

Calendar No. 216

115TH CONGRESS
1ST SESSION

S. 1780

[Report No. 115-152]

Making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2018, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2017

Mr. GRAHAM, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

A BILL

Making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2018, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 Department of State, foreign operations, and related pro-
6 grams for the fiscal year ending September 30, 2018, and
7 for other purposes, namely:

1 (G) shall conduct regular consultation with
2 civil society organizations working to advance
3 gender equality and empower women and girls
4 internationally.

5 (4) SUPERVISION.—The Office shall be headed
6 by an Ambassador-at-Large for Global Women's
7 Issues who—

8 (A) exercises significant authority;

9 (B) reports to the President or to the Sec-
10 retary of State; and

11 (C) is appointed by the President or by the
12 Secretary of State, with the advice and consent
13 of the Senate.

14 (5) REPORT.—Not later than 180 days after
15 the date of the enactment of this Act, the Secretary
16 of State shall submit a report to the appropriate
17 congressional committees describing the steps taken
18 to fulfill the duties of the Office set forth in para-
19 graph (3).

20 CONSULAR NOTIFICATION COMPLIANCE

21 SEC. 7088. (a) PETITION FOR REVIEW.—

22 (1) JURISDICTION.—Notwithstanding any other
23 provision of law, a Federal court shall have jurisdic-
24 tion to review the merits of a petition claiming viola-
25 tion of Article 36(1)(b) or (c) of the Vienna Conven-

1 tion on Consular Relations, done at Vienna April 24,
2 1963, or a comparable provision of a bilateral inter-
3 national agreement addressing consular notification
4 and access, filed by an individual convicted and sen-
5 tenced to death by any Federal or State court before
6 the date of enactment of this Act.

7 (2) STANDARD.—To obtain relief, an individual
8 described in paragraph (1) must make a showing of
9 actual prejudice to the criminal conviction or sen-
10 tence as a result of the violation. The court may
11 conduct an evidentiary hearing if necessary to sup-
12 plement the record and, upon a finding of actual
13 prejudice, shall order a new trial or sentencing pro-
14 ceeding.

15 (3) LIMITATIONS.—

16 (A) INITIAL SHOWING.—To qualify for re-
17 view under this subsection, a petition must
18 make an initial showing that—

19 (i) a violation of Article 36(1)(b) or
20 (c) of the Vienna Convention on Consular
21 Relations, done at Vienna April 24, 1963,
22 or a comparable provision of a bilateral
23 international agreement addressing con-
24 sular notification and access, occurred with

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1 respect to the individual described in para-
2 graph (1); and

3 (ii) if such violation had not occurred,
4 the consulate would have provided assist-
5 ance to the individual.

6 (B) EFFECT OF PRIOR ADJUDICATION.—A
7 petition for review under this subsection shall
8 not be granted if the claimed violation described
9 in paragraph (1) has previously been adju-
10 dicated on the merits by a Federal or State
11 court of competent jurisdiction in a proceeding
12 in which no Federal or State procedural bars
13 were raised with respect to such violation and
14 in which the court provided review equivalent to
15 the review provided in this subsection, unless
16 the adjudication of the claim resulted in a deci-
17 sion that was based on an unreasonable deter-
18 mination of the facts in light of the evidence
19 presented in the prior Federal or State court
20 proceeding.

21 (C) FILING DEADLINE.—A petition for re-
22 view under this subsection shall be filed within
23 1 year of the later of—

24 (i) the date of enactment of this Act;

1 (ii) the date on which the Federal or
2 State court judgment against the indi-
3 vidual described in paragraph (1) became
4 final by the conclusion of direct review or
5 the expiration of the time for seeking such
6 review; or

7 (iii) the date on which the impediment
8 to filing a petition created by Federal or
9 State action in violation of the Constitu-
10 tion or laws of the United States is re-
11 moved, if the individual described in para-
12 graph (1) was prevented from filing by
13 such Federal or State action.

