounds;
- 2 5.56-caliber clips, one with twenty-three rounds and the other with thirty rounds; and
- 300 5.56-caliber rounds.

## LEGAL PROCESS

2. Carrying and/or possessing the aforementioned arms and ammunition in Mexico is illegal. The mere act of carrying them, regardless of Mr. Tahmooressi's intentions as to their use, constitutes a crime under Mexican criminal law. In Mexico, as in the United States, ignorance of the law, error, or failure to understand the consequences of violating the law do not exempt individuals from responsibility, regardless of intention. In Mexico, unlike in the United States, there is no prosecutorial discretion, that is to say that in Mexico if a prosecutor has enough evidence that a crime was committed he or she is obligated by law to prosecute. In this case, the fact that Mr. Tahmooressi was carrying those weapons is more than enough evidence to prosecute.
3. Mexico's Attorney General's Office began an investigation into Mr. Tahmooressi for the violation of the Federal Law on Firearms and Explosives, considered a serious crime. On April 3<sup>rd</sup>, 2014, he entered the Center for Social Reinsertion (CERESO) in Tijuana. On April 8<sup>th</sup>, 2014, a Federal Judge ruled that Andrew Paul Tahmooressi be held in prison for those crimes, pending the result of his legal process (trial), which, today, is ongoing.
4. Mr. Andrew Tahmooressi is currently detained at the "El Hongo No. 2" CERESO in Tecate, Baja California. From the first moment of his detention, Mr. Tahmooressi's physical integrity has been protected. However, he himself demonstrated violent behavior when he first entered the CERESO prison. Tahmooressi attempted to escape on two occasions and suffered several self-inflicted wounds. His mother shared her concern as to Mr. Tahmooressi's health. For that reason, he has been under constant medical observation and in good health.
5. From the moment of his detention, he has been provided with consular assistance, a right to which he is entitled as a foreign national in compliance with the existing legal framework. Through his exercise of that right he has been visited on multiple occasions. According to the Secretariat for Public Security in Baja California, from April 3<sup>rd</sup> through May 20<sup>th</sup> of 2014, Mr. Tahmooressi has received a total of 53 visits: consular officials (8), defense attorneys (7), his mother (2), his pastor (30), psychiatrist (1), group of Americans (1), Coordinator of the Executive Cabinet of Baja California (1), human rights counsel of the Government of Baja California (1), Milenio newspaper (1), San Diego UT

newspaper (1). On May 31st of 2014 he was visited by United States Congressman Matt Salmon (R-AZ).

6. In this case, as in all others, all investigations are being conducted with objectivity and in strict observance with the law in order to arrive at the facts so that the judge may make a determination as to Mr. Tahmooressi's guilt.
7. During the legal proceedings in Mr. Tahmooressi's case, the Public Prosecutor's Office asked the judge to request any information U.S. authorities may have that would corroborate or invalidate the facts of the case. Accordingly, as in all legal proceedings, the judge in the case has also received the exonerating evidence from the defense.

#### CLARIFICATIONS:

8. The conduct of the Mexican justice system is governed by the principles of impartiality, objectivity and legality. This is not a political or a diplomatic issue. It is strictly a judicial issue which will be resolved by the Mexican federal courts.
9. Mr. Tahmooressi entered Mexico as a civilian. He was neither in uniform, nor was he on active duty, nor was he on official business, nor was he driving an official vehicle when he crossed the border.
10. There are many clearly visible signs, both in English and in Spanish, before one crosses the border (see photos in section A below) indicating that taking firearms into Mexico is illegal. There are also several exits that allow drivers to proceed to Mexico or return to the United States right up until the border.
11. Leading up to the entry point into Mexico, there are signs that indicate which lanes drivers should follow if they have something to declare to customs and which lanes to follow if they have nothing to declare. Mr. Tahmooressi chose to enter through the "nothing to declare" lane, forfeiting his opportunity to make known that he had arms and ammunition with him and/or rectify a possible driving mistake and declare that he did not wish to enter Mexico.

(Continued on the next page)

Section A:











12. Mr. Tahmooressi has publicly acknowledged (see attached interview on CNN) that it was not the first time he had crossed into Tijuana, but had actually traveled there on four previous occasions, lending credence to the idea that he knew the area in which he was traveling and presenting doubts about his supposed error. The Mexican and American press have published information (see link below) that confirm that Mr. Tahmooressi regularly crossed into Tijuana and, in fact, even stayed in room 310 of the *Hotel Nelson* on the same day he was detained. The press published a receipt provided by the hotel and allegedly handwritten and signed by Mr. Tahmooressi (see image B).

Image B:

**Hotel Nelson** No. 210137  
 POR FAVOR ESCRIBA SUS DATOS COMPLETOS  
 PLEASE PROVIDE ALL THE ABOVE INFORMATION

NOMBRE NAME	Andrew Tahmooressi	PESOS DOLLARS	309.40
MI TARIFA POR DIA ES MY DAILY RATE IS	\$26	PERSONAS PERSON(S)	1
Dirección Address	60 Juna Dr. Ponce Inlet FL 32127		
Ucupación OCCUPATION	CORREO EMAIL		
Nacionalidad Nationality	R.F.C.		

