

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
MIAMI, FLORIDA

In the Matter of:

GARCIA-MERINO, Jose Guillermo

(b) (6)

RESPONDENT

IN REMOVAL PROCEEDINGS

ON BEHALF OF RESPONDENT

Alina Cruz, Esq.
Alejandrina G. Cruz, Esq.
CruzLaw, P.A.
8501 S.W. 124th Avenue, Suite 204B
Miami, Florida 33183

ON BEHALF OF DEPARTMENT

Loren G. Coy
Gina Garrett-Jackson
Assistants Chief Counsel
Office of Chief Counsel
Department of Homeland Security
333 South Miami Avenue, Suite 200
Miami, Florida 33130

MEMORANDUM AND ORDER

On February 26, 2014, the Court issued a decision wherein it was determined that Respondent is removable pursuant to sections 212(a)(3)(E)(iii)(I) and (II) of the Immigration and Nationality Act. On February 28, 2014, the Court provided the parties with a notice that Respondent shall file any and all applications for relief, including a written statement as to his eligibility for any relief sought, by April 14, 2014. Upon review of the record of proceedings, the Court takes administrative notice that it does not reflect that Respondent has filed an application for relief.

Further, the Court takes administrative notice that on or about March 26, 2014, Respondent filed a Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge, with the Board of Immigration Appeals (BIA) to appeal this Court's February 26, 2014 decision finding Respondent subject to removal. Although Respondent's EOIR-26 does not specify that his appeal is interlocutory, the Court finds Respondent's appeal to the BIA is an interlocutory appeal for the reason that the Court has not entered a final decision in this matter.

The Court also takes administrative notice that "in order to avoid the piecemeal review of the myriad questions that may arise in the course of proceedings[,] the BIA does not ordinarily entertain interlocutory appeals. Matter of M-D, 24 I&N Dec. 138 (BIA 2007); see also Matter of Sacco, 15 I&N Dec. 109 (BIA 1974) (holding "as a general rule . . . [the BIA has] no jurisdiction under the regulations to adjudicate interlocutory appeals."). The BIA has, on occasion, ruled on the merits of an interlocutory appeal where it deemed it necessary "to address important jurisdictional questions regarding the administration of the immigration laws, or to

correct recurring problems in the handling of cases by immigration judges." Matter of K-, 20 I&N Dec. 418, 419 (BIA 1991). Where an interlocutory appeal has been filed, it has been the practice of the BIA, upon addressing such appeal, to issue an order staying the proceedings before the Court. Id. To date, the BIA has not issued a stay of proceedings in this matter. Based on the authority cited above, and mindful of the interlocutory appeal in this case, the Court finds it retains jurisdiction to proceed in this matter, notwithstanding the interlocutory appeal. See id.

As such, upon the Court retaining jurisdiction, the Court proceeds to address this case further. In doing so, the Court finds that, there being no application for relief before the Court, the Respondent has abandoned any and all areas of relief that may be available to him.

WHEREFORE, Respondent having been found subject to removal and there being no further issues before the Court,

IT IS HEREBY ORDERED that Respondent be **REMOVED** from the United States to El Salvador.

Dated this 21st day of April 2014.


Michael C. Horn
Immigration Judge

APPEAL RIGHTS: A notice of appeal must be filed with the Board of Immigration Appeals within 30 calendar days of the issuance date of this decision. If the final date for filing the notice of appeal occurs on a Saturday, Sunday, or legal holiday, the time period for filing will be extended to the next business day. If the time period expires and no appeal has been filed, this decision becomes final.

Cc: Alina Cruz, Esq. and Alejandrina G. Cruz, Esq.
Loren G. Coy and Gina Garrett-Jackson, Assistants Chief Counsel

Encl: Appeal Package

***** FACSIMILE COVER SHEET *****

APR-30-2014 14:49

Message To:

291703 (b) (6)

Message From:

miami immigration court

03

Page(s)

Following This Cover Page

000003



U.S. Department of Justice
Executive Office for Immigration Review
Miami Immigration Court

FAX COVER SHEET

Date: 4/30/14

Operator: Miami Immigration Court
333 South Miami Avenue,
Suite 700
Miami FL. 33130

Please transmit the attached to:

Name: Crystal Sampedro

Company: EOIR - FOIA

Telephone Number: _____

Fax Number: 703-605-0570

From: _____
Name: MARY

Location/Department: _____

Phone Number: _____ ext. _____

Fax Number: _____

Total number of pages (including cover page): 3

CONFIDENTIALITY NOTICE

WARNING: Unauthorized interception of this telephonic communication could be a violation of law.
The information contained in this transmission is the property of the United States Government. It is intended for the use of the individual(s) or organizations named above. If the reader of this communication is not the recipient, you are hereby notified that any disclosure, distribution, reproduction, or other use of this information is strictly prohibited. Please notify the sender immediately at (b) (6) to arrange for proper disposition.

(DOJ Order 2640.2E, Ch3, Para 41).

MESSAGE:

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EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
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Cc: Alina Cruz, Esq. and Alejandrina G. Cruz, Esq.
Loren G. Coy and Gina Garrett-Jackson, Assistants Chief Counsel

Encl: Appeal Package

Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court

(Type or print) NAME AND ADDRESS OF REPRESENTED PARTY		ALIEN (A) NUMBER (S) (List number(s) of all parties represented in this case.)
<u>Jose</u> (First)	<u>Guillermo Garcia</u> (Middle Initial) (Last)	(b) (6) For disciplinary case, enter docket number.
<u>(b) (6)</u> (Number and Street)	<u>(b) (6)</u> (Apt. No.)	
<u>(b) (6)</u> (State)	<u>(b) (6)</u> (Zip Code)	
NAME OF ATTORNEY OR REPRESENTATIVE, ADDRESS, FAX & PHONE NUMBERS, & E-MAIL ADDRESS		
<u>Alejandra G. Cruz</u>		
<u>6303 Blue Lagoon Drive #400</u>		
<u>Miami FL 33126</u>		<input type="checkbox"/> Check here if new address
Please check one of the following:		
<input checked="" type="checkbox"/> I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following state(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia (use additional space on reverse side if necessary) and I am not subject to any order disbaring, suspending, or otherwise restricting me in the practice of law (if subject to such an order, explain on reverse).		
Full Name of Court		Bar Number (if applicable)
<u>Supreme Court of Florida</u>		<u>258482</u>
<input type="checkbox"/> I am an accredited representative as defined in 8 C.F.R. § 1292.1(a)(4) with the following recognized organization:		
<input type="checkbox"/> I am a law student or law graduate of an accredited U.S. law school as defined in 8 C.F.R. § 1292.1(a)(2).		
<input type="checkbox"/> I am a reputable individual as defined in 8 C.F.R. § 1292.1(a)(3).		
<input type="checkbox"/> I am an accredited foreign government official as defined in 8 C.F.R. § 1292.1(a)(5).		
<input type="checkbox"/> I am a person who was authorized to practice on December 23, 1952, under 8 C.F.R. § 1292.1(b).		
I hereby enter my appearance as attorney or representative for, and at the request of, the party named above. I have read and understand the statements provided on the reverse side of this form that set forth the regulations and conditions governing appearances and representation before the Immigration Court. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.		
SIGNATURE OF ATTORNEY OR REPRESENTATIVE	EOIR ID NUMBER	DATE
<u>X</u> <u>Alejandra G. Cruz</u>		<u>Mon - 12/10/2012</u> <u>MTC/AL</u>

Indicate type of appearance

Primary Attorney/Representative

Non-primary Attorney/Representative

On behalf of Attorney _____

I am providing pro bono representation. Check one: yes no

Proof of Service

I (Name) Alexandria Cruz mailed or delivered a copy of the foregoing Form EOIR-28 on (Date) 12/16/12

to the DHS (U.S. Immigration and Customs Enforcement - ICE) at 333 South Miami PL

X [Signature]
Signature of Attorney or Representative

APPEARANCES - An appearance shall be filed on a Form EOIR-28 by the attorney or representative appearing in each case before an Immigration Judge (see 8 C.F.R. § 1003.17). When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions of 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals and will comply with the EOIR Rules of Professional Conduct in 8 C.F.R. § 1003.102. Thereafter, substitution or withdrawal may be permitted upon the approval of the Immigration Judge of a request by the attorney or representative of record in accordance with 8 C.F.R. § 1003.17(b). Please note that appearances for limited purposes are not permitted. See *Matter of Velasquez*, 19 I&N Dec. 377, 384 (BIA 1986). A separate appearance form (Form EOIR-27) must be filed with an appeal to the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)).

AVAILABILITY OF RECORDS - During the time a case is pending, a party to a proceeding or his/her attorney or representative will be permitted to examine the Record of Proceeding in the Immigration Court having administrative control over the Record of Proceeding, in accordance with the standard procedures of the Court.

FREEDOM OF INFORMATION ACT - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is in 28 C.F.R. §§ 16.1-16.11 and appendices. For further information about requesting records from EOIR under the Freedom of Information Act, see How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review, available on EOIR's website at <http://www.justice.gov/eoir>.

PRIVACY ACT NOTICE - The information requested on this form is authorized by 8 U.S.C. §§ 1229a, 1362 and 8 C.F.R. § 1003.17 in order to enter an appearance to represent a party before the Immigration Court. The information you provide is mandatory and required to enter an appearance. Failure to provide the requested information will result in an inability to represent a party or receive notice of actions in a proceeding. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice, EOIR-001, Records and Management Information System, and Practitioner Complaint-Disciplinary Files.

CASES BEFORE EOIR - Automated information about cases before EOIR is available by calling 1-800-898-7180 or (240) 314-1500.

ADDITIONAL INFORMATION:

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

MCH

OMB#1125-0006
**Notice of Entry of Appearance as Attorney or
Representative Before the Immigration Court**

I hereby enter my appearance as attorney or representative for, and at the request of, the following named person:

DATE (mm/dd/yy): 10-05-2009

NAME: JOSE GUILLERMO GARCIA
(First) (Middle Initial) (Last)

ADDRESS: (b) (6) (Number and Street) (Apt. No.) (b) (6)
(b) (6) (City) (State) (Zip Code)

ALIEN NUMBER(S) and NAME(S) (List lead alien number and all family member alien numbers and names, if applicable. Continue on next page as needed.)

Please check one of the following:

1. I am a member in good standing of the bar of the highest court(s) of the following state(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia:

Full Name of Court State Bar No. (if applicable)

SUPREME COURT OF FLORIDA 258482

(Please use space on reverse side to list additional jurisdictions.)

I am not (or am - explain fully on reverse side) subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law and the courts listed above comprise all of the jurisdictions (other than federal courts) where I am licensed to practice law.

2. I am an accredited representative of the following qualified non-profit religious, charitable, social service, or similar organization established in the United States, so recognized by the Executive Office for Immigration Review pursuant to 8 C.F.R. § 1292.2 (provide name of organization and expiration date of accreditation):

3. I am a law student or law graduate, reputable individual, accredited official, or other person authorized to represent individuals pursuant to 8 C.F.R. § 1292.1 (explain fully on reverse side).

I have read and understand the statements provided on the reverse side of this form that set forth the regulations and conditions governing appearances and representation before the Immigration Court. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

SIGNATURE OF ATTORNEY OR REPRESENTATIVE EOIR ID# DATE (mm/dd/yy)

X Aeljandrina G. Cruz 306 10-05-2009

NAME OF ATTORNEY OR REPRESENTATIVE (type or print) ADDRESS Check here if new address

AELJANDRINA G. CRUZ, ESQ. 782 NW Le Jeune Road, Suite # 439
Miami, Florida 33126

PHONE NUMBER (with area code) FAX NUMBER (with area code)

(305) 445-1013 (305) 445-9776

RECEIVED
 IMMIGRATION COURT
 2009 OCT 30 AM 12:41

000009

Proof of Service

I ALEJANDRINA G. CRUZ, ESQ. mailed or delivered a copy of the foregoing Form EOIR-28 on _____
(Name) (Date-mm/dd/yy)

to the DHS (U.S. Immigration and Customs Enforcement - ICE) at 333 South Miami Ave. 2nd. Floor, Miami, FL33130
(Number and Street, City, State, Zip Code)

X _____
Signature of Attorney or Representative

APPEARANCES - An appearance shall be filed on a Form EOIR-28 by the attorney or representative appearing in each case before an Immigration Judge (see 8 C.F.R. § 1003.17). When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions of 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals. Thereafter, substitution or withdrawal may be permitted upon the approval of the Immigration Judge of a request by the attorney or representative of record in accordance with 8 C.F.R. § 1003.17(b). Please note that appearances for limited purposes are not permitted, unless specifically authorized by the Immigration Judge. A separate appearance form (Form EOIR-27) must be filed with an appeal to the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)). Further proof of authority to act in a representative capacity may be required.

Indicate type of appearance

I am entering an appearance as attorney or representative in this Form EOIR-28 in the capacity of:

Primary Attorney or Representative Non-primary Attorney or Representative On behalf of _____

Check this box if you are entering your appearance pro bono.

AVAILABILITY OF RECORDS - During the time a case is pending, a party to a proceeding or his/her attorney or representative shall be permitted to examine the Record of Proceeding in the Immigration Court having administrative control over the Record of Proceeding, in accordance with the standard procedures of the Court.

REPRESENTATION - A person entitled to representation may be represented by any of the following:

- (1) Attorneys in the United States as defined in 8 C.F.R. § 1001.1(f).
- (2) Law students and law graduates not yet admitted to the bar as defined in 8 C.F.R. § 1292.1(a)(2).
- (3) Reputable individuals as defined in 8 C.F.R. § 1292.1(a)(3).
- (4) Accredited representatives as defined in 8 C.F.R. § 1292.1(a)(4).
- (5) Accredited officials as defined in 8 C.F.R. § 1292.1(a)(5).

All representatives must comply with the specific requirements to represent aliens before the Board of Immigration Appeals. For more information on the requirements, see 8 C.F.R. § 1292.1 and the particular subsections referenced above as applicable. Note that law students and law graduates must submit additional materials pursuant to 8 C.F.R. § 1292.1(a)(2).

FREEDOM OF INFORMATION ACT - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is contained in 28 C.F.R. §§ 16.1 - 16.11 and appendices. For further information about requesting records from the EOIR under the Freedom of Information Act, see How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review, available through the EOIR's website at <http://www.usdoj.gov/eoir>.

CASES BEFORE THE EOIR - Automated information about cases before the EOIR is available by calling 1-800-898-7180.

ADDITIONAL INFORMATION:

(Please attach additional sheets of paper if necessary.)

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Notice of Entry or Appearance as Attorney or Representative Before the Immigration Court

I hereby enter my appearance as attorney or representative for, and at the request of, the following named person:	DATE (mm/dd/yy): <u>03/11/2010</u>
NAME: <u>Jose</u> <u>G</u> <u>GARCIA</u> (First) (Middle Initial) (Last)	ALIEN NUMBER(S) and NAME(S) (List lead alien number and all family member alien numbers and names, if applicable. Continue on next page as needed.) (b) (6)
ADDRESS: <u>(b) (6)</u> (Number and Street) (Apt. No.)	
<u>(b) (6)</u> (City) (State) (Zip Code)	

Please check one of the following:

1. I am a member in good standing of the bar of the highest court(s) of the following state(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia:

Full Name of Court	State Bar No. (if applicable)
<u>Supreme Court of Florida</u>	<u>43629</u>

(Please use space on reverse side to list additional jurisdictions.)

I am not (or am - explain fully on reverse side) subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law and the courts listed above comprise all of the jurisdictions (other than federal courts) where I am licensed to practice law.

2. I am an accredited representative of the following qualified non-profit religious, charitable, social service, or similar organization established in the United States, so recognized by the Executive Office for Immigration Review pursuant to 8 C.F.R. § 1292.2 (provide name of organization and date of accreditation)

FILE IN/AT FILE
 DATE 3/18/10

3. I am a law student or law graduate, reputable individual, accredited official, or other person authorized to represent individuals pursuant to 8 C.F.R. § 1292.1 (explain)

CLERK INITIALS [Signature]

I have read and understand the statements provided on the reverse side of this form that set forth the regulations and conditions governing appearances and representation before the Immigration Court. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

SIGNATURE OF ATTORNEY OR REPRESENTATIVE	EOIR ID#	DATE (mm/dd/yy)
X <u>[Signature]</u>		<u>3/11/2010</u>
NAME OF ATTORNEY OR REPRESENTATIVE (type or print)	ADDRESS <input type="checkbox"/> Check here if new address	
<u>Alina Cruz</u>	<u>6303 Blue Lagoon Drive</u> <u>Miami FL 33126</u>	
PHONE NUMBER (with area code)	FAX NUMBER (with area code)	
<u>305-445-1011</u>	<u>305-424-9230</u>	

Proof of Service

I Anna Carr (Name) mailed or delivered a copy of the foregoing Form EOIR-28 on _____ (Date-mm/dd/yy)

to the DHS (U.S. Immigration and Customs Enforcement - ICE) at _____ (Number and Street, City, State, Zip Code)

X [Signature]
Signature of Attorney or Representative

APPEARANCES - An appearance shall be filed on a Form EOIR-28 by the attorney or representative appearing in each case before an Immigration Judge (see 8 C.F.R. § 1003.17). When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions of 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals. Thereafter, substitution or withdrawal may be permitted upon the approval of the Immigration Judge or a request by the attorney or representative of record in accordance with 8 C.F.R. § 1003.17(b). Please note that appearances for limited purposes are not permitted, unless specifically authorized by the Immigration Judge. A separate appearance form (Form EOIR-27) must be filed with an appeal to the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)). Further proof of authority to act in a representative capacity may be required.

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U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Chief Clerk*

*5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 20530*

Cruz, Alina, Esq.
CruzLaw, P.A.
8501 SW 124th Ave., Suite 204B
Miami, FL 33183

DHS/ICE Office of Chief Counsel - MIA
333 S. Miami Ave., Ste. 200
Miami, FL 33130

Name: GARCIA-MERINO, JOSE GUILLERMO

(b) (6)

Date of this Notice: 4/30/2014

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Holmes, David B.

000014



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Chief Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 20530

Garcia-Merino, Jose Guillermo

(b) (6)

DHS/ICE Office of Chief Counsel - MIA
333 S. Miami Ave., Ste. 200
Miami, FL 33130

Name: GARCIA-MERINO, JOSE GUILLERMO

(b) (6)

Date of this Notice: 4/30/2014

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Holmes, David B.

000015

Falls Church, Virginia 20530

File: (b) (6) - Miami, FL

Date: APR 30 2014

In re: JOSE GUILLERMO GARCIA-MERINO

IN REMOVAL PROCEEDINGS

INTERLOCUTORY APPEAL

ON BEHALF OF RESPONDENT: Alina Cruz, Esquire

ON BEHALF OF DHS: Gina Garrett-Jackson
Senior Attorney

The respondent has filed an interlocutory appeal from the Immigration Judge's February 26, 2014, decision finding that all factual allegations contained in the Notice to Appear, as amended by the Form I-261, were true and correct and also finding the respondent removable as charged. To avoid piecemeal review of the multiple queries that may arise during the course of removal proceedings, ordinarily the Board does not entertain interlocutory appeals. *See Matter of M-D-*, 24 I&N Dec. 138, 139 (BIA 2007), and cases cited therein. We have on occasion accepted interlocutory appeals to address significant jurisdictional questions about the administration of the immigration laws, or to correct recurring problems in the handling of cases by Immigration Judges. *See, e.g., Matter of Guevara*, 20 I&N Dec. 238 (BIA 1990, 1991); *Matter of Dobre*, 20 I&N Dec. 188 (BIA 1990). The issues of whether the Immigration Judge properly found the factual allegations to be true and whether the respondent is removable as charged, do not present significant jurisdictional questions about the administration of the immigration laws. Nor do they involve a recurring problem in Immigration Judges' handling of cases. Thus, the questions raised in this interlocutory appeal do not fall within the limited ambit of cases where we deem it appropriate to exercise our jurisdiction. The respondent will, if he so desires, have an opportunity for appellate review of the Immigration Judge's determination if he is subject to an adverse order at the conclusion of the Immigration Court proceedings.

IT IS THEREFORE ORDERED that the record be returned to the Immigration Court without further action.



FOR THE BOARD

April 2014

Note:

On October 1, 2013, the Board's mailing address changed, and mail operations were modified to accommodate that change. Per J Panel policy, this notice will be attached to incoming mail received during the month of April. Filings should be construed as timely, provided that the following conditions are met:

- (1) The filing was due during the month of April 2014, and
- (2) It was received at the Board no later than May 6, 2014.

**Donna Carr
Chief Clerk**

Loren G. Coy
Senior Attorney
Gina Garrett-Jackson
Senior Attorney
Miami Office of the Chief Counsel
U.S. Department of Homeland Security
Immigration and Customs Enforcement
333 South Miami Avenue
Suite 200
Miami, Florida 33130

NOT DETAINED

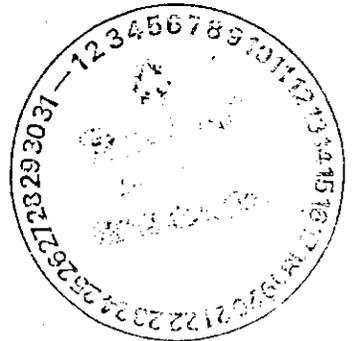
**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS**

In the Matter of:)
)
)

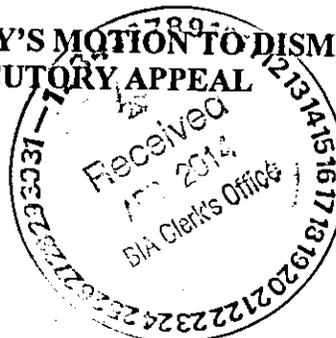
Jose Guillermo GARCIA Merino)
)
)

In removal proceedings)
)
)
_____)

File No.: (b) (6)



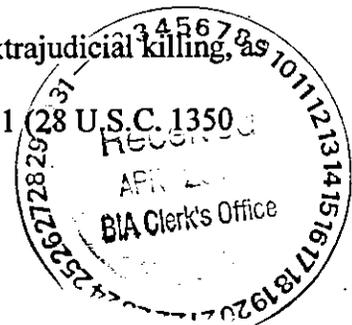
**DEPARTMENT OF HOMELAND SECURITY'S MOTION TO DISMISS
THE RESPONDENT'S INTERLOCUTORY APPEAL**



BACKGROUND

The respondent is a native and citizen of El Salvador who was a general and the former Minister of Defense in El Salvador during that country's civil war and was responsible for the massacre, extrajudicial killing, and torture of tens of thousands of civilians, including students, women, children, nuns, and an Archbishop, among many others. I.J. Dec. at 60-62. He was admitted to the United States as a visitor in October, 1989, and later adjusted status to lawful permanent resident. On July 23, 2002, the respondent was found civilly liable under the Alien Tort Claims Act, 28 U.S.C. § 1350, for the torture of Dr. Juan Romagoza and two other plaintiffs in the case of *Romagoza Arce v. Garcia*, 434 F.3d 1254 (11th Cir. 2006). The jury entered a judgment against the respondent for compensatory and punitive damages in the amount of \$28.5 million. Exh. 4, Tab X.

On October 2, 2009, the Department of Homeland Security placed the respondent in removal proceedings, charging him with inadmissibility pursuant to section 212(a)(3)(E)(iii)(I) of the Immigration and Nationality Act, as “[an] alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of any act of torture, as defined in section 2340, Title 18, United States Code.” The Department later filed a Form I-261 additionally charging the respondent with inadmissibility under § 212(a)(3)(E)(iii)(II) of the Act as “[an] alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note).”



(b) (6)

On February 26, 2014, following a merits hearing that spanned eight days, Immigration Judge Michael C. Horn issued a 66-page written decision sustaining both removal charges. The Immigration Judge stated that “the Court will notify the parties through a separate notice concerning the addressing of relief from removal.”

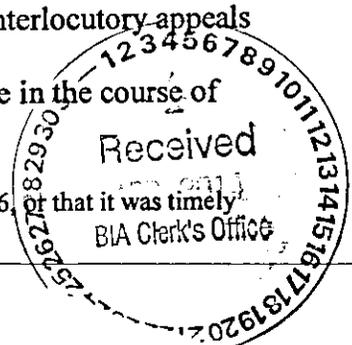
Despite the non-final nature of the Immigration Judge’s decision, the respondent, on or about March 26, 2014, served on the Department a Form EOIR-26, Notice of Appeal from the Decision of an Immigration Judge.¹ On the Form EOIR-26, the respondent checked the box that reads “I am filing an appeal from the Immigration Judge’s decision in merits proceedings” Nowhere in the EOIR-26 did the respondent indicate that his appeal is interlocutory in nature. In addition, the respondent did not attach a brief to his interlocutory appeal or submit one promptly thereafter as required under section 4.14(e) of the BIA Practice Manual.

ARGUMENT

The Board should dismiss this interlocutory appeal because it addresses no important jurisdictional question or recurring problem. The Board does not entertain interlocutory appeals except in instances involving either important jurisdictional questions regarding the administration of the immigration laws or recurring questions in the handling of cases by Immigration Judges. The purpose of this general rule is to avoid piecemeal litigation and preserve administrative resources, and an interlocutory appeal in this instance defeats this purpose.

This Board has repeatedly and consistently not entertained interlocutory appeals in order to avoid a fragmented review of the questions that may arise in the course of

¹ The Department has not been able to confirm the Board’s receipt of the EOIR 26, filed, however for the purposes of this brief will assume it was timely filed.



(b) (6)

proceedings before it. See *Matter of M-D-*, 24 I&N Dec. 138, 139 (BIA 2007) (to avoid piecemeal review of the myriad questions that may arise in the course of proceedings before us, we do not ordinarily entertain interlocutory appeals); *Matter of Ku*, 15 I&N Dec. 712, 712-713 (BIA 1976) (in order to avoid the piecemeal review of the many questions which may arise in a deportation proceeding, we have held that we lack jurisdiction to entertain appeals from interlocutory orders of immigration judges), and *Matter of Sacco*, 15 I&N Dec. 109, 110 (BIA 1974) (to permit piecemeal review of interlocutory orders of an immigration judge at successive stages of a deportation proceeding before final decision would only open the door to obfuscation and delay. As a general rule, therefore, we may safely say that we have no jurisdiction under the regulations to adjudicate interlocutory appeals).

The Attorney General has noted that “the BIA properly declines to review non-final decisions of immigration judges except in highly unusual circumstances.” *Matter of Jean*, 23 I&N Dec. 373, 379 (A.G. 2002). In keeping with this practice, the Board has made limited exceptions “to address important jurisdictional questions regarding the administration of the immigration laws or to correct recurring problems in the handling of cases before immigration judges.” *Matter of Morales*, 21 I&N Dec. 130, 131-32 (BIA 1996).

Application of this general rule is appropriate in this case because the Immigration Judge did not order the respondent’s removal, but instead, announced his intention to conduct further proceedings to determine the respondent’s eligibility for possible relief from removal. The respondent has not identified any important jurisdictional question in the administration of immigration laws, or any recurring

(b) (6)

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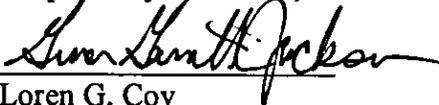
problem in the handling of cases by immigration judges, such as would escape review if the Board declines to accept the current appeal at this stage. *See Matter of Guevara*, 20 I&N Dec. 238 (BIA 1990) (discussing interlocutory appeals).

The respondent, instead, seeks review of the Immigration Judge's decision sustaining the removal charges. His strategy to appeal prior to the conclusion of proceedings to address any applications for relief from removal he may file leads to precisely the sort of piecemeal litigation that underlies the Board's reluctance to entertain interlocutory appeals. *See generally* BIA Practice Manual, Chapter 4.14.

CONCLUSION

The Board should deny the respondent's interlocutory appeal as it fails to address important jurisdictional questions regarding the administration of the immigration laws or to correct recurring problems in the handling of cases before immigration judges, and would therefore result in piecemeal litigation and a waste of administrative resources.

Respectfully submitted,

for 
Loren G. Coy
Senior Attorney
Miami Office of the Chief Counsel
U.S. Department of Homeland Security
Immigration and Customs Enforcement
333 South Miami Avenue, Suite 200
Miami, Florida 33130
(305) 400-6160

4-3-14
Date



(b) (6)

CERTIFICATE OF SERVICE

On April 3, 2014, I Gina Garret-Jackson, Senior Attorney, mailed or delivered a copy of the Department of Homeland Security's Motion to Dismiss the Respondent's Interlocutory Appeal and any attached pages to Alina Cruz, Esquire, Attorney for the Respondent, at the following address: 8501 SW 124 Ave, Suite 204B Miami, Florida 33183, by placing said copy in my office's outgoing mail system in an envelope duly addressed.

Gina Garret-Jackson

4-3-14
Date



(b) (6)

From: (305) 400-8160
Surronda Scippio
DHSICEOPLA
333 S. Miami Ave
Miami, FL 33130

Origin ID: MPBA



Ship Date: 03APR14
ActWgt: 1.0 LB
CAD: 1001518951NET3490

Delivery Address Bar Code



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BOARD OF IMMIGRATION APPEALS

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FALLS CHURCH, VA 22041

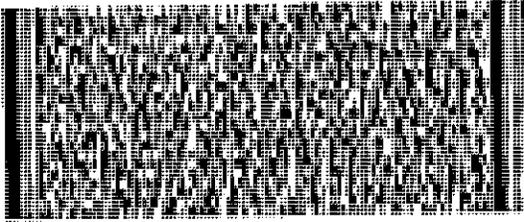
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PO # OPLA-MIACCO
Dept #

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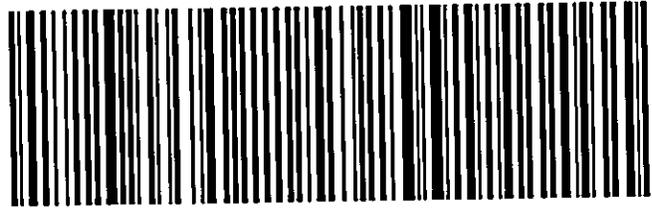
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March 2014

Note:

On October 1, 2013, the Board's mailing address changed, and mail operations were modified to accommodate that change. Per J Panel policy, this notice will be attached to incoming mail received during the month of March. Filings should be construed as timely, provided that the following conditions are met:

- (1) The filing was due during the month of March 2014, and
- (2) It was received at the Board no later than April 4, 2014.

**Donna Carr
Chief Clerk**

Alina Cruz
Attorney at Law



March 25, 2014

Board of Immigration Appeals
Clerk's Office
5107 Leesburg Pike, Suite 2000
Falls Church, VA 20530



Re: Notice of Appeal
In the Matter of Jose Garcia Merino

(b) (6)

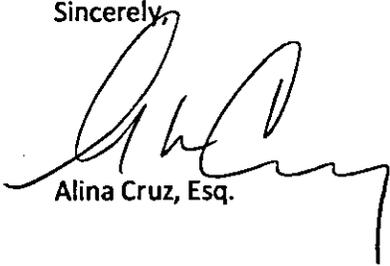
Dear Administrator:

Enclosed please find the Notice of Appeal from the decision of an Immigration judge. Enclosed are:

1. Check for \$110 to cover your fees
2. EOIR 26 Notice of Appeal, properly executed .
3. EOIR 27 properly executed for attorney's representation
4. Copy of decision of immigration judge.

We appreciate your prompt attention to this matter.

Sincerely,



Alina Cruz, Esq.

CruzLaw PA.

6303 Blue Lagoon Drive, Suite 400 • Miami, FL 33126 • Phone: 305-445-1011 • e-mail: CruzLawpa@gmail.com • www.CruzLaw.us

000027

2

6. State in detail the reason(s) for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.

This case is an appeal from the decision of an Immigration finding Respondentt JOSE GUILLERMO GARCIA-MERINO inadmissible under INA § 212(a)(3)(E)(iii)(I) and INA § 212(a)(3)(E)(iii)(II) and sustaining the charge of removability under those statutes. The immigration judge made clearly erroneous errors of fact and law, and his decision is in conflict with existing law and precedent. (See attached for continuation)



(Attach additional sheets if necessary)

! **WARNING:** You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

7. Do you desire oral argument before the Board of Immigration Appeals? Yes No

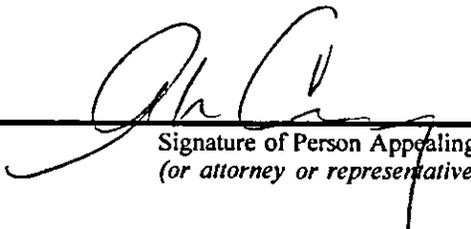
8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? Yes No

! **WARNING:** If you mark "Yes" in item #7, you should also include in your statement above why you believe your case warrants review by a three-member panel. The Board ordinarily will not grant a request for oral argument unless you also file a brief.

If you mark "Yes" in item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule.

9. 

X


Signature of Person Appealing
(or attorney or representative)

3/25/14
Date

Form EOIR-26
Revised Oct. 2013

10. Mailing Address of Respondent(s)/Applicant(s)

Jose GARCIA
(Name)

(b) (6)
(Street Address)

(b) (6)
(Apartment or Room Number)

(b) (6)
(City, State, Zip Code)

(b) (6)
(Telephone Number)

11. Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)

Alina Cruz
(Name)

CruzLaw, P.A.
(Street Address)

8501 SW 124 Ave. Suite 204B
(Suite or Room Number)

Miami FLORIDA 33183
(City, State, Zip Code)

(305) 445-1011
(Telephone Number)

NOTE: You must notify the Board within five (5) working days if you move to a new address or change your telephone number. You must use the Change of Address Form/Board of Immigration Appeals (Form EOIR-33/BIA).