14 (D) TOLLING.—The time during which a
15 properly filed application for State post-convic-
16 tion or other collateral review with respect to
17 the pertinent judgment or claim is pending
18 shall not be counted toward the 1-year period of
19 limitation.

20 (E) TIME LIMIT FOR REVIEW.—A Federal
21 court shall give priority to a petition for review
22 filed under this subsection over all noncapital
23 matters. With respect to a petition for review
24 filed under this subsection and claiming only a
25 violation described in paragraph (1), a Federal

1 court shall render a final determination and
2 enter a final judgment not later than one year
3 after the date on which the petition is filed.

4 (4) HABEAS PETITION.—A petition for review
5 under this subsection shall be part of the first Fed-
6 eral habeas corpus application or motion for Federal
7 collateral relief under chapter 153 of title 28, United
8 States Code, filed by an individual, except that if an
9 individual filed a Federal habeas corpus application
10 or motion for Federal collateral relief before the date
11 of enactment of this Act or if such application is re-
12 quired to be filed before the date that is 1 year after
13 the date of enactment of this Act, such petition for
14 review under this subsection shall be filed not later
15 than 1 year after the enactment date or within the
16 period prescribed by paragraph (3)(C)(iii), whichever
17 is later. No petition filed in conformity with the re-
18 quirements of the preceding sentence shall be consid-
19 ered a second or successive habeas corpus applica-
20 tion or subjected to any bars to relief based on
21 preenactment proceedings other than as specified in
22 paragraph (2).

23 (5) REFERRAL TO MAGISTRATE.—A Federal
24 court acting under this subsection may refer the pe-
25 tition for review to a Federal magistrate for pro-

1 posed findings and recommendations pursuant to
2 section 636(b)(1)(B) of title 28, United States Code.

3 (6) APPEAL.—

4 (A) IN GENERAL.—A final order on a peti-
5 tion for review under paragraph (1) shall be
6 subject to review on appeal by the court of ap-
7 peals for the circuit in which the proceeding is
8 held.

9 (B) APPEAL BY PETITIONER.—An indi-
10 vidual described in paragraph (1) may appeal a
11 final order on a petition for review under para-
12 graph (1) only if a district or circuit judge
13 issues a certificate of appealability. A district or
14 circuit court judge shall issue or deny a certifi-
15 cate of appealability not later than 30 days
16 after an application for a certificate of
17 appealability is filed. A district judge or circuit
18 judge may issue a certificate of appealability
19 under this subparagraph if the individual has
20 made a substantial showing of actual prejudice
21 to the criminal conviction or sentence of the in-
22 dividual as a result of a violation described in
23 paragraph (1).

24 (b) VIOLATION.—

1 (1) IN GENERAL.—An individual not covered by
2 subsection (a) who is arrested, detained, or held for
3 trial on a charge that would expose the individual to
4 a capital sentence if convicted may raise a claim of
5 a violation of Article 36(1)(b) or (c) of the Vienna
6 Convention on Consular Relations, done at Vienna
7 April 24, 1963, or of a comparable provision of a bi-
8 lateral international agreement addressing consular
9 notification and access, at a reasonable time after
10 the individual becomes aware of the violation, before
11 the court with jurisdiction over the charge. Upon a
12 finding of such a violation—

13 (A) the consulate of the foreign state of
14 which the individual is a national shall be noti-
15 fied immediately by the detaining authority,
16 and consular access to the individual shall be
17 afforded in accordance with the provisions of
18 the Vienna Convention on Consular Relations,
19 done at Vienna April 24, 1963, or the com-
20 parable provisions of a bilateral international
21 agreement addressing consular notification and
22 access; and

23 (B) the court—

24 (i) shall postpone any proceedings to
25 the extent the court determines necessary

1 to allow for adequate opportunity for con-
2 sular access and assistance; and

3 (ii) may enter necessary orders to fa-
4 cilitate consular access and assistance.