LLEGO	
SALIO	
DIAS DE	A
RENTA	260.00
GASTOS	
TOTAL (sin impuestos)	
3% S/HOSP.	7.80
16% I.V.A.	41.60
TOTAL \$	309.40

HABITACION No. 311

ANDREW TAHMOORESSI

PAGO POR ADELANTADO REQUERIDO. Hora de salida 1:00 p.m. Personas que tomen cuarto antes de las 7:00 a.m. pagarán día completo hasta la 1:00 p.m. del mismo día. Los valores deben depositarse en la Oficina contrarecibo. No somos responsables por artículos perdidos en los cuartos.  
 ADVANCED PAYMENT REQUESTED. Check out time 1:00 p.m. Parties checking in before 7:00 a.m. will pay whole day till 1:00 p.m. Same day. Please deposit valuables in office. We are not responsible for lost articles in rooms.  
 Me comprometo a Respetar el Reglamento Interno y el Contrato de Hospedaje  
 The Undersigned Received, Read, Understood and Agrees to Comply Fully With the House Rules and The Hotel Contract.

Link in Spanish:

<http://www.zetatijuana.com/noticias/ezenario/5706/ex-marine-se-hospedaba-en-hotel-de-tijuana#sthash.r0YX9Yh6.dpuf>

Next page: CNN Transcript. Interview with Andrew Tahmooressi



## CNN Transcript May 6<sup>th</sup>, 2014

### Chris Cuomo/Andrew Tahmooressi

**CNN:** A decorated U.S. Marine suffering from PTSD is still behind bars in Mexico after more than 2 months. Sergeant Andrew Tahmooressi's ordeal began after he drove across the border with guns in his truck. He and his family say it was just an accident, that he didn't leave the United States intentionally, he just happened..was accidentally in Mexico.

(...)

**CNN:** Now, I want to ask you about something else, Sergeant. And I'm sorry if it seems like I'm prying. You're dealing with PTS and you're trying to get treatment for it and we know that's one of the reasons you went out to the West Coast. Are you supposed to be taking medications now and do you have them? Are you treating yourself?

**AT:** I'm treating myself, yes. I don't believe I need medication to treat myself right now. I think I'm doing just fine.

**CNN:** It is your claim that the only reason you wound up in Mexico this time is because of a couple of wrong left turns, yes?

**AT:** Yes. That is correct.

**CNN:** A Tijuana-based newspaper has put out reporting that... they say they have proof that you actually had crossed the border internationally and intentionally several times, and that you stayed at a hotel earlier during the day in question. Is any of that true?

**AT:** I did. I stayed in a hotel earlier in the day. Earlier in the day I parked my truck at a parking lot on the American side across from Mexico and I walked into Mexico with a backpack and extra clothes and hygiene supplies, passport, wallet. And I decided to go hang out in Mexico with some good Mexican food, an inexpensive place to stay and hang out. I was in Mexico four times previous to the time I got arrested. I went with my friend a couple of times to Mexico just to hang out.

**CNN:** You know what the authorities are going to say, Sergeant? They are going to say that these frequent, short-duration stays in Mexico are proof not only that you knew where you were and where you should've been going, but that you may have been there trafficking weapons as opposed to just visiting.

(...)

Next page: Transcript. CNN Interview with Mr. Ariel Moutsatsos, Minister for Press and Public Affairs of the Embassy of Mexico

## Transcript: Ariel Moutsatsos Interview with CNN's Chris Cuomo

06-26-2014

**CHRIS CUOMO, CNN, New York:** Joining us now Ariel Moutsatsos Morales, the Minister for press and public affairs for the Embassy of Mexico in the U.S. thank you very much for joining us this morning, Mr. Morales. The first question is what do you know about the sergeant's health at this time?

**Ariel Moutsatsos:** Thank you very much, Chris, for having me here. Well, first of all, I heard in the piece that you just aired that they said that Mr. Tahmooressi was in prison for being charged of trafficking weapons. That's incorrect. Mr. Tahmooressi is in prison for carrying weapons that are of the exclusive use of the armed forces in Mexico and for possessing ammunition and a shotgun without a license, so it's not the same, so to clear the record that's what I wanted to add.

**CHRIS CUOMO:** Important to know. He's not being held there for any suspicion of trafficking. That has been speculated by Mexican media. You're saying that's not true. Thank you for clarifying. What do you know about the sergeant's health?

**AM:** He is in very good spirits, like the congressmen already stated over the weekend, and he's there in a prison under permanent medical observation. He suffers from PTSD and he has declined to take medication like he stated in your program a few days or weeks ago. Mr. Tahmooressi crossed into Mexico on the night of March the 31st for the fifth time in recent days, as he also accepted here in your program. From the very first moments of his detention because he was carrying three weapons, two of which are of exclusive use of the armed forces which is a serious felony in Mexico. They were within his reach and were loaded so he was arrested and taken under custody by the Mexican attorney general's office. From that moment he has received permanent assistance from the consulate of the United States in Tijuana, and he was transferred from one jail to another because he tried to escape twice and he tried to harm himself once, so the Mexican authorities in the jail tried to just... took the measures necessary for him not to harm himself again, not to try to escape again.