NOTE: If an attorney or representative signs this appeal for you, he or she must file *with this appeal*, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

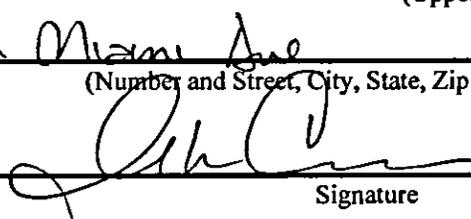
12.

PROOF OF SERVICE (You Must Complete This)

Alina Cruz, _____ mailed or delivered a copy of this Notice of Appeal
(Name)

_____ to Asst. Chief Counsel DHS
(Date) (Opposing Party)

at 3337 South Miami Ave
(Number and Street, City, State, Zip Code)

 X 
Signature

NOTE: If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel for DHS-ICE.

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed.

WARNING: If you do not attach the fee or completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal will be rejected or dismissed.

HAVE YOU?

- Read all of the General Instructions
- Provided all of the requested information
- Completed this form in English
- Provided a certified English translation for all non-English attachments
- Signed the form
- Served a copy of this form and all attachments on the opposing party
- Completed and signed the Proof of Service
- Attached the required fee or Fee Waiver Request
- If represented by attorney or representative, attach a completed and signed EOIR-27

NOTICE OF APPEAL

In the Matter of Jose Guillermo Garcia Merino (b) (6)

CONTINUATION OF REASONS FOR APPEAL

Errors inter alia are:

1. The immigration judge erred in finding Respondent responsible and culpable for high crimes of torture and murder when a previous court had found him not culpable namely *Ford v. Garcia* (S.D. Fla. Nov. 3, 2000)(No. 99-08359-CV-DTKH). The case was appealed and the U.S. Court of Appeals for the 11th Circuit affirmed. *Ford v. Garcia*, 289 F.3d 1283 (11th Cir. Fla. 2002). The Supreme Court denied cert. *Ford v. Garcia*, 537 U.S. 1147 (2003). The cause of action in the instant case is the same and the ruling in Ford should be found res judicata in this case.
2. The immigration judge erred when he found respondent to be in violation of the above mentioned statutes when he found that respondent was responsible and culpable for a wide array of abuses and massacres during a bloody civil war simply because he was Minister of Defense. Immigration case law does not support this position. It is undisputed that Respondent was not present at the occurrence of any atrocity, and that he did make public proclamations promoting peace and dialogue over violence.
3. The immigration judge erred when he found that Respondent was culpable for not bringing any officer to justice and failed to consider evidence that the courts were corrupt and threatened. The IJ failed to consider credible testimony from the Respondent that in one case, an officer who had been referred to the court was allowed by the court to be disguised so that he could not be recognized by witnesses, and so was he acquitted.
4. The immigration judge made an error of fact when he decided that Respondent was involved in the military coup that overthrew the government of El Salvador. The Respondent denied this and there is no credible evidence to confirm this. 2. The immigration judge erred in finding that Ambassador White was dismissed from his post for refusing to participate in a cover-up when in fact he was dismissed because he was in ideological conflict with the new administration in Washington, namely, President Reagan.

Page 1

Jose Guillermo Garcia Merino

(b) (6)

000032

5. The immigration judge failed to consider credible evidence from Respondent including prestigious awards and recognition from the United States including the Legion of Merit, Degree of Commander from President Reagan in recognition for exceptionally meritorious conduct and outstanding performance of duty as Minister of Defense and Public Security of El Salvador from October 1979 to October 1983.

6. The immigration judge's decision is in conflict with earlier decisions from legacy immigration services which granted Respondent asylum from El Salvador on August 6, 1990 after having fully vetted him. The agency was fully aware of Respondent's position as Minister of Defense and of the situation in El Salvador when it made the grant. Respondent could not have received asylum if he had been guilty of the crimes he is now accused of. Later in October 1991, Respondent was granted legal permanent residence after full disclosure of his past. He would not have received this status if he had been guilty of these crimes. At all times, legacy immigration was fully aware of who Respondent was.

7. The judge erred in finding that witness Romagoza was a credible witness when it was shown in court that he applied for asylum not for any of the protected reasons, but rather because he wanted a better life. He also testified that he lived in Mexico for two years and ran a clinic, contrary to the resettlement provisions of asylum.

Additionally, there is a need to resolve the conflict with this decision and the decisions on command responsibility rendered in *Ford v. Garcia* (S.D. Fla. Nov. 3, 2000)(No. 99-08359-CV-DTKH) and *Romagoza v. Garcia* (S.D. Fla. July 23, 2002)(no. 99-8364-CIV).

II. STANDARD OF REVIEW

This appeal warrants review by a three-member Board panel because the decision by the Immigration Judge included determinations which are not in conformity with the law or applicable precedents. This case also involves international laws and culpability of high ranking military officials, namely the Minister of Defense of a sovereign foreign country and is a case of major national import. Additionally, there is a need to review the clearly erroneous factual determinations by the immigration judge.

3

Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals

(Type or print) NAME AND ADDRESS OF REPRESENTED PARTY			ALIEN (A) NUMBER (List (A) number of the party represented in this case. List beneficiary name and A number for visa petition case. List fine number for fine case.)
<u>Jose</u> (First)	<u>G</u> (Middle Initial)	<u>GARCIA</u> (Last)	<u>(b) (6)</u>
<u>(b) (6)</u> (Number and Street)		<u>(b) (6)</u> (Apt. No.)	
<u>(b) (6)</u> (City)		<u>(b) (6)</u> (State)	<u>(b) (6)</u> (Zip Code)
For disciplinary case, enter docket number.			

NAME OF ATTORNEY OR REPRESENTATIVE, ADDRESS, FAX & PHONE NUMBERS, & E-MAIL ADDRESS

Alina Cruz

8501 SW 124 Ave. Suite 204B Miami FL 33183

(305) 424-9230 (305) 445-1011 acruz@cruzlaw.us Check here if new address

Please check one of the following:

I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following state(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia (use additional space on reverse side if necessary) and I am not subject to any order disbaring, suspending, or otherwise restricting me in the practice of law (if subject to such an order, explain on reverse).

Full Name of Court	Bar Number (if applicable)
<u>Supreme Court of the State of Florida</u>	<u>0043629</u>

I am an accredited representative as defined in 8 C.F.R. § 1292.1(a)(4) with the following recognized organization:

I am a law student or law graduate of an accredited U.S. law school as defined in 8 C.F.R. § 1292.1(a)(2).

I am a registrable individual as defined in 8 C.F.R. § 1292.1(a)(3).

I am an accredited foreign government official as defined in 8 C.F.R. § 1292.1(a)(5).

I am a person who was authorized to practice on December 23, 1952, under 8 C.F.R. § 1292.1(b).

I hereby enter my appearance as attorney or representative for, and at the request of, the party named above. I have read and understand the statements provided on the reverse side of this form that set forth the regulations and conditions governing appearances and representation before the Board of Immigration Appeals. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

SIGNATURE OF ATTORNEY OR REPRESENTATIVE **EOIR ID NUMBER** **DATE**

X [Signature] 3/26/14

APPEARANCES - An appearance for each represented party shall be filed on a separate Form EOIR-27 by the attorney or representative appearing in each appeal or motion to reopen or motion to reconsider before the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)), even though the attorney or representative may have appeared in the case before the Immigration Judge or the U.S. Citizenship and Immigration Services. If information is omitted from the Form EOIR-27 or it is not properly completed, the appearance may not be recognized and the accompanying filing may be rejected. When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions in 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals and will comply with the EOIR Rules of Professional Conduct in 8 C.F.R. § 1003.102. Thereafter, substitution or withdrawal may be permitted upon approval by the Board of a request of the attorney or representative of record in accordance with *Matter of Rosales*, 19 I&N Dec. 655 (1988). Please note that appearances for limited purposes are not permitted. See *Matter of Velasquez*, 19 I&N Dec. 377, 384 (BIA 1986).

Indicate type of appearance

Primary Attorney/Representative

Non-primary Attorney/Representative

I am providing pro bono representation. Check one: yes no

Proof of Service

I (Name) Alina Cruz mailed or delivered a copy of the foregoing Form EOIR-27 on (Date) 3/26/14

to the DHS (U.S. Immigration and Customs Enforcement - ICE) at 333 South Miami Ave #112 FL

DHS (U.S. Citizenship & Immigration Services - USCIS) at _____

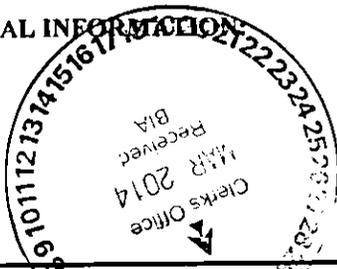
X _____
Signature of Attorney or Representative

FREEDOM OF INFORMATION ACT - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is in 28 C.F.R. §§ 16.1-16.11 and appendices. For further information about requesting records from EOIR under the Freedom of Information Act, see How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review, available on EOIR's website at <http://www.justice.gov/eoir>.

PRIVACY ACT NOTICE - The information requested on this form is authorized by 8 U.S.C. § 1362 and 8 C.F.R. § 1003.3 in order to enter an appearance to represent a party before the Board of Immigration Appeals. The information you provide is mandatory and required to enter an appearance. Failure to provide the requested information will result in an inability to represent a party or receive notice of actions in a proceeding. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice, EOIR-001, Records and Management Information System, 69 Fed. Reg. 26,179 (May 11, 2004), or its successors and EOIR-003, Practitioner Complaint-Disciplinary Files, 64 Fed. Reg. 49237 (September 1999).

CASES BEFORE EOIR - Automated information about cases before EOIR is available by calling 1-800-898-7180 or (240) 314-1500.

ADDITIONAL INFORMATION



Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are easy to understand, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 20530.

4



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 Board of Immigration Appeals
 Clerks Office
 5107 Leesburg Ave, Suite 200
 Falls Church VA

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NOTICE OF HEARING IN REMOVAL PROCEEDINGS
IMMIGRATION COURT
333 SOUTH MIAMI AVE., STE.700
MIAMI, FL 33130

RE: GARCIA-MERINO, JOSE GUILLERMO

FILE: (b) (6)

DATE: Mar 31, 2014

TO: CRUZLAW P.A.
CRUZ, ALINA, ESQ.
8501 SW 124TH AVENUE, STE 204B
MIAMI, FL 33183

Please take notice that the above captioned case has been scheduled for a
INDIVIDUAL hearing before the Immigration Court on Jul 15, 2014 at 09:00 A.M. at:

333 SOUTH MIAMI AVE., COURTROOM 06, 4TH FLOOR
MIAMI, FL 33130

You may be represented in these proceedings, at no expense to the Government, by an attorney or other individual who is authorized and qualified to represent persons before an Immigration Court. Your hearing date has not been scheduled earlier than 10 days from the date of service of the Notice to Appear in order to permit you the opportunity to obtain an attorney or representative. If you wish to be represented, your attorney or representative must appear with you at the hearing prepared to proceed. You can request an earlier hearing in writing.

Failure to appear at your hearing except for exceptional circumstances may result in one or more of the following actions: (1) You may be taken into custody by the Department of Homeland Security and held for further action. OR (2) Your hearing may be held in your absence under section 240(b)(5) of the Immigration and Nationality Act. An order of removal will be entered against you if the Department of Homeland Security established by clear, unequivocal and convincing evidence that a) you or your attorney has been provided this notice and b) you are removable.

IF YOUR ADDRESS IS NOT LISTED ON THE NOTICE TO APPEAR, OR IF IT IS NOT CORRECT, WITHIN FIVE DAYS OF THIS NOTICE YOU MUST PROVIDE TO THE IMMIGRATION COURT MIAMI, FL THE ATTACHED FORM EOIR-33 WITH YOUR ADDRESS AND/OR TELEPHONE NUMBER AT WHICH YOU CAN BE CONTACTED REGARDING THESE PROCEEDINGS. EVERYTIME YOU CHANGE YOUR ADDRESS AND/OR TELEPHONE NUMBER, YOU MUST INFORM THE COURT OF YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER WITHIN 5 DAYS OF THE CHANGE ON THE ATTACHED FORM EOIR-33. ADDITIONAL FORMS EOIR-33 CAN BE OBTAINED FROM THE COURT WHERE YOU ARE SCHEDULED TO APPEAR. IN THE EVENT YOU ARE UNABLE TO OBTAIN A FORM EOIR-33, YOU MAY PROVIDE THE COURT IN WRITING WITH YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER BUT YOU MUST CLEARLY MARK THE ENVELOPE "CHANGE OF ADDRESS." CORRESPONDENCE FROM THE COURT, INCLUDING HEARING NOTICES, WILL BE SENT TO THE MOST RECENT ADDRESS YOU HAVE PROVIDED, AND WILL BE CONSIDERED SUFFICIENT NOTICE TO YOU AND THESE PROCEEDINGS CAN GO FORWARD IN YOUR ABSENCE.

A list of free legal service providers has been given to you. For information regarding the status of your case, call toll free 1-800-898-7180 or 240-314-1500. For information on Immigration Court procedures, please consult the Immigration Court Practice Manual, available at www.usdoj.gov/eoir.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)

TO: [] ALIEN [] ALIEN c/o Custodial Officer [] ALIEN's ATT/REP [x] DHS

DATE: 3/31/14 BY: COURT STAFF V3

Attachments: [] EOIR-33 [] EOIR-28 [x] Legal Services List [] Other

000105

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
333 SOUTH MIAMI AVE., STE. 700
MIAMI, FL 33130

CRUZLAW P.A.
CRUZ, ALINA, ESQ.
8501 SW 124TH AVENUE, STE 204B
MIAMI, FL 33183

Date: Feb 28, 2014

File (b) (6)

In the Matter of:
GARCIA-MERINO, JOSE GUILLERMO

Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before _____. The appeal must be accompanied by proof of paid fee (\$110.00).

Enclosed is a copy of the oral decision.

Enclosed is a transcript of the testimony of record.

You are granted until _____ to submit a brief to this office in support of your appeal.

Opposing counsel is granted until _____ to submit a brief in opposition to the appeal.

Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,

R. G.

Immigration Court Clerk

UL

cc: LOREN G. COY, ASSISTANT CHIEF COUNSEL
GINA GARRETT-JACKSON, ASSISTANT CHIEF COUNSEL
333 SOUTH MIAMI AVENUE, SUITE 200
MIAMI, FL 33130

000106

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
MIAMI, FLORIDA

In the Matter of:)

GARCIA-MERINO, Jose Guillermo)

(b) (6))

RESPONDENT)

IN REMOVAL PROCEEDINGS

ON BEHALF OF RESPONDENT

Alina Cruz, Esq.
Alejandrina G. Cruz, Esq.
CruzLaw, P.A.
8501 S.W. 124th Avenue, Suite 204B
Miami, Florida 33183

ON BEHALF OF DEPARTMENT

Loren G. Coy
Gina Garrett-Jackson
Assistants Chief Counsel
Office of Chief Counsel
Department of Homeland Security
333 South Miami Avenue, Suite 200
Miami, Florida 33130

NOTICE REGARDING RELIEF FROM REMOVAL

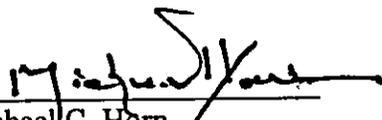
The Court provides the following notice to the parties:

This Court has issued a decision in this matter, dated February 26, 2014, finding Respondent inadmissible as charged. As such, Respondent is subject to removal from the United States to El Salvador.

Should Respondent wish to seek relief from removal, he shall file any and all applications, with a written statement as to his eligibility for any relief sought, within 45 days of this notice, no later than **Monday, April 14, 2014**.

If an application for relief is filed, the Court will schedule a hearing on its Individual calendar. If an application for relief is not filed with the Court in a timely manner, the Court will proceed with an order of removal.

DATED this 28th day of February 2014.


Michael C. Horn
Immigration Judge

Cc: Alina Cruz, Esq. and Alejandrina G. Cruz, Esq.
Loren G. Coy and Gina Garrett-Jackson, Assistants Chief Counsel

Officials: Cuban exile may have slain archbishop

Associated Press

SAN SALVADOR, El Salvador — U.S. and church officials say a right-wing Cuban exile may have been the assassin of the Roman Catholic archbishop of San Salvador, Oscar Arnulfo Romero.

They said the assassin fired a single shot from about 100 feet away through the open door of the hospital chapel where the archbishop was preparing the sacraments on the altar for a mass Monday night.

"It was no amateur who did this," said U.S. Ambassador Robert White. "Our conclusion is that it was someone who was an expert marksman."

White also told reporters that a government source informed him a week ago that "right-wing Cuban terrorists" were operating in El Salvador. He said the source told him "some of the bombings here have been accomplished with a degree of expertise that was not the kind of expertise found here. The source speculated and believed the evidence points to Cuban exiles."

First reports said four armed terrorists entered the chapel and opened fire on the prelate. But church officials said yesterday the killer apparently got out of a car opposite the doors to the chapel, fired one shot and then was driven away before anyone got a close look at him. The officials said it was believed three other persons were also in the car.

El Salvador's military-civilian junta put the armed forces on full alert yesterday after a rash of pre-dawn bombings the morning after the slaying. No casualties were reported, and no further violence was reported during the day.

Romero's body lay in a closed casket before the main altar of the Basilica of the Sacred Heart. About 3,000 persons jammed the cathedral for a memorial mass.

Spokesmen for both left-wing

It was no amateur who did this

and right-wing terrorist groups denied having any part in the killing.

There was no immediate indication how the assassination would affect the future of the beleaguered junta. It has been under fire from rightists who say its land redistribution and bank nationalization programs will lead to communism, and from leftists who say the reforms do not go far enough.

Romero was well known in Washington. He was nominated for the Nobel Peace Prize in 1979 by 23 members of Congress and a comparable group of British members of Parliament, and had been awarded an honorary degree by Georgetown University in 1978.

U.S. Secretary of State Cyrus R. Vance called the murder "saddening and tragic," adding that U.S. military and economic aid to El Salvador would continue.

Meanwhile, high-ranking State Department and Defense Department officials told a congressional committee they have evidence that Cuba was directly assisting an operation from Honduran territory to send arms and trained left-wing Salvadorans into El Salvador to help overthrow the government.

The State Department has publicly expressed greater concern in recent weeks about a possible coup against the junta by elements of El Salvador's security forces and their right-wing supporters.

In testimony yesterday, Franklin Kramer, a deputy assistant secretary of defense, told a House panel yesterday: "The Hondurans believed, and our intelligence agrees, that their territory is being used as a conduit for men and weapons into El Salvador by insurgents with Cuban support."

Thousands crowd 'Mafia' funeral

Associated Press

PHILADELPHIA — Ladies in minks, men in work clothes — they

outside his home Friday night.

His gray metal casket lay on a flowered pedestal before a huge spray of white lilies yesterday as dozens of police set up barricades

Respectively
Exhibit No. A
Date: 2/25/13
Judge: M.H.
ID on:

Big



Financial S
Cash
Investments
Loans
Savings on
Deposit
Total Assets

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Page

Officials: Cuban exile may have slain archbishop

It was no amateur who did this

SAN SALVADOR, El Salvador — U.S. and church officials say a right-wing Cuban exile may have been the assassin of the Roman Catholic archbishop of San Salvador, Oscar Arnulfo Romero.

They said the assassin fired a rifle shot from about 100 feet away through the crowd of the popular "chapel" where the archbishop was praying the sacraments on the altar for a mass Monday night.

He was an amateur who did little, said U.S. Ambassador Robert White. "Our conclusion is that it was someone who was an expert marksman."

White also told reporters that a government source informed him last week that "right-wing Cuban terrorists" were operating in El Salvador. He said the source told him the bombing had a degree of expertise that was not the kind of amateurism he had expected. The source speculated and believed the assassin pointed to Cuban exiles.

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U.S. Secretary of State Cyrus R. Vance called the murder "horrifying and tragic," adding that U.S. military and economic aid to El Salvador would continue.

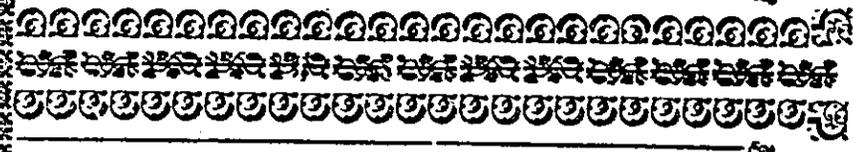
Meanwhile, high-ranking State Department and Defense Department officials told a congressional committee they have evidence that Cuba was directly assisting an operation from Honduran territory to send arms and trained left-wing

Big News Travels Fast

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- 26 Week Money Market Certificates of \$10,000 or more, will earn a BIG 14.950% Annual Dividend Rate (Week of March 20, 1980)
- Super EasyTime Deposit Account Certificates of \$500 or more.



El Concejo Municipal de San Vicente, Capital de El Salvador, Centro América.

En Ocasión de Conmemorar sus

350 AÑOS DE FUNDACION

Certifica que:

Gral. José Guillermo García

Conforme sus Bondades, Aptitudes y Espiritu de Servicio ha dado mucho Honor y Bien a nuestra ciudad. También ha demostrado con gran capacidad sus dotes profesionales y como un merecido reconocimiento acuerda conferírle

El Título Honorífico de:

Hijo Predilecto

Dado en la Ciudad Capital de El Salvador, San Vicente de Austria y Lorenzana a los Veintiseis Días del Mes de Diciembre de Mil Novecientos Ochenta y Cinco.

[Signature]
Dr. Felipe Ladislao Quintanilla
Alcalde Municipal

[Signature]
Dr. Osmín Montes Utrero
Síndico Municipal

[Signature]
Agr. Manfredo Armero Aldana

[Signature]
Sra. Gladis Rogelado López de Cañillar

[Signature]
Lic. Oscar Armando Méndez

[Signature]
Sra. Carmen Barrata de Pérez

[Signature]
Prof. Lorenzo Antonio Chacón

[Signature]
Dr. Teodoro Antonio Mira S.

Dr. Tomás Ramón García Velásquez
Secretario Municipal

Exhibit No. *[Handwritten]*
Date: *27/12/2013*
Judge: MCH
ID only

[Handwritten signature]

TRANSLATION FROM THE SPANISH LANGUAGE

CERTIFICATE

Seal

The city council of San Vicente, Capital of El
Salvador, Central America

On the occasion of celebrating its 350 year anniversary
certifies that

General Jose Guillermo Garcia

In accordance with his goodness, skills and spirit of service has given much
Honor and Good to our city. Also has demonstrated great capacity
In his professional duties and as a fitting recognition agrees to confer on him

The Honorary Title of

Favorite Son

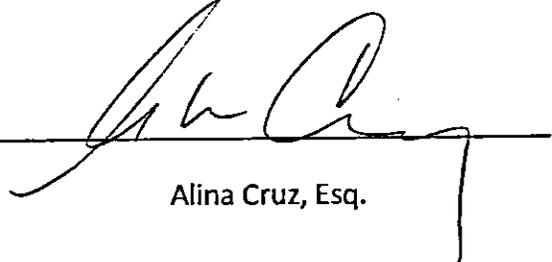
Given in the City Capital of El Salvador, San Vicente of Austria
and Vorenzana on the 26th day of the month of December of 1985 ✓

[9 illegible signatures]

AFFIDAVIT OF TRANSLATOR

State of Florida
County of Dade

I, Alina Cruz certify that I am thoroughly familiar with both the English and Spanish language, that I am a qualified and experienced translator from each of said language to the other, and that I prepared the English Translation from the attached documents written in the Spanish language, as set forth and as corresponds with the attached and that to the best of my knowledge and belief, the translations attached hereto are true and accurate versions of the originals aforesaid.



Alina Cruz, Esq.



Director of
Central
Intelligence

RECEIVED

FEB 25 2013

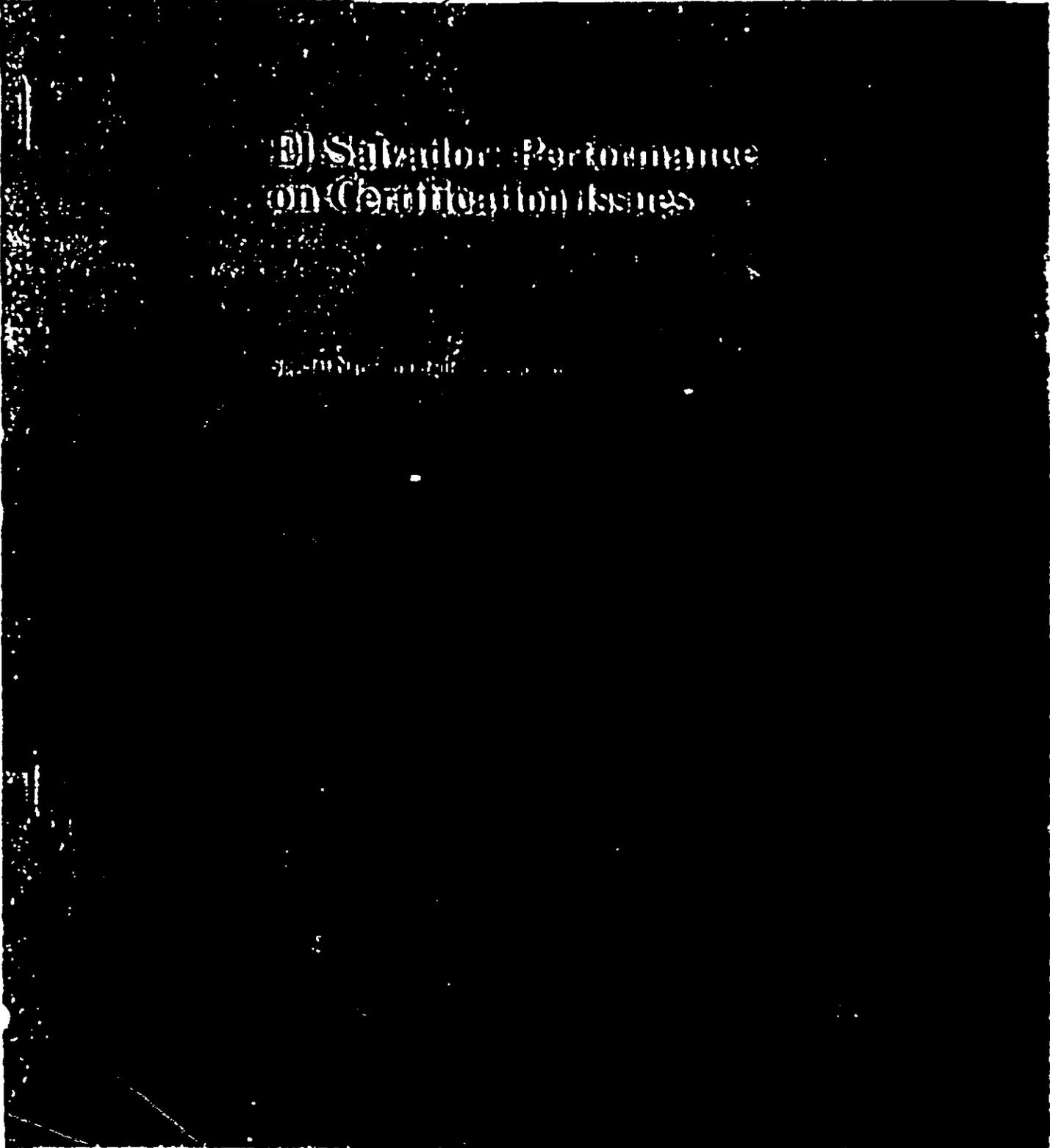
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Date: *2/25/2013*
Judge: *MCH*
ID only *Rec'd*



NIC

Approved for Release
NOV 1993



*D) Salvador Performance
on Certification Issues*



Director of
Central
Intelligence

~~Secret~~

NFB S.N.I.E 83 L-83

El Salvador: Performance on Certification Issues

Special National Intelligence Estimate

(b)(1)
(b)(3)
(S)

APPROVED FOR RELEASE
DATE: AUG 2001

~~Secret~~

SNIE 83.1-83
14 January 1983

Copy 317

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SNIE 83.1-83

**EL SALVADOR: PERFORMANCE
ON CERTIFICATION ISSUES**

Information available as of 13 January 1983 was
used in the preparation of this Estimate.

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000181

THIS ESTIMATE IS ISSUED BY THE DIRECTOR OF CENTRAL INTELLIGENCE.

THE NATIONAL FOREIGN INTELLIGENCE BOARD CONCURS.

The following intelligence organizations participated in the preparation of the Estimate:

The Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the intelligence organization of the Department of State.

Also Participating:

The Assistant Chief of Staff for Intelligence, Department of the Army

The Director of Naval Intelligence, Department of the Navy

The Assistant Chief of Staff, Intelligence, Department of the Air Force

The Director of Intelligence, Headquarters, Marine Corps

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KEY JUDGMENTS

During the past six months we have seen signs of modest progress in some areas, and no signs of backsliding on the part of the government or the military in their commitment to improve the human rights situation and reinforce democratic institutions in El Salvador. Nevertheless, positive efforts by the government in all areas continue to be hindered by deep-seated problems, and overall we conclude that there have been few dramatic changes since July. We expect progress to remain slow and arduous. [REDACTED]

The government has made limited progress on human rights issues in the past six months, although in at least one area—the rate of civilian deaths—the improvement has been substantial. Other positive trends, such as good treatment of political prisoners, remain overshadowed by a virtually nonfunctional criminal justice system that has proved unable to indict and prosecute the accused. [REDACTED]

Although some progress has been made in curbing abuses by the armed forces, El Salvador continues to have serious problems in this respect. Major problem areas remain the lack of fire control in populated combat zones and arbitrary violence committed by unsupervised security forces. Nevertheless, the military has increased efforts to educate and discipline subordinate officers and troops, and intelligence support has resulted in more selective targeting. In addition, replacement of a few commanders has been followed by a subsequent improvement in the human rights records of their units. Moreover, before launching operations some field commanders reportedly have received specific instructions to respect the rights of the local civilian population and to take guerrilla prisoners. They increasingly have adhered to these orders in operations of the past six months. [REDACTED]

The government has demonstrated advances in political and economic programs, particularly in Phase III of the agrarian reforms, and the parties have shown a willingness to cooperate on major issues. A unity pact signed by the major parties has led to establishment of political and human rights commissions and a new Central Elections Council. A new constitution is scheduled to be completed this spring, and presidential elections are scheduled for March 1984. [REDACTED]

The government continues its interparty discussions on reconciliation. On the issue of negotiations, the positions of all government and

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military elements have coalesced against guerrilla terms for dialogue, but they will discuss a role for the guerrillas in the ongoing political process. San Salvador has renewed offers to the left to compete in elections and is drafting an amnesty law to help convince leftists to end the fighting. The government leaves the door open for possible informal talks to that end. [REDACTED]

The killers of the US churchwomen have been identified, indicted, and have been remanded for trial in civilian criminal courts. There is no evidence of higher level complicity in these murders. Two members of the National Guard have confessed to killing two US representatives from the American Institute for Free Labor Development (AIFLD) and the president of the Salvadoran land reform institute. They have been ordered to stand trial. However, the three accused authors of these crimes—two military officers and a businessman—remain free. [REDACTED]

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DISCUSSION

1. The Intelligence Community has attempted during the past six months to broaden its coverage of El Salvador's efforts to meet qualifications for continued aid set forth by the US Congress. [REDACTED]

[REDACTED] Reporting from the US Embassy in San Salvador continues to provide our primary base of information on the fundamental issues involved in certification; the data provided appear objective and accurate and reflect the judgment of all elements of the mission. [REDACTED]

Human Rights

US Congress criterion for judging Salvadoran Government's performance: "Making a concerted and significant effort to comply with internationally recognized human rights."

2. Overall, the Salvadoran Government has made limited progress on human rights issues in the past six months relative to the period covered in the last report, although in at least one area—the rate of civilian deaths—the improvement has been substantial. Given the virtually nonfunctional criminal justice system in El Salvador, the standard for measuring progress in this regard is elusive. According to the US Embassy, only 300 criminals had been processed through civilian courts out of a national prisoner population of 4,000. [REDACTED]

3. The government's record on treatment of prisoners, however, is good. Those abuses that do occur, according to the US Embassy, usually happen during the process of arrest and not during detention. For example, the government claims to have under detention approximately 800 political prisoners. We know that some 700 are housed at the relatively modern Mariana Prison outside the capital. These prisoners range in status from captured guerrillas to leftist intellectuals suspected of subversion. According to US Embassy officers who have visited the prisoners, they are well fed and receive excellent treatment, including access to schooling, use of an industrial shop, and rights to conjugal visits in private dormitories. [REDACTED]

4. The government is attempting to expedite trial proceedings for political prisoners and is drafting a new amnesty law that will further help in reducing the

number of detainees. The establishment of an amnesty commission also is being considered to oversee the broader issue of assimilating guerrilla defectors into the political and economic mainstream as one phase of a democratic solution to the insurgent war. A seven-member human rights commission was appointed in early December, charged with formulating an "institutional mechanism that will promote and protect human rights." [REDACTED]

5. The insurgent war has intensified since July, and the rate of combat deaths on both sides has increased. The rate of civilian political deaths, however, has continued to decline markedly. The monthly average of political deaths in 1981 was about 510, but for 1982 it dropped to 217—a decrease of 57 percent. Since July the death rate has dropped more than 40 percent from that of the first six months of 1982. [REDACTED]

Control of the Armed Forces

"Is achieving substantial control over all elements of its own armed forces."

