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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

Docket No. 6:13-cv-1426

JOAN JARA, in her individual	:	
capacity and in her capacity	:	
as the personal representative	:	
of the Estate of Victor Jara,	:	
et al.	:	
	:	Orlando, Florida
Plaintiffs	:	June 21, 2016
	:	9:02 a.m.
v.	:	
	:	
PEDRO PABLO BARRIENTOS NUNEZ	:	
	:	
Defendant	:	
.....	:	

TRANSCRIPT OF JURY TRIAL, VOLUME VII
BEFORE THE HONORABLE ROY B. DALTON, JR.
UNITED STATES DISTRICT JUDGE

Court Reporter: Amie R. First, RDR, CRR, CRC, CPE
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Proceedings recorded by mechanical stenography.

Transcript produced by Computer-Aided Transcription.

1 APPEARANCES:

2

3 For the Plaintiffs: Mark D. Beckett

4 Richard S. Dellinger

5 L. Kathleen Roberts

6 Daniel McLaughlin

7 Christian Urrutia

8 Amy Belsher

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10 For the Defendant: Sean W. Landers

11 Luis F. Calderon

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P R O C E E D I N G S

THE COURT: Good morning. Back on the record in Jara versus Barrientos Nunez, 6:13-civil-1426.

The Court notes the parties are present. I don't see Mrs. Jara this morning, but she's probably on the way.

MR. CALDERON: We're bringing her out right now, Your Honor.

THE COURT: Is our jury back and ready, Mr. Carter?

COURT SECURITY OFFICER: Yes, sir.

THE COURT: Are the lawyers ready to proceed?

MR. CALDERON: Yes, Your Honor.

THE COURT: Let's bring our jury back.

Yes, ma'am. Come and take the witness stand.

(Jury entered the courtroom at 9:03 a.m.)

THE COURT: Welcome back, ladies and Mr. Codner. Hope you had a pleasant evening. Thank you for being back on time.

And let me ask you, were you all able to follow my instructions not to discuss the case amongst yourselves or with anyone else?

JURY: Yes.

THE COURT: Okay. Thank you.

You may recall when we adjourned last evening, we

1 are in the midst, I think, of the examination of
2 Mrs. Castro Barrientos. We're going to pick up where we
3 left off last evening.

4 You may inquire, Mr. Beckett.

5 MR. BECKETT: Thank you, Your Honor.

6 **CONTINUED CROSS EXAMINATION**

7 BY MR. BECKETT:

8 Q Mrs. Barrientos, yesterday when we -- good morning.

9 A Good morning. I am Mrs. Castro.

10 Q Yesterday we, when we broke, the Judge asked if you,
11 directed you not to speak to anyone over the evening.

12 Did you speak with counsel for the defendant in this
13 case over the evening?

14 A No.

15 Q Did you speak with the defendant in this case?

16 A No.

17 Q Yesterday we were talking about Mr. Smith,
18 Lieutenant Smith. And I believe you told us that you were
19 in touch with him in 2013 and 2014, correct?

20 A Correct.

21 Q And how many times were you in touch with him in 2015?
22 You can approximate.

23 A About three.

24 Q And tell me about those occasions in which you were in
25 touch with Lieutenant Smith in 2015. What was the manner

1 of those communications? Did you meet in person?

2 A I invited him to my apartment.

3 Q Okay. And what month in 2015 did you meet with him in
4 your apartment, approximately?

5 A After having spoken to the attorney for the Jara
6 family, Mr. Christian Urrutia.

7 Q I believe my question was, when did you speak to him?
8 What month did you speak to him?

9 A About November to December.

10 Q Okay. And when was the next time you communicated
11 with or had a meeting with Lieutenant Smith in 2015?

12 A Around those same days when we went to the Ministry of
13 Defense to extract documents of over 30 years ago.

14 Q Okay. So you went with him to the Ministry of Defense
15 to look at documents, correct?

16 A Yes, correct.

17 Q And that was in 2015, correct?

18 A Yes, at the end of the year.

19 Q Okay. So that was about in December of 2015?

20 A It could be, yes.

21 Q Now, when you met with him in your apartment, he was
22 physically close to you, correct?

23 A In my living room.

24 Q Yes. And when you went with him to look through the
25 files, he was physically close to you, correct? You were

1 both going through the files together, correct?

2 A No. We went to get them.

3 Q Okay. So did you travel in a car to go there?

4 A No. We met at the subway or at the Metro at the front
5 door of the Ministry of Defense.

6 Q Okay. And when you met with him at the front door of
7 the Ministry of Defense, you were standing next to him,
8 correct?