5 (2) EVIDENTIARY HEARINGS.—The court may
6 conduct evidentiary hearings if necessary to resolve
7 factual issues.

8 (3) RULE OF CONSTRUCTION.—Nothing in this
9 subsection shall be construed to create any addi-
10 tional remedy.

11 (c) DEFINITIONS.—In this section the term “State”
12 means any State of the United States, the District of Co-
13 lumbia, the Commonwealth of Puerto Rico, and any terri-
14 tory or possession of the United States.

15 (d) APPLICABILITY.—The provisions of this section
16 shall apply during the current fiscal year and hereafter.

17 This Act may be cited as the “Department of State,
18 Foreign Operations, and Related Programs Appropria-
19 tions Act, 2018”.

Calendar No. 216

115TH CONGRESS }
1st Session }

SENATE

{ REPORT
115-152

**DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND
RELATED PROGRAMS APPROPRIATIONS BILL, 2018**

SEPTEMBER 7, 2017.—Ordered to be printed

Mr. GRAHAM, from the Committee on Appropriations, submitted
the following

REPORT

[To accompany S. 1780]

The Committee on Appropriations reports the bill (S. 1780) making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2018, and for other purposes, reports favorably thereon and recommends that the bill do pass.

Amounts in new budget authority

Total of bill as reported to the Senate	\$51,353,900,000
Amount of 2017 appropriations	57,523,900,000
Amount of 2018 budget estimate	40,680,726,000
Bill as recommended to Senate compared to—	
2017 appropriations	–6,176,000,000
2018 budget estimate	10,673,174,000

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strict Internet freedom. The Committee encourages the Secretary of State to review and update such strategies.

GLOBAL INTERNET FREEDOM
(Budget authority in thousands of dollars)

Account	Committee recommendation
Economic Support Fund	14,275
of which, Near East Regional Democracy Program	9,000
Democracy Fund (Department of State)	13,000
Democracy Fund (USAID)	3,500
Assistance for Europe, Eurasia and Central Asia	4,725
International Broadcasting Operations	15,000
of which, programs	13,800
of which, Radio Free Asia personnel costs	1,200
Total, Global Internet Freedom	50,500

Sec. 7079. Impact on Jobs in the United States.

Sec. 7080. Quorum Requirement.

Sec. 7081. Disability Programs.

Sec. 7082. Assistance for United States Citizens and Nationals Unlawfully or Wrongfully Detained Abroad.

Sec. 7083. Reorganization or Redesign of the Department of State and the United States Agency for International Development.

Notification, Report, and Review.—Pursuant to subsection (b)(1), any proposal or plan for the reorganization or redesign of any department, agency, or organization funded by the act is subject to prior consultation with, and the regular notification procedures of, the Committee, except a detailed report justifying such proposal and plan shall be submitted concurrently with the notification.

Pursuant to subsection (b)(2), prior to the submission of the notification required in subsection (b)(1), the Comptroller General shall review any reorganization or redesign proposal or plan, which shall be submitted to the Committee.

Reviews.—The Department of State and USAID OIGs shall review the process by which any reorganization or redesign plan submitted by Federal departments and agencies to OMB pursuant to the March 31, 2017 Executive Order [EO] 13781 on a Comprehensive Plan for Reorganizing the Executive Branch was formulated, or other reorganizations taken by departments and agencies outside of the EO since January 23, 2017, including the extent to which recommendations in such plans were proposed by career employees of such departments or agencies, contractors, and Federal employees outside such departments or agencies; and compliance with the requirements of the act and any other act.

Sec. 7084. North American Development Bank.

Sec. 7085. Multilateral Development Bank Replenishments.

Sec. 7086. Designation Requirement.

Sec. 7087. Strengthening Diplomacy and Development.

Sec. 7088. Consular Notification Compliance.