6. [REDACTED]

[REDACTED] that military leaders continue to have problems in curbing abuses by subordinate elements. [REDACTED]

7. For example, the general staff remains largely ineffective in promoting fire control among combat units, although some improvements have been made over the last six months. [REDACTED]

[REDACTED] poor planning and carelessness on the part of some Salvadoran commanders during

* Political deaths are those that take place outside a zone of combat and which clearly suggest a political motive; for example, civilians murdered because of suspected complicity with the insurgents. Civilians killed as a result of being caught in a crossing or other military-related activities are classified as combat deaths. [REDACTED]

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bombardments and large-scale sweeps against guerrilla strongholds sometimes result in civilian loss of life and destruction of property. In some instances, moreover, the distinction between combatant and noncombatant can become blurred. [REDACTED]

"guerrilla" casualties often include unarmed insurgent support personnel, camp followers, and innocent civilians trapped in the battle zone. [REDACTED]

8. The tenuous and often nonexistent control of senior officers over elements of the paramilitary security forces and civilian irregulars is a continuing cause for concern. Reporting on human rights violations by military personnel largely reflects the excesses of these small rural-based constabulary forces. In isolated areas especially, where lawlessness is a way of life, semiliterate personnel led by a corporal or a sergeant all too often assume the roles of prosecutor, judge, and executioner. [REDACTED]

9. Senior military leaders, however, are continuing their efforts to overcome human rights abuses. Over the last six months, members of the high command have stepped up visits to posts in the interior, emphasizing to subordinate officers the necessity of disciplining troops guilty of abuses. The high command appears increasingly concerned that combat officers set a good example for their troops. The replacement of a few commanders has been followed by a subsequent improvement in the human rights record of their units. [REDACTED]

10. Defense Minister Garcia continues to take a leading role in curbing military abuses. In October 1982 he ordered a conference in San Salvador of nearly 300 local commanders—essentially all enlisted personnel—and reaffirmed the high command's commitment to human rights and the penalties for committing abuses. [REDACTED]

11. Nevertheless, Garcia's efforts to discipline and educate the military have shown some positive, although undramatic, results. Before launching an operation, some field commanders reportedly have received specific instructions to respect the rights of the local civilian population and to take guerrilla prisoners. They increasingly have adhered to these orders in operations of the past six months. They continue to take prisoners and interrogate them in a more professional manner. [REDACTED]

Progress on Reform

"Is making continued progress in implementing essential economic and political reforms, including land reform."

12. The State Department and the Agency for International Development provide the bulk of our information on the reform process. All available information indicates that the government has made progress in some areas of political and economic reform, but has accomplished little in others. [REDACTED]

13. The function of government remains hampered by continuing tensions between the major parties. Increasing assertiveness by President Magana, however, has forestalled the kind of deadlocks that prevailed in the first months of his administration. Thus, despite periodic flareups within and among the diverse political groupings, moderates and hardliners have been able to fend off crises through compromise. For example, in September the three major parties agreed to divide the 261 mayoralties evenly, thus avoiding a government crisis. [REDACTED]

14. The ability of the parties to cooperate on some key issues was underscored by the signing in August of the "Pact of Apameca"—a unity document in which the major parties pledged to cooperate on political, social, and economic reforms. As stipulated by the agreement, human rights and political commissions since have been formed and are functioning, with the latter setting a formal timetable for drafting and ratifying a new constitution by early 1983 and scheduling presidential elections for March 1984. The formation of a peace commission, however, remains mired in partisan controversy over its composition and mission. It reportedly will be formed by February, but Magana now envisions it as merely a subcommittee of the political commission. [REDACTED]

15. Problems with forming the peace commission have been caused largely by intransigence on the part of the extreme right, led by Assembly President D'Aubuisson. His tactics, however, have brought moderates closer together in an effort to limit his influence. We believe, therefore, that, while the coalition government remains vulnerable to partisan in-fighting, the overall trend points to increasing progress in policy formulation and implementation. [REDACTED]

16. The military remains the key to stability in San Salvador and continues to support the Magana admini-

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istration. Magana's efforts to effect some degree of compromise have enabled the high command to reduce its involvement in civilian political battles over the last six months. Despite the recent dispute within the military, the armed forces will remain the primary force for moderation. Should a change in the Defense Ministry take place in the next few months—as now appears probable—the officer corps will again select a pragmatist to assume the portfolio.

17. While escalating insurgent attacks have put new strains on the economy, they have not deterred the armed forces from keeping the agrarian reform process on track. On balance, the relationship between the peasant organizations and the military has improved, and the land reform process in recent months has not met with the kinds of setbacks and controversy that occurred following the March election, when former landowners illegally evicted several thousand peasant beneficiaries.

18. Progress in Phase III (land to the tiller) has been particularly apparent since an Army colonel was appointed to head its administration and a top peasant leader was named to the presidential committee overseeing legislative action on land reform. For instance, according to information provided by AID in El Salvador, 1,380 applications for land titles were submitted in August and September, more than three times the figure (454) for the previous two months.

19. Such increases also are attributable to a government publicity campaign to inform eligible recipients of benefits and procedures. As of 1 October, applications for new titles since the beginning of the reform program totaled 38,615, according to AID. Since October, the government reportedly has set the goal of an additional 22,000 new applications by the end of March 1983. According to AID, more than 11,000 new applications had been received by year's end, indicating that government efforts are on track. Meanwhile, as of 1 October, 32,952 provisional titles had been distributed. The government hopes to increase this figure by an additional 14,000 by the end of March 1983; but by year's end the total had increased by only 1,722, suggesting that the government is well behind in reaching that goal. In addition, 157 permanent land titles were granted under Phase III during the past six months, bringing the total number of permanent titles granted to more than 400.

Elections and Negotiations

"Is committed to holding free elections at an early date and, to that end, has demonstrated good-faith efforts to begin discussions with all major political factions in El Salvador."

20. The government and military appear committed to holding presidential elections on schedule by March 1984. During a special plenary session in November, the constituent assembly appointed a new Central Elections Council to oversee the electoral process. The five political parties represented in the assembly each have one member and one alternate serving on the Council. The president of that body—elected by his colleagues—represents the moderate Democratic Action party, which currently holds no posts in the provisional government.

21. The Council is charged primarily with:

- Drafting a new electoral law.
- Preparing a new voter registry.
- Authorizing political party activities.
- Promoting the election process.
- Regulating its own internal functions.

22. The Council faces some fundamental hurdles, however, including its temporary status and the possibility that it could be restructured before the 1984 election. It also currently lacks financial and material resources, such as new computers to assure prompt and accurate voter tallies. Its predecessor's attempts to design a new voter registration system proved organizationally infeasible during the last election and probably also will be beyond reach for 1984.

23. National interest in the 1984 election, meanwhile, is already evident in the attempts of new parties to organize. To the disadvantage of D'Aubuisson, a conservative splinter party has emerged with considerable private funding and has successfully registered with well over the required 3,000 signatures. Two fledgling center-right groups and one left-of-center party also plan to participate in 1984.

24. The government and the military are willing to make some attempts at reconciliation with the left before the presidential election. The Magana administration repeatedly has stated its policy of allowing leftist parties to register, campaign, and field

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candidates for office. Nevertheless, government and military leaders of all stripes reject any proposals for negotiations aimed at achieving a power-sharing arrangement outside the ongoing political process. According to the US Embassy, the five parties in the assembly have debated the issue and appear to agree on three major points:

- Dialogue and or negotiations at the initiative of the left are unacceptable.
- The left must compete for power in democratic elections.
- Any talks promoted by the government should have as their only objective the participation of the left in elections or its surrender. [REDACTED]

25. The left's negotiation efforts have been largely propagandistic. [REDACTED]

[REDACTED] The left seeks to regain lost support—domestically and internationally—by portraying itself as the more legitimate governing alternative to the civil-military power structure in San Salvador. The Marxist-Leninist majority of the insurgent alliance views negotiations as a means of undermining the unity of the government and the military, while also buying time for the guerrillas to strengthen their political and military organizations. Even the concept of power sharing—totally unacceptable to guerrilla hardliners—is perceived by the less doctrinaire as a temporary phase before final victory. [REDACTED]

26. Nevertheless, [REDACTED] some leftist elements—such as Guillermo Ungo and his small coterie of moderate socialists—are sincerely interested in joining the electoral process and may be considering the possibilities for arranging a separate peace with San Salvador. Publicly [REDACTED] they have been pressing the government for concessions and guarantees that would make their participation viable. [REDACTED]

27. [REDACTED]

[REDACTED] The fundamental goals of the government and the Marxist-Leninist insurgent leadership appear irreconcilable. If elections take place, therefore, they are likely to be held once again in an atmosphere of violence. [REDACTED]

Murders of US Citizens

"Good-faith efforts to investigate murders of six [US citizens] and bring to justice those responsible for those murders."

28. Our discussion of this issue is based almost entirely on US Embassy reporting. [REDACTED]

29. The five National Guard members accused in the slayings of four US churchwomen have yet to go to trial. Court-appointed defense attorneys routinely have appealed the presiding judge's order to begin trial proceedings on the basis of the available evidence. The appeal process is likely to be completed by the end of January and will determine whether the trial begins promptly or must be postponed pending further investigation. [REDACTED]

30. [REDACTED]

[REDACTED] The witness has implied that the junior sergeant accused of planning and directing the killings might have only suggested they were under "higher orders," presumably to elicit the cooperation of his peers. [REDACTED]

31. [REDACTED]

[REDACTED] The incident reflects the kind of arbitrary abuses by elements of the security forces that [REDACTED] still take place, albeit with less frequency. [REDACTED]

32. Two members of the National Guard have confessed to killing two US representatives from the American Institute for Free Labor Development (AIFLD) and the president of the Salvadoran land reform institute. They have been ordered to stand trial. The three accused authors of the crime—military officers Lt. Lopez Sibrian and Captain Avila and businessman Hans Christ—remain free. [REDACTED]

33. The whereabouts of Captain Avila and Hans Christ are unknown. Christ fled in 1981 to Miami, where he was detained by US authorities pending extradition to El Salvador on criminal charges. Charges were dropped by the Salvadoran Government for lack of evidence and with them the request for extradition. Christ may have left the United States for [REDACTED]

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Europe or South America. Captain Avila, meanwhile, fled the country in September following his polygraph by FBI officials in San Salvador. A civilian justice official indicates that Captain Avila's uncle is one of the most powerful members of the Supreme Court and has worked to block formal indictment proceedings against his nephew. [REDACTED]

34. The case of Lt. Lopez Sibrian, who is currently on active duty, has underscored the continuing weaknesses of the judicial process. He was twice ordered released from military detention by two civilian judges, even though the evidence against him was formidable. Some Salvadoran leaders have admitted to US officials that his release for lack of sufficient evidence was a "travesty" of justice, and a senior military officer has alleged that the civilian judges were intimidated and bribed by rightwing elements. [REDACTED]

35. Senior government and military officials are pressing the Salvadoran judiciary to rescind the release order and renew trial proceedings. The high command has denied Lopez Sibrian permission to leave the

country, and the government has appealed the release by lower court judges and expects a decision soon. According to US Embassy sources, if the appeal fails, the government will attempt to employ Decree 507 (state-of-siege law) and detain him under the terrorism clause for his role in a political crime against a public official. Success in this effort will depend on the judgment of the Supreme Court, which currently is against employing the state-of-siege law. [REDACTED]

36. In broad terms, the Lopez Sibrian case continues to point up the endemic weaknesses and vulnerabilities of the entire Salvadoran situation. Despite the efforts of government and military leaders to prosecute, we have noted an increase in recent months in anonymous death threats and intimidation against court witnesses, civil and military officials, and US diplomats. The far right also has attempted to garner public support for the accused officers by painting them as innocent martyrs, and charging government and military officials with treason for colluding with the US Embassy. The events of the past six months make successful prosecution of Lopez Sibrian and the two other authors of the crime appear doubtful. [REDACTED]

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The foregoing report, El Salvador: Performance on Certification Issues, SNIE 83.183, is publicly available on the internet at

http://www.foia.cia.gov/sites/default/files/document_conversions/89801/DOC_0000049405.pdf

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EL MEJOR CADETE DEL AÑO — Momentos en que el Presidente de la República y Comandante General del Ejército, Teniente Coronel José María Lemus, imponía la condecoración al Mejor Cadete de la Promoción 1956, ahora subteniente José Guillermo García. La ceremonia tuvo lugar antenoche en la Escuela Militar, en la cual egresaron diez y ocho oficiales. Esta condecoración es un premio creado ya por el Coronel Lemus. A la solemne ceremonia concurrió numeroso y distinguido público.

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FELICITA A GARCIA.— El Presidente de la República y Comandante General de la Fuerza Armada, doctor Alvaro Magaña (derecha) cuando felicitaba al ex - Ministro de Defensa y Seguridad Pública, Gral. José Guillermo García, antes de hacerle entrega de un pergamino por su excelente labor al frente de dicho ministerio.

TRANSLATION FROM THE SPANISH LANGUAGE

Newspaper Articles

Publication: EL DIARIO DE HOY

Date: November 17, 1956

Headline: THE BEST CADET OF THE YEAR

Text: Moments in which the President of the Republic and Commander General of the Army, Lieutenant Colonel Jose Maria Lemus, imposed the award to the Best Cadet in the graduating class of 1956, now Lieutenant Jose Guillermo Garcia. The ceremony took place on the night before yesterday at the military school, where 18 officers graduated. This award is an award created by the Colonel Lemus. The solemn ceremony was attended by numerous and distinguished public.

Publication: DIARIO LATINO

Date: May 6, 1983

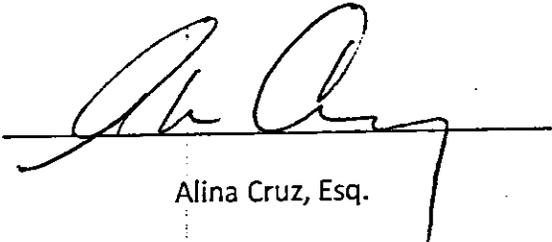
Headline: CONGRATULATIONS TO GARCIA

Text: The President of the Republic and Commander General of the Armed Forces, Dr. Alvaro Magaña (right) when he congratulated the ex-Minister of Defense and Public Security, General Jose Guillermo Garcia, before presenting him a scroll for his excellent leadership of said ministry.

AFFIDAVIT OF TRANSLATOR

State of Florida
County of Dade

I, Alina Cruz certify that I am thoroughly familiar with both the English and Spanish language, that I am a qualified and experienced translator from each of said language to the other, and that I prepared the English Translation from the attached documents written in the Spanish language, as set forth and as corresponds with the attached and that to the best of my knowledge and belief, the translations attached hereto are true and accurate versions of the originals aforesaid.



Alina Cruz, Esq.

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EL MEJOR CADETE DEL AÑO — Momentos en que el Presidente de la República y Comandante General del Ejército, Teniente Coronel José María Lemus, imponía la condecoración al Mejor Cadete de la Promoción 1956, ahora subteniente José Guillermo García. La ceremonia tuvo lugar antenoche en la Escuela Militar, en la cual egresaron diez y ocho oficiales. Esta condecoración es un premio creado ya por el Coronel Lemus. A la solemne ceremonia concurrió numeroso y distinguido público.

DIARIO LATINO. Viernes 6 de Mayo de 1953 — 11



FELICITA A GARCIA.— El Presidente de la República y Comandante General de la Fuerza Armada, doctor Alvaro Magaña (derecha) cuando felicitaba al ex - Ministro de Defensa y Seguridad Pública, Gral. José Guillermo García, antes de hacerle entrega de un pergamino por su excelente labor al frente de dicho ministerio.

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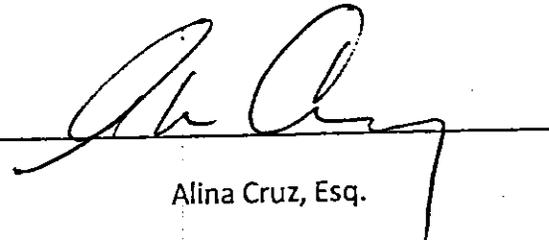
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Alina Cruz, Esq.

(CONFIANZA EN FUERZA ARMADA PIDE MINISTRO)

(El Diario de Hoy, Lunes 29 de Diciembre de 1980)

SECRETARY OF DEFENSE ASKS FOR TRUST FOR THE ARMED FORCED

Trust in the Armed Forces, able to guarantee peace and serenity for all Salvadorans, was the request that the Secretary of Defense, Colonel Jose Guillermo Garcia, gave to the country, when he broadcasted his message through the radio and television.

Following is the message the Secretary of Defense gave:

"He who believes in violence does not believe in God. I believe in God's absolute unity and therefore, in the human race's unity, too". Mahatma Gandhi.

"Salvadorans: These words that I have mentioned at the beginning, coming from one of the wisest and most virtuous men that humanity has bloomed, have come to my mind to communicate to you, in this Christmas time, a message from the Armed Forces, which is a message of optimism and hope.

In doing so, in my role as Secretary of Defense, which is one of the most difficult responsibilities you could imagine, I do it with self conviction that we are proceeding with certainty that we are in the right path.

We feel and follow the sacred commitment to be shoulder to shoulder with the peasant, with the laborer, with the student, with the religious minister, with the teacher, with the intellectual, in short, with every living being that belongs to this country, El Salvador. And to all of you we say in this moment of anguish, of danger, of pain, to have trust in us because within that pain and anguish, a new age, a new system and a new way of life is being built.

We ask God to give us an extraordinary gift to keep up to the circumstances. We also ask God the grace to proceed always with righteousness. We ask God to direct us in this difficult road, full of obstacles and we also ask God for enough strength so that our courage never diminishes.

Trust in the Armed Forces. Salvadorans: Those who believe that the men in uniform are looking for revenge and for the guilty ones for whom blood has been shed, are as completely wrong as those who want to proceed that way.

We truly feel a painful compassion for those Salvadorans who have been deceived and who by believing that they are doing the right stuff, they find themselves in a brotherly fight...I repeat, we truly feel sorry for them and we think they are in a regrettable mistake.

It is true that they must feel that they are doing the right stuff but this is an opportunity to tell these people acting in this manner, through this message from the Armed Forces, to

Exhibit No. 412

Date: 2/25/2013

Judge: MCH

ID only

Heard 2/26/2013

meditate, to think and to get good orientation to be able to find the truth, because maybe due to their youth or maybe because of a reaction towards a predetermined interest, they have come to this sad situation of fighting and allowing blood to be shed all around our dear land.

We know that they are victims of a passionate feeling and we know that they are victims of a lie; but we believe that there is still time to find the true way. We, as an "armed" institution, act in a way that, according to the concept of "defense", allows us to, which means that our fight is for a cause that by constitution and by our spirit of defense we have to deal with but it hurts us when we fight against our brothers.

UNITY

Present here with us are different branches of the Armed Forces as proof of our unity. As I mentioned it at the beginning, with Gandhi's words. This concept of unity means a lot to us because, while fighting with patriotism and sacrifice, we fight with reasoning and not by mere compliance.

Internationally, big accusations have been made towards the Armed Forces pointing out that we don't want peace. However, contrary to what is being said, the majority of the Salvadoran people really wish peace and serenity and that's why we are fighting next to a country that loves justice.

Also internationally, there's been statements concerning the concept of Human Rights but, unfortunately, when we have a chance to analyze those situations we consider an overwhelming partiality when the analysis on Human Rights is done, we are in first place and we are obligated to respect the sacred Human Rights concept but ask the same from everybody, which means, when analyzing, this analysis has to be done for all as equals, no distinctions, no preferences but, I repeat, equally for every one.

D.H.
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TIME FOR PEACE

Christmas time, together with the natural happiness it brings, also takes us to a feeling of prayer. Prayer at its deepest helps many, and all Salvadorans must pray and ask God for our country, ask God to guide us. This is the Armed Forces wish for all on this Christmas (1980).

WHY THE ARMED FORCES IS FIGHTING

The Armed Forces of El Salvador is fighting but it is fighting for democracy; this is what inspired the movement of October 15, 1979, and that's why we fight with sacrifice, risking it all, but it doesn't matter, because we have the clear concept of a noble cause, of a goal and that's why we are fighting.

We also want to take this opportunity through this message to tell all the members of our Armed Forces that during this critical moment in which we are living, to make wise use of their authority, at which ever level of hierarchy that they have.

A feeling of trust for our dear Salvadoran people because he who wears a uniform and makes bad use of his authority is against the sacred feelings of an entire country, and that's why we believe that everybody: People, Government and Armed Forces, together we can find that goal of peace which everyone is wishing for at this moment.

To finish this short and simple message, I want to repeat the words that many now hear and that now, more than ever, all Salvadoran must feel in our guts as true Salvadorans, this which has been repeated through centuries: 'Glory to God in the Highest and peace to his people of good will on Earth'.

I finish this message repeating Mahatma Ghandi's words: 'He who believes in violence does not believe in God. I believe in God's absolute unity and therefore, in the human race's unity, too'."

EL DIARIO DE HOY, Lunes 29 de Diciembre de 1980.

34 Confianza

Viene de la Página 9. — como lo están también aquellos que quieren que así se proceda. Digamos que sentimos una dolorosa compasión por aquellos salvadoreños que engañados o creyendo en haber bien se encuentran en este momento empeñados en una lucha fratricida y por lo tanto creemos que estar en un lamentable error. Si bien es cierto que acaban creyendo estar en lo correcto, es oportuno manifestarles también a esa gente que actúa en esa forma, en este mensaje de la Fuerza Armada, que reque capaciten que piensen que se orientan, y que descubran la verdad porque quiza un impulso de juventud o quiza un impulso de hermanado, les haya llevado a esa situación lamentable de luchar y de permitir que la sangre se fleque en nuestra querida Patria.

"Sabemos que son víctimas de una pasión, y sabemos que son víctimas de un engaño, pero creemos que todavía es tiempo de encontrar el verdadero camino. Nosotros, como hombres de bien, no permitimos que la guerra se prolongue, y nosotros, como hombres de bien, no permitimos que la guerra se prolongue."

UNIDAD

Nos acompañan, dice

hecho crear que nosotros luchamos contra todo un pueblo, cosa que ustedes los salvadoreños saben que no es cierto, por cuando la gran mayoría de este pueblo salvadoreño al contrario, que lo que se dice lo quieren es la paz y la tranquilidad por eso es que nosotros, luchamos al lado de un pueblo que busca la justicia. Se ha explotado un momento de los derechos humanos, pero de los derechos humanos, nosotros como los primeros y estamos en la obligación de respetar los derechos de los derechos humanos, pero en una forma igual, es decir, para todos por igual, sin distinción, sin inclinaciones, y sin dedicatorias, sino que respetamos a todos por igual.

EPOCA DE PAZ

"Creo que la Navidad es un tiempo propicio para pensar en la paz, concepto que la mayoría de los salvadoreños deseamos. Ha pasado ya mucho tiempo de sufrimiento para este pueblo, mucha sangre y mucho dolor, por lo cual, consideramos de que es necesario hacer un sacrificio máximo para lograr la paz y la tranquilidad en El Salvador. Hay un concepto constitucionalmente y que le está mañana precisamente de la central de trabajadores salvadoreños, el cual dice así: "Desaparecidos, siempre la Noche Oscura del Terror y la Violencia y surta la aurora de la Paz, la Libertad y la Justicia Social". Concepto que, estos, campestinos aspi-

nza en Fuerza la Pide Ministro

bras que mencione al principio de uno de los hombres más sabios y virtuosos que han florecido en la humanidad han venido a mi memoria para dirigirme a ustedes en este tiempo de Navidad, y para hacerles llegar un mensaje de la institución armada que constituye en sí un mensaje de optimismo y de esperanza.

Al hacerlo en mi carácter de Ministro de Defensa, bajo el peso de una de las responsabilidades más difíciles que ustedes se puedan imaginar, lo hago con la ínfima convicción de que estamos procediendo con la certeza de estar en lo justo.

"Sentimos y cumplimos el sagrado deber de estar hombro a hombro con el

campesino, con el obrero, con el estudiante, con el ministro religioso, con el maestro, con el intelectual, en fin con todo el que constituye el ser vivo de este país, El Salvador. Y a todos les decimos en este momento de angustia, de peligro, de dolor, que tengan confianza en nosotros porque dentro de ese dolor y de esa angustia, se está forjando en El Salvador un nuevo tiempo, un nuevo sistema y forma de vivir.

"Le pedimos a Dios que conceda el don extraordinario de mantenernos a la altura de las circunstan-

cia. Pedimos a Dios la gracia también de proceder siempre con rectitud. Le pedimos a Dios que nos oriente en ese camino tortuoso, lleno de obstáculos enmarcados principalmente en el error por alcanzar el objetivo aceptable por la mayoría de los salvadoreños, y le pedimos también a Dios la fuerza necesaria para que no disminuya nunca nuestro valor en nuestro proceder.

Fe en la Fuerza Armada. Salvadoreños: quien creyera que los hombres de uniforme nos encontramos empeñados en venganzas, en buscar culpabilidades y vengar la sangre derramada por otra sangre, están completamente equivocados.

—Favor pase a la página 34.



Conflicto Armado

Institución armada, como como símbolo del deseo de una muestra de unidad tal paz que ellos también de como lo decían nuestras sean aspiran y procuran palabras al principio encontrar.

La Fuerza Armada de El Salvador si es cierto que lucha pero lucha por el concepto de la democracia fue lo que inspiró el movimiento del 15 de octubre de 1979 por eso es que luchamos con sacrificio exponiéndonos pero no importa porque tenemos el concepto claro de lo que es un ideal de lo que es un objetivo y por eso lucha la institución armada.

Queremos aprovechar esta ocasión y este momento para decirle a todos los elementos de la Fuerza Armada que en este momento crítico que vive el país hagan uso responsable de su autoridad cualquiera que sea su nivel de jerarquía implantado.

Un sentimiento de con que cree en la violencia no crees en Dios vivo. Creo en la unidad absoluta de Dios y por consiguiente también en la unidad del género humano. Muchas gracias.

mientos de todo nuestro pueblo por eso creemos de que todos Pueblo Gobierno y Fuerza Armada juntos podemos encontrar ese objetivo de paz que todos en este momento estamos deseando.

Para finalizar este pequeño sencillo mensaje quiero repetir las palabras que en estos días muchos oyen y que ahora más que nunca todos los salvadoreños debemos sentir en nuestras entrañas como verdaderos salvadoreños.

Termino este mensaje repitiendo el pensamiento de Manatna Ghandi. El que cree en la violencia no crees en Dios vivo. Creo en la unidad absoluta de Dios y por consiguiente también en la unidad del género humano. Muchas gracias.

Conflicto Armado

Confianza en la Armada capaz de garantizar la paz y tranquilidad de los salvadoreños. El Ministro de Defensa José Guillermo García al dirigirse al pueblo en el mensaje por televisión. El mensaje del Ministro García fue el siguiente: "El que cree en la violencia no cree en Dios vivo. Creo en la unidad absoluta de Dios, y por consiguiente también en la unidad del género humano. Muchas gracias."

Ambassador Reports of Sunday Incidents

EL DIARIO DE HOY, Wednesday April 2, 1980.

The security forces remained quartered so as not to provoke and the leftist militants threw bombs and fired against the people of El Salvador that had come together to honor the memory of Monsignor Romero, affirms the U.S. Ambassador in our country, Robert E. White.

Likewise, Ambassador White calls "horrid events" the happenings of Sunday and also says that they are "as much a blasphemy as a tragic attack to the peaceful and democratic future of this country".

He also points out that this time, the foreign correspondents have been the ones who have corroborated the non-presence of public security forces on the streets, and also that the provocations were imminently from the leftist groups.

"The horrid events of Sunday were, in my opinion, as much a blasphemy as a tragic attack to the peaceful and democratic future of this country"

"I have seen photographic evidence of what happened on Sunday. Those who brought weapons to the funeral services of this great man of peace are malignant delinquents who deserve to be condemned by all those who respect the truth".

"The foreign representatives of the media have made evident to the world that while the security forces of this country remained quartered in order not to provoke anyone, leftist militants of the *Coordinadora* threw bombs and fired against the people of El Salvador that had come together to honor the memory of Monsignor Romero".

"Violence begets violence. If this country is to have a peaceful and fair future, those who demand an increase in the slaughter to accomplish their political anti-democratic purpose should be stopped".

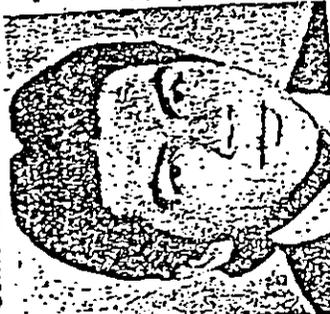
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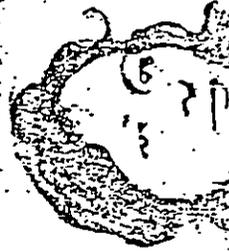
Embajador Hace Relato de los Incidentes de Domingo

Las fuerzas de seguridad permanecieron acuarteladas para no provocar y heridos de consideración, cuando los militantes izquierdistas lanzaron bombas y dispararon contra el pueblo de El Salvador que se reunió en honor de la memoria de Monseñor Romero, afirma el Embajador en nuestro país, Robert B. White.

Como se ha informado,



PEREGRIN. (Santa Ana). Con balas de Magnum fue ultimado en su casa de la Colonia Lamatepec, al norte de la ciudad, el Br. René Alfonso Trigueros, vinculado con apreciable familia. Las autoridades investigán. (V.M.)



Los que a inme- a entrada sur mada colonia ro, quienes a función de on el taxi A- 122, cuyo con-

por lo menos 31 personas. Asimismo, el Embajador White calificó de "horriblos sucesos" los acontecimientos del domingo y reiteró, además, que son "tanto una blasfemia como un trágico día del futuro país". "Los horriblos sucesos del domingo fueron, en mi opinión, tanto una blasfemia como un trágico día que al futuro pacífico y democrático de este país."

He visto evidencia fotográfica de lo ocurrido el domingo. Quiénes llevaron armas al funeral de este gran hombre de paz son delincuentes malignos.

—Favor pase a la página 14.

El texto completo de las

pos de izquierda.

El texto completo de las

declaraciones del Embajador de los Estados Unidos, dadas a conocer por la Agencia de Comunicación Internacional de la Embajada de Estados Unidos en San Salvador, dice así: "Los horriblos sucesos del domingo fueron, en mi opinión, tanto una blasfemia como un trágico día que al futuro pacífico y democrático de este país."

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pos de izquierda.

El texto completo de las

Embajador Hace Relato de los Incidentes de Domingo

Viene de la página 2. — merecen la condena de los dos aquellos que respetan la verdad. "Los representantes extranjeros de los medios de comunicación han hecho evidente ante el mundo que mientras las fuerzas de seguridad de este país permanecían acuarteladas a fin de no provocar a nadie, militantes izquierdistas de la Coordinadora lanzaron bombas y dispararon contra el pueblo de El Salvador que se había reunido en honor a la memoria de Monseñor Romero. "La violencia engendra violencia. Si este país ha de tener un futuro pacífico y justo, debe ponerse paro a quienes claman por un incremento de la matanza para lograr sus fines políticos antidemocráticos."

—Favor pase a la página 14.

El texto completo de las

pos de izquierda.

MCH

U.S. Department of Justice
Executive Office for Immigration Review
Miami Immigration Court

Fax# 305-530-7001

Total pages --1--

To: Court Administrator
Fax# 305-530-7001
Total pages 1

From: Alina Cruz, Esq.

(b) (6) Judge Horn

Subject: CD Request

In my capacity as Attorney of Record in the Matter of Garcia-Merino, I request CD's of the proceedings. I have already received 14 CD's of the proceeding which covered the proceedings from December 10th through December 14th of 2012. I am now requesting the balance of those CDs which cover the proceedings from February 25 through February 27, 2013.

Please advise as to the earliest date I can pick these up.

Thank you for your help in this matter.

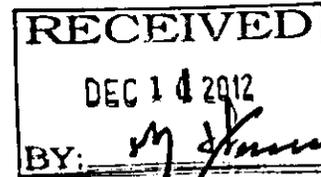


Alina Cruz, Esq.
8501 SW 124 Street, Suite 204B
Miami, FL 33183
Tel: 305-445-1011
Fax: 305-424-9230

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MIAMI, FLORIDA
2013 APR -5 PM 4: 17

Done
11 CDs recorded
BH

Alina Cruz
Alejandrina G. Cruz
CruzLaw, PA
6303 Blue Lagoon Drive
Suite 400
Miami, FL 33126



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
MIAMI, FLORIDA

In the Matter of:

Jose Guillermo GARCIA MERINO

In Removal Proceedings

Immigration Judge Michael C. Horn

File No.: (b) (6)

EXHIBIT # 14
Marked For Identification
Admitted

RESPONDENT'S FIRST NOTICE OF FILING

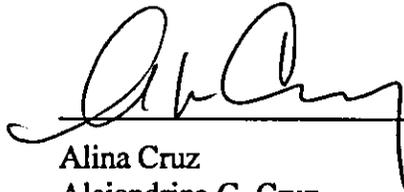
COMES NOW Defendant JOSE GUILLERMO GARCIA by and through his undersigned attorney and files the following exhibits in the above styled cause:

- A. Copy of newspaper article from EL DIARIO DE HOY, Wednesday, April 12, 1980:
Ambassador Reports of Sunday Incidents; in Spanish with English translation
- B. Copy of newspaper article from EL DIARIO DE HOY, Monday Dec. 29, 1980:
Secretary of Defense asks for trust for the Armed Forces; in Spanish with English translation
- C. Copy of newspaper article from LA PRENSA: Political Solutions and No Violence; in Spanish with English translation

(b) (6)

- D. Copy of Proclamation of the Armed Forces dated October 15, 1979
- E. Affidavit of translator

Respectfully submitted by,

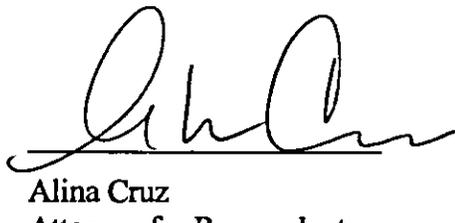


Alina Cruz
Alejandrina G. Cruz
Attorneys for Respondent
6303 Blue Lagoon Drive, Suite 400
Miami, Florida 33126
(305) 445-1011

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing was delivered to District Counsel in open court at 333 S. Miami Ave., Miami Florida, this 11th day of December 2012.