**CHRIS CUOMO:** You have said yourself that you believe he has PTSD, that he's under medical observation. Do you know that -- it's true that he told your officers at the time when he was stopped that he had the guns, when you combine his medical situation with his admitting that he had the guns when he was stopped, how do you justify holding him this long for something that appears to be an accident?

**AM:** I don't have -- first of all, I don't have the details of that, and I cannot comment on those details because there is an ongoing legal process. That will be decided by the judge, not by anyone else but by the federal judge in a federal court. He is the one right now seeing the case of Mr. Tahmooressi.

**CHRIS CUOMO:** Are you aware of any proof that it was not an accident?

**AM:** I am not aware of any proof regarding this being an accident or not being an accident, and can I not certainly talk about that. I can just tell you that the signs are very clear to return to the U.S., and if you didn't see those signs then if someone doesn't see those signs, then there are also signs saying that there are no weapons allowed into Mexico and if you don't see those signs then there are also signs that you need to see and to make a decision before crossing, choosing the lane of nothing to declare or something to declare and Mr. Tahmooressi decided to cross into

Mexico through the lane of nothing to declare so he certainly made some decisions on the way to crossing into Mexico, and even the fact that this is the fifth time that he crossed into Mexico for private reasons because he didn't cross as a Marine, was not on active duty, not on official duty, not in an official vehicle, he crossed for private reasons as he already has acknowledged in your program and in others.

**CHRIS CUOMO:** That doesn't mean that he's lying about this being an accident and of the pictures of signs that you sent us; one of these signs is new, right? One of these signs, at least one of them, wasn't up at the time of Mr. Tahmooressi's arrest. Is that true?

**AM:** I don't have any information on that.

**CHRIS CUOMO:** Well, you sent me those signs.

**AM:** Yes, of course I sent you the signs.

**CHRIS CUOMO:** And our information is that one of them new and not up at the time?

**AM:** Those signs are not there put by the Mexican Government; they're put by the United States Government or the local authorities. So I don't have any information on that.

**CHRIS CUOMO:** But what does that mean to you -- what does that mean to you?

**AM:** If that happened, maybe they're trying to improve the visibility of the signs but that does not mean that the rest of the signs were not clear and the rest of the signs were not there and the rest of the signs are not stating clearly that no weapons are allowed into Mexico.

**CHRIS CUOMO:** Understood.

**AM:** And it does not mean you cannot make a decision of declaring something before crossing the border.

**CHRIS CUOMO:** Understood, but there are more facts here and assuming he did tell officers right away. There was obviously no violence, thank god, that happened with these weapons, you've had him for three months. Isn't there some discretion about what you decide to prosecute or not in a situation like this? It's not like you're not familiar with crime.

**AM:** What you're saying is probably the most important thing of this case regarding the process. There is a big difference between the Mexican law and the U.S. law. Here in the U.S. you have prosecutorial discretion, a prosecutor can decide whether to prosecute something or not. In Mexico that doesn't exist. If there is evidence of a possible crime committed like in this case, the prosecutor has to prosecute. He doesn't make any decisions regarding that, but to prosecute, to investigate, and then to present this to the judge. The case is certainly in that stage and Mr. Tahmooressi is awaiting his next hearing which will take place on the 9th of July.

**CHRIS CUOMO:** You're saying every time there is an arrest there was a trial in Mexico? That was not my understanding.

**AM:** Yes, every time there is suspicion of a crime, there is an arrest, there is an investigation, that the prosecutor initiates and if he gathers sufficient evidence to think there is a crime here, then he has to prosecute. In this case, the evidence of someone, regardless of if he was American or he's Mexican, someone carrying weapons that are loaded and that are of exclusive use of the armed forces is more than enough to prosecute.

**CHRIS CUOMO:** All right, I understand the legal principle and I want to keep this dialogue going, Mr. Morales because it's of significant concern here. I do have one request. You're aware of the procedure but said you are not aware of the proof for or against the guilt in this case. Don't you think it's important that you get informed on that level because of the significance of this case that you should know what the case is against this man, because there are a lot of questions about it?

**AM:** The case is clear. He was carrying weapons that are of the exclusive of the armed forces.

: He said it was an accident. You say you don't know what the proof was that they don't believe was an accident.

**AM:** The judge will decide if it was an accident or not and if he is released because he's considered or sentenced not guilty or sentenced guilty and he has to serve some time in jail, that's only up to the judge. I also heard in the piece that was presented before me talking here that President Pena Nieto... that piece suggested President Nieto could order his release or anything and he can't at this moment. He's in the hands of a Mexican judge in a Mexican federal court and not in the hands of the government. That is very important for the American people to know.

**CHRIS CUOMO:** That is. Thank you very much for clarifying the process and what's going on. Thank you very much for sending us the letter that showed your attention to this and the information that came with it. Please make yourself available to us as we go forward so we can stay on this story and be fair.

**AM:** I am and thank you very much for this opportunity Chris.

**CHRIS CUOMO:** Thank you

- END -