Rule 5**RULES OF CRIMINAL PROCEDURE**

(ii) an attorney for the government moves promptly, in the district where the warrant was issued, to dismiss the complaint.

(B) If a defendant is arrested for violating probation or supervised release, Rule 32.1 applies.

(C) If a defendant is arrested for failing to appear in another district, Rule 40 applies.

(3) **Appearance Upon a Summons.** When a defendant appears in response to a summons under Rule 4, a magistrate judge must proceed under Rule 5(d) or (e), as applicable.

(b) **Arrest Without a Warrant.** If a defendant is arrested without a warrant, a complaint meeting Rule 4(a)'s requirement of probable cause must be promptly filed in the district where the offense was allegedly committed.

(c) **Place of Initial Appearance; Transfer to Another District.**

(1) **Arrest in the District Where the Offense Was Allegedly Committed.** If the defendant is arrested in the district where the offense was allegedly committed:

(A) the initial appearance must be in that district; and

(B) if a magistrate judge is not reasonably available, the initial appearance may be before a state or local judicial officer.

(2) **Arrest in a District Other Than Where the Offense Was Allegedly Committed.** If the defendant was arrested in a district other than where the offense was allegedly committed, the initial appearance must be:

(A) in the district of arrest; or

(B) in an adjacent district if:

(i) the appearance can occur more promptly there; or

(ii) the offense was allegedly committed there and the initial appearance will occur on the day of arrest.

(3) **Procedures in a District Other Than Where the Offense Was Allegedly Committed.** If the initial appearance occurs in a district other than where the offense was allegedly committed, the following procedures apply:

(A) the magistrate judge must inform the defendant about the provisions of Rule 20;

(B) if the defendant was arrested without a warrant, the district court where the offense was allegedly committed must first issue a warrant before the magistrate judge transfers the defendant to that district;

(C) the magistrate judge must conduct a preliminary hearing if required by Rule 5.1;

(D) the magistrate judge must transfer the defendant to the district where the offense was allegedly committed if:

(i) the government produces the warrant, a certified copy of the warrant, or a reliable electronic form of either; and

(ii) the judge finds that the defendant is the same person named in the indictment, information, or warrant; and

(E) when a defendant is transferred and discharged, the clerk must promptly transmit the papers and any bail to the clerk in the district where the offense was allegedly committed.

(4) **Procedure for Persons Extradited to the United States.** If the defendant is surrendered to the United States in accordance with a request for the defendant's extradition, the initial appearance must be in the district (or one of the districts) where the offense is charged.

(d) **Procedure in a Felony Case.**

(1) **Advice.** If the defendant is charged with a felony, the judge must inform the defendant of the following:

(A) the complaint against the defendant, and any affidavit filed with it;

(B) the defendant's right to retain counsel or to request that counsel be appointed if the defendant cannot obtain counsel;

(C) the circumstances, if any, under which the defendant may secure pretrial release;

(D) any right to a preliminary hearing;

(E) the defendant's right not to make a statement, and that any statement made may be used against the defendant; and

(F) that a defendant who is not a United States citizen may request that an attorney for the government or a federal law enforcement official notify a consular officer from the defendant's country of nationality that the defendant has been arrested—but that even without the defendant's request, a treaty or other international agreement may require consular notification.

(2) **Consulting with Counsel.** The judge must allow the defendant reasonable opportunity to consult with counsel.

(3) **Detention or Release.** The judge must detain or release the defendant as provided by statute or these rules.

(4) **Plea.** A defendant may be asked to plead only under Rule 10.

(e) **Procedure in a Misdemeanor Case.** If the defendant is charged with a misdemeanor only, the judge must inform the defendant in accordance with Rule 58(b)(2).

(f) **Video Conferencing.** Video conferencing may be used to conduct an appearance under this rule if the defendant consents.