By,



Alina Cruz
Attorney for Respondent
6303 Blue Lagoon Drive, Suite 400
Miami, Florida 33126
(305) 445-1011

A

Embajador Hace Relato de los Incidentes de Domingo

Las fuerzas de seguridad permanecieron acuarteladas para no provocar y heridos. Los militantes izquierdistas lanzaron bombas y dispararon contra el pueblo de El Salvador que se había reunido en honor de la memoria de Monseñor Romero, afirma el Embajador de los Estados Unidos, en nuestro país, Robert White.

Como se ha informado,



PEREGRINACIÓN. (Santa Ana). Con balas de Magnum fue ultimado en su casa de la Colonia Lamatepec, al norte de la ciudad, el Br. René Alfonso Trigueros, vinculado con apreciable familia. Las autoridades investigan. (V.M.)



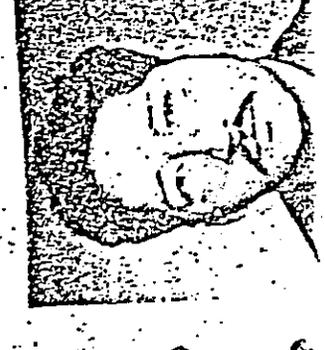
... a inme- a entrada sur- mada colonia ro, quienes a función de con el taxi A- 122, cuyo con- ...

por lo menos 31 personas murieron y un centenar resultó con golpes y heridas rrosos sucesos de los acontecimientos de la Embajada de Estados Unidos en San Salvador, dice así: "Los horribros sucesos del domingo fueron, en mi opinión, tanto una blasfemia como un trágico atentado que al futuro pacífico y democrático de este país. He visto evidencia fotográfica de lo ocurrido el domingo. Quienes llevaron armas al funeral de este gran hombre de paz son delincuentes malignos que mente de parte de los grupos de izquierda."

El texto completo de las

Taxista Ultimado a Soyapango.
De un tiro en la frente fue asesinado el taxista Pablo Merino Vaquerano, de 31 años, el viernes de la noche, en un paraje de El Pepeto, Soyapango. Familiares de la víctima dicen que Vaquerano se dedicaba desde hacía varios años a manejar su propio taxi y siempre habla dicho que por ningún motivo hacía viajes a zonas como la Iodicata.

El hecho se registró el viernes como a las seis de la tarde. Familiares suyos —Favor pase a la página 14.



declaraciones del Embajador de los Estados Unidos dadas a conocer por la Agencia de Comunicación Internacional de la Embajada de Estados Unidos en San Salvador, dice así: "Los horribros sucesos del domingo fueron, en mi opinión, tanto una blasfemia como un trágico atentado que al futuro pacífico y democrático de este país. He visto evidencia fotográfica de lo ocurrido el domingo. Quienes llevaron armas al funeral de este gran hombre de paz son delincuentes malignos que mente de parte de los grupos de izquierda."

El texto completo de las

Salvadoreño Muerto a Balazos en Guatemala.
El salvadoreño Guillermo José Aguilar Gutiérrez, de 59 años, fue muerto a tiros en una calle central de la capital de Guatemala, según informa el diario El Gráfico, en su edición del lunes.

El compatriota se conducía en su vehículo en la esquina de la 20a. avenida y la. Calle de la Zona Cuamoniela deportiva, varios sujetos se acercaron a él y le hicieron ráfagas con armas de grueso calibre, según los informes. Y en un momento que creyeron salvarle la vida, llamaron a la Cruz Roja para que lo llevara a un centro asistencial, pero murió antes de ser intervenido. Según dijeron las autoridades, se desconocen los móviles que pudieran ser la causa del crimen, aun cuando se cree que pudiera ser por asuntos personales.

En San Salvador, al conocerse la noticia se trató de determinar de que familia era pero fue imposible, presumiéndose que sea originario de la zona Occidental, aun cuando ello está sujeto a confirmación, hasta que aclaren la situación sus allegados.

Piden Ceder Paso a los Autos en Sirena Abierta

Embajador Hace Relato de los Incidentes de Domingo
Viene de la página 2.

Los representantes extranjeros de los medios de comunicación han hecho evidente ante el mundo que mientras las fuerzas permanecían acuarteladas a fin de no provocar a nadie, militantes izquierdistas de la Coordinadora lanzaron bombas y dispararon contra el pueblo de El Salvador que se había reunido en honor a la memoria de Monseñor Romero. "La violencia engendra violencia. Si este país ha de tener un futuro pacífico y justo, debe ponerse paro a quienes claman por un incremento de la matanza para lograr sus fines políticos antidemocráticos."

Sobre Papel

Viene de la página 4. curso el que se reiró principalmente a la ciencia y la cultura. "Buscar la verdad — a través de la ciencia y la cultura — y ponerse en camino para alcanzar el bien supremo. Esta es la clave del empeño intelectual que supera el riesgo de que la fragmentación del saber esclinda interlormente persona..."

El Presidente del Congreso, Francisco Ugarte, de la Universidad Panamericana de Ciudad de México, dirigió un discurso de saludo al Papa en nombre de los congresistas.

En su discurso Ugarte señaló que grupos de irabajos de los 43 países representados en la audiencia habían realizado un estudio en profundidad para conocer cuáles son las aspiraciones de los estudiantes. Interesante conectar.

Ambassador Reports of Sunday Incidents

EL DIARIO DE HOY, Wednesday April 2, 1980.

The security forces remained quartered so as not to provoke and the leftist militants threw bombs and fired against the people of El Salvador that had come together to honor the memory of Monsignor Romero, affirms the U.S. Ambassador in our country, Robert E. White.

Likewise, Ambassador White calls "horrid events" the happenings of Sunday and also says that they are "as much a blasphemy as a tragic attack to the peaceful and democratic future of this country".

He also points out that this time, the foreign correspondents have been the ones who have corroborated the non-presence of public security forces on the streets, and also that the provocations were imminently from the leftist groups.

"The horrid events of Sunday were, in my opinion, as much a blasphemy as a tragic attack to the peaceful and democratic future of this country"

"I have seen photographic evidence of what happened on Sunday. Those who brought weapons to the funeral services of this great man of peace are malignant delinquents who deserve to be condemned by all those who respect the truth".

"The foreign representatives of the media have made evident to the world that while the security forces of this country remained quartered in order not to provoke anyone, leftist militants of the *Coordinadora* threw bombs and fired against the people of El Salvador that had come together to honor the memory of Monsignor Romero".

"Violence begets violence. If this country is to have a peaceful and fair future, those who demand an increase in the slaughter to accomplish their political anti-democratic purpose should be stopped".

B

EL DIARIO DE HOY, Lunes 29 de Diciembre de 1980.

Confianza

Viene de la página 9. hecho creer que nosotros luchamos contra todo un pueblo, cosa que ustedes los salvadoreños saben que no es cierto, por cuando la gran mayoría de este pueblo salvadoreño, Digamos que sentimos al contrario que lo que se en verdad, una idolorosa dice lo que quieren es la compasión por aquellos paz y tranquilidad por salvadoreños que engaña esos es que nosotros, luchamos o creyendo en hacer el bien al lado de un pueblo bien se encuentran en este que angustia y justicia momento empujados en Se ha explotado la una línea irreflexiva de guerra exterior que se plio lo sentimos y el día que se atreva a decir que se

están en un lamentable error. Si bien es cierto que ac tuan creyendo estar en lo correcto, es oportuno ma nifestarles también a esa gente que achica en esa forma, en este mensaje de la Fuerza Armada, que re capaciten, que piensen, que se orientan, y que des cubran la verdad, porque quizá un impulso de juven tud o quizá un impulso lle gado por un sentimiento de un interés plenamente de terminado, les haya lle vado a esa situación lamentable de luchar y de permitir que la sangre se riegue en nuestra querida Patria.

"Sabemos que son vícti mas de una pasión, y sabe mos que son víctimas de un engaño, pero creemos que todavía es tiempo de encontrar el verdadero ca mino. Nosotros, como ins tituciones armadas, actuamos en forma tal que nos permite el concepto de la defensa, es decir, lucha mos por una causa que constitucionalmente y que por espíritu de defensa también tenemos que so portar, pero declinamos que nos duela luchar contra hermanos."

UNIDAD Nos acompañan dile

Creo que la Navidad es un tiempo propio para pensar en la paz, concepto que la mayoría de los salvadoreños deseamos. Ha pasado ya mucho tiempo de sufrimiento para este pueblo, mucha sangre y mucho dolor, por lo que consideramos, de que es necesario hacer un sacrificio máximo para lograr la paz y la tranquilidad en El Salvador. Hay un concepto constitucionalmente y que por espíritu de defensa también tenemos que so portar, pero declinamos que nos duela luchar contra hermanos."

UNIDAD Nos acompañan dile que, estos campesinos están

nza en Fuerza la Pide Ministro

bras que mencione al principio de uno de los hombres más sabios y virtuosos que han florecido en la humanidad, han venido a mi memoria para dirigirme a ustedes en este tiempo de Navidad, y para hacerles llegar un mensaje de la institución armada que constituye en sí un mensaje de optimismo y de esperanza. Al hacerlo en mi carácter de Ministro de Defensa, bajo el peso de una de las responsabilidades más difíciles que ustedes se puedan imaginar, lo hago con la íntima convicción de que estamos procediendo con la certeza de estar en lo justo. Sentimos y cumplimos el sagrado deber de estar hombro a hombro con el

campesino, con el obrero, con el estudiante, con el ministro religioso, con el maestro, con el intelectual, en fin con todo el que constituye el ser vivo de este país, El Salvador. Y a todos les decimos en este momento de angustia, de peligro, de dolor, que tengamos confianza en nosotros porque dentro de ese dolor y de esa angustia, se está forjando en El Salvador un nuevo tiempo, un nuevo sistema y forma de vivir. Le pedimos a Dios nos conceda el don extraordinario de mantenernos a la altura de las circunstan-

cia pedimos a Dios la gracia también de proceder siempre con rectitud. Le pedimos a Dios que nos oriente en ese camino tortuoso, lleno de obstáculos enmarcados principalmente en el error por alcanzar el objetivo aceptable por la mayoría de los salvadoreños, y le pedimos también a Dios la fuerza necesaria para que no disminuya nunca nuestro valor en nuestro proceder. Fe en la Fuerza Armada. Salvadoreños: quien creyera que los hombres de uniforme nos encontramos empujados en venganzas, en buscar culpabilidades y vengar la sangre derramada por otra sangre, están completamente equivocados. Favor pase a la página 34.



(CONFIANZA EN FUERZA ARMADA PIDE MINISTRO)
(El Diario de Hoy, Lunes 29 de Diciembre de 1980)

SECRETARY OF DEFENSE ASKS FOR TRUST FOR THE ARMED FORCES

Trust in the Armed Forces, able to guarantee peace and serenity for all Salvadorans, was the request that the Secretary of Defense, Colonel Jose Guillermo Garcia, gave to the country, when he broadcasted his message through the radio and television.

Following is the message the Secretary of Defense gave:

"He who believes in violence does not believe in God. I believe in God's absolute unity and therefore, in the human race's unity, too". Mahatma Gandhi.

"Salvadorans: These words that I have mentioned at the beginning, coming from one of the wisest and most virtuous men that humanity has bloomed, have come to my mind to communicate to you, in this Christmas time, a message from the Armed Forces, which is a message of optimism and hope.

In doing so, in my role as Secretary of Defense, which is one of the most difficult responsibilities you could imagine, I do it with self conviction that we are proceeding with certainty that we are in the right path.

We feel and follow the sacred commitment to be shoulder to shoulder with the peasant, with the laborer, with the student, with the religious minister, with the teacher, with the intellectual, in short, with every living being that belongs to this country, El Salvador. And to all of you we say in this moment of anguish, of danger, of pain, to have trust in us because within that pain and anguish, a new age, a new system and a new way of life is being built.

We ask God to give us an extraordinary gift to keep up to the circumstances. We also ask God the grace to proceed always with righteousness. We ask God to direct us in this difficult road, full of obstacles and we also ask God for enough strength so that our courage never diminishes.

Trust in the Armed Forces. Salvadorans: Those who believe that the men in uniform are looking for revenge and for the guilty ones for whom blood has been shed, are as completely wrong as those who want to proceed that way.

We truly feel a painful compassion for those Salvadorans who have been deceived and who by believing that they are doing the right stuff, they find themselves in a brotherly fight...I repeat, we truly feel sorry for them and we think they are in a regrettable mistake.

It is true that they must feel that they are doing the right stuff but this is an opportunity to tell these people acting in this manner, through this message from the Armed Forces, to

meditate, to think and to get good orientation to be able to find the truth, because maybe due to their youth or maybe because of a reaction towards a predetermined interest, they have come to this sad situation of fighting and allowing blood to be shed all around our dear land.

We know that they are victims of a passionate feeling and we know that they are victims of a lie; but we believe that there is still time to find the true way. We, as an "armed" institution, act in a way that, according to the concept of "defense", allows us to, which means that our fight is for a cause that by constitution and by our spirit of defense we have to deal with but it hurts us when we fight against our brothers.

UNITY

Present here with us are different branches of the Armed Forces as proof of our unity. As I mentioned it at the beginning, with Gandhi's words. This concept of unity means a lot to us because, while fighting with patriotism and sacrifice, we fight with reasoning and not by mere compliance.

Internationally, big accusations have been made towards the Armed Forces pointing out that we don't want peace. However, contrary to what is being said, the majority of the Salvadoran people really wish peace and serenity and that's why we are fighting next to a country that loves justice.

Also internationally, there's been statements concerning the concept of Human Rights but, unfortunately, when we have a chance to analyze those situations we consider an overwhelming partiality when the analysis on Human Rights is done, we are in first place and we are obligated to respect the sacred Human Rights concept but ask the same from everybody, which means, when analyzing, this analysis has to be done for all as equals, no distinctions, no preferences but, I repeat, equally for every one.

D.H.
B

TIME FOR PEACE

Christmas time, together with the natural happiness it brings, also takes us to a feeling of prayer. Prayer at its deepest helps many, and all Salvadorans must pray and ask God for our country, ask God to guide us. This is the Armed Forces wish for all on this Christmas (1980).

WHY THE ARMED FORCES IS FIGHTING

The Armed Forces of El Salvador is fighting but it is fighting for democracy; this is what inspired the movement of October 15, 1979, and that's why we fight with sacrifice, risking it all, but it doesn't matter, because we have the clear concept of a noble cause, of a goal and that's why we are fighting.

We also want to take this opportunity through this message to tell all the members of our Armed Forces that during this critical moment in which we are living, to make wise use of their authority, at which ever level of hierarchy that they have.

A feeling of trust for our dear Salvadoran people because he who wears a uniform and makes bad use of his authority is against the sacred feelings of an entire country, and that's why we believe that everybody: People, Government and Armed Forces, together we can find that goal of peace which everyone is wishing for at this moment.

To finish this short and simple message, I want to repeat the words that many now hear and that now, more than ever, all Salvadoran must feel in our guts as true Salvadorans, this which has been repeated through centuries: 'Glory to God in the Highest and peace to his people of good will on Earth'.

I finish this message repeating Mahatma Ghandi's words: 'He who believes in violence does not believe in God. I believe in God's absolute unity and therefore, in the human race's unity, too'."

C



SOLUCIONES POLITICAS Y NO VIOLENCIA

—Foto de LA PRENSA, por Aldana.

Que los grupos extremistas buscan el poder por los medios violentos, mientras la Fuerza Armada trata de buscar soluciones políticas a la problemática nacional, dijo ayer el coronel José Guillermo García, ministro de Defensa (centro),

quien presentó al nuevo subsecretario coronel Francisco Adolfo Castillo y al nuevo jefe de Estado Mayor, coronel Rafael Flores Lima (derecha).

D

THE ARMED FORCES PROCLAMATION ("PROCLAMA DE LA FUERZA ARMADA")

The following proclamation was made public at two (2) o'clock in the morning, at the San Carlos Barracks.:

A. the Armed Forces of El Salvador is completely conscious of its sacred obligations towards the Salvadorean people and share with them the same feeling against a government that:

1. Has violated the Human Rights of the mass.
2. Has supported and endured the Public Administration's and Justice's corruption.
3. Has created a true economic and social disaster.
4. Has deeply discredited the country and the noble army institution.

B. The Armed Forces is convinced that the problems mentioned above are the outcome of old-fashioned economic, social and political structures which have prevailed by tradition in the country and which do not offer the minimum standards in order to evolve as human beings, to the majority of people. On the other hand, the corruption and lack of competence of the regime has created untrustfulness within the private sector. As a result, millions of "colones" (Salvadorean money) have gone out of the country and the economic crisis, which affects all popular sectors, has become worse.

C. The Army is aware that the present governments, which have been the outcome of shameful electoral frauds, have adopted inadequate programs of growth. Within these programs, the smallest structural changes had been halted by the economic and political parties of conservative sectors which have always defended their ancestral privileges as a dominant social class. They have also put at risk the conscious capitalist who has a social projection for the country and who has shown his interest in a fair economic growth for the country.

D. It (The Army) is convinced that the above conditions are the fundamental reasons for the economic and social chaos and the violence that is happening at the present, which can only be overcome with the arrival of a government that guarantees the existence of an authentic democratic regime.

Therefore, the Armed Forces, whose members have always been well identified with the people, has decided, based on the Insurrection Right that all the countries have when their government deviated from the adherence of the law, to remove the government of General Carlos Humberto Romero and immediately implement a Revolutionary Board of government, made up in its majority of civilian elements with absolute honesty and competence without a doubt. Such government will assume the power of the state, with the purpose of creating conditions so our people (all Salvadoreans) could live in peace and in accordance to human dignity.

While the conditions needed to carry out authentic and free elections are being established, in which the people could decide their own future, it is essential, due to the chaotic social and political situation that the country is living in, to adopt an emergency program which includes urgent measures directed to create a climate of tranquility and to establish the foundation for the profound transformation of the economic, social and political structures of the country.

The steps for this emergency program are as follows:

I. TO CEASE THE VIOLENCE AND CORRUPTION

- A. To make effective the dissolution of ORDEN and to combat all extremist organizations known to violate the Human Rights.
- B. To erradicate the corrupt practices of the public administration and judicial entities.

II TO GUARANTEE THE PRACTICE OF HUMAN RIGHTS

- A. To create the favourable climate to carry out free elections within a reasonable time frame.
- B. To allow the creation of parties with various ideologies in order to strengthen the democratic system.
- C. To grant general amnesty to all political prisoners and exiles.
- D. To respect and acknowledge the right to create labor unions.
- E. To estimulate the freedom of expression according to ethical norms.

III. TO ADOPT REFORMS THAT CONVEY TO THE EQUITABLE DISTRIBUTION OF THE NATIONAL WEALTH, INCREASING AT THE SAME TIME, IN AN ACCELERATED FASHION, THE P.T.B. (GROSS TERRITORIAL PRODUCT).

- A. To create solid foundations to initiate an Agrarian Reform process.
- B. To provide more economical opportunities for the people by creating reforms to the financial sector, the tax laws and foreign trade.
- C. To adopt protective measures for the consumer to fight the effects of inflation.
- D. To implement special development programs in order to increase the national production and to create additional employment.
- E. To recognize and guarantee the right of housing, nourishment, education and health to all citizens.
- F. To guarantee the private property as a public benefit.

IV. TO DIRECT IN A POSITIVE WAY THE FOREIGN AFFAIRS.

- A. To establish relations with Honduras in the least amount of time.
- B. To strengthen ties with our neighbors from Nicaragua and their government.
- C. To narrow the ties with the republics of Guatemala, Costa Rica and Panama.
- D. To establish friendly relations with countries around the world that are willing to support the fight of our people and to respect our sovereignty.
- E. To guarantee the execution of the adopted international compromises.

To obtain, in an accelerated fashion, these goals that the Salvadorean people rightfully demand, the "Junta Revolucionaria de Gobierno" (The Revolutionary Board of Government) will create a cabinet integrated by honest and qualified individuals representing different sectors who would demonstrate their patriotism by the execution of such elevated functions.

At this time of genuine national emergency, it is required from all popular and private sectors to contribute to the beginning of a new era for El Salvador, framed on the principles of peace and respect to human life of all citizens.

Given in San Salvador, on the 15th day of October, 1979.

Cerrado el Paso

Las calles adyacentes al Cuartel San Carlos, conocido como Primera Brigada de Infantería, fueron bloqueadas ayer al mediodía por soldados que colocaron camiones del Ejército para no permitir el paso de vehículos y peatones. Periodistas que llegaron a ese sector, no pudieron establecer contacto con jefes que se habían alzado.

Proclama de la Fuerza Armada

A las dos de la madrugada fue dada a conocer, en el Cuartel San Carlos la siguiente Proclama:

A.— La Fuerza Armada de El Salvador, plenamente consciente de sus sagrados deberes para con el Pueblo Salvadoreño y comprometida con el clamor de todos sus habitantes contra un Gobierno que:

1º. Ha violado los Derechos Humanos del conglomerado.
2º. Ha fomentado y tolerado la corrupción en la Administración Pública y de la Justicia.
3º. Ha creado un verdadero desastre económico y social.

4º. Ha desprestigiado profundamente al país y a la noble Institución Armada.

B.— Convencida de que los problemas anteriormente mencionados, son el producto de anticuadas estructuras económicas, sociales y políticas que han prevalecido tradicionalmente en el país, las que no ofrecen para la mayoría de los habitantes las condiciones mínimas necesarias para que puedan realizarse como seres humanos. Por otra parte la corrupción y la incapacidad del régimen, ha provocado desconfianza en el sector privado, por lo que cientos de millones de personas se han fugado del país, acentuándose así la crisis económica en perjuicio de los sectores populares.

C.— Consciente de que los Gobiernos electorales, producidos a su vez de escandalosos fraudes desarrollados, en los que los tímidos cambios de estructuras planteados han sido frenados por el poder económico y político de sectores conservadores, los cuales en todo momento han defendido sus privilegios ancestrales de clases dominantes, poniendo incluso en peligro al capital consciente y de proyección social del país, el cual ha manifestado su interés en lograr un desarrollo económico justo de la población.

D.— Firmemente convencida de que las condiciones anteriores son la causa fundamental del caos económico y social y de la violencia que se está padeciendo en la actualidad, lo cual sólo puede ser superado con la llegada al Poder de un Gobierno que garantice la vigencia de un régimen auténticamente democrático.

Por tanto, la Fuerza Armada, cuyos miembros siempre han estado identificados con el pueblo, decide con base en el Derecho de Insurrección que tienen los

pueblos, cuando los gobernantes se apartan del cumplimiento de la Ley deponer al Gobierno del General Carlos Humberto Romero e integrar próximamente una Junta Revolucionaria de Gobierno compuesta, mayoritariamente por elementos civiles, cuya absoluta honestidad y competencia están fuera de toda duda, dicha Junta asumirá el Poder del Estado con el fin de crear las condiciones para que en nuestro país podamos todos los salvadoreños tener paz y vivir acorde a la dignidad del ser humano.

Mientras se establecen las condiciones necesarias para que puedan realizarse elecciones auténticamente libres, en donde el pueblo pueda decidir su futuro, se hace de imprescindible necesidad, en vista de la caótica situación política y social que vive el país, adoptar un programa de Emergencia que contenga medidas urgentes tendientes a crear un clima de tranquilidad y a establecer las bases en que se sustentará la profunda transformación de las estructuras económicas, sociales y política del país.

Los lineamientos de este Programa de Emergencia son los siguientes: I.— **CESE A LA VIOLENCIA Y CORRUPCIÓN.**

A) Haciendo efectiva la disolución de ORDEN Y combatiendo organizaciones extremistas que con sus actuaciones violen los Derechos Humanos.

B) Erradicando prácticas corruptas en la Administración Pública y de la Justicia.

II.— **GARANTIZAR LA VIGENCIA DE LOS DEBERECHOS HUMANOS.**

A) Creando el ambiente propicio para lograr elecciones verdaderamente libres dentro de un plazo razonable.

B) Permitiendo la Constitución de Partidos de todas las Ideologías, de manera que se fortalezca el sistema democrático.

C) Concediendo Amnistía General a todos los exilados y presos políticos.

D) Reconociendo y respetando el Derecho de participación de todos los sectores laborales.

E) Estimulando la libre emisión del pensamiento de acuerdo a normas éticas.

III.— **ADOPTAR MEDIDAS QUE CONDUZCAN A UNA SUSTITUCIÓN EQUITATIVA DE LA RIQUEZA NACIONAL, INCREMENTANDO AL MISMO TIEMPO, EN FORMA ACELERADA, EL PRO-**

DUCTO TERRITORIAL, BRUTO.

A) Creando bases firmes para iniciar un programa de Reforma Agraria.

B) Proporcionando mayores oportunidades económicas para la población, mediante reformas en el sector financiero, tributario y comercio exterior del país.

C) Adoptando medidas de protección al consumidor para contrarrestar los efectos de la inflación.

D) Implementando programas especiales de desarrollo que tengan por objetivo aumentar la producción nacional y crear fuentes adicionales de trabajo.

E) Reconociendo y garantizando el derecho a la vivienda, alimentación, educación y salud de todos los habitantes del país.

F) Garantizando la propiedad privada en función social.

IV.— **ENCAUSAR EN FORMA POSITIVA LA RELACIONES EXTERNAS DEL PAIS.**

A) Restableciendo relaciones con el hermano país de Honduras a la mayor brevedad posible.

B) Fortaleciendo vínculos con el hermano país de Nicaragua y su gobierno.

C) Estrechando los vínculos que nos unen con los pueblos y gobiernos de las hermanas repúblicas de Guatemala, Costa Rica y Panamá.

D) Estableciendo relaciones cordiales con todos los países del mundo que estén dispuestos a apoyar las luchas de nuestro pueblo y respetar nuestra soberanía.

E) Garantizando el cumplimiento de los compromisos internacionales adquiridos.

Para obtener el logro acelerado de estas metas que con toda justicia demanda el pueblo salvadoreño, la Junta de Gobierno Revolucionaria, integrará un gabinete formado por elementos honestos y capaces representantes de diversos sectores, quienes pondrán en juego todo su patriotismo en el desempeño de las elevadas funciones.

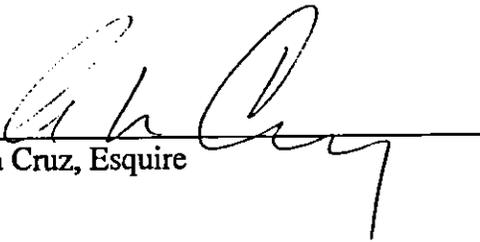
En este momento de verdadera emergencia nacional, se hace un llamado especial a los sectores populares y al capital privado con proyección social para que contribuyan a iniciar una nueva época para El Salvador, enmarcada en los principios de paz y respeto efectivo de los derechos humanos de toda la ciudadanía.

Dado en la ciudad de San Salvador, a los quince días

E

AFFIDAVIT OF TRANSLATOR

I, Alina Cruz certify that I am thoroughly familiar with both the English and Spanish language, that I am a qualified and experienced translator from each of said language and that the English translation from the attached documents written in the Spanish language are to the best of my knowledge and belief, true and accurate versions of the originals aforesaid.



Alina Cruz, Esquire

MCA

Loren G. Coy
Gina Garrett-Jackson
Senior Attorneys
Miami Office of the Chief Counsel
U.S. Immigration and Customs Enforcement
United States Department of Homeland Security
333 South Miami Avenue
Suite 200
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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
MIAMI, FLORIDA

RECEIVED
2013 JUN 25 AM 9:12
MIAMI, FLORIDA

In the Matter of:

Jose Guillermo GARCIA-MERINO

In removal proceedings

File No.

(b) (6)

Immigration Judge Michael C. Horn

Next hearing: February 25, 2013

DEPARTMENT OF HOMELAND SECURITY'S TENTH NOTICE OF FILING

EXHIBIT # 116 ✓
Marked for identification
Admitted 2/25/2013

Handwritten signature

MC19

The United States Department of Homeland Security, Immigration and Customs Enforcement ("DHS"), hereby files the following exhibits in the above-styled cause of action before the Honorable Michael C. Horn:

TABLE OF CONTENTS

TAB **PAGES**

GGGGGG. Summary of U.S. Gov't Cable, Sep. 1986.....1

Subject: General Jose Guillermo Garcia Merino

Text: In October 1979, Garcia helped plan the coup that toppled the Romero Regime and instead of seeking a seat on the junta, formed to rule the country, he chose to become minister of defense, where he gained operational control of the armed forces and became, in effect, the power behind the throne and was free to pursue his foremost goal – preserving the cohesion of the armed forces.

[h]e tolerated the continued existence of death squads and, in January 1981 reneged on promises to limit them He [likewise?] allowed footdragging and coverups in the military during the investigation of the assassination of four American nuns.

(this is a resubmission of DHS NOF 4 (Court Exhibit 7) Tab TTTT requested by the Court due to legibility issues with the earlier submission)

HHHHHH. Summary of U.S. Gov't Cable, April 7, 19834

Subject: President's Telephone Call to Magana

Summary: President Reagan telephoned President Magana April 5 and requested support in obtaining significant movement on issues of concern to the USG. The President summarized the points of concern to the USG which included, among others: the amnesty must be approved and a significant number of political prisoners released; Lopez-Sibrian must be arrested and the prosecution of his case must begin; the ICRC [International Committee of the Red Cross] should have the right to make unannounced visits to all prisoners and detention centers; the churchwomen's case must go to trial without further legal

delay; the Kline's murderers must be charged and prosecuted; the perpetrators of Las Hojas killings must be detained and charged, and those responsible for killing Florida Cooperative peasants must be charged and tried. There needs to be evidence that those in the government who violate the law will be punished.

DHS hereby advises the Immigration Court that it may supplement the record of proceeding with additional evidence. Any amendments to this list will be submitted in accordance with the local EOIR filing guidelines.

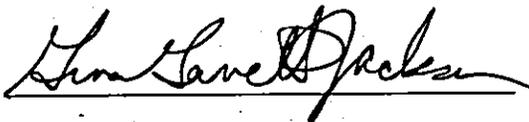
Respectfully submitted,



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PROOF OF SERVICE

On January 25, 2013, I, Gina Garrett-Jackson, Senior Attorney, sent a copy of this Notice of Filing of Department of Homeland Security and any attached pages to Alina Cruz, Esquire, attorney for the respondent at the following address: 8501 SW 124 Avenue, Suite 204B Miami, Florida 33183 by first class mail, United States Postal Service.



1-25-13
Date

GGGGGG

00210

1986/09/12

EXHIBIT # 14
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Admitted 2/25/2013
[Signature]

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PAGE 001
TOT: 121938Z SEP 86 [REDACTED]

[REDACTED]

SUBJECT: GENERAL JOSE GUILLERMO ((GARCIA)) MERINO

[REDACTED]

A. JOSE GUILLERMO ((GARCIA)) MERINO WAS BORN 25 JUNE 1933 IN SAN VICENTE, EL SALVADOR. HE WAS FROM A LOWER TO LOWER-MIDDLE CLASS FAMILY AND ATTENDED THE INSTITUTO SANTO TOMAS, A SECONDARY SCHOOL IN HIS HOME TOWN. IN 1953 HE ENTERED THE MILITARY ACADEMY, WHERE HE STUDIED LIBERAL ARTS AND MILITARY SCIENCE. WHILE IN SCHOOL, HE HAD FEW FRIENDS, ALTHOUGH HE DID DEVELOP A STRONG SENSE OF LOYALTY TO THE MILITARY. AFTER HIS GRADUATION, HE HELD MOSTLY ADMINISTRATIVE POSTS. FROM 1974 TO 1977, HE WAS PRESIDENT OF THE NATIONAL TELECOMMUNICATIONS AGENCY (ANTEL) A PRESTIGIOUS POST ALWAYS FILLED BY THE MILITARY. IN 1977, GARCIA EXPECTED TO BE DESIGNATED AS PRESIDENT; INSTEAD HIS FELLOW OFFICERS CHOSE GENERAL CARLOS ((ROMERO)) AND GARCIA BELIEVED THAT HE WAS SIDELINED BECAUSE OF HIS REPUTATION FOR HONESTY AND INTEGRITY. IN 1978, ROMERO APPOINTED HIM MILITARY COMMANDER OF SAN VICENTE, A FORM OF INTERNAL EXILE, BECAUSE OF GARCIA'S INVOLVEMENT IN A PLOT TO OVERTHROW THE PRESIDENT.

[REDACTED]

B. ON 27 FEBRUARY 1979, [REDACTED] REPORTED COLONELS ANTONIO ((GONZALEZ)) ELIZONDO, JOSE GUILLERMO GARCIA AND FORMER ARMY COLONEL JUAN ANTONIO ((MARTINEZ)) WERE INVOLVED IN A COUP PLOT AGAINST PRESIDENT ROMERO. ON 15 FEBRUARY 1979, FORMER ARMY GENERAL JOSE ALBERTO ((MEDRANO)), [REDACTED] WAS CALLED TO THE PRESIDENTIAL PALACE. MEDRANO TOLD PRESIDENT ROMERO THAT THE DEPARTMENT OF THE GOVERNMENT WOULD HAVE TO BE CHANGED, AND COULD BE ACCOMPLISHED BY REPLACING THE RANKING MINISTERS.

