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AMERICAS

# Federal Prosecutor Drops Kirchner Conspiracy Case

By JONATHAN GILBERT APRIL 20, 2015

BUENOS AIRES — A criminal case against President Cristina Fernández de Kirchner seemed to dissolve Monday when a federal prosecutor dropped accusations that she and her foreign minister had conspired to shield Iranians suspected of planning the 1994 bombing of a Jewish community center here.

The prosecutor, Javier de Luca, said in a court document that there was no crime on which to base an investigation. The case had been brought by another prosecutor, Alberto Nisman, who died of a gunshot wound to the head hours before he was to present his findings before Congress.

Mr. Nisman, who had conducted a lengthy inquiry into the bombing, which killed 85 people, charged that Hezbollah, the Lebanese Shiite movement, carried it out and that Iranian officials planned and financed it.

In a criminal complaint, Mr. Nisman said that an agreement between Argentina and Iran to expedite the investigation into the bombing was actually the veneer for a secret deal in which Argentina, under the orders of Mrs. Kirchner, promised to absolve former Iranian officials accused of masterminding the attack. In exchange, Mr. Nisman wrote, Iran would send oil to Argentina to ease its crippling energy deficit.

The bombing case remains unresolved.

The body of Mr. Nisman, 51, was discovered on the bathroom floor of his apartment on Jan. 18. A pistol was found on the floor beneath the body and a spent cartridge was also at the scene. There was no suicide note.

His death divided and fascinated the nation, and suggestions of a shadowy power struggle between the premier spy agency and the government fueled speculation over how he died.

A private inquiry commissioned by Mr. Nisman's former wife found that he had been murdered, and the first journalist to report the death fled to Israel, saying he feared for his life.

Thousands of Argentines took to the streets to show their anger at the unsolved bombing, widely considered a national disgrace, and to demand a full and transparent investigation into Mr. Nisman's death.

After first suggesting that Mr. Nisman had shot himself, Mrs. Kirchner shifted, saying that she believed he had been killed, pointing to previous "cases of suicide" that were never cleared up. Mrs. Kirchner and her inner circle vehemently rejected Mr. Nisman's accusations of wrongdoing and cast suspicion on a range of figures, including the assistant who lent Mr. Nisman the gun and an ousted spymaster who worked with Mr. Nisman.

Mrs. Kirchner and Foreign Minister Héctor Timerman, whom Mr. Nisman had also accused of being part of a cover-up, pointed to statements from Interpol's former secretary general that they had never sought to lift arrest warrants for Iranians suspected of being involved in the bombing.

Still, a federal prosecutor revived Mr. Nisman's case by seeking to charge Mrs. Kirchner in connection to the claims of secret negotiations with Iran.

Mr. de Luca's decision to drop the case is a decisive victory for the government, yet it also raises new questions about the impartiality of judges and prosecutors in Argentina's acutely politicized judiciary.

The case had already been thrown out by judges in two courts, but the second dismissal — a split decision — was appealed to a higher court.

Mr. de Luca, however, told the higher court judges in a 27-page document that he would not pursue the investigation because there was no evidence of a crime. "In our legal system we don't have the power to investigate people's conduct for no reason," he wrote. "Rather only their criminal conduct."

"In this case, even if one goes over all of its hypotheses again and again," he added, "one cannot find any crime to look into."

The three judges of the higher court are expected to accept Mr. de Luca's decision to drop the case. They would reject it only if its arguments were unfounded, according to Martín Böhmer, a law professor at the University of Buenos Aires.

Mr. de Luca has come under criticism because he is aligned with a group inside Argentina's judiciary that supports the government.

In an interview, Germán Moldes, the prosecutor who appealed the split decision, said he thought the judges had overseen his appeal in such a way that the case would fall to Mr. de Luca. Mr. Moldes belongs to a sector of the judiciary that Mrs. Kirchner has accused of acting as a political bloc against her.

Mr. de Luca's change in direction, after Mr. Moldes and another prosecutor had sustained Mr. Nisman's case, and the tone of the judge's first dismissal, increases the perception that Argentina's judiciary cannot act impartially, Mr. Böhmer said.

"This does nothing more than confirm the fear that they are not basing their decisions on the law, but on personal and political interests," he said.

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