(As amended Feb. 28, 1966, eff. July 1, 1966; Apr. 24, 1972, eff. Oct. 1, 1972; Apr. 28, 1982, eff. Aug. 1, 1982; Oct. 12, 1984, Pub.L. 98-473, Title II, § 209(a), 98 Stat. 1986; Mar. 9,

For Complete Annotation Materials, see United States Code Annotated

PRELIMINARY PROCEEDINGS

Rule 5.1

supporting evidence. Rule 5(a)(1)(B) requires the person be taken before a magistrate judge without unnecessary delay. Consistent with this obligation, it is preferable not to delay an extradited person's transportation to hold an initial appearance in the district of arrival, even if the person will be present in that district for some time as a result of connecting flights or logistical difficulties. Interrupting an extradited defendant's transportation at this point can impair his or her ability to obtain and consult with trial counsel and to prepare his or her defense in the district where the charges are pending.

Changes Made to Proposed Amendment Released for Public Comment

No changes were made in the amendment as published.

2014 Amendments

Rule 5(d)(1)(F). Article 36 of the Vienna Convention on Consular Relations provides that detained foreign nationals shall be advised that they may have the consulate of their home country notified of their arrest and detention, and bilateral agreements with numerous countries require consular notification whether or not the detained foreign national requests it. Article 36 requires consular notification advice to be given "without delay," and arresting officers are primarily responsible for providing this advice.

Providing this advice at the initial appearance is designed, not to relieve law enforcement officers of that responsibility, but to provide additional assurance that U.S. treaty obligations are fulfilled, and to create a judicial record of that action. The Committee concluded that the most effective and efficient method of conveying this information is to provide it to every defendant, without attempting to determine the defendant's citizenship.

At the time of this amendment, many questions remain unresolved by the courts concerning Article 36, including whether it creates individual rights that may be invoked in a judicial proceeding and what, if any, remedy may exist for a violation of Article 36. *Sanchez-Llamas v. Oregon*, 548 U.S. 331 (2006). This amendment does not address those questions. More particularly, it does not create any such rights or remedies.

Changes Made After Publication and Comment

In response to public comments the amendment was rephrased to state that the information regarding consular notification should be provided to all defendants who are arraigned. Although it is anticipated that ordinarily only defendants who are held in custody will ask the government to notify a consular official of their arrest, it is appropriate to provide this information to all defendants at their initial appearance. The new phrasing also makes it clear that the advice should be provided to every defendant, without any attempt to determine the defendant's citizenship. A conforming change was made to the Committee Note.

Rule 5.1. Preliminary Hearing

(a) **In General.** If a defendant is charged with an offense other than a petty offense, a magistrate judge must conduct a preliminary hearing unless:

- (1) the defendant waives the hearing;
- (2) the defendant is indicted;

(3) the government files an information under Rule 7(b) charging the defendant with a felony;

(4) the government files an information charging the defendant with a misdemeanor; or

(5) the defendant is charged with a misdemeanor and consents to trial before a magistrate judge.

(b) **Selecting a District.** A defendant arrested in a district other than where the offense was allegedly committed may elect to have the preliminary hearing conducted in the district where the prosecution is pending.

(c) **Scheduling.** The magistrate judge must hold the preliminary hearing within a reasonable time, but no later than 14 days after the initial appearance if the defendant is in custody and no later than 21 days if not in custody.

(d) **Extending the Time.** With the defendant's consent and upon a showing of good cause—taking into account the public interest in the prompt disposition of criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more times. If the defendant does not consent, the magistrate judge may extend the time limits only on a showing that extraordinary circumstances exist and justice requires the delay.

(e) **Hearing and Finding.** At the preliminary hearing, the defendant may cross-examine adverse witnesses and may introduce evidence but may not object to evidence on the ground that it was unlawfully acquired. If the magistrate judge finds probable cause to believe an offense has been committed and the defendant committed it, the magistrate judge must promptly require the defendant to appear for further proceedings.