C. ON 5 OCTOBER 1979 PRESIDENT ROMERO INDIVIDUALLY CONTACTED COLONELS JOSE EUGENIO VIDES CASANOVA, JAIME ABDUL GUTIERREZ AND JOSE GUILLERMO GARCIA, AND PERSONALLY ACCUSED THEM OF BEING INVOLVED IN A COUP PLOT. EACH DENIED THE ACCUSATION. [REDACTED] ON 30 MAY 1979 SEVERAL MAJORS OF THE 1963 MILITARY CLASS AND VIDES, GUTIERREZ AND GARCIA HELD INFORMAL CONVERSATIONS IN WHICH THEY REACHED AN AGREEMENT TO POOL MILITARY RESOURCES IN PLANNING A POSSIBLE COUP AGAINST PRESIDENT ROMERO.

D. IN OCTOBER 1979, GARCIA HELPED PLAN THE COUP THAT 'TOPPLED' THE ROMERO REGIME AND INSTEAD OF SEEKING A SEAT ON THE JUNTA, FORMED TO RULE THE COUNTRY, HE CHOSE TO BECOME MINISTER OF DEFENSE, WHERE HE GAINED OPERATIONAL CONTROL OF THE ARMED FORCES AND BECAME, IN EFFECT, THE POWER BEHIND THE THRONE AND WAS FREE TO PURSUE HIS FOREMOST GOAL--PRESERVING THE COHESION OF THE ARMED

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Department of State

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Department of State



Department of State IS/FPC/CDR El Salvador SP Date 9/20/93
Declassified under EO 12356 (✓) in full; () in part;
portions withheld: classified (); deliberative ();
law enforcement (); privacy (), statutory ();
not relevant to El Salvador ().

PAGE 02 STATE 095106
SECRET

3. YOU SHOULD FOLLOW UP WITH MAGANA AS SOON AS POSSIBLE AND INDICATE THAT THE PRESIDENT'S CALL SHOULD DEMONSTRATE TO THE GOES THE DEEP DEGREE OF CONCERN IN WASHINGTON THAT THE USG WILL BE UNABLE TO SUSTAIN CONGRESSIONAL SUPPORT FOR EL SALVADOR PROGRAMS UNLESS THERE IS SIGNIFICANT MOVEMENT ON THOSE ISSUES THE PRESIDENT MENTIONED AND OTHERS THAT CONCERN CONGRESS.

4. YOU SHOULD POINT OUT THAT OVER THE NEXT WEEK WE EXPECT THE LONG COMMITTEE TO TAKE ACTION ON REPROGRAMMING DOLLAR 60 MILLION IN FMS FOR EL SALVADOR. WITHIN THE NEXT 30 TO 90 DAYS CONGRESS WILL ALSO ACT ON THE FY 83 SUPPLEMENTAL BILLS AND THE FY 84 SECURITY ASSISTANCE BILLS ALL OF WHICH INCLUDE VITAL RESOURCES FOR EL SALVADOR.

5. THERE SHOULD BE NO DOUBT IN ANYONE'S MIND WHAT THE ISSUES OF CONCERN ARE; THEREFORE, THE LIST FOLLOWS AND YOU SHOULD PRESENT IT TO MAGANA:

--THE AMNESTY MUST BE APPROVED BY THE CONSTITUENT ASSEMBLY AND A MEANINGFUL NUMBER OF POLITICAL PRISONERS RELEASED.

--LOPEZ SIBRIAN MUST BE ARRESTED AND PROSECUTION OF HIS CASE MUST BEGIN.

--THE ICAC SHOULD HAVE THE RIGHT TO MAKE UNANNOUNCED VISITS TO ALL PRISONERS AND DETENTION CENTERS. MUCH PROGRESS HAS ALREADY BEEN MADE IN THIS AREA, BUT MORE IS NECESSARY.

NOTES REV. 2/77
SECRET

Cal A - Caption removed; transferred to IS/FPC
Cal B - Transferred to IS/FPC with additional access controlled by C3
Cal C - Caption and custody removed; to be reproduced without the authorization of the Executive Secretary
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Date: 8/26/93

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SUBJECT: PRESIDENT'S TELEPHONE CALL TO MAGANA

1. SECRET - ENTIRE TEXT.
2. PRESIDENT MORGAN TELEPHONED TO PRESIDENT MAGANA APRIL 5 AND REQUESTED HIS SUPPORT IN OBTAINING SIGNIFICANT MOVEMENT ON ISSUES OF CONCERN TO THE USG. THE PRESIDENT SUMMARIZED POINTS OF CONCERN TO THE USG WHICH YOU HAD RAISED EARLIER WITH MAGANA. MAGANA INDICATED HE UNDERSTOOD THE PRESIDENT'S CONCERN AND WOULD REPLY BY LETTER NO LATER THAN APRIL 6, WHICH HE THOUGHT WOULD BE HELPFUL. PLEASE FIND OUT THE STATUS OF THE LETTER AND WHEN IT WILL BE TRANSMITTED.
SECRET

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OUTGOING TELEGRAM

Department of State



OUTGOING TELEGRAM

Department of State

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SECRET

PAGE 03 STATE 095106

--THE PEACE COMMISSION MUST SHOW SOME ACTION. THIS WEEK IT COULD ANNOUNCE A WORK PROGRAM FOR THE NEXT THIRTY DAYS IN WHICH IT WOULD CONTACT ALL POLITICAL ELEMENTS INSIDE AND OUTSIDE EL SALVADOR.

--THE CHURCHMOVEMENTS CASE MUST GO TO TRIAL WITHOUT FURTHER LEGAL DELAY.

--THE PEACE COMMISSION WILL HAVE TO DEMONSTRATE THAT THE GOES IS SERIOUS IN INVITING THE GUERRILLAS INTO THE ONGOING DEMOCRATIC PROCESS AND THE PRESIDENTIAL ELECTIONS. IT WILL HAVE TO MOVE DYNAMICALLY TO SHOW FORWARD MOVEMENT ON THE NEGOTIATION OF ELECTION MODALITIES. IT MUST SHOW THAT THE DOOR IS GENUINELY OPEN TO THOSE IN THE GUERRILLA LEFT WILLING TO COME IN TO THE ONGOING PROCESS.

--WE NEED TO WORK TOGETHER TO IMPLEMENT A PROGRAM OF JUDICIAL REFORM. SPECIAL ATTENTION MUST BE PAID TO PROSECUTING THOSE ACCUSED OF MURDERING US CITIZENS AND PHYSICALLY PROTECTING ALL WHO PARTICIPATE IN THE JUDICIAL SYSTEM. IN ADDITION TO THE AIFLO CASE, THE CHURCHMOVEMENTS CASE MUST MOVE INTO THE PLENARIO, AND KLINE'S MURDERERS MUST BE CHARGED AND PROSECUTED.

--ACTION MUST BE TAKEN BY THE GOVERNMENT OF EL SALVADOR TO IDENTIFY AND DEVELOP COMPETENT MILITARY LEADERS AND REINTEGRATE THE MAN EFFORT. WE ARE PREPARED TO BE HELPFUL WITH TRAINING, BUT WE URGE PRESIDENT TO FIND COMPETENT, AGGRESSIVE COMBAT COMMANDERS WHO ARE DEDICATED TO WINNING THE WAR.

--PROGRESS MUST BE SUSTAINED IN PHASE III OF THE LAND REFORM.

--THE PERPETRATORS OF THE LAS MUJAS KILLINGS MUST BE

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ETAINED AND CHARGED, AND THOSE RESPONSIBLE FOR KILLING A FLOR, DA COOPERATIVE PEASANTS MUST BE CHARGED AND RIED. THERE NEEDS TO BE EVIDENCE THAT THOSE IN THE GOVERNMENT WHO VIOLATE THE LAW WILL BE PUNISHED. SHULTZ

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EXHIBIT # 13
Marked For Identification

Admitted 12/11/2012

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MCH

Loren G. Coy
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Miami, Florida 33130

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
MIAMI, FLORIDA

_____)
In the Matter of:)
✓ Jose Guillermo GARCIA-MERINO ✓)
_____)
In removal proceedings)
_____)

File No.: (b) (6)

2012 NOV 23

Immigration Judge Michael C. Horn

Next hearing: December 10, 2012 ✓

DEPARTMENT OF HOMELAND SECURITY'S NINTH NOTICE OF FILING

EXHIBIT # 17
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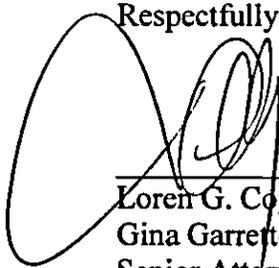
The United States Department of Homeland Security, Immigration and Customs Enforcement ("DHS"), hereby files the following exhibits in the above-styled cause of action before the Honorable Michael C. Horn:

TABLE OF CONTENTS

TAB		PAGES
FFFFFF.	Diario De Hoy, " <i>The Army Reveals the 138 Members of the FDR</i> " (March 30, 1981)	
	Diario de Hoy, " <i>The Armed Forces Refer to 138 Accused Persons</i> " (April 2, 1981)	1
	Summary: two newspaper articles and translations reporting the El Salvadoran Armed Forces publication of a list naming 138 people the armed forces consider to be "traitors."	

DHS hereby advises the Immigration Court that it may supplement the record of proceeding with additional evidence. Any amendments to this list will be submitted in accordance with the local EOIR filing guidelines.

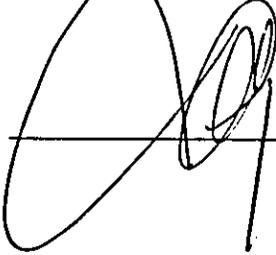
Respectfully submitted,



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PROOF OF SERVICE

On November 23, 2012, I, Loren G. Coy, Senior Attorney, sent a copy of this Notice of Filing of Department of Homeland Security and any attached pages to Alina Cruz, Esquire, attorney for the respondent at the following address: 6303 Blue Lagoon Drive, Suite 400 Miami, Florida, 33126 by first class mail, United States Postal Service.



11/23/12
Date



U.S. DEPARTMENT OF HOMELAND SECURITY
CITIZENSHIP AND IMMIGRATION SERVICES
LANGUAGE SERVICES SECTION
26 Federal Plaza, Rm. 506
New York, NY 10278
Tel: (212) 264-6831

CERTIFICATE OF TRANSLATION

I, Masha Kuznetsov, certify that I am competent to
(NAME OF TRANSLATOR)
translate this document and that the translation is true and accurate to the best of
my abilities.

Masha Kuznetsov
(SIGNATURE OF TRANSLATOR)

11/13/12
(DATE)

Translation Number: T# 205079

A Number (if any): (b) (6)

The attached SUMMARY / FULL translation from the Spanish
language was made by the undersigned.

Masha Kuznetsov
(SIGNATURE OF TRANSLATOR)

11/13/12
(DATE)

The Army Reveals the 138 Members of the FDR

We have received a communication from the Armed Forces Press Committee, COPREFA, containing a list of 138 people classified as "terrorist members of the FDR and the FMLN", which says, in part:

"The Armed Forces of Salvador, in accordance with its constitutional duty to maintain public order, and understanding that the Salvadorian citizens wish to be informed regarding who is responsible for the terrorist activities, wishes to let the present and future generations of society know that the criminal bandits and terrorists belonging to the "Democratic Revolutionary Front" (FDR) and the Farabundo Marti Front for National Liberation" (FMLN) have used deceitful communist tactics, appearing to present themselves before the national and international public opinion as two different entities, have put the Marxist-Leninist tactic of uniting in order to massacre the Salvadorian people, starting at 17:30 hours on January 10th of the current year.

"The Salvadorian people have the right to know the leaders of the "political struggle" as it has been called by those who are complying with the slogans and guidelines given in Havana, when the Latin American Solidarity Organization (OLAS) was formed, between July 10th and August 31st of 1967 are: Shafick Jorge Handall, Domingo Santacruz Castro, Américo Mauro Araujo, Neftali Ordóñez, Jorge Federico Baires, José Domingo Mira, Renán Rodas Lazo and Jorge Arias Gómez, who received the order to "initiate the political struggle" which is really an armed battle by means of strikes, kidnapping, armed propaganda, acts of sabotage of every kind in government and tourist establishments, etc.

"This tragic task was entrusted to terrorist groups called "popular organizations" such as FAPU, BPR, LP-28, MLP, ANDES 21 DE JUNIO, MERS, AEME, UDNA, MNR, AGEUS, AERU, FUERSA, FUR-30, FENASTRAS, CUTS, MRC, UPT, UTC, FECCAS, UR-19 DE JULIO".

"[To] the Salvadorian people: Those responsible for the terrorism in El Salvador and the discrediting of our Fatherland in the international community are the following traitors:

"Shafick Jorge Handall, Salvador Cayetano Carpio Cerros (a) Marcial, Mélida Anaya Montes (a) Ana María, Joaquín Villalobos Huevo, Jorge Meléndez, Leoncio Pichinte, Eduardo Sancho Castañeda (a) Fermán Cienfuegos, José Alberto Ramos (a) Alejandro Lara, Mario Orlando Aguiñada Carranza, Miguel Martínez, Jesús Saravia, Valentín Saúl Villalta, Doroteo Gómez Arias, José Alberto Henríquez Villacorta (Guatemalan), Sonia Medina Arriola, Santos Lino Ramírez Menjivar, Rodolfo Mariano Jiménez Vega, Blandino Nerio, Francisco Emilio Mena Sandoval, Berta Ramírez Galán, José Napoleón Rodríguez Ruiz, Guillermo Manuel Ungo Revelo, Marianela García Villas, Roberto Roca, Héctor Bernabé Recinos, Norma Guevara, Marisol Galindo, Oscar Edmundo Bonilla, Fabio Castillo Figueroa, José Mario López Alvarenga, Farid Abdala Handall, José Antonio López Canales (Tirso), José Eduardo Calles, Juan José Martell, Manuel Quintanilla, Carlos Gómez, Marco A. Portillo, Román Mayorga Quiroz, Francisco Díaz, Mauricio Silva A., Rafael Alfonso Menjivar Larin, Rubén Ignacio Zamora Rivas, Ernesto Ramirez Guatemala, Rafael Guidos Véjar, César Martí, Héctor Oquell Colíndres,

(b) (6)

Salvador Arias Peñate, José Rutillo Sánchez González, Miguel Ventura, Higinio Alas, Inocencio Alas, Fabián Amaya Torres, Luis Buitrago, Victor Manuel Valle Monterrosa, Héctor Silva Argüello, Francisco Paniagua, Héctor Dada Hirezl. Alberto Arene, Eduardo Colindres, Ricardo Salvador Samayoa Leiva, Julio Enrique Flores, Gabriel Gallegos Valdés, Benito de Jesús Toyar Serrano, Carlos Argueta, Luis Diaz, Jesús Delgado, Plácido Erdozain Beroiz (Spanish), Oscar Abarca, Tránsito Alfredo Monge, Fernando Rivas, Camilo Rivera, Fabio Castillo, Jorge Ruiz, Valentín Martínez, Mario Vásquez, Roberto Cuéllar, Boris Martínez, Luis Alonso Posada, Fernando Augusto Méndez, Roberto Lara Velado, Iván Orlando Escobar, Armando Paz, Jacobo Salazar, Ernesto Flores; Alfredo Castro Quezada, Facundo Guardado Guardado, Reynaldo Cruz Menjivar, Carlos Guillermo Argueta, José Pérez Cañénguez, Carlos Gómez, Marcelo Cruz Cruz, Ricardo Bruno Navarrete, Alejandro Fiallos, Adino Vladimir Cruz, Ignacio Ellacuria Beascaecha (Spanish), Luis de Sebastián (Spanish), Miguel Ángel Sáenz Varela, José Omar González, Julio César Castro Belloso, Raúl Edmundo Monzón Brito, Melitón Barba, Mario Flores Macall, Carlos Gallardo Aceituno, Luis Felipe Cativo Burgos, Rodrigo Antonio Velásquez Camero, Mario Salazar Valiente, Augusto Aristides Larín, Victor Manuel Guirola, Mariano González Medrano, Carlos Marin (a) Carlos Cuchilla, José Roberto Cea, Tomás Guerra Rivas, José Domingo Mira Oliva, Jorge Armando Albanez, José Inocente Guerrero, Miguel Celma Villalobos, Jorge Alberto López Flores, Marcelo Orestes Posada, Oscar Gilberto Martínez Carranza, Manuel Atillo Hasbún, Raúl Padilla Vele, Roberto Castellanos Calvo, José Manilo Argueta, Eduardo Campos Reales, Gustavo Pineda Marchelli, Rafael Menjivar Choto, José Napoleón González, Miguel Ángel Flores Macall, Danilo Antonio Velado Samayoa, Rosa Tula Alvarenga (Cayetano's lover), Roberto Armijo Navarrete, Clara Luz Lechuga de Padilla Vela, Pedro Antonio Mancía Cerritos, Antonio Augusto Magaña Sansivirini, Juan Antonio Díaz Zelaya, Francisco Ovidio Villafuerte Alvarado, Leonel Gómez Vides and Renée Quezada (woman).

“The terrorists of ‘FDR’ and ‘FMLN’, by complying with the strategy of the ‘popular’ prolonged war, imposed by Moscow, have destroyed bridges, agricultural work centers, industrial, commercial and bank buildings, electric, drinking water and phone systems, and they have also alienated the mentality of our young people and children with the help of Sandinista, Cuban and other foreign mercenaries who, with their criminal conduct, have caused misery, unemployment and anxiety to the Salvadorian people in general.

“Because of this, the Armed Forces, in compliance with its constitutional mission to defend the Salvadorian people, is incessantly pursuing all the traitors to the Fatherland, so that they are held responsible for the extensive damage done to our Fatherland.”

(b) (6)

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FFFFFF

Siguen Combates en Cerro Guazapa y Otros Sitios

SAN SALVADOR. marzo 28 (UPI).— Las tropas del Gobierno han sacado a las guerrillas izquierdistas de su cuartel general en las faldas de un volcán al norte de la capital, dijeron hoy autoridades militares.

Los militares dijeron que los soldados han capturado cuatro campamentos guerrilleros, uno con un hospital clandestino, en las faldas del volcán

Guazapa, a unos 30 kilómetros al norte de la capital. Tropas del gobierno han lanzado una serie de operaciones de búsqueda y destrucción en la región del Guazapa, pero los izquierdistas han cludido en general a los militares. No se dieron listas de bajas en esa región.

Por lo menos 20 crímenes políticos se informó hoy, incluso nueve muertos la noche del sábado en

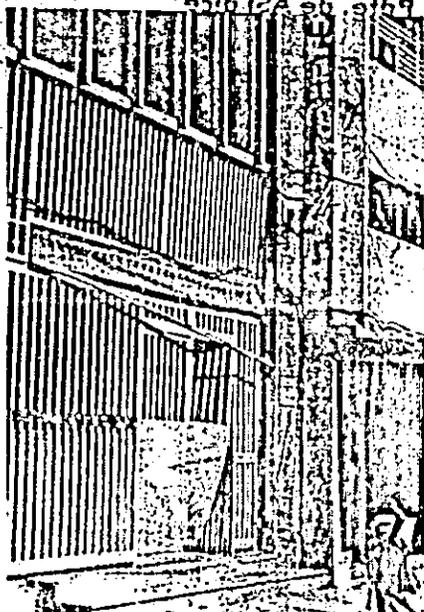
San Salvador. Tres personas fueron muertas en Santa Ana, la segunda ciudad del país, dijeron autoridades locales.

SAN SALVADOR. marzo 28 (ACN/FE).— Grupos guerrilleros han incursionado nuevamente en el norte de El Salvador, cuando sólo hace una semana el ejército finalizó operativos militares en las provincias noroccidentales de este país centroamericano.

Declaraciones de habitantes y de fuentes oficiales dan a conocer que en las últimas horas dos patrulleros resultaron muertos en la población de Las Vueltas, en el departamento de Chalatenango, 80 kilómetros al norte de San Salvador.

En la provincia de Cabañas, al noreste de la capital, un fuerte enfrentamiento tuvo lugar en la población de Cinquera, aunque por el momento no se ha determinado el número de bajas.

En villa Dolores, también en la provincia de Cabañas, supuestos



EL DIARIO DE HOY, Lunes 30 de Marzo de 1981.

Encuentran Cadáveres de Hermanos en Ahuachapán

AHUACHAPAN.— Con perforaciones de bala fueron encontrados en distintos lugares de esta ciudad los cadáveres de los hermanos Víctor Manuel, de 28 años; Marciano, de 38; Silverio, de 49 y José Luis, todos de apellido Godínez.

La noche del jueves 26 sujetos encapuchados sacaron de sus casas a los cuatro hermanos, lo mismo que al señor Marciano Cabezas Pérez.

Cuatro de los cinco fueron encontrados en las afueras de la población El Refugio, de este departamento y José Luis en el

cantón El Tigre. Los hermanos residían en colonia La Gloria y Pérez en el cantón El Tigre. Hasta el momento se ignoran los motivos del asesinato, según se dijo.

CONSTRUIRAN PARQUE INFANTIL Y CONCHA

AHUACHAPAN.— La Municipalidad de esta ciudad, con DIDECO y la Comunidad tienen en proyecto la construcción de un Parque Infantil con pista de patinaje y una concha acústica para los

—Favor pase a la página 15.

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En la provincia de Cabañas, al noreste de la capital, un fuerte enfrentamiento tuvo lugar en la población de Cinquera, aunque por el momento no se ha determinado el número de bajas.

En villa Dolores, también en la provincia de Cabañas, supuestos

izquierdistas atacaron a balazos un vehículo particular, en el que dos mujeres resultaron muertas y un hombre, el conductor, herido.

Se indicó que en el cantón Santa Marta, jurisdicción de Villa Victoria, cerca de la frontera con Honduras, los guerrilleros controlan los alrededores de la población y emboscaron a una patrulla de soldados de la que ocho resultaron muertos y algunos de los que lograron escapar regresaron al campamento militar como heridos.

Hace tan sólo una semana finalizó un operativo militar que el ejército realizó en los departamentos de Chalatenango y Cabañas, al norte de la capital, ante el conocimiento de que varios campamentos guerrilleros habían sido ubicados en dicha zona del país.

Mañana Juzgan a un Acusado de Homicidio

Para mañana está señalada en el Juzgado de Primera Instancia de Jucuaipa la vista pública contra el reo ausente Ricardo Araujo, procesado por homicidio en el escolar Hector Luis Alfaro, de 16 años.

Los hechos se produjeron en una de las esquinas del barrio El Calvario de Jucuaipa, cuando se encontraban reunidos varios jóvenes, entre ellos el ahora oculto, al parecer oyendo música grabada en "cassettes". Un testigo dijo que primero llegó Araujo al grupo a pedirles prestado un colón y como a los diez minutos, cuando salió de la casa de sus suegros, al

guien de los muchachos reunidos le gritó: "¡Ricardo peludo!", por lo cual el imputado sacó una arma de fuego y le disparó directamente a Hector Luis, quien cayó sin vida.

Tal declaración —al igual que otras de testigos de vista que aparecen en el juicio— la hizo Rodolfo Antonio Jiménez, Barrios, nieto del abogado Rodolfo Jiménez, Barrios, ampliamente conocido en los círculos judiciales del país.

Los padres de Alfaro, don Manuel Alfaro y doña Berta Colato de Alfaro, al conocer que mañana será el jurado por la muerte de

—Favor pase a la página 15.



PIDE JUSTICIA.— Doña Berta Colato de Alfaro, madre de Hector Luis Alfaro Colato, pide que se haga justicia mañana por la muerte de su hijo, "diciendo una veredicto de condena contra el imputado". El jurado será en Jucuaipa.



EMPRESARIO MUERTO (Cajutepeque).— Francisco Joaquín López Cortés, de 36 años, empresario de buses, fue muerto a balazos en el distrito de Santa Cruz Michapa.

Procuraduría Logra Libertad de 31 Reos

Treinta y un reos acusados por diferentes delitos en los tribunales capitales han logrado su libertad mediante la intervención directa de la Procuraduría General de Pobres, a través de su recientemente creada Sección de Detención Penal.

En los seis primeros meses de funcionamiento de dicha sección, se ha logrado la libertad del número de reos mencionados, procesados por delitos comunes y la misma oficina trabaja en unos 150 casos más, cuyos familiares de los imputados han solicitado la asesoría legal de dicha sección. También están trabajando por lograr la libertad de otra cantidad similar de reos que ya reunieron los requisitos para obtener su libertad condicional.

La Procuraduría General de Pobres ha destacado en cada uno de los tribunales de la comprensión jurisdiccional de San Salvador y Nueva San Salvador, un defensor que vela por los intereses de los imputados desde el inicio del proceso en su contra.

Los logros hasta la fecha

—Favor pase a la página 15.

BOMBA EN ECONOMIA.— Una bomba colocada en el portón principal del Ministerio de Economía, el sábado en horas de la noche, destruyó la entrada principal, vidrieras y muertura de oficina del edificio, así como también ventanales de los negocios cercanos al lugar.

Ejército Da a Conocer 138 Miembros del FUR

Del Comité de Prensa de la Fuerza Armada, CO-PREFA, recibimos un comunicado en el que se da a conocer una lista de 138 personas calificadas como "terroristas miembros del FDI y del FMLN", que dice en parte:

"La Fuerza Armada de El Salvador, en cumplimiento a su deber constitucional de mantener el orden público, y comprometida que la ciudadanía salvadoreña desea informarse de quienes son los responsables de los actividades terroristas; por este medio quiere dejar constancia ante la sociedad presente y futura generaciones que los diferentes bandos y terroristas pertenecientes al "Frente Democrático Revolucionario" (FDR) y al Frente Farabundo Martí para la Liberación Nacional" (FMLN), han hecho uso de la táctica de ataque de los comunistas pretendiendo presentarse ante la opinión pública nacional e internacional como dos entes diferentes, han puesto en práctica la táctica marxista leninista de la alianza para masacrar al pueblo salvadoreño, a partir de las 17:30 horas del 10 de enero del año en curso.

"El pueblo salvadoreño tiene derecho a conocer que es el resultado de la "lucha política" como lo han dado por llamar los que cambian las consignas pertenecientes al "Frente

—Favor pase a la página 28.



HAY AUMENTO DE DIESEL.— Miembros de FENACITES y AEAS, que el sábado se reunieron en el local de FENAPES, aseguraron a los periodistas que "el aceite diesel también aumentó de valor, a cuatro colones veinticinco centavos el galón". De izquierda a derecha los directivos: José Antonio Moreta, Luis Gilberto Pineda, Luis Mendoza, de FENAPES; Ricardo Egulzabal y Alfonso Valiente, ante la concurrencia de empresarios de buses y taxis. Hacen peticiones al Gobierno.

En San Nicolás Lempa Un Muerto y 2 Lesionados Al Estallarles Granada

SAN NICOLAS LEMPA.— Un campesino muerto y dos personas seriamente lesionadas resultaron al explotarles un artefacto que encontraron abandonado a la orilla de la Lloral en esta población.

Según datos oficiales, el sábado a las once de la mañana caminaba el campesino Hilario Melgar, junto con su hijo Israel y su amigo José Teófilo Trinidad, con rumbo a una parada de buses, cuando de pronto, encontraron dentro de un huacal pequeño un artefacto que estaba con una fuerte explosión, resultando amputado de su brazo y pierna derechos, mientras que sus acompañantes quedaban tendidos en el suelo con heridas de gravedad.

De inmediato, los vecinos corrieron a auxiliarlos, trasladándolos en vehículos particulares al hospital "Santa Teresa" de Zacatecoluca, donde dos horas después falleció Hilario y quedaban ingresadas en cuidados intensivos las otras dos víctimas.

Se ignora el origen de ese artefacto y de quienes fueron los que lo colocaron.

MUERE UN SACRISTAN

SANTIAGO MORANALCO.— Con señales de ahorcamiento, fue encontrado el sábado por la mañana el cadáver del sacristán de la iglesia parroquial en esta ciudad, señor Lucio Hernández, de 39

—Favor pase a la página 28.

Ejército de Liberación

o lineamientos acordados en La Habana, cuando se constituyó la Organización Latinoamericana de Solidaridad (OLAS), entre el 19 de julio y el 31 de agosto de 1967, son: Shafick Jorge Handall, Domingo Santacruz Castro, Américo Mauro Araujo, Néstor Ordóñez, Jorge Federico Baires, José Domingo Mira, Renán Rodas Lazo y Jorge Arias Gómez, quienes recibieron la orden de iniciar la "lucha política" que en realidad es la lucha armada a través de huelgas, secuestros, asesinatos, propaganda armada, actos de sabotaje en toda forma en instalaciones gubernamentales, turísticas, etc.

"Esta trágica tarea fue encomendada a grupos terroristas denominados "organizaciones populares" como el FAPU, BPR, LP-24, MLP, ANDES 21 DE JUNIO, ARDES, MERS, AEME, UDNA, ENR, AGEUS, AERU, FUERSA, FUR-30, FENASTRAS, CUTS, MIC, UPT, UTC, FECCAS, URIS DE JULIO".

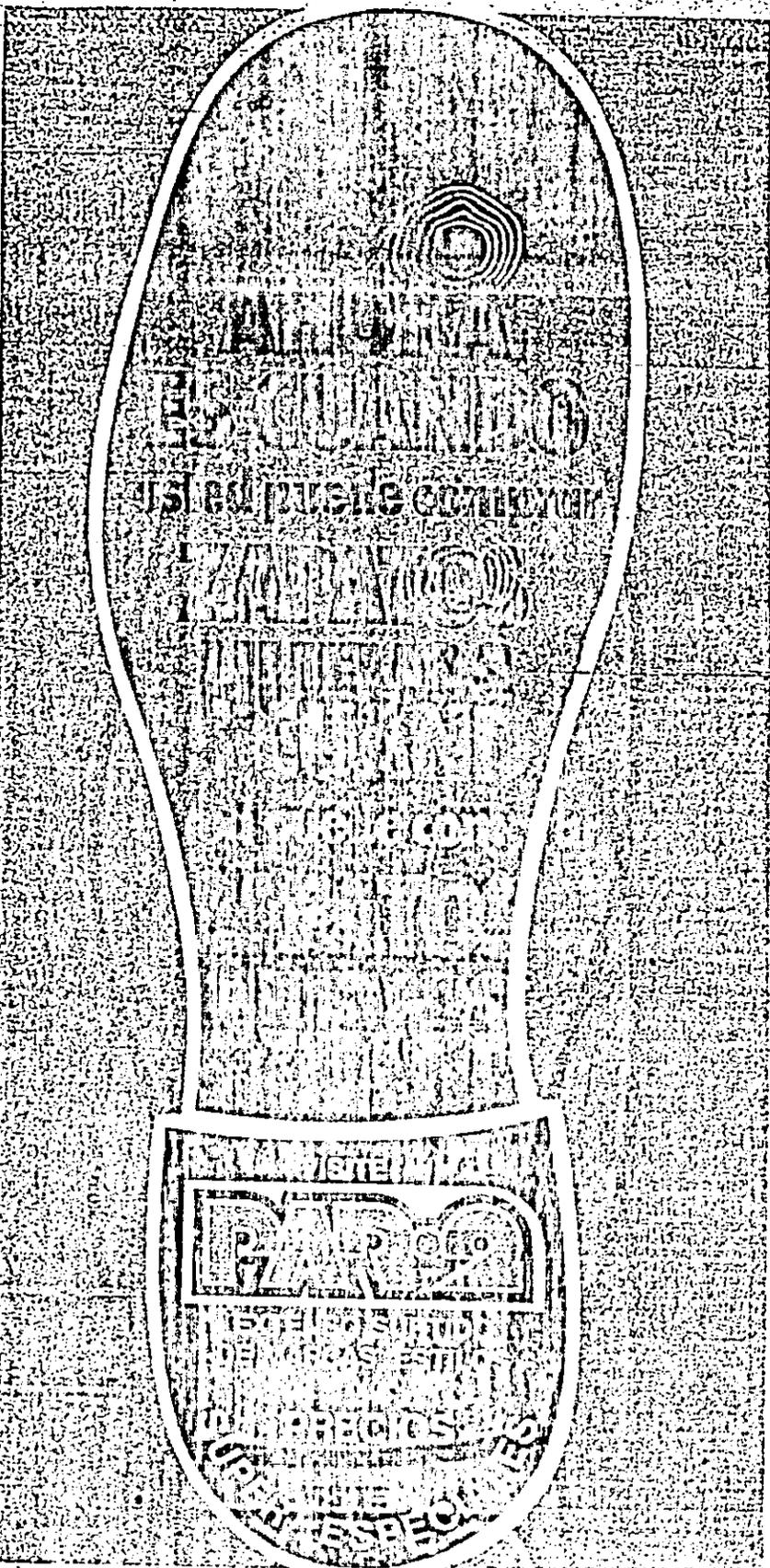
"Pueblo salvadoreño: Los responsables del terrorismo en El Salvador y el desprestigio de nuestra Patria en la comunidad internacional son los traicorres siguientes:

"Shafick Jorge Handall, Salvador Cayetano Cejudo Cerros (a) Marcial, Médica Anaya Montes (a) Ana María, Joaquín Villalobos Huelzo, Jorge Meléndez, Leoncio Pichante, Eduardo Sancho Castañeda (a) Fermán Cienfuegos, José Alberto Ramos (a) Alejandro Lara, Mario Orlando Aguilhada Carranza, Miguel Martínez, Teus Saravia, Valentín Saul Villalta, Doroteo Gómez Arias, José Alberto Henríquez Villacorta (guatemalteco), Sonia Medina Arriola, Santos Lino Ramírez Menjivar, Rodolfo Mariano Jiménez Vega, Blandino Nerio, Francisco Emilio Mena Sandoval, Berta Ramírez Galán, José Napoleón Rodríguez Ruiz, Guillermo Manuel Ungo Revuelto, Mariela García Villal, Roberto Roca, Héctor Bernabé Recinos, Norma Guevara, Marisol Gallardo, Oscar Edmundo Bonilla, Fabio Castillo Figueroa, José Mario López Alvarado, Farid Abdala Handall, José Antonio López Canales (Tirso), José Eduardo Calles, Juan José March, Manuel Quintanilla, Carlos Gómez, Marco A. Porcillo, Román Mayorga Quiroz, Francisco Díaz, Mauricio Silva A., Rafael Alfonso Menjivar Larín, Rubén Ignacio Zamora Rivas, Ernesto Ramírez Guatemala, Rafael Guldos Vejar, César Martí, Héctor Oquell Colindres, Salvador Arias Pedraza, José Rutilla Sánchez González, Miguel Ventura, Higino Alas, Inocencio Alas, Fabian Amaya Torres, Luis Buitrago, Víctor Manuel Valle Monterrosa, Héctor Silva Arguello, Francisco Panlaza, Héctor, Dada Hitzel, Alberto Arce, Eduardo Colindres, Ricardo Salvador Samayoa Leiva, Julio Enrique Flores, Gabriel Galegos Valdez, Benito de Jesús Toyar

Serrano, Carlos, Argueta, Luis Díaz, Jerón Delgado, Plácido Erazoza Herou (español), Oscar Abaza, Tránsito Alfredo Monse, Fernando Rivas, Camilo Rivera, Fabio Castillo, Jorge Ruiz, Valentín Martínez, Mario Vázquez, Roberto Cuéllar, Doris Martínez, Luis Alonso Posada, Fernando Augusto Méndez, Roberto Lara Velado, Iván Orlando Escobar, Armando Paz Jacobo Salazar, Ernesto Flores, Alfredo Castro Quezada, Pacundo Guardado Guardado, Reynaldo Cruz Menjivar, Carlos Guillermo Argueta, José Pérez Cahénguez, Carlos Gómez, Marcelo Cruz Cruz, Ricardo Bruno Navarrete, Alejandro Fiallos, Valente, Vladimir Cruz, Ignacio Elicouria Escacachea (español), Luis de Sebastián (español), Miguel Angel Sáenz Varela, José Omar González, Julio César Castro Bellaco, Raúl Edmundo Monzón Brito, Melinda Barba, Mario Flores Macall, Carlos Gallardo Aceturo, Luis Felipe Calvo Burgos, Rodrigo Antonio Velásquez Gamero, Mario Salazar Valiente, Augusto Aristides Larín, Víctor Manuel Gutiérrez, Mariano González Medrano, Carlos Martín (a) Carlos Cuchilla, José Roberto Cea, Tomás Guerra Rivas, José Domingo Mira Oliva, Jorge Armando Albanex Castro, José Inocente Guerrero, Miguel Celma Villalobos, Jorge Alberto López Flores, Marcelo Orestes Posada, Oscar Gilberto Martínez Carranza, Manuel Attilio Hasoun, Raúl Padua Veje, Roberto Castellanos Caño, José Manilla Argueta, Eduardo Campos Beales, Gustavo Pineda Marchesil, Rafael Menjivar Cholo, José Napoleón González, Miguel Angel Flores Macall, Danilo Antonio Velado Samayoa, Rosa Tula Alvarado (amasia de Cayetano), Roberto Armijo Navarrete, Clara Luz Lechusa de Paula Veja, Pedro Antonio Mancía Cerrión, Antonio Augusto Magaña Sansvirini, Juan Antonio Díaz Zelaya, Francisco Ovidio Villafuerte Alvarado, Leonel Gómez Vides y Renee Quezada (muerte).

"Los terroristas del "FDR" y del "FNLN" en cumplimiento de la estrategia guerrera "popular" prolongada impuesta por Moscú, han destruido puentes, centros de trabajo agropecuario, plantas industriales, comerciales y bancarias, instalaciones eléctricas, de agua potable y servicio telefónico; así como también han enajenado la mentalidad de nuestra juventud y niñez, con la ayuda de mercenarios sandinistas, cubanos y de otras nacionalidades, quienes con su criminal conducta han provocado miseria, desempleo y zombra a la ciudadanía salvadoreña en general.

"Por ello, la Fuerza Armada, en cumplimiento de su misión constitucional de defender al pueblo salvadoreño, persigue incesantemente a todos los traidores a la Patria, para que rindan cuentas de los grandes daños que ocasiona nuestra Patria".



The Armed Forces Refer to 138 Accused Persons

The Armed Forces Press Committee, COPREFA, issued a communication yesterday which references a list of 138 people accused of belonging to or collaborating with the Democratic Revolutionary Fund, FDR.

The Armed Forces state that if any of the people mentioned have appeared to be involved in such a situation or, on the contrary, have expressed their denial, [then his or her innocence shall be proven and will be recognized as such].

The textual communication from the Committee reads as follows: ✓

“At this moment, we are referring to the list of people who are involved in or are committed to (directly or indirectly) the activities reported in newspaper articles in our information media corresponding to Monday, March 30th of last year.

“The Armed Forces of El Salvador have put forth their eminently institutional position, its authentically democratic doctrine and, with the seriousness that dealing with delicate issues entails, are expressing the following: The names of the people involved in the activities reported have not been taken in an antagonistic manner; rather, on the contrary, it has been done based on documentation obtained from THE ORGANIZATIONS IN QUESTION, based on the personal statements made by their LEADERS or by their MEMBERS or in others, on MATERIALS SEIZED from these same organizations or simply that which is public knowledge.

“Therefore, those for whom there is evidence of being in such a situation are THE SUBVERSIVE TERRORISTS, who are categorized in different positions: such as their INTELLECTUAL LEADERS, PERPETRATORS, WORKERS OR SYMPATHIZERS.

“If any of the aforementioned people appear to [be connected] to such a situation or, on the contrary, express their denial, this is their personal [situation]; as such, the Armed Forces will recognize the people who prove their INNOCENCE to us.

“It is magnificent for the Armed Forces to do this, and it is preferable to have renounced this, being that no one can be prevented from repenting. On the contrary, anyone who makes a decision of this nature deserves the respect and recognition of society and of the Armed Forces. We know that all the conscientious citizens long for every one of the [people] responsible for the [critical] situation in which we are living to renounce their antisocial behavior or reveal their true identity to the public for the good of the Salvadorian family and fatherland.

“THE ARMED FORCES PRESS COMMITTEE”.

(b) (6)

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El Diario de Hoy

AUDITADO POR 
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San Salvador, El Salvador, Jueves 2 de Abril de 1981.

N. VIERA ALTAMIRANO-Fundador

E.U. CORTA AYUDA A NICARAGUA

(Detalles en Página 7)



"No hay Boinas Verdes

en el país ni los estamos solicitando. Lo que hay son técnicos para mantenimiento de transmisiones, de helicópteros y de guardacostas", dice el Cnel. José Guillermo García, Ministro de Defensa, centro. Le acompañan el Subsecretario Cnel. Francisco Adolfo Castillo y Cnel. Rafael Flores Lima, Jefe de Estado Mayor de la F. A. (Detalles en 3ª Página)

Más Contacto Personal

Durante una reunión ordinaria del Subsecretario de Educación, ingeniero Juan José Interiano (centro), con los directores de las diferentes dependencias, les sugirió "hacer menos uso del papel y tener más comunicación, más contacto personal entre jefes y empleados". Dijo que el papel deben usarlo estrictamente para documentar, como un respaldo legal. (Detalles en 5ª Página)

Fuerza Armada Refiere a 138 Personas Acusadas

El Comité de Prensa de la Fuerza Armada, COPREFA, emitió ayer un comunicado en el que se refiere a la lista de 138 personas acusadas de pertenecer o colaborar con el Frente Democrático Revolucionario, FDR.

Dice la Fuerza Armada que si alguna de las personas mencionadas se ha dado por aludida a tal situación o por lo contrario expresa su negación, entonces que pruebe su inocencia y como tal se le hará el reconocimiento.

El comunicado textual del Comité de Prensa, dice:

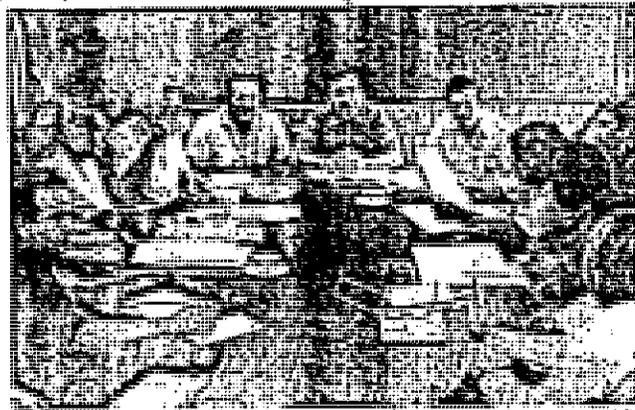
"En esta ocasión, nos referimos a la lista de personas que son involucradas o están comprometidas (directa o indirectamente) en las actividades denunciadas en notas periodísticas en nuestros medios informativos correspondientes al lunes 30 de marzo próximo pasado.

"La Fuerza Armada de El Salvador expone su condición eminentemente institucional, su doctrina

auténticamente democrática y dentro de la seriedad que le caracteriza para tratar asuntos delicados, expresa lo siguiente: Los nombres de las personas involucradas en las actividades denunciadas, no han sido tomados en forma anodada, sino que, por lo contrario, se ha hecho en base a documentación obtenida de las divulgaciones propias de las ORGANIZACIONES EN REFERENCIA, de las declaraciones personales de sus DIRIGENTES o de sus MIEMBROS y en otras de MATERIAL INCAUTADO a las mismas organizaciones o simplemente lo que es de conocimiento público.

"Por tanto, a quienes se evidencian ubicados en tal situación, SON LOS MISMOS TERRORISTAS SUBVERSIVOS quienes les catalogan en las diferentes posiciones: como sus DIRECTORES INTELECTUALES, EJECUTORES, COLABORADORES O SIMPATIZANTES.

—Favor pasar a la página 2B.



No soy Subversivo

Viene de la página 3.

probado que bajo las circunstancias imperantes en nuestro país, representan una, casi real, condena a muerte, es que me veo obligada a adoptar una postura concreta. Tomando en cuenta que aún dentro de las dictaduras más ferreas, no se condena a una persona sin antes oír y vencerla en buena lid, es que apelo a mi derecho de ciudadana, rechazando enérgicamente las acusaciones que tan injustamente se me hacen de traicionar a mi patria.

"En tal sentido, me parece necesario hacer a usted y por su medio a la Opinión Pública, las siguientes aclaraciones, motivadas no por un sentimiento de culpa, sino como un deber moral para con mi familia y para con los empleados que bajo mi responsabilidad, han depositado su confianza en mi dentro de una institución gubernamental.

"Ante usted, sinceramente, aclaro:

"1.- Que es completamente falsa la acusación hecha en contra de mi persona, en un comunicado oficial, emitido por el Comité de Prensa de la Fuerza Armada.

"2.- Que jamás he militado en organización

política alguna, ni dentro de partidos políticos de línea democrática, ni mucho menos con sectores revolucionarios y terroristas.

"3.- Que habiendo sido mi familia amenazada y retenida por un grupo de increíbles que yo me encuentro asilada a ellos y mucho menos en calidad de dirigente de los que han vejado a mi familia.

"4.- Que con el afán de demostrar mi inocencia, dejo en completa libertad tanto a los Cuerpos de Seguridad, como al Ejército mismo, para llevar a cabo las diligencias e investigaciones del caso, que conlleven a desvirtuar las acusaciones y restablecer mi nombre y el de mi familia, que han sido pisoteados al haberse me incluido en una lista de 138 personas calificadas por el Comité de Prensa de la Fuerza Armada, como "Los responsables del terrorismo en El Salvador".

"Esperando que, en base a estas sinceras declaraciones, la opinión pública pueda juzgar mi comportamiento, envío a usted la presente, agradeciendo de antemano su íntegra publicación.

"Atentamente,

"Lic. Renée Quesada,
Jefe Oficina Relaciones Públicas y Comunica-

Fuerza Armada

Viene de la página 1.

"Si algunas de las personas mencionadas se han dado por aludidas a tal situación por lo contrario expresan su negación, es su condición personal; en tal forma, la Fuerza Armada, a la persona que nos preebe la INOCENCIA le haremos su reconocimiento.

"Para la Fuerza Armada es magnífico que lo haga y haber renunciado a ello, es preferible, ya que a nadie se le puede impedir el arrepentirse. Por el contrario, quien tome una decisión de esta naturaleza, merece el respeto y reconocimiento de la sociedad y el de la Fuerza Armada. Sabemos que es anhelo de la ciudadanía conciente, que todos y cada uno de los responsables de la grave situación en que vivimos, renuncien a su conducta antisocial o aclaren ante la opinión pública su verdadera identidad para bien de la familia y Patria salvadoreña.

"COMITE DE PRENSA DE LA FUERZA ARMADA".

ciones Instituto Salvadoreño de Transformación Agraria. (ISTA). N° CIP: 1-1-163159".

Caravana do

Viene de la página 3.

para el "show" de este domingo. También les pidió que esta caravana de la farándula, efectúe presentaciones en las principales salas de espectáculos del interior del país, como Santa Ana, San Miguel, Sonsonate, Ahuachapán y otras ciudades.

"Cuando esta caravana de artistas se presentó el pasado fin de semana en el cine Iberia, en funciones en sábado y domingo, estuvo presente el gerente del Circuito de Teatros Nacionales, señor José Ayala Pacheco, y debido a que las funciones fueron un éxito por el lleno completo, sumamente impresionado, según nos dicen, personalmente se dirigió a los camerinos para felicitar a los artistas y luego les ofreció el cine Libertad.

para el "show" de este domingo. También les pidió que esta caravana de la farándula, efectúe presentaciones en las principales salas de espectáculos del interior del país, como Santa Ana, San Miguel, Sonsonate, Ahuachapán y otras ciudades.

"Nunca en los últimos tiempos, dijeron, el cine Iberia se había visto totalmente colmado de público en funciones de artistas salvadoreños, como este fin de semana, como lo pudo comprobar el gerente del Circuito. Queremos agradecerle a él y al público no sólo su presencia, sino el envío de telegramas y flores".

Informaron también los artistas que el "show" del domingo, será a las 5:30 de la tarde y comprenderá un homenaje al Mariachi Cuscatleco por sus largos 25 años de bregar por los ca-

minos artísticos y convertirse en un vivero de artistas nacionales.

Los artistas de la caravana "agradecieron" en forma espontánea y sin forma el apoyo que siempre les ha brindado EL DIARIO DE HOY que les ha permitido continuar con su superación profesional.

Dijeron además, que ahora que tiende a desaparecer el sitio llamado "La Praviána", donde los artistas criollos tenían su lugar de trabajo, ha sido oportuno el apoyo que les brinda el gerente Ayala Pacheco al permitirles efectuar presentaciones en salas de cine como el Iberia y otros más.

"Por lo mismo, finalizaron, estamos preparando funciones para Santa Ana y San Miguel, y seguramente serán un éxito".

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Loren G. Coy
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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
MIAMI, FLORIDA

In the Matter of:)
)

Jose Guillermo GARCIA-MERINO)
)

In removal proceedings)
)
_____)

File No.

(b) (6)

Immigration Judge Michael C. Horn

Next hearing: Not scheduled

DEPARTMENT OF HOMELAND SECURITY'S CLOSING ARGUMENT

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INTRODUCTION

Upon assuming the position of Minister of Defense of the El Salvadoran Armed Forces (ESAF) in 1979, General Jose Guillermo Garcia Merino (Garcia) became the most powerful person in the most powerful institution in El Salvador, in effect becoming the power behind the throne. During Garcia's tenure, a civil war broke out in 1980 between the government forces and the Farabundo Marti National Liberation Movement, (FMLN). Sadly, Garcia pursued a deliberate policy of human rights abuses during this period. The ESAF and associated paramilitary forces and death squads embarked on a systematic campaign of massacres, extrajudicial killings, and torture with total impunity. This violence was primarily directed at the civilian population, particularly the peasants in the countryside, and came from a mindset that viewed anyone who was perceived to support the opposition as a subversive. Garcia took actions that effectively gave the green light to forces under his command to engage in murder and torture. These actions included the assignment of known human rights abusers to key military commands; the institutionalization and strengthening of the death squad apparatus within the military; comments to subordinates that signaled his approval of extrajudicial killings as an acceptable strategy; his failure to investigate reports of human rights abuses and his failure to prosecute even one officer for human rights abuses during his almost four-year tenure as Minister of Defense.

As an applicant for admission, Garcia has the burden of establishing he is clearly and beyond a doubt admissible to the United States and not inadmissible for having assisted or otherwise participated in torture or extrajudicial killing. Garcia failed to meet his burden of proof; therefore, he is inadmissible as charged in the Notice to Appear.

PROCEDURAL HISTORY

Garcia is a native and citizen of El Salvador. He was admitted to the United States as a B-2 nonimmigrant visitor for pleasure on October 14, 1989. On October 1, 1991, Garcia was granted asylum and later became a lawful permanent resident of the United States. Garcia departed the United States on December 22, 2005, and remained outside the United States until July 7, 2006, a period of time in excess of 180 days. On July 7, 2006, Garcia reapplied for admission to the United States as a returning resident. Garcia was not admitted. Instead, the Department of Homeland Security (DHS or the Department) issued Garcia a Notice to Appear (NTA) charging him with inadmissibility pursuant to section 212(a)(3)(E)(iii)(I) of the Immigration and Nationality Act, as “[an] alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of any act of torture, as defined in section 2340, Title 18, United States Code.” Removal proceedings were commenced on October 2, 2009, by the filing of the NTA with this Court. Exh. 1. Later, on June 23, 2010, the Department filed a Form I-261 additionally charging Garcia with inadmissibility under § 212(a)(3)(E)(iii)(II) of the Act as “[an] alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note).” Exh. 1A.

At the initial master calendar hearing on March 18, 2010, attorney Alina Cruz entered her appearance on Garcia’s behalf and admitted allegations 1-3 and 9-11 of the NTA. She denied the remaining factual allegations and the inadmissibility charge. At a subsequent master calendar hearing on April 22, 2010, Garcia, through counsel, admitted

allegations 6, 7, and 8 of the NTA. On May 24, 2010, Garcia filed a Motion to Terminate Proceedings. The Department filed its response on June 23, 2010, along with its Form I-261 adding the extrajudicial killing (EJK) ground of removal. On November 9, 2010, this Court issued its Order denying Garcia's Motion to Terminate Proceedings.

The merits hearing on the charges of inadmissibility commenced on December 10, 2012 and continued through December 14. At the commencement of the merits hearing, this Court addressed the Department's I-261 with Garcia. At that time, Garcia denied the additional factual allegations and removal charge contained in the I-261. The merits hearing resumed on February 25, 2013 and concluded on February 27. At the conclusion of the merits hearing, this Court directed the parties to submit written closing arguments on or before June 3, 2013.

STATEMENT OF THE FACTS

DHS WITNESSES

A. Testimony of Ambassador Robert E. White, Former U.S. Ambassador

Ambassador White was tendered and accepted as an expert in the political, economic and military history of El Salvador. Ambassador White was appointed U.S. Ambassador to El Salvador in 1979 and served in El Salvador for one year beginning in March 1980. He was a career foreign service officer and formerly served at a number of posts including vice consul Hong Kong, Third Secretary of the U.N., Consul in Ecuador, Deputy Chief of Mission (DCM) Managua, Nicaragua, DCM, Bogota, Colombia, Ambassador to Paraguay from 1977 – 1979, Chief Political Section, Honduras. Ambassador White left the Foreign Service in 1982. He continued to research and publish articles related to Latin and Central America until his retirement in 2012.

Ambassador White testified that El Salvador is a small country and is visible in its entirety by aircraft at an altitude of 9000 feet. The ESAF was the most powerful component and dominant force in El Salvador as the military had run El Salvador since 1932. The military acted with total impunity, deciding who would live and who would die. This contributed to the revolution in El Salvador. The United States backed the military-dominated government and knew its success depended on the observance of basic human rights.

Ambassador White met or communicated with Garcia on a weekly basis.¹ During Ambassador White's tenure as ambassador, Garcia held the rank of Colonel, then the highest rank in the ESAF.

In El Salvador there was a common officer corps. These officers were rotated routinely between the military and security forces.² The Minister of Defense was atop the chains of command of both the military and security forces.

On October 15, 1979, the young officers revolted because they wanted a return to the constitutional order, an end to the abuses by the military, and to have a military that had been cleansed of the worst human rights offenders.³

Ambassador White described his preliminary assessment of El Salvador, written at the request of Secretary of State Cyrus Vance on March 19, 1980.⁴ According to that

¹ Ambassador White identified Garcia in the courtroom, and identified photographs of Garcia wearing his uniform and riding in a helicopter. See Exh. 13.

² The security forces consisted of the National Guard, National Police and Treasury Police. "ESAF" refers collectively to the military forces and the security forces.

³ As a result of the revolt, the dictatorship of General Romero was replaced by a *Junta* composed of three civilians and two military officers. See Exh. 6, Tab BBB at 2, Bureau of Democracy, Human Rights and Labor, U.S. Dep't of State, *El Salvador Country Reports on Human Rights Practices - 1979* (Mar. 1979), 3 Ann. Hum. Rts. Rep. Submitted to Cong. by U.S. Dep't St.

⁴ See Exh. 3, Tab A. Ambassador White noted that he personally authored Department of State cables written in the first person, and that cables sufficiently important for submission in these proceedings were either authored or reviewed by him.

assessment, the revolutionaries were not auxiliaries of Cuba or the Soviet Union. Instead this was a home-grown, authentic revolution that arose from the heaped up injustices of decades of oppression. Eighty percent of the population lived in abject poverty while the top one percent – referred to metaphorically as the 14 families – lived a life of privilege and wealth. The ESAF buttressed and protected this unjust structure. There were two components to averting civil war: the United States had to help the government of El Salvador (GOES or Junta) initiate profound reform, and, most importantly, to get the military to stop killing innocent people and to respect the human rights of the citizens of El Salvador. In most cases, the military was not killing left-wing guerrillas, but young men of military age, believing they might be recruited by the guerrillas, or political dissidents with no record of violence. The High Command, of which Minister of Defense Garcia was at the top, tolerated or encouraged this activity.⁵

Ambassador White recalled, for example, a film crew showing him a film of security forces executing high school students. The students were made to lie down and were killed for no apparent reason. When Ambassador White mentioned the film to Garcia as an example of the brutality and excesses of the military, Garcia exhibited no interest whatsoever. He made no mention of conducting an investigation and did not even ask to see the film. The abuses of the military went on as before.

On January 31, 1980, the Christian Democratic Party sent a letter (PDC letter) to the High Command describing numerous examples of unprovoked killings, torture and other human rights violations by the ESAF.⁶ The letter proposed changes in military

⁵ *Id.* at 1.

⁶ See Exh 10, WWWW. The letter requests the High Command institute specific measures aimed at eliminating human rights abuses by the ESAF. The recommendations included, among others, express prohibitions against beatings or verbal mistreatment of persons in custody, prohibitions against arresting

detention procedures to prevent disappearances and killings by the military. Ambassador White was unaware of any response to the PDC letter by Garcia, or anyone else in the military.

Moreover, on November 27, 1980, six members of the Democratic Revolutionary Front "FDR" were abducted in a coordinated operation of the ESAF.⁷ Their thumbs were tied behind their backs, a common practice of the military to control detainees. They were beaten, and executed. The killings were significant as the FDR leaders were a potential bridge between the establishment and those who wanted change. Despite the evidence of ESAF involvement in the murders, Garcia officially denied any government connection which, in Ambassador White's opinion, further undermined Garcia's credibility. The murders were never investigated despite the obligation of the Minister of Defense to do so. Moreover, Garcia later expressed satisfaction, in the presence of other military officers, with the murders of the FDR leaders.⁸

Ambassador White concurred with the assessment of the Assistant Secretary of State for Human Rights Patricia Darian, that the murders of the FDR leaders were not an aberration, as the wave of killings had continued undiminished since the PDC letter of January, 1980.⁹ In Ambassador White's opinion, the High Command was complicit in the FDR murders as there could not be a coordinated operation run solely by mid-level officers. Moreover, the FDR murders represented an assertion by the military of its impunity.

people merely on account of membership in a political organization, turning detainees over to court within the period provided by law, and the dismissal of certain military and security force commanders implicated in human rights abuses. There is no record any of the recommendations were carried out.

⁷ Ambassador White authored a cable discussing the eyewitness testimony and other evidence of ESAF and death squad involvement in the abductions and murders of the FDR leaders. See Exh. 4, Tab W.

⁸ See Exh. 5, Tab II, cable prepared by Colonel Brian Bosch, U.S. Military Attaché to El Salvador.

⁹ See Exh. 3, Tab R.

Ambassador White discussed with Garcia on many occasions, his concerns of the pattern and practice of human rights abuses by the ESAF.¹⁰ Garcia tacitly admitted to ESAF involvement in the murders of the FDR leaders. He expressly acknowledged on another occasion that one percent of the military may have been involved in death squad activity. Ambassador White told Garcia that even one percent could do irreparable damage to the military's reputation and the ability of the GOES to survive. Garcia's basic position, however, was that the United States should side with the military, or see the country fall to communism.¹¹ Garcia also opined that Salvadoran "idiosyncrasies" meant that abuses of authorities by the military should be handled quietly and "in house."¹² Ambassador White interpreted Garcia's use of the term "idiosyncrasies" to mean that we have our own way of handling problems, that is, to kill people. This interpretation was based on the ESAF's practices of the past half-century.

Ambassador White was frustrated at Garcia's apparent disinterest in stopping human rights violations by the ESAF. His frustration was apparent in the following comment from a cable he wrote on May 21, 1980:

This is the most discouraging and disappointing conversation I have had since my arrival in El Salvador. Col Garcia made no promise, implicit or explicit, to put an end to the official violence...The reality is that the principal threat to the stability of this government comes from the officers of the High Command who are secretly in the right's corner.¹³

¹⁰ See, e.g., Exh. 5, Tab AA, at 770. "I emphasized to all present that the widely held opinion that unbridled violence was responsible for the plummeting international reputation of El Salvador and, unfortunately, the widely held opinion that some members of the security forces were responsible was too often substantiated by convincing evidence reported here and abroad." See also, Exh. 5, Tab GG, at 791. "My purpose of this meeting was to make two points. First, the torturing and killing of unarmed civilians by the security forces had gone way beyond any conceivable justification...."

¹¹ See Exh. 5, Tab AA, at 769.

¹² See Exh. 5, Tab JJ, at 808.

¹³ See Exh. 5, Tab GG at 791.

The May 21, 1980, cable was prompted by an incident in which officers of the First Infantry Battalion, which supported the October 15 coup, received word there was a meeting to discuss an overthrow of the GOES. They went to the farmhouse where the meeting was taking place and arrested Roberto D'Aubuisson, a former major in the ESAF, and others, and recovered documents which clearly showed D'Aubuisson was plotting to overthrow the GOES.¹⁴ Ambassador White told Garcia it was his obligation to try D'Aubuisson for sedition. Garcia, instead of punishing D'Aubuisson, suggested transferring D'Aubuisson from his current ambiguous status to military attaché to Taiwan. Ambassador White described D'Aubuisson as the "heart and soul" of the death squads. D'Aubuisson was released and went on to captain the death squads, and was responsible for planning the Assassination of Archbishop Romero. Ambassador White believed D'Aubuisson could not have been released without Garcia's approval.

Ambassador White testified that the United States maintained a list of known human rights abusers in El Salvador. He mentioned the names of these individuals to Garcia on several occasions. Garcia's response was generally to look at Ambassador White as though he did not know what Ambassador White was talking about. On one occasion, Ambassador White mentioned the names of Roberto and Mauricio Staben, two military officers who were notorious killers. Garcia simply shrugged his shoulders. Col. Carlos Eugenio Vides Casanova, then Director of the National Guard, who was also present said, "Guillermo [referring to Garcia], if I told you once I told you a hundred times, you should get rid of those crazy men." Garcia did not get rid of the men.

¹⁴ Major Roberto D'Aubuisson was a military intelligence officer with known terrorist and openly fascist leanings. He was a recognized assassin and the primary organizer of the death squads. Professor Karl traveled with him during his 1982 campaign for President of El Salvador, and interviewed him extensively. See Expert Report of Professor Terry L. Karl "T. Karl Report," Exh. 11 at 41-42.

Ambassador White and Col. Cummings, the United States Military Group Commander in El Salvador, met with Garcia on October 27, 1980 to emphasize the need to control rightwing violence. White and Cummings suggested Garcia appear on television to introduce the new military code of conduct and to read the new decree of the Junta, ordering the ESAF to observe civilized standards and protect human rights.¹⁵ Garcia accepted the suggestion but never appeared on TV as agreed.

Garcia exercised command and control over the ESAF. He was the most powerful man in the most powerful institution in El Salvador. During Garcia's tenure as Minister of Defense, no officer was charged, demoted, or reprimanded for human rights abuses. Garcia never pleaded an inability to command. Ambassador White explained that ministers of defense do not take direct action. Their function is to set policy. Garcia's policies were guaranteed to encourage and protect those who perpetrated the violence. In addition he refused entreaties from all points to mend his ways. General Garcia did not take orders from civilians in the Junta. The Junta had no influence on the ESAF's observance of human rights. Garcia's primary sworn duty was to protect the citizens of El Salvador. Instead, of protecting the citizens, he created thousands of victims by refusing to take charge of the ESAF and to ensure it complied with the laws of El Salvador. In effect, he failed in his primary sworn duty to protect the citizens of El Salvador. He failed because that is the way the ESAF had always done things and Garcia refused to change them.

¹⁵ See Exh. 5, Tab VV.

B. Testimony of Juan Romagoza Arce, Torture Survivor

Romagoza testified that he was born in Usulután, El Salvador. He lived in El Salvador for 30 years until he left in 1981. Romagoza is familiar with the different armed forces that controlled the country because he has two uncles who were Lt. Colonels in the Army.

Romagoza is a physician. He performed volunteer work in the refugee centers set up by the Catholic Church. As the treating physician, Romagoza would ask the patients how they sustained their injuries. They would say their injuries were caused by the bombs the military dropped on their villages. Romagoza also treated people who exhibited signs of torture.

On October 29, 1979, Romagoza joined the marchers in the Bufo parade at the University. During the parade, army trucks manned by national guardsmen and soldiers suddenly appeared and started to riddle the parade marchers with machine guns. Romagoza treated the injured, some of whom died.

In March 1980, while Romagoza was working at the hospital of Santa Tecla, he heard a commotion that sounded like people running throughout the hospital. At the time, he was observing a young man in the post-operating room who was recovering from abdominal surgery. He had been riddled with gunshots including in the abdomen. Six or eight individuals dressed as civilians, carrying all types of weaponry entered the hospital room and ordered Romagoza and the nurses to get on the ground. They went directly to the young man in the recovery room and shot him to death while he lay unconscious in the bed. After the gunmen left, Romagoza observed the gunmen get into green pick-up trucks, characteristic of army vehicles.

On June 26, 1980, Romagoza heard sounds of shooting coming from the University. He observed military tanks firing into the University. He saw students leaving the University with their arms clasped behind their heads and walking in a line as if they were in custody. Romagoza observed dead and injured victims as a result of this incident.

On December 12, 1980, the armed forces shot Romagoza and took him captive while he, along with other medical personnel, were providing medical services to residents of Santa Anita. While Romagoza was administering medical aid to the residents, two military trucks arrived at the village. The trucks carried National Guard and military personnel dressed as civilians and carrying weapons. They began shooting the villagers, and shot Romagoza in his right ankle. Romagoza was also grazed by a bullet on the left side of his head. The National Guard and military killed the villagers who attended the health fair and carried their bodies away in a truck. The villagers were unarmed and were mostly women, children and the elderly. Romagoza was the only one taken alive. Romagoza's captors accused him of being a guerilla commander because of his medical instruments and his "ranger" boots.¹⁶

His captors took him to the military barracks of El Paraiso, in Chalatenango. He traveled first by truck and then by helicopter. The helicopter seemed to be new and had military equipment and weapons. It was operated by an individual wearing a green uniform. At El Paraiso, his captors blindfolded, bound and stripped him and held him in a concrete room. They interrogated him about his presence in Santa Anita. During the interrogation, they beat him and tortured him with electric shocks. They threatened to

¹⁶ Romagoza described these as scouting boots that had the appearance of military boots.

kill him and his family. Romagoza spent two days at El Paraiso and endured this treatment each day.

Thereafter, he was transported in another military helicopter to the National Guard headquarters in San Salvador where he spent twenty-two days. During that time, Romagoza testified he was interrogated and tortured continuously. His captors beat and kicked him, administered electrical shocks to different parts of his body, burned him with cigarettes, and choked him with plastic bags containing powdered lime, causing him to lose consciousness. For several days, he was hung from wire tied to his fingers and wrists. His captors told him they were doing this so that he would never treat those people again. They called this form of torture "Chinese sticks." While he was hanging, they sodomized him by inserting a wooden object in his rectum, and shot him in the left arm. His captors told him they did this to mark him as a leftist. Bullet fragments remain inside his arm. As a result of hanging from the wires, Romagoza lost sensation in three fingers on his left hand and four fingers on his right hand. Consequently, Romagoza is unable to practice surgery. When Romagoza was released from the National Guard, he weighed only 70 pounds because he was deprived of food during his captivity.

While Romagoza was being tortured at the National Guard headquarters, Garcia's National Guard Director, Vides Casanova, visited him and asked him whether his uncles in the military were in any way connected to or supporting the guerillas. Romagoza positively identified a photograph of Vides Casanova as the person who interrogated him.¹⁷

¹⁷ See Exh. 15.

Romagoza testified that he still suffers at the present time from injuries he received during his torture. He has difficulty with motor skills and suffers from foot pain. As a result of injuries sustained when he was sodomized, he is now incontinent and must wear a diaper. He continues to suffer emotionally from his experience.