(f) **Discharging the Defendant.** If the magistrate judge finds no probable cause to believe an offense has been committed or the defendant committed it, the magistrate judge must dismiss the complaint and discharge the defendant. A discharge does not preclude the government from later prosecuting the defendant for the same offense.

(g) **Recording the Proceedings.** The preliminary hearing must be recorded by a court reporter or by a suitable recording device. A recording of the proceeding may be made available to any party upon request. A copy of the recording and a transcript may be provided to any party upon request and upon any payment required by applicable Judicial Conference regulations.

(h) **Producing a Statement.**

(1) **In General.** Rule 26.2(a)-(d) and (f) applies at any hearing under this rule, unless the magistrate judge for good cause rules otherwise in a particular case.

(2) **Sanctions for Not Producing a Statement.** If a party disobeys a Rule 26.2 order to deliver a

<https://www.telesurtv.net/english/news/Venezuela-Denies-Detained-Joshua-Holts-Life-in-Danger-20171215-0014.html>

Venezuela Denies Detained Joshua Holt's Life 'in Danger'

Published 15 December 2017

A witness told the Miami Herald that police were conducting door-to-door searches when they took issue with Holt filming them on his mobile phone.

Venezuelan Foreign Minister Jorge Arreaza has denied that the life of a jailed U.S. citizen charged with weapons offenses is in danger, accusing the United States of turning the man at the centre of a judicial case into a political pawn.

Joshua Holt, a 25-year-old former Mormon missionary from Utah, was arrested 18 months ago in Caracas while waiting for a U.S. visa for his new Venezuelan bride, fellow Mormon Thamara Candelo, and her two young children.

Police raided Candelo's apartment on June 30, 2016, later claiming they had found illegal weapons and that the couple are linked to an opposition paramilitary gang, according to PJ Media.

Thamara's mother, Maria Caleño, told NPR that she witnessed the raid and saw police officers slip weapons into Holt's luggage before declaring they had found them at the scene.

A witness told the Miami Herald that police were conducting door-to-door searches when they took issue with Holt filming them on his mobile phone.

Two hours later, masked officers who may have been military intelligence came back, "found" the weapons and arrested Holt and his wife. Both were finally charged on Tuesday and are now awaiting trial.

Posting on Twitter on Friday in response to allegations by the U.S. State Department that Holt's detention was politically motivated, Arreaza insisted that Holt had been granted access to legal representation and that U.S. criticism of the proceedings amounted to "political interference."

"It is false that Holt's life is in danger due to lack of or insufficient medical attention," Arreaza wrote in his official statement. "Proof of this is that on December 12, the judge was able to confirm his state of health, so there are no grounds to grant a humanitarian measure.

"We regret that the U.S. government intends to turn a judicial case into a political issue with unspeakable purposes since, in the past, similar cases have been handled – as they should be – within the consular sphere by the authorities of both countries, in accordance with the respective legal procedures and without any type of conflict.

"We reiterate that Venezuela complies with its international commitments, including consular access to foreign citizens in detention situations, as well as due process, which is guaranteed by the constitution.

"For this reason, we demand respect for Venezuelan institutions and legal processes, as well as the immediate cessation of the campaign of distortion that attacks our judicial system."

On Monday, Holt's mother had released an audio recording of her son complaining of poor health, and pleaded for his release.

"I'm very dizzy and I can't think and my stomach hurts," Holt says in the 40-second voicemail message. "It hurts bad, and I don't know what to do. I've never felt like this before."

U.S. State Department spokesman Heather Nauert said embassy personnel were prevented from observing Holt's hearing on Tuesday. "The United States remains extremely concerned for Mr. Holt's health and welfare, which continues to deteriorate under the custody of SEBIN, the Venezuelan intelligence agency," she said in a statement.

"We call on the Venezuelan government to grant **immediate consular access** to Mr. Holt. We remind the Venezuelan government that pursuant to its international obligations, Venezuela must grant Mr. Holt **fair trial guarantees**.