Romagoza was asked by this Court whether he knowingly provided assistance to terrorists. Romagoza responded that his torturers came to him for medical advice, relating to venereal diseases and other certain ailments. He treated them by telling them what to get at the pharmacy, yet they still continued to torture him.

C. Testimony of Professor Terry L. Karl, Expert Witness

Professor Karl has a Ph.D. in political science from Stanford University, and is the Gildred Professor of Political Science and Latin American studies there. Since arriving at Stanford in 1986, Professor Karl has taught extensively on Latin and Central American Politics, including courses on how countries become democratic, transitions from authoritarian rule and the global politics of human rights. Professor Karl's expertise also includes military institutions in Latin America, as most authoritarian rulers were military officers.

Professor Karl is considered an expert on El Salvador. She developed her expertise by traveling to El Salvador on numerous occasions since late 1980. During these trips, Professor Karl conducted extensive field research, including interviews of many El Salvadorans across the entire political spectrum, both during and after the war.

She also conducted extensive interviews of U.S. government officials with responsibility for El Salvador, including U.S. ambassadors then serving in El Salvador, other State Department officials, and U.S. military advisors.

Professor Karl is fluent in Spanish and extensively researched El Salvadoran-based publications. In addition, Professor Karl has also reviewed approximately 10,000 declassified documents from the U.S. State Department, Central Intelligence Agency "CIA," Defense Intelligence Agency "DIA" and other U.S. government agencies that relate to the El Salvadoran civil war. Professor Karl has published and lectured extensively on El Salvador.¹⁸ She has advised congressional subcommittees on El Salvador and accompanied congressional delegations to El Salvador. Professor Karl was selected as a consultant for the head negotiator in the United Nations sponsored peace accords between the GOES and the FMLN.

The Department tendered Professor Karl as an expert in politics, political history, human rights, and military institutions in El Salvador, and transitions from military rule. Respondent's counsel expressed no objection to Professor Karl's expertise. Thereupon, this Court found Professor Karl to be an expert in the proffered areas.

In Professor Karl's expert opinion, Garcia bore responsibility for the great majority of the human rights abuses occurring during his tenure as Minister of Defense for the following reasons: 1) He was the most powerful person in El Salvador, possessing both de facto and de jure control over the ESAF; 2) Troops under his command engaged in systematic and widespread torture and EJK of the civilian population; 3) He fostered a climate of impunity within the ESAF by failing to investigate and punish officers involved in human rights violations, and protecting and promoting those officers; 4) He expanded the repressive capacity of the ESAF and tolerated the existence of the death squads operating out of the intelligence sections of the ESAF; 5) He instituted measures

¹⁸ For a partial listing of Professor Karl's lectures and publications, see *Curriculum Vitae of Terry Lynn Karl*, attached to T. Karl Report, Exh. 11.

that sanctioned state terror and gave clear signals of support. In effect, according to Professor Karl, Garcia gave the "green light" for the state-sanctioned terror that prevailed during his tenure as Minister of Defense.

Professor Karl described the ESAF as the overwhelming power in El Salvador since 1932, and Garcia as the most powerful person in the military.¹⁹ Under Garcia, the Junta was marginalized, so Garcia wielded greater power than the Junta. In fact, the civilian members on the Junta had no say in military affairs.

Under Garcia, the ESAF pursued a strategy of total war characterized by a scorched earth campaign. This campaign made no distinction between civilians and combatants, treating as legitimate targets any civilians thought to be against military rule.²⁰ Professor Karl recounted a conversation with a military colonel who told her that El Salvador experienced 50 years of peace after the "Matanza," in which the military killed 32,000 peasants, and all the military wanted was another 50 years.²¹ The scorched earth campaign led to a series of massacres of civilians.

In addition to the campaign of massacres, Garcia assisted or otherwise participated in torture and EJK by marginalizing reformist officers and promoting hardliners to key positions in the ESAF. From December 1979 through May 1980, Garcia broke up the young officers' movement by transferring the young officers out of the country, giving them low level commands, or otherwise isolating them. At the same time, Garcia promoted his friends and cronies, all of whom were hardliners who rejected

¹⁹ See Slide 4, Slide 7, Slide 9, and Exh. 11 at 2, 27, 31-34.

²⁰ The U.N. Truth Commission "Truth Commission" reported that "anyone who expressed views that differed from the government line ran the risk of being eliminated as if they were armed enemies on the field of battle." U.N. Truth Commission Report "TCR," Exh. 3, Tab C at 73.

²¹ The "Matanza" was the 1932 massacre of peasants who had been fighting for land reform. The peasant leader was Farabundo Marti for whom the FMLN was named.

land reform, into key positions of power within the ESAF. Garcia also expanded the repressive capacity of the ESAF and condoned the institutionalization of the death squads inside the security forces.

Following the coup in 1979, there was a struggle for control between the reformist officers led by Colonel Majano, and the larger group of conservative or hardline officers, of which Garcia was part. Professor Karl elaborated on the significance of the May 21, 1980 release of hardliners following their arrest at San Luis Finca. She testified that Majano received word that D'Aubuisson, some civilians and military personnel would be meeting in a house at San Luis Finca to plot a takeover of the military by the most conservative hardline officers. He ordered troops loyal to him to arrest attendees at the meeting.²² The arrestees included D'Aubuisson, 12 civilians and 12 of the most hardline members of the military who were known human rights abusers. They were caught "red handed" with documents including graphs and organizational charts of personnel involved in EJKs and death squad killings, shopping lists for weapons, and ski masks (used by death squads). The documents included notes on "Operation Pineapple" widely believed to be the plot for the assassination of Archbishop Romero. U.S. Secretary of State Edwin Muskie commented at the time that the materials seized "appeared conclusive as to the guilt of those detained."²³ Several of those arrested confessed during a meeting attended by Garcia.

Majano insisted that Garcia initiate an investigation in accordance with his responsibility under the military code. Garcia appointed a military officer, Miguel

²² Col. Majano told Professor Karl in interviews, and wrote in a book, that he has lost confidence in Garcia, that he believed Garcia supported a hard line position and that if he had told Garcia about the raid, Garcia would have warned the San Luis Finca conspirators.

²³ See T. Karl Report, Exh 11 at 55.

Mendez, to conduct the investigation. Mendez' name, however, appeared on the documents recovered during the San Luis Finca raid as a sympathizer of the group. In addition, Garcia gave Mendez a narrow mandate for the investigation. Instead of asking for a wide ranging investigation into human rights abuses, including the murder of Archbishop Romero, and weapons purchases by the group, Garcia limited the investigation to whether the group was plotting a coup.

The following day, Mendez reported there was no evidence the group was plotting a coup, and the arrestees were released immediately. Following the release of the San Luis Finca conspirators, Garcia and Gutierrez removed Colonel Majano from his command.

Professor Karl testified Garcia could have broadened the investigative mandate rather than simply permitting the arrestees' release. If he felt the investigative process was insufficient, he could have retired or transferred the officers, or removed them for "mala conducta," or bad conduct. This authority had been exercised in the past against lower level military personnel for stealing, drinking, and cattle rustling. However, no one was removed for the far more serious offenses uncovered at San Luis Finca. Significantly, D'Aubuisson was still on the military payroll and was therefore subject to any of the above sanctions.²⁴

The release of the San Luis Finca conspirators had a significant impact on future incidents of torture and EJK in El Salvador. For example, D'Aubuisson, who was

²⁴ Professor Karl described an interview with D'Aubuisson in which he told her he was brought back by the highest levels of the Ministry of Defense, was still on the military payroll, and being paid to act as though he were a disgruntled former military officer. Garcia acknowledged during his testimony that he had the authority under the law to investigate D'Aubuisson for the activities uncovered at San Luis Finca. See p. 29, *infra*.

already known as an assassin, set up a death squad inside the constituent assembly of the Salvadoran congress that became one of the most active in El Salvador. Among this death squad's nefarious deeds was the murder of an entire Boy Scout troop, and a plot to kill U.S. Ambassador Thomas Pickering. Rodolfo Lopez Sibrian, another releasee, participated one month later in the June 26, 1980, massacre of students at the National University in San Salvador.²⁵ Lopez Sibrian went on to be involved in the notorious January 3, 1981, murders of Rodolfo Viera, the El Salvadoran head of agrarian reform, and two U.S. labor advisors at the Sheraton Hotel in San Salvador.²⁶ Mendoza, Garcia's appointee to investigate the San Luis Finca conspirators, was promoted to Lieutenant Colonel and went on to command the Beloso Battalion that was involved in a number of massacres of civilians.

The overall significance of the release of the San Luis Finca conspirators, the removal of Colonel Majano, and the marginalization of the reformist young officers was to signal a green light to kill. As noted by General Woerner, Commander, U.S. Southern Command in a report on the ESAF in November, 1981:

The reassignment of Colonel Majano's followers to non-command positions and non-influential roles, scattered their numbers and their ability to exercise further significant influence within the Armed Force institution. As a consequence, no countervailing force presently exists within the Armed Forces to oppose the propensity of the

²⁵ Journalists filmed a policeman executing an unarmed high school student during the massacre. A still photograph of that execution appears page 60 of T. Karl Report, Exh. 11.

²⁶ For a description of Lopez Sibrian's role in the murders, see TCR, Exh. 3, Tab C, at 175-77. Garcia received repeated requests from Ambassador Hinton and U.S. General Vernon to investigate the Sheraton murders or U.S. aid would be withdrawn. The assassins had confessed and named three officers, Denis Moran, Lopez Sibrian and Captain Eduardo Avila. Garcia appointed working groups led respectively by Vides and National Police Director Carlos Reynaldo Lopez Nuila to investigate. Vides' appointment was particularly egregious as the assassins were agents of the G2 intelligence section of the National Guard. In the end, Moran was never investigated and Sibrian and Avila were never removed from the ESAF.

more conservative officers to tolerate the use of excessive force and violence.²⁷

As a result of this "green light," massacres became the norm with massacre deaths rising precipitously after the San Luis conspirators were released, and remaining high through the remainder of Garcia's term as Minister of Defense.²⁸ Extrajudicial killings also rose dramatically after San Luis Finca, peaking with the El Mozote massacre in December 1981.

In addition, Garcia took other actions that encouraged the ESAF to kill. These included the total absence of investigations of all but one of the 59 massacres identified in Professor Karl's Report;²⁹ failure to denounce the publication of a list on March 30, 1981, of 138 people deemed enemies of the state in the El Salvadoran Daily newspaper, *Diario de Hoy*;³⁰ permitting his subordinate, General Vides, to openly threaten members of the Junta; the failure to investigate the FDR leaders' killings and other major killings; Garcia's later expression of satisfaction with the FDR murders;³¹ the failure to respond to repeated requests by U.S. Ambassadors and by Amnesty International in its Urgent Action Memos, to investigate human rights abuses,³² and the failure to institute specific measures to eliminate human rights abuses by the ESAF as recommended in the PDC letter.³³ These actions signaled the very top of the military command structure approved of the campaign of human rights abuses and that nothing would happen to the

²⁷ See Slide 28, Exh. 7, Tab WWW.

²⁸ This rise in massacre deaths is illustrated in a graph prepared by Professor Karl. The number of deaths listed, though high, is conservative because the occurrence of massacres was generally underreported. See Slide 29, Exh. 11, app. III.

²⁹ See T. Karl Report, Exh. 11, app. III at 21, for a description of the Las Hojas massacre and Garcia's appointment of a San Luis Finca conspirator to conduct the investigation. See also Table 1 of T. Karl Report for a listing of San Luis Finca participants who were released.

³⁰ See Exh. 12, Tab FFFFFFFF.

³¹ See Exh. 5, Tab II at 802.

perpetrators. As a result of Garcia's acts and failure to act when he had the ability to do so, at least 30,000 deaths occurred during his tenure as Minister of Defense.

The Reagan administration was so concerned with Garcia's inaction in addressing human rights abuses by the ESAF, that in December 1983, Vice President George Bush visited El Salvador with a list that repeated many if not all, the same demands made in the PDC letter sent almost four years before. The Bush visit and list signified that the earlier demands of the PDC letter were not carried out.

Garcia's failure to investigate and bring to justice perpetrators of various massacres, including those who killed the American churchwomen in December 1980³⁴, prompted United States President Ronald Reagan to personally telephone El Salvadoran President Magana. Reagan told Magana to tell Garcia that if the perpetrators were not arrested and brought to justice, U.S. aid to El Salvador was in jeopardy.³⁵ Garcia resigned one week later.

RESPONDENT'S WITNESSES

A. Testimony of (b) (6) Respondent's Daughter

(b) (6) was born in San Salvador, El Salvador on (b) (6). She was 16 years old when Garcia became the Minister of Defense in 1979. Garcia sent her to live in the United States in November 1979. She recalled that her father expressed concerns that there were reports of abuses from the armed forces. She claimed her father did all that he could to stop the abuses. (b) (6) claimed that Garcia would appear on

³² See Exh. 10, Tab AAAAAA consisting of Amnesty International's Urgent Action memos and Declaration of Michael McClintock.

³³ See Exh. 10, WWWWW.

³⁴ For a description of the churchwomen's murders, see TCR, Exh. 3 at 92-97. The Truth Commission found that Garcia "made no serious effort to conduct a thorough investigation of responsibility for the murders of the churchwomen." *Id.* at 96.

³⁵ See Exh. 16, Tab HHHHHH consisting of the declassified cable memorializing this telephone call.

the television in El Salvador and express his desire to stop the violence. Garcia had a "red phone" over which he received reports from his staff about the war, throughout the day.

(b) (6) saw images of bus bombings by the guerillas on TV and reports of guerillas fighting the military; however, she denied seeing images on TV involving human rights abuses committed by the military.

She never met Ambassador White or any of the other U.S. Ambassadors and U.S. officials who served in El Salvador during Garcia's tenure as Minister of Defense. She never had any discussions about human rights with any officials in El Salvador. She never met anyone who had been tortured. She never met with the family members of anyone who had been killed by the military. She could not recall specifically reading the Truth Commission Report that was published in 1993. She attended both of Garcia's civil trials but only spent one day in Court for each trial. She did not read articles, publications, or documents relating to the occurrence of torture or EJK by the military during the time Garcia was Minister of Defense.

She agreed that the military was responsible for disappearances but said it was happening on both sides during that time. She said she would not have been aware of any specific orders that her father gave or received as Minister of Defense because she was not in the military. She claimed her father tried to do his best at that time. In response to the Court's question as to the basis of her previous statement that her father did all he could to stop the abuses, she responded that Garcia constantly told her of conversations with officials in El Salvador about stopping the abuses. She agreed that as Minister of

Defense, her father was in charge of the military. Given his position he had to be in charge.

B. Testimony of Jose Guillermo Garcia, Respondent

Garcia was born in San Vicente, El Salvador in 1933, and is a citizen of El Salvador. He resides in Plantation, Florida and is a lawful permanent resident of the United States.

Garcia graduated from military school in El Salvador in 1956 and served in ESAF for 30 years. He did not participate in the October 1979 coup. Colonel Jaime Abdul Gutierrez and others who were captains and majors – known as the “young officers” – participated in the coup. The coup was prompted by discontent over then President Romero’s rise to power through electoral fraud, concerns about the Sandinista revolution in nearby Nicaragua, and the kidnappings and violence occurring in El Salvador.

Following the coup, Col. Gutierrez and Col. Adolfo Majano, both members of the Junta, asked Garcia to become Minister of Defense. He declined at first, but ultimately accepted. He remained Minister of Defense for three years and five months. During Garcia’s tenure, there was a conflict between the ESAF and leftist, Marxist forces attempting to gain power. The ESAF itself was infiltrated by elements of the extreme left and right, each attempting to gain power through violence. Garcia claimed he was not aligned with either extreme.

Garcia admitted he knew the ESAF abused civilians while he was Minister of Defense. The occurrence of these abuses was public knowledge and could not be denied. He attempted to alleviate the situation by orders, requests and publicizing the obligations of the armed forces towards the civilian population. Reports of abuses and massacres

were investigated, but there were limitations based on the available information. Some suspected abusers were referred to the courts, for example Captain Lopez Sibrian, a suspect in the "Sheraton Murders"³⁶ and Captain Alvaro Saravia, a suspect in the assassination of Monsignor Romero.³⁷ However neither was punished for the crimes.

Garcia knew D'Aubuisson. Two days after Garcia became Minister of Defense, he summoned D'Aubuisson and dismissed him from the ESAF. However, the ESAF asserted jurisdiction over D'Aubuisson. Following D'Aubuisson's capture with active and retired officers at San Luis Finca, the Junta ordered Garcia to appoint an investigating judge into the San Luis Finca incident. Garcia appointed Captain Mendez to initiate the proceedings against all those captured. According to Mendez, there was insufficient evidence to continue to detain the arrestees.

Garcia claimed he did not advocate for a violent solution to the conflict in El Salvador and that he did not interfere with the media. Garcia denied committing, ordering, inciting, assisting or otherwise participating in torture or EJK. He claimed that he resigned as Minister of Defense because of an incident of insubordination by a colonel in the military.

After Garcia became a lawful permanent resident of the United States, he returned to El Salvador several times for medical treatment as he and his wife do not have health

³⁶ Garcia explained the Sheraton murders involved the assassinations of Rodolfo Viera, the president of the El Salvadoran Institute for Agrarian Reform and two American citizens who were advisers to the institute. Lieutenant Lopez Sibrian was arrested for the murders, and was referred to the civilian court. However the civilian judge allowed Lopez Sibrian, a redhead, to darken his hair and wear a false beard and moustache, thereby preventing his identification by the witnesses. See the TCR, Exh. 3, Tab C at I74-77 for a more complete description of the murders and judicial proceedings.

³⁷ Garcia explained that Saravia was tried, but the sentence was not carried out. Professor Karl testified Saravia was released after his arrest at San Luis Finca despite the recovery of evidence linking him to the Romero Assassination. The Truth Commission reported that Saravia was not arrested for the Romero assassination until 1987, long after Garcia's departure as Minister of Defense. See TCR, Exh. 3, Tab C at I60.

insurance in the United States. On one of these occasions, he remained outside the United States more than 180 days while his wife received medical treatment.

On questioning by this Court, Garcia acknowledged that it was his responsibility to make sure that the military operated as an efficient and cohesive unit. He was responsible for bringing about peace in El Salvador and to protect and preserve human life. Garcia also acknowledged that members of the military over which he had authority committed atrocities, however, he claimed it was difficult to control them. He claimed he tried to resign three times, but his resignation was “not accepted.” He acknowledged that he bore responsibility but not culpability for the human rights abuses by the armed forces.³⁸

On reexamination by the Department, Garcia claimed he did not recall referring to the massacre at El Mozote as a “novella.” When confronted with the Truth Commission Report finding that the massacre would have been easy to confirm because of the profusion of exposed bodies, Garcia admitted that he did not go to El Mozote to determine for himself, even though he had a helicopter and other means to travel throughout El Salvador.

ARGUMENT

I. The Burden of Proof is on Garcia as an Applicant for Admission to Establish Clearly and Beyond a Doubt that he is Admissible to the United States and is not Inadmissible as Charged in the NTA.

Pursuant to section 101(a)(13)(C)(ii) of the Act, “[a]n alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission

³⁸ A federal jury found Garcia civilly liable for the torture of Dr. Juan Romagoza and two other plaintiffs in the case of *Romagoza Arce v. Garcia*, 434 F.3d 1254, (11th Cir. 2006), and subject to compensatory and punitive damages in the amount of \$54 million. See Exh. 4, Tab X.

into the United States for purposes of the immigration laws unless the alien...has been absent from the United States for a continuous period in excess of 180 days.” The Department bears the burden of establishing by clear and convincing evidence that a returning resident is to be regarded as seeking admission. *Matter of Jaime Enrique Valenzuela-Felix*, 26 I&N Dec. 53, 54 (BIA 2012); *Matter of Rivens*, 25 I&N Dec. 623, 625-626 (BIA 2011); *Matter of Huang*, 19 I&N Dec. 749, 754 (BIA 1988), *Matter of Kane*, 15 I&N Dec. 258, 264 (BIA 1975).

At a master calendar hearing on March 18, 2010, Garcia admitted departing the United States on December 22, 2005 and returning on July 7, 2006, a period of approximately 195 days. Garcia therefore conceded his absence for a continuous period in excess of 180 days. The Department also submitted into evidence Garcia’s passport, which contains an El Salvadoran immigration stamp dated December 22, 2005. Exh. 2, Tab D at 55. In light of Garcia’s concession, supported by the corroborative evidence, this Court should find the Department has established by clear and convincing evidence that Garcia is to be regarded as an applicant for admission.

An alien who is an applicant for admission must prove that the alien is “clearly and beyond a doubt entitled to be admitted to the United States and is not inadmissible under section 212.” *See* INA § 240(c)(2)(A); 8 C.F.R. § 1240.8(b); 8 C.F.R. § 1001.1(q); *see also* *Matter of Rosas-Ramirez*, 22 I&N Dec. 616, 622 (BIA 1999); *Nadal-Ginard v. Holder*, 558 F.3d 61, 66 (1st Cir. 2009); *Sandoval-Loffredo v. Gonzalez*, 414 F.3d 892, 894 (8th Cir. 2005). As Garcia is an applicant for admission, he bears the burden of proving that he is “clearly and beyond a doubt” admissible against the charges of

inadmissibility under section 212(a)(3)(E)(iii)(I) and (II) of the Act.³⁹ This burden is triggered where there is some evidence an alien is inadmissible on the ground charged. *Garces v. U.S. Att'y Gen.*, 661 F.3d 1337, 1346 (3d Cir. 2010). In this regard, it is important to note that the assistance or participation in a single act of torture or a single extrajudicial killing is sufficient to establish Garcia's inadmissibility. While this brief refers to the tens of thousands of civilians tortured or killed during the Salvadoran Civil War, if the Court finds that Garcia assisted or otherwise participated in any single act of torture, or any single extrajudicial killing, he is inadmissible as charged.

II. The El Salvadoran Armed Forces Engaged in a Systematic and Widespread Campaign of Torture and Extrajudicial Killing during Garcia's Tenure as Minister of Defense.

The term "torture" is defined by statute as "an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control." 18 U.S.C. § 2340(1). The term "extrajudicial killing" is defined by statute as "a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation." Torture Victim Prevention Act of 1991 § 3(a) (28 U.S.C. § 1350 note).

The testimonial and documentary evidence admitted into the record by this Court establishes that during the 1980 – 1992 civil war, the ESAF engaged in a systematic and

³⁹ Even if this Court were to find the burden of proof remains with the Department, the Department submits the documentary and testimonial evidence of Garcia's inadmissibility under the grounds charged is clear

widespread campaign of torture and EJK directed against the civilian population.⁴⁰

Indeed, the complicity of the armed forces in such acts is not subject to dispute. As the U.S. Department of State noted in a briefing memorandum dated December 4, 1980, “[e]mbassy reports make clear that the security forces and the military are responsible for much of the killings and human rights abuses in the country.”⁴¹ The Truth Commission similarly noted in its report: “civilian and military groups engaged in a systematic murder campaign with total impunity, while State institutions turned a blind eye.”⁴² In fact, Respondent’s counsel conceded the ESAF committed “widespread acts of torture.”⁴³

Professor Karl described the human rights situation during the civil war in El Salvador as one of the worst in the world, and among the worst two in Latin American history.⁴⁴ Extrajudicial killings and massacres of civilians were extraordinarily high, with conservative estimates of 75,000 – 85,000 civilian deaths.⁴⁵ The Truth Commission examined over 22,000 complaints relating to serious acts of violence during the war. The overwhelming majority of the complaints, 85 %, attributed the violent acts to the ESAF.⁴⁶

and convincing.

⁴⁰ See William Bollinger and Deirdre A. Hill, *The Index to Accountability, An Overview of Perpetrators Implicated in Human Rights Violations in El Salvador, 1980-1990* (July 22, 1992), Exh. 8, Tab YYYY. According to this report, El Rescate identified 43,012 victims, 15,098 were victims of EJK, and 1510 were torture victims. See also *El Rescate Database – Torture and Extrajudicial Killings by El Salvadoran Army and Security Forces*, Exh. 4, Tab T, identifying victims of torture and EJK by the ESAF between 1980 and 1983; and Todd Howland, *How El Rescate, a Small Nongovernmental Organization contributed to the Transformation of the Human Rights Situation in El Salvador*, Human Rights Quarterly, Volume 30, Number 3, August 2008, Exh. 10, Tab M MMMM.

⁴¹ See Exh. 3, Tab R, Summary of DOS Briefing Memorandum, from HA Patricia Darian to the Secretary.

⁴² Exh. 3, Tab C at 57.

⁴³ See Respondent’s Motion to Terminate Proceedings, at 7.

⁴⁴ See T. Karl Report, Exh. 11 at 8, showing the number of murders during El Salvador’s civil war as a percentage of total population greatly outnumbered the murders occurring Argentina’s “dirty war” and Chile’s Pinochet dictatorship.

⁴⁵ See Slide 1 and Exh. 11, at 8. Professor Karl testified, however that her statistical work indicates the estimate of 75,000 deaths was low, and that the actual number of civilian deaths ranges from 90,000 – 100,000.

⁴⁶ See Slide 2, and Exh. 3, Tab C, at 73.

The most violent period of the war coincided with Garcia's tenure as Minister of Defense, with the Truth Commission finding over 75 % of the serious acts of violence occurring between 1980 and 1983.⁴⁷ Violence during that time was indiscriminate and extreme, particularly in the rural areas.⁴⁸

Indeed, this period was so violent, that it attained the highest level possible – Level VIII Terror, or Mass State Terror – on Freedom House's Scale of Terror.⁴⁹ Level VIII Terror is characterized by torture, murder, disappearances that threaten the entire population; and numerous large scale massacres of civilians carried out by the security forces.⁵⁰ Professor Karl's research resulted in a database detailing 4373 specific cases of torture, EJK, disappearances and arbitrary detention, committed by the ESAF during Garcia's tenure.⁵¹ The instant record is replete with additional examples of this indiscriminate and widespread violence during Garcia's tenure. Dr. Juan Romagoza, for example, testified to the ESAF's murder of an unconscious patient at the Santa Tecla Hospital in March, 1980, and the murder of students at the national university in June, 1980. Dr. Romagoza offered a first-hand description of the torture he experienced at the headquarters of the National Guard in December, 1980 and of the murders of men, women, and children by the ESAF at the time of his abduction.⁵²

⁴⁷ See Exh. 3, Tab C at 74.

⁴⁸ *Id.* The Truth Commission concluded that this violence occurred from a mindset that viewed political opponents as subversives and enemies and that anyone who expressed views different from the government line ran the risk of being eliminated as if they were enemies on the field of battle.

⁴⁹ See Slide 12, Exh. 11 at 9. Freedom House is a non-governmental organization dedicated to the expansion of freedom around the world. <http://www.freedomhouse.org/about-us>. Professor Karl testified that Freedom House has bipartisan support in Congress.

⁵⁰ See Slide 11, Exh. 7, Tab TTT at 171.

⁵¹ See Exh. 11, app. II. Professor Karl testified that her database should be considered a smaller "subset" of the total numbers of human rights violations occurring during Garcia's tenure, as it did not draw on the complaints received by the Truth Commission. For a further explanation of the methodology used in Appendix II, see T. Karl Report at 10, n.9.

⁵² See also, Exh. 4, Tab T; Exh. 4, Tab W (DOS cable dated November 1980, reporting security forces' kidnapping and murder of six FDR leaders); Exh. 3, Tab D (describing Las Hoyas Massacre); Exh. 3, Tab I

The most profound manifestation of the campaign of violence by the armed forces under Garcia's command was the scorched earth campaign characterized by a series of massacres. Professor Karl's research identified a partial listing containing 59 massacres of civilians occurring during Garcia's tenure.⁵³ The first major massacre was the "Rio Sampul Massacre" that occurred on May 14, 1980, on the border of El Salvador and Honduras. This massacre was a combined operation in which various units of the ESAF, using helicopter gunships, killed between 300 and 600 people attempting to cross the Sampul River into Honduras. One week before the massacre, military leaders from El Salvador and Honduras, who were still in a state of conflict after the so-called "Soccer War," met to coordinate the operation.⁵⁴ A Catholic priest who witnessed the massacre stated it was impossible for the military forces not to know the victims were civilians as most were women and children.⁵⁵ Garcia, however, initially denied a massacre had occurred. One year later, he admitted civilians died at Rio Sampul, "but not in such industrial quantities."⁵⁶

Torture by the ESAF, although more difficult to quantify, was also pervasive during Garcia's tenure as Minister of Defense.⁵⁷ Detainees, for example, were systematically tortured by all units of the security forces.⁵⁸ Torture was often prolonged

(describing alleged atrocities in San Salvador army barracks); Exh. 3, Tab M (interview with an alleged torture victim); Exh. 3, Tab J (describing torture of Green Cross volunteer).

⁵³ See Exh. 11, app. III. Professor Karl described this as a "partial listing" because the exhumation of massacre sites is ongoing, and because the listing conservatively defines "massacre" as the killing of 10 or more non-combatants, when social scientists generally use a figure of five or more.

⁵⁴ The "Guerra de Futbol," or "Soccer War" was fought between El Salvador and Honduras in 1969. A peace treaty was not signed until October 1980. See T. Karl Report, Exh. at 24, n.56.

⁵⁵ See T. Karl Report, Exh 11 at 70.

⁵⁶ *Id.* at 72-73.

⁵⁷ Professor Karl explained that the prevalence of torture is difficult to quantify as many victims were killed or were unwilling to describe their experiences with torture.

⁵⁸ See *America's Watch, El Salvador's Decade of Terror, Human Rights Since the Assassination of Archbishop Romero* (Human Rights Watch Books, 1991), Exh. 3, Tab E at 328; See also DOS cable dated December 1980, Exh. 3, Tab I (the cable details large scale atrocities, including torture with electric

and extreme, and included severe beatings, sexual violence, electric shock treatment, burning with cigarettes, deprivation of food, water and sleep, and mock executions.⁵⁹

Country reports throughout Garcia's tenure reported the use of torture by the security forces.⁶⁰ During 1983, Garcia's last year as Minister of Defense, the Department of State reported that torture was a regular practice of elements of the security forces, both as a form of arbitrary punishment, and for interrogation purposes.⁶¹

III. The Acts of Torture and Extrajudicial Killing were Committed under Color of Law.

The circumstances surrounding the acts of torture and extrajudicial killings establish that they were committed under the color of law. The phrase "color of law" as used in 18 U.S.C. § 2340(1) has the same meaning as it does in the context of 42 U.S.C. § 1983 cases. *See United States v. Belfast*, 611 F.3d 783, 808-09 (11th Cir. 2010) (looking to 42 U.S.C. § 1983 cases to interpret "color of law" under 18 U.S.C. § 2340). It requires an individual to have exercised power "possessed by virtue of ... law and made possible only because the wrongdoer is clothed with the authority of ... law." *Id.* at 808 (*quoting West v. Atkins*, 487 U.S. 42, 49 (1988)). Courts must "look to see whether a sufficient

instruments, gang rape of women, and beatings with batons occurring at the El Zapote Army Barracks located next to the Casa Presidencial in San Salvador; DOS cable of unknown date, Exh. 3, Tab M recounting interview with alleged torture victim who described 14 days of systematic interrogations by army and national police accompanied by beatings, cigarette burns and electric shock treatment; Exh. 3, Tab G, Amnesty International Report, March 1982 (a villager described how National Guardsmen scraped the skin off the victims' faces, gave long shallow cuts with machetes, and cut their fingers lengthwise.

⁵⁹ *See* Slide 14, Exh. 7, Tab TTT at 175. *See also*, Slide 15, Exh. 3, Tab J. This cable, dated June 10, 1982, describes the torture inflicted on "Castro" an El Salvadoran Green Cross volunteer, by the National Police. The torture included the crushing the victims testicles in a special apparatus consisting of pulleys and wires. The report prompted a cable from Secretary of State Alexander Haig to the U.S. Embassy in El Salvador directing the embassy to report the torture to Garcia and admonish Garcia that no country should subject its citizens to torture. *See* Slide 16, Exh. 7, Tab ZZZ.

⁶⁰ *See, e.g.*, Exh. 6, Tab DDD at 426, Committees on Foreign Affairs and Foreign Relations, 97th Cong., 2nd Sess. *Country Reports on Human Rights Practices for 1981 El Salvador* (Joint Comm. Print 1982) (reports credible accounts of torture and abuse at interrogation centers operated by security forces), and Exh. 6 Tab EEE at 495-96, Committees on Foreign Affairs and Foreign Relations, 98th Cong., 1st Sess. *Country Reports on Human Rights Practices for 1982 El Salvador* (Joint Comm. Print 1983) (some elements of the security forces continued to use torture that was prolonged and extreme).

nexus exists between the official's public position and the official's harmful conduct.” *Ramirez-Peyro v. Holder*, 574 F.3d 893, 900 (8th Cir. 2009). When applied to police officers, the factual inquiry “includes considerations such as whether the officers are on duty and in uniform, the motivation behind the officers’ actions, and whether the officers had access to the victim because of their positions, among others.” *Id.* at 901.

Significantly, acting under color of law:

does not require that the public official be executing official state policy or that the public official be the nation’s president or some other official at the upper echelons of power. Rather, ... the use of official authority by low-level officials, such as police officers, can work to place actions under the color of law even where they act without state sanction.

Id.

In the instant case, members of the ESAF committed the acts of torture and extrajudicial killings. They did so at facilities owned by the various military and security forces—sometimes in their headquarters. The perpetrators often committed these acts while in uniform, and nearly always while using resources provided by the Salvadoran government. *See Matter of D-R-*, 25 I&N Dec. 445, 452 (BIA 2011) (stating that extrajudicial killings committed by the Republic of Srpska military and by police officers for the Republic of Srpska were committed under color of law). Taken together, the acts of torture and extrajudicial killings committed by members of the ESAF were clearly carried out under color of law.

⁶¹See Slide 13; Exh. 7, Tab VVV; Exh. 6, Tab FFF at 59.

IV. Garcia Assisted or Otherwise Participated in Torture and Extrajudicial Killings.

A. Interpreting “assisted or otherwise participated in” in the context of torture and extrajudicial killing.⁶²

The Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (2004) “IRTPA,” amended the INA to make aliens who have engaged in torture or extrajudicial killing inadmissible or removable and to “close loopholes in U.S. immigration laws that have allowed aliens who have committed serious forms of human rights abuses abroad to enter and remain in the country.” *Matter of D-R-*, 25 I&N Dec. at 450 (citing S. Rep. No. 108-209, at 1-2, 2003 WL 22846178 at *1-2). The legislative history of the IRTPA amendments makes clear that Congress intended to apply the amendments to Garcia. As explained in a report prepared by the Law Library of Congress, “the legislative history of the amended INA provisions indirectly refer to General Jose Guillermo Garcia Merino’s involvement in human rights abuses in El Salvador by quoting an Amnesty International USA Report in which he is specifically named.” See Law Library of Congress, *Legislative History of Anti-Atrocity Alien Deportation Provisions* (March 2010), Exh. 5, Tab XX at 882 “LLOC Report.”⁶³ In addition, as the court stated in *Matter of D-R-*, the “statutory language--‘committed, ordered, incited, assisted, or otherwise participated in’-- is intended to reach the behavior of persons directly or personally associated with the covered acts, including those with command responsibility.” 25 I&N Dec. at 450 (citing S. Rep. No. 108-209, at 10, 2003

⁶² During the proceedings, Garcia argued that “proximate cause” is required to sustain the removal charges. As described in this section, Garcia’s arguments lack merit.

⁶³ As explained in the LLOC Report, the IRTPA amendments to INA § 212(a)(3) incorporated the provisions of the Anti-Atrocity Alien Deportation Act “AADA” which Congress had previously declined to enact as free standing legislation. See *id.*, at 884. The legislative history of the AADA, in turn, cited an Amnesty International USA publication, *The United States of America, A Safe Haven for Torturers “Safe Haven”* that documents Garcia as a case study of an individual alleged to be responsible for human rights

WL 22846178 at *10). Given that the charges were enacted for the removal of aliens like Garcia, it is clear, therefore, that Congress considered Garcia's connections to human rights abuses in El Salvador to be significant enough to sustain the elements required for removal.

Similarly, the terms "assistance" and "participation" encompass actions by leaders in support of torture and extrajudicial executions by their subordinates. While there is relatively little case law interpreting the phrase "assisted or otherwise participated in," as used in the torture and extrajudicial killings provisions of the INA, the Board of Immigration Appeals ("Board") has addressed the issue in *Matter of D-R-*, 25 I&N Dec. 445 (BIA 2011) (stating that "one can be found to have 'assisted' in persecution even if he has not 'personally engaged in acts of violence.'"(internal citations omitted)). Given the dearth of case law interpreting this phrase in the context of extrajudicial killing and torture, the Board looked to case law interpreting the identical phrase in the context of the INA's persecutor bar,⁶⁴ as well as cases interpreting similar language from the World War II era Displaced Persons Act of 1948 (DPA) and the 1978 Holtzman Amendment.⁶⁵ *Id.* at 452-53 (citing, *inter alia*, *Matter of A-H-*, 23 I&N Dec. 774 (A.G. 2005) (persecutor bar), and *Kalejs v. INS*, 10 F.3d 441, 444 (7th Cir. 1993) (Holtzman amendment)). Citing *Matter of A-H-*, the Board stated that the "terms 'are to be given broad application' and

abuses in his home country and who later entered and established residence in the U.S. *Id.* at 883; *See also* Exh. 5, Tab ZZ at 966.

⁶⁴ The persecutor bar prevents an alien from obtaining asylum and withholding of removal, among other benefits, if the alien "ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion." *See* INA § 208(b)(2)(A)(i); § 241(b)(3)(B)(i).

⁶⁵ The Displaced Persons Act of 1948 (DPA), which provided for the resettlement of certain people displaced by WWII, made a person ineligible for a visa under the DPA if the alien "assisted the enemy in persecuting civil populations," and the Holtzman amendment denies admission to the United States of, and provides for the deportation of, Nazi persecutors if such person "ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion." *See Chen v. Holder*, 513 F.3d 1255, 1258 (11th Cir. 2008).

‘do not require direct personal involvement in the acts of persecution.’” *Matter of D-R-*, 25 I&N Dec. at 452 (quoting *Matter of A-H-*, 23 I&N Dec. at 784).

The U.S. Court of Appeals for the Eleventh Circuit has also interpreted the “assisted or otherwise participated in” language in the context of the persecutor bar for asylum, likewise looking to cases interpreting the DPA and the Holtzman amendment. In *Chen v. Holder*, the Eleventh Circuit held that the test to determine whether an asylum applicant is barred from receiving asylum or withholding of removal “due to assistance or participation in persecution is a particularized, fact-specific inquiry into whether the applicant’s personal conduct was merely indirect, peripheral and inconsequential association or was active, direct and integral to the underlying persecution.” 513 F.3d 1255, 1259 (11th Cir. 2008). The court held that Chen, who guarded women detained in a facility until their scheduled forced abortions, assisted in persecution. *Id.* at 1260. The court concluded that “Chen’s conduct—voluntarily overseeing the confinement of women scheduled for forced abortions—clearly was direct and integral to the ultimate acts of persecution performed.” *Id.* at 1260.

In *Kalejs v. INS*, cited by the Board in *Matter of D-R-*, the U.S. Court of Appeals for the Seventh Circuit stated that “[a]ssigning personal responsibility in a military regime is complex,” and under the Holtzman amendment’s non-criminal provision which makes assistance in persecution a basis for deportation, “assistance may be inferred from the general nature of the person’s role in the war; therefore, the atrocities committed by a unit may be attributed to the individual based on his membership and seeming participation.” *Kalejs v. INS*, 10 F.3d 441, 444 (7th Cir. 1993). Thus, “a key officer in a

unit that has been proved by eye-witness testimony and Nazi-era documents to have killed tens of thousands of innocents” was found to have assisted in persecution. *Id.*

Additionally, an alien need not be physically present in order to assist or otherwise participate in acts of torture or extrajudicial killings. *Matter of A-H-*, 23 I & N Dec. 774 (A.G. 2005) is particularly instructive and on point with regard to the elements of “assistance” or “participation” when the alien, like Garcia, is in a leadership capacity. *Matter of A-H-* must therefore be considered in conjunction with *Chen* and the other decisional law cited herein, in analyzing the circumstances of this case. *Matter of A-H-* involved an alien who was a leader in exile of a political movement that had ties to armed groups known to have engaged in widespread persecution of civilians. *Matter of A-H-*, 23 I&N Dec. 774 (AG 2005). After discussing the plain meaning of the phrase “incited, assisted, or otherwise participated in,” the Attorney General provided some examples of the types of conduct that could support a finding that an individual who served as a leader had “engaged in, incited, assisted, or otherwise participated” in persecution:

[A] person, such as respondent, who is a leader-in-exile of a political movement may be found to have “incited,” “assisted,” or “participated in” acts of persecution in the home country by an armed group connected to that political movement. Examples of evidence that could support such a finding would include evidence indicating that the leader was instrumental in creating and sustaining the ties between the political movement and the armed group and was aware of the atrocities committed by the armed group, evidence that he used his profile and position of influence to make public statements that encouraged those atrocities, or evidence that he made statements that appear to have condoned the persecution without publicly and specifically disassociating himself and his movement from the acts of persecution, particularly if his statements appear to have resulted in an increase in the persecution. These examples are not intended to be exhaustive.

Id. at 787.

Significantly, the Attorney General made clear in *Matter of A-H-*, that the

examples described above “are not intended to be exhaustive.” *Id.* Accordingly, this Court is not limited to the examples provided in *Matter of A-H-* in assessing Garcia’s inadmissibility under the lodged charges.

In *United States v. Koreh*, 59 F.3d 431, 440 (3d Cir. 1995), the U.S. Court of Appeals for the Third Circuit held that “assisting in” persecution included the acts of a Hungarian newspaper editor during World War II who allowed the publication of numerous anti-Semitic articles, stating that the articles “foster[ed] a climate of anti-Semitism ... which conditioned the Hungarian public to acquiesce, to encourage, and to carry out the abominable anti-Semitic policies of the Hungarian government in the early 1940s.” Further, “[t]here need be no personal participation ... in the commission of physical atrocities” for a person’s actions to constitute assistance in persecution. *Id.* at 442.

Finally, a number of Circuit Courts of Appeals have also held that the alien must have some knowledge of the persecution taking place for his actions to constitute assistance in persecution. See *Castaneda-Castillo v. Gonzales*, 488 F.3d 17, 20-22 (1st Cir. 2007); *Diaz-Zanatta v. Holder*, 558 F.3d 450, 459-60 (6th Cir. 2009). Thus, an intelligence officer for the Peruvian military could only be found to have assisted in persecution “if she had some level of prior knowledge that the information she was gathering would be or was being used to persecute individuals.” *Diaz-Zanatta*, 558 F.3d at 460 (acknowledging, however, that there will be some gray areas “such as those involving willful blindness, strong suspicion, or some other ‘in between’ assessment”).

The Eleventh Circuit has not specifically addressed the issue of whether an alien must have knowledge of the persecutory acts to be found to have assisted or otherwise

participated in persecution. To the extent that this Court would find knowledge is required, it is discussed below.⁶⁶ In any event, Garcia admitted upon questioning by this Court, that he was aware the ESAF was abusing civilians while he was Minister of Defense, and that this abuse was a matter of public knowledge and could not be denied.

As outlined above, for an alien to be found to have assisted or otherwise participated in an act of torture or extrajudicial killing, the alien's actions must be active, direct, and integral to the torture or extrajudicial killing, although the alien need not have been personally involved in the torture or extrajudicial killing. Further, where the act of torture or extrajudicial killing was committed by an organization of which the alien was a member, the alien's assistance in the torture or extrajudicial killing may be inferred from the circumstances and the alien's role in the organization, especially where the alien was a high-level officer in the organization. Additionally, the "assisted or otherwise participated in" language is to be interpreted broadly and liberally.

The documentary and testimonial evidence in this case establish that Garcia as Minister of Defense assisted or otherwise participated in torture and EJK by pursuing a deliberate policy of human rights abuses, by creating and maintaining a climate of impunity that encouraged the ESAF and affiliated death squads to torture and massacre the civilian population, and by strengthening the repressive capacity of the ESAF. As this honorable court stated upon questioning Garcia during the proceedings, "We have to come to grips with one thing, one person is enough, that is all it takes, if one innocent life that was taken in the manner that was explained in this process, we need no more..."

⁶⁶ See section "C" *infra*.

B. Garcia, as Minister of Defense, pursued a deliberate policy of human rights abuses by the El Salvadoran Armed Forces.

Professor Karl described the ESAF as the overwhelming power in El Salvador since 1932, and Garcia as the single most powerful person in El Salvador from January 1980 to April 16, 1983. In El Salvador there was a common officer corps and the officers were rotated routinely between the military and security forces. The Minister of Defense is atop the chains of command of both the military and security forces.⁶⁷

Under Garcia, the Junta was marginalized, so Garcia wielded greater power than the Junta.⁶⁸ "As one journalist put it: 'Colonel Jose Guillermo Garcia, Minister for Defense and Public Security, speaks for the officer corps as a bishop speaks to his diocese. He is the commander-in-chief.'"⁶⁹ In fact, the Director of the National Guard told civilian junta members in Garcia's presence that the ESAF did not take orders from the Junta but from Garcia.⁷⁰ As noted in a U.S. government biographical cable on Garcia: "he chose to become Minister of Defense where he gained operational control of the armed forces and became, in effect, the power behind the throne."⁷¹

In a December 17, 1980, CIA report, the military was described as more unified and its chain of command more consolidated than at any time since the coup in October 1979. It also described the Defense Ministry as having complete control of all military affairs.⁷² Moreover, Ambassador White testified that as the United States Ambassador to El Salvador, he consulted with Minister of Defense Garcia because Garcia had the power and exercised command and control over the army and security forces. He stated that

⁶⁷ See Slide 9, Exh. 11 at 39.

⁶⁸ See T. Karl Report Exh. 11 at 2, 27, 38-39.

⁶⁹ *Id.* at 43.

⁷⁰ *Id.* at 53.

⁷¹ *Id.* at 34; Exh 7, Tab FFFF.

⁷² See Exh. 5, Tab FF at 789.

Garcia was the most powerful man in the most powerful institution in El Salvador. According to Ambassador White, Garcia never pleaded an inability to command and no military attaché ever reported to Ambassador White that Garcia was not in control of his troops.

According to the Truth Commission, the main characteristics of the 1980 – 1983 period were that violence became systematic and terror and distrust reigned among the civilian population.⁷³ The Truth Commission dismissed “all possibility that these [human rights abuses] might have been isolated incidents where soldiers or their immediate superiors went to extremes. ...Everything points to the fact that these deaths formed part of a pattern of conduct, a deliberate strategy of eliminating or terrorizing the peasant population...”⁷⁴ Professor Karl noted in her report that “Massacres, murder, torture and other forms of abuse by the [ESAF] formed part of a deliberate policy of state terror—an all-out war of extermination against civilians to defeat demands for social reform and an end to the domination of the armed forces.”⁷⁵ The pattern of violence came from a political mindset that viewed political opponents as subversives to be killed as if they were soldiers on the field of battle.⁷⁶

According to the Truth Commission, counter insurgency policy found its most extreme manifestation in the general practice of cutting the guerrillas’ lifeline by eliminating the inhabitants of areas the guerrillas were thought to be active.⁷⁷ This policy was starkly evident from the number of massacres committed during the Garcia period. According to Professor Karl,

⁷³ See TCR, Exh. 3, Tab C at 57.

⁷⁴ *Id.* at 156; T. Karl Report, Exh. 11 at 22.

⁷⁵ See T. Karl Report, Exh. 11 at 22.

⁷⁶ See TCR, Exh. 3, Tab C at 73.

[t]he sheer number during the Garcia period and the fact that these massacres involved all of the security forces, most military units, death squads, and the paramilitary in either individual or combined operations (as well as sometimes including the army of neighboring Honduras) demonstrate a deliberate strategy.⁷⁸

Ambassador White's testimony and consular reporting also reflected his belief that the pattern of human rights abuses during Garcia's tenure as Minister of Defense demonstrated a deliberate strategy. He noted in cables, for example that "the murders of the FDR leaders [by the ESAF and death squad] were not an aberration,"⁷⁹ and the "torturing and killing of unarmed civilians by the security forces had gone way beyond any conceivable justification...."⁸⁰

It is equally clear from the record that Garcia supported and encouraged this campaign of terror. As Professor Karl noted, where massacres involved coordination of uniformed soldiers, security agents and paramilitary forces, authorization of the entire High Command, including Garcia, its most important member, was required.⁸¹ According to Professor Karl, involvement of the Honduran forces is especially strong evidence of Garcia's complicity, given the poor state of relations between the two countries as a result of the Soccer War.⁸²

Garcia's complicity is also evident from his actions, or, more specifically, his failure to act, and his responses, when confronted by U.S. officials with reports of ESAF involvement in torture and EJK. As discussed more fully in section (C) below, Garcia

⁷⁷ *Id.* at 74.

⁷⁸ See T. Karl Report, Exh. 11 at 23.

⁷⁹ See Exh. 3, Tab R.

⁸⁰ See Exh. 4, Tab W.

⁸¹ See T. Karl Report, Exh. 11 at 23.

⁸² See note 50, *supra* and T. Karl Report, Exh 11 at 24, describing the intense hostility of the Soccer War and concluding it is not credible that coordinated actions between the military forces of these countries could have occurred without approval of the top commanders of the armed forces, including Garcia.

dismissed, ignored, and, in the case of the El Mozote Massacre, made light of reports of torture and EJK. In the case of the FDR murders, he expressed support for assassination of surviving FDR officials in a similar fashion.⁸³ In the case of San Luis Finca, he allowed the release of notorious human rights abusers who were within his grasp, effectively signaling to them their impunity. Not surprisingly, they went on to commit some of the most serious human rights abuses of the entire war.⁸⁴

Professor Karl candidly noted in her report that “copies of actual authorizations and/or orders cannot be obtained and most likely no longer exist).”⁸⁵ The submission of actual authorizations or orders is not required, however, to establish inadmissibility under INA § 212(a)(3)(E)(iii)(I) or (II). As the Board observed in *Matter D-R-*, 25 I&N Dec. 445, 454 (BIA 2011), an Immigration Judge’s findings may be based on reasonable inferences from direct and circumstantial evidence in the record. The direct and circumstantial evidence described above, together with the findings of the two expert witnesses and the Truth Commission provide ample support for the conclusion that Garcia assisted or otherwise participated in torture and EJK by pursuing a deliberate policy of human rights abuses by the ESAF.

C. Garcia created a climate of impunity that encouraged the armed forces to engage in torture and EJK.

As Minister of Defense, Garcia had the duty and responsibility under El Salvadoran codes and laws to investigate and punish human rights abusers. Garcia conceded this when he acknowledged, in response to questioning by this Court, that it

⁸³ Exh. 5, Tab II.

⁸⁴ See T. Karl Report, Exh. 11, Table 1 (containing a description of the San Luis Finca releases, their history of human rights abuses before San Luis Finca, and their involvement in human rights abuses after their release).

⁸⁵ See T. Karl Report, Exh. 11 at 23.

was his responsibility as Minister of Defense to ensure the military protected and preserved human life.

Article 249 of the El Salvadoran Military Code of Justice of 1964, for example, places within the Ministry of Defense the exclusive authority to initiate criminal investigations into officer misconduct. Article 73 subjects an officer to imprisonment if he does not use every means at his disposal to prevent subordinates from committing “acts of devastation, looting, or pillage.”⁸⁶ In addition to these statutory authorities, military codes gave Garcia the authority as Minister of Defense to dismiss officers for “mala conducta” or bad conduct, or to transfer officers out of the country if they were deemed dangerous to the country.⁸⁷ The state of siege that prevailed during Garcia’s tenure further increased his discretionary power to investigate and punish.⁸⁸ Despite these vast powers and responsibilities, and Garcia’s awareness the ESAF was violating the human rights of the civilian population, virtually no investigations were conducted, and not a single officer was punished for human rights abuses while Garcia was Minister of Defense.⁸⁹

Ambassador White described Garcia’s apparent disinterest in investigating human rights abusers during the numerous occasions he personally discussed with Garcia, the ESAF’s involvement in torture and EJK. When he told Garcia of the film he had seen of security forces apparently executing unarmed students, Garcia exhibited no interest whatsoever. According to Ambassador White, Garcia appeared similarly disinterested

⁸⁶ See Slide 10, Exh. 7, Tab TTT. See also, T. Karl Report, Exh. 11 at 36-37 and Exh.10, Tab UUUUU at 473-479, Transcript of Testimony of Expert Witness Professor Jos Luis Garcia (Professor Garcia described the various military codes establishing the authority of the Minister of Defense to investigate and punish human rights abusers).

⁸⁷ See T. Karl Report, Exh. 11 at 37.

⁸⁸ *Id.* at 37-38, 42-43.

⁸⁹ *Id.* at 2, 26-27, 54-57.

when provided a list of known human rights abusers by the U.S. Embassy, and when Ambassador White tried to discuss with him, Roberto and Mauricio Staben, two notorious killers.

This disinterest was accompanied by inaction in many cases and outright denial in others. Ambassador White described, for example, Garcia's failure to investigate numerous instances of unprovoked killings identified in the PDC letter of January 31, 1980.⁹⁰ Despite evidence linking the ESAF to the November 27, 1980, murders of six FDR leaders, Garcia officially denied ESAF involvement, and later expressed satisfaction with the murders in the presence of other military officers.⁹¹ In the case of the San Luis Finca incident, described earlier, Garcia manipulated the investigative process to facilitate the release of the conspirators, by limiting the investigative charges, and appointing a right wing sympathizer, named in the recovered documents, to lead the investigation. Ambassador White's frustration with Garcia is evident when he states in a DOS cable that he had called a meeting with Garcia to make the point that "the torturing and killing of unarmed civilians by the security forces had gone way beyond any conceivable justification and could affect [U.S.] support for [the government of El Salvador]."⁹² Ambassador White concluded the cable with the following comment:

This is the most disappointing and discouraging conversation I have had since my arrival in El Salvador. Col. Garcia made no promise, implicit or explicit to put an end to the official violence.⁹³

The Department's documentary submissions also illustrate Garcia's failure to investigate human rights abuses by the army and security forces. The Truth Commission,

⁹⁰ Exh. 10, Tab WWWW.

⁹¹ See Exh. 5, Tab II.

⁹² Exh. 5, Tab GG at 791.

for example, includes an analysis of the El Mozote Massacre, and notes that “General Jose Guillermo Garcia, then Minister of Defense, initiated no investigation that might have enabled the facts to be established.”⁹⁴ Similarly, Professor Karl noted that only one of the 59 massacres described in her Report was investigated, and that investigation unsurprisingly led to the exoneration of the ESAF, as it was led by a San Luis Finca conspirator who had been released.⁹⁵

The net effect of these denials, failures to investigate, expressions of satisfaction and releases of known human rights abusers was to protect human rights abusers and give the “green light” to mass state terror. As the Truth Commission noted in its report relating to the El Mozote Massacre, “the High Command took no steps to prevent the repetition of such acts, with the result that the same units were used in other operations and followed the same procedures.”⁹⁶

Consequently, there was a succession of massacres of increasing size and brutality. For example, on October 21, 1981, another massacre by combined military forces occurred in La Quesera, resulting in the deaths of 500 – 1000 civilians. That massacre was particularly brutal as it was characterized by widespread rape, and the execution of parents in front of their children. Survivors reported observing the soldiers throwing children to their deaths from helicopters. In Professor Karl’s expert opinion, it was inconceivable such combined operations, particularly those involving the Honduran forces, could have occurred without Defense Minister Garcia’s authorization.

⁹³ *Id.*

⁹⁴ See TCR, Exh. 3, Tab C at 151.

⁹⁵ See T. Karl Report, Exh. 11 at 67-68.

⁹⁶ See TCR, Exh. 3, Tab C at 151.

U.S. Ambassadors serving in El Salvador during Garcia's tenure, expressed concern about these massacres and their inability to persuade Garcia to stop them. U.S. Ambassador Deane R. Hinton, Ambassador White's successor in El Salvador, reported in a cable dated November 7, 1981, a disturbing new aspect to the violence in El Salvador, specifically, army massacres of women and children. He noted that U.S. Embassy officials witnessed a machine gun attack by helicopter on apparently unarmed women and children.⁹⁷ Ambassador Hinton suggested that Garcia would take the message [that continued United States' support was being jeopardized by the violence] more seriously, if the U.S. Secretary of Defense and Chairman of the Joint Chiefs of Staff met with Garcia in an effort to persuade him to end the violence against civilians.⁹⁸

One month after Ambassador Hinton's cable, in December 1981, combined forces of the ESAF, in particular the Atlacatl Brigade, massacred approximately one thousand civilians in and around the town of El Mozote. Forensic exhumations have uncovered the remains of 250 children averaging six years of age. Anthropologists refer to the El Mozote massacre as a mass extrajudicial killing. It is considered to be the worst massacre of civilians in contemporary Latin American history.⁹⁹

When Ambassador Hinton approached Garcia about reports of the massacre, however, Garcia responded by referring to the massacre as a "novella" or fairytale, and stated he would deny the massacre, and prove it was fabricated.¹⁰⁰ The Truth Commission later concluded that although reports the massacre would have been easy to

⁹⁷ See Exh. 5, Tab EE at 787

⁹⁸ See Exh. 3, Tab EE.

⁹⁹ See T. Karl Report, Exh. 11 at 88.

¹⁰⁰ See Exh. 5, Tabs KK and LL.

corroborate because of the profusion of unburied bodies, there was “full evidence” that Garcia initiated no investigation that might have enabled the facts to be established.¹⁰¹

Ambassador Hinton noted in a February 1982 cable that the “Morazán massacre had already occurred.... Now comes military folly in massacre in San Salvador of 17 persons.... As I have said before, we are hostage to malevolent forces seemingly beyond our control. While Garcia talks a good game, I no longer trust him or believe him.”¹⁰²

Ambassador White testified that ministers of defense do not take direct action. Their function is to set policy. Ambassador White testified that Garcia fashioned a policy that encouraged, protected, and guaranteed impunity for the rampant killings committed daily by the ESAF. Garcia was responsible for the cover up of the killings and the protection of those who killed.

As described above, a leader can be found to have assisted or otherwise participated in human rights abuses by actions that encourage an armed group with whom he maintains ties, to commit these abuses. *See Matter of A-H-*, 23 I&N Dec. 774, 787 (AG 2005). Garcia, by failing to investigate reports of torture and EJK, created a climate of impunity that encouraged the armed forces under his control to continue their campaign of torture and murder.

D. Garcia strengthened the repressive capacity of the ESAF.

In addition to the deliberate campaign of massacres, and the creation of the climate of impunity, Garcia assisted or otherwise participated in torture and EJK by marginalizing reformist officers, promoting hardliners to key positions in the ESAF, failing to abolish governmental organs of repression as promised by the young officers

¹⁰¹ See Exh. 3, Tab C at 151.

¹⁰² Exh. 5, Tab BB.

following the October 15, 1979, coup and by condoning the existence of death squads inside the ESAF.

In a meeting of 100 officers on December 18, 1979, military leadership was reshuffled to push out reformers and fill their places with officers loyal to Garcia.¹⁰³ At the same time, Garcia promoted his friends and cronies, all of whom were hardliners who rejected land reform, into key positions of power within the ESAF. Some of the hardliners Garcia promoted were Nicholas Carranza, who became Garcia's Vice Minister of Defense, Francisco Antonio Moran, head of the Treasury Police, Carlos Reynaldo Lopez Nuila, head of the National Police, and Carlos Eugenio Vides Casanova who became head of the National Guard.¹⁰⁴ Vides Casanova and Carranza were later sued in separate cases in United States District Courts, by torture victims and family members of victims of EJK, from El Salvador. They were found liable and ordered to pay damages in the millions of dollars.¹⁰⁵

After the October 15, 1979 coup, the young officers decreed the abolition of ANSESAL, the military intelligence division responsible for much of the death squad activity.¹⁰⁶ ORDEN was also to have been abolished.¹⁰⁷ Instead, "Department 5" was created within the General Staff of the ESAF. Department 5 was a secret intelligence unit that received information from the intelligence sections of the various security forces that resulted in the elimination of specific individuals. Major Roberto D'Aubuisson was

¹⁰³ See T. Karl Report, Exh. 11 at 51.

¹⁰⁴ See T. Karl Report, Exh. 11 at 45-46, and Table 1 for a description of the close relationships of these hardliners to Garcia, and their backgrounds as human rights abusers.

¹⁰⁵ See Exh. 4, Tab X; Exh. 7, Tab SSS.

¹⁰⁶ See T. Karl Report, Exh. 11 at 44.

¹⁰⁷ "ORDEN" was a paramilitary group founded in 1961, and created to monitor the rural population for signs of any political organization. It became an organ of repression which led to calls for its abolition. See T. Karl Report at 43, and 13, n.121.

ordered by Garcia or Vice Minister of Defense Carranza to remove ANSESAL's intelligence files to Department 5.¹⁰⁸ ORDEN was effectively disbanded in name only. Its membership remained intact and became the "Civil Defense."¹⁰⁹

Death squads flourished under Garcia. The squads tended to operate out of the S2 (intelligence) or S3 (operations) units of the security forces.¹¹⁰ Captain Alejandro Fiallos, a former captain with the ESAF testified before a House of Representatives'

Subcommittee that:

"It is a grievous error to believe that the forces of the extreme right, or the so-called 'Death Squads', operate independent of the security forces. The simple truth of the matter is that Los Escuadrones de la Muerte are made up of members of the security forces and acts of terrorism credited to these squads, such as political assassinations, kidnappings, and indiscriminate murder are, in fact, planned by high-ranking military officers and carried out by members of the security forces."¹¹¹

The death squads left the bodies of victims all over; the victims often had their thumbs tied behind their backs, a procedure commonplace in the military.¹¹² Death squads also used El Playon as a body dump.¹¹³ El Playon was located near three military installations, and anyone going there had to obtain permission at a nearby military roadblock.¹¹⁴ In 1982, Professor Karl personally observed at El Playon the bodies of

¹⁰⁸ See T. Karl Report, Exh. 11 at 44.

¹⁰⁹ *Id.* at 43.

¹¹⁰ *Id.* at 45.

¹¹¹ See Exh. 10, Tab P P P P P, El Salvador, Economic Reprogramming \$63.5 Million Reprogramming Request: Hearing before the Subcommittee of the Committee on Appropriations House of Representatives, Ninety-Seventh Congress First Session (1981) (testimony of Carlo Frederico Paredes, Leonel Gomez, and Alejandro Fiallos).

¹¹² See T. Karl Report, Exh. 11 at 45. See *e.g.*, Slides 22 and 23.

¹¹³ See Slide 27.

¹¹⁴ See T. Karl Report, Exh. 11 at 18-19.

Christian Democratic Party members who had been murdered, and their bodies dumped there.¹¹⁵ The Truth Commission determined that:

The death squads, in which members of the state structures were actively involved or to which they turned a blind eye, gained such control that they ceased to be an isolated phenomenon and became an instrument of terror used systematically for the physical elimination of political opponents. Many of the civilian and military authorities in power during the 1980s participated in, encouraged and tolerated the activities of these groups.¹¹⁶

Garcia assisted or otherwise participated in torture and EJK by allowing these death squads to exist within the ESAF.

On March 30, 1981, the El Salvadoran Daily newspaper, *Diario De Hoy* published on behalf of "COPREFA" the ESAF's press office, a list of 138 people deemed enemies of the state.¹¹⁷ This list, which constituted a death list, was similar to a list published by the "Secret Anticommunist Army" death squad, and identified purported members of the armed FMLN, and unarmed opposition FDR leaders. That this was a death list was reinforced by the fact that months earlier, on November 27, 1980, six leaders of the FDR were abducted and murdered by the security forces.¹¹⁸ After the list was published several people named on the list were killed, others experienced attempts on their lives, or fled El Salvador. Under Garcia's leadership, the ESAF never withdrew or disavowed the list.¹¹⁹

¹¹⁵ *Id.*

¹¹⁶ Slide 25, Exh. 3, Tab C at 162.

¹¹⁷ See Exh. 12, Tab FFFFFFFF.

¹¹⁸ See TCR, Exh. 3, Tab C, pp. 88-92.

¹¹⁹ See T. Karl Report, Exh. 11 at 47-48.

Professor Karl recalled a cable in which Ambassador White expressed frustration at the denials of Garcia and other members of the High Command, of military involvement in death squad activity. Ambassador White reported that:

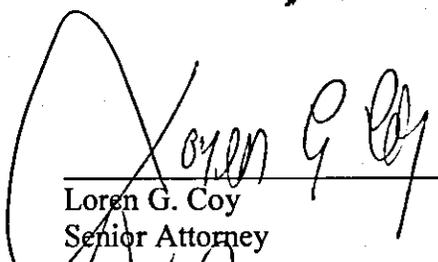
There is something of an Alice in Wonderland air to conversations with top military officers here. Garcia and Carranza know perfectly well that some middle and low-level members of the military are involved in death squads and other rightwing violence, and yet, as long as I follow civilized rules of discourse, aimed at ensuring a continuing dialogue with the High Command, there is almost no way to break through the pose.¹²⁰

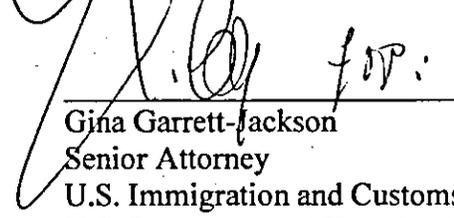
CONCLUSION

The Department's documentary and testimonial evidence established widespread, systematic torture and EJKs by the ESAF and death squads in El Salvador during Garcia's tenure as Minister of Defense. Garcia was not only aware that these abuses were occurring but as Minister of Defense, Garcia in fact pursued a deliberate policy of torture and EJK by the ESAF. Moreover, Garcia was integral to and instrumental in creating and sustaining the climate of impunity within the ESAF that encouraged these abuses. He did this by failing to investigate and punish human rights abuses and by strengthening the repressive capacity of the ESAF. As such, Garcia, during his tenure as Minister of Defense assisted or otherwise participated in torture and EJK under color of law. The Department, therefore, respectfully requests that the Court sustain the charges of inadmissibility under sections 212(a)(3)(E)(iii)(I) and (II) of the Act, and order Garcia removed from the United States to El Salvador.

Respectfully submitted,

¹²⁰ Slide 26, Exh. 5, Tab VV.


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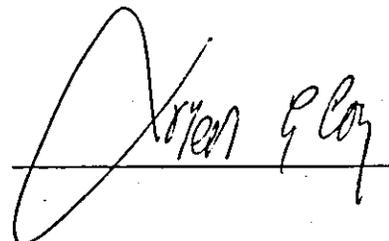

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CERTIFICATE OF SERVICE

On June 3, 2013, I, Loren G. Coy, sent a copy of the Department's Closing Argument and any attached pages to Alina Cruz, Esquire, attorney for Jose Garcia, at the following address: CruzLaw PA, 8501 SW 124 Ave., Suite 204B, Miami, Florida, 33183 by first class mail.


Loren G. Coy