"His life should not be jeopardized under SEBIN's custody. Therefore we renew our call for Mr. Holt's **immediate release on humanitarian grounds**."

These materials are distributed by Brownstein Hyatt Farber Schreck, LLP on behalf of the Embassy of Mexico. Additional information is on file with the Department of Justice, Washington, D.C.

<https://www.usnews.com/news/world/articles/2017-12-12/venezuelan-judge-orders-utah-man-be-tried-on-weapons-charges>

Venezuelan Judge Orders Utah Man Be Tried on Weapons Charges

A judge in Venezuela has ordered a jailed American man to stand trial on weapons charges, dashing hopes of his family in Utah that he would be released and be with them for Christmas.

Dec. 12, 2017, at 9:33 p.m

CARACAS, Venezuela (AP) — A Venezuelan judge ruled Tuesday that a jailed American man must stand trial on weapons charges, dashing hopes of his family in Utah that he would be released and united with them for Christmas.

The ruling, **issued at a preliminary hearing to which the U.S. Embassy's top diplomat was denied access**, came almost 18 months after Joshua Holt was arrested. It was a day after his mother released an audio recording of her son complaining of suffering without medical care.

Holt, 25, traveled to Venezuela in 2016 to marry a fellow Mormon he met on the internet and shortly later the couple was arrested at her family's apartment in a Caracas public housing complex by police who alleged he was stockpiling weapons.

"I'm totally devastated. I don't even know what to think" the mother, Laurie Holt, told The Associated Press by telephone from her home near Salt Lake City. "I can't understand how they can send a young kid who's completely innocent to trial and feel good about that."

Judge Ana Maria Gamuza's decision to formally charge Holt and his wife, Thamara Candelo, came almost two months after she heard arguments in support and against his continued imprisonment — another procedural delay that Washington has cited as evidence the case is being politicized by President Nicolas Maduro's socialist government to retaliate against U.S. economic sanctions.

Further stoking those concerns, Lee McClenny, **the head of the U.S. Embassy in Venezuela, was forced Tuesday to wait outside the courtroom for hours after the judge refused to grant him access to the proceedings in apparent violation of the Vienna convention on consular rights.**

Laurie Holt said **her son had requested McClenny be present for the hearing as detained foreign nationals are entitled to under the treaty, to which Venezuela is a party.**

On Monday, the mother shared an audio recording of her that she said was sent by cellphone and she pleaded with Venezuelan authorities to release him on humanitarian grounds.

In the 40-second voicemail message, Holt talks about throwing up all night, feeling dizzy and struggling to think.

"I'm very dizzy and I can't think and my stomach hurts," he says. "It hurts bad, and I don't know what to do. I've never felt like this before."

Alarmed by the recording, the State Department on Tuesday reiterated its call for Holt's release.

"He's in extremely poor health. We want him to be brought home," State Department spokeswoman Heather Nauert said at a press briefing in which she said she expected U.S. Embassy officials would be present at the hearing.

Holt said she hasn't heard from her son since he made the distress call Monday morning and she fears his cellphone was taken away in retaliation for her decision to release the recording.

Holt and Candelo are being held in the Helicoide, a spiral shaped Caracas prison where Maduro's most-prominent political opponents are jailed.

In an odd twist in the case, his legal defense is being paid for by a wealthy Venezuelan shipping magnate with close ties to Maduro's government. The same businessman, Wilmer Ruperti, is funding the defense of first lady Cilia Flores' two nephews in a separate, politically charged narcotics trial in the United States.

The nephews, Efrain Campos and Francisco Flores, were arrested by police in Haiti in 2015 and convicted a year ago of conspiring to smuggle more than 1,700 pounds (800 kilograms) of cocaine into the U.S. They are scheduled to be sentenced Thursday.

These materials are distributed by Brownstein Hyatt Farber Schreck, LLP on behalf of the Embassy of Mexico. Additional information is on file with the Department of Justice, Washington, D.C.