9 A Yes, of course, correct.

10 Q When was the other time you met with, with Lieutenant
11 Smith in 2015?

12 A When Mr. Kubicz sent him questions and answers for a
13 sworn statement.

14 Q Okay. Miss Castro, I asked you when. That's all I
15 need to know. What month did you meet with him? What was
16 the next occasion?

17 A It would seem that it was December as well. It seems.

18 Q And when you met with him in December, were you
19 physically close to him when you met him in December of
20 2015?

21 A Yes, of course.

22 Q Okay. How many times did you meet with him in 2016?

23 A None.

24 Q Of course, you recall testifying in here yesterday,
25 correct?

1 A Yes, of course.

2 Q And you recall giving the oath when you came in to
3 tell the truth, correct?

4 A Yes, of course.

5 Q And you tried to abide by that? You abided by that
6 oath when you gave your testimony yesterday, correct?

7 A Of course.

8 Q This is a transcript, a rough transcript from the
9 proceeding yesterday.

10 MR. BECKETT: May I approach, Judge?

11 THE COURT: Yes.

12 BY MR. BECKETT:

13 Q I would like you, please, to look at lines 11 through
14 16. And I would ask the interpreter to translate those to
15 the witness.

16 A Yes. Okay.

17 Q So yesterday you were asked the following:

18 "Question: And when was the last time you saw" --

19 MR. CALDERON: Objection, Your Honor. Improper
20 impeachment.

21 THE COURT: Objection is overruled.

22 BY MR. BECKETT:

23 Q "Question: And when was the last time you saw Jorge
24 Smith?"

25 You said, "Physically near me. It was the day that we

1 found out that Rodrigo Rodriguez Fuchloger had died.

2 "Question: And do you recall what year that was?

3 "Answer: Yes. That had to be the last quarter of
4 1974."

5 A Okay.

6 Q Did I read that correctly? Yes or no?

7 A Yes, correctly.

8 Q Isn't it true that Lieutenant Smith Gumucio is under
9 indictment in Chile?

10 A Yes, it's true. Yes.

11 Q And your meetings with him in 2015 were in order to
12 coordinate legal positions with Lieutenant Smith and to
13 share information, correct?

14 A That's correct.

15 Q Yesterday you told us that you received files from the
16 attorney for Sanchez, correct?

17 A (Speaking.)

18 Q Who are you looking at, Miss Castro? Please look at
19 me, not defense counsel.

20 A Yes, 22 volumes.

21 Q And just to be clear, that person's full name is Hugo
22 Hernan Sanchez Marmonti, correct?

23 A I know him as Colonel Sanchez.

24 Q And Colonel Sanchez is under indictment in Chile,
25 correct?

1 A Yes, of course.

2 Q And you were working with his attorney to coordinate
3 your legal position, the legal position of your husband and
4 share information, correct?

5 A No, that is not correct.

6 Q Yesterday you told us about a book that you had read,
7 I'm sure you'll recall. It was called Zarpazos del Puma,
8 correct?

9 A Correct.

10 Q And you read that entire book, correct?

11 A Many years ago, in '87.

12 Q And I think you told us that the journalist who wrote
13 that book was a respected journalist, correct?

14 A Correct.

15 Q And yesterday you told us that you recognized three
16 names in that book, correct?

17 A Correct.

18 Q And those were the three names of officers, correct?

19 A Correct.

20 Q And one of those people that you recognized was an
21 officer named Enriotti, correct?

22 A Correct.

23 Q And one of those names that you recognized was a
24 general named Arellano Stark, correct?

25 A I know his name. I don't know him. I do know he was

1 a general.

2 Q Do you recall he was one of the names you recognized
3 in the book, or not?

4 A No. It was not him.

5 Q What are the other two names of officers that you
6 recognized in that book?

7 A Minoletti and von Chrismar.

8 MR. BECKETT: Help me with the second name, if you
9 could, Interpreter. How do you spell it?

10 BY MR. BECKETT:

11 Q How do you spell it, ma'am?

12 A V-O-N C-H-R-I-S-M-A-R.

13 Q Von Chrismar.

14 A Von Chrismar.

15 Q How did you recognize the name Minoletti?

16 A He was a captain who had gone to Tejas Verdes to take
17 the captain's training course. Prior to 1973.

18 Q And you knew him, correct?

19 A He lived in the houses behind me.

20 Q So you knew him, correct?

21 A Yes.

22 Q Was he married?

23 THE INTERPRETTER: Interpreter requests repeat.

24 BY MR. BECKETT:

25 Q Was he married?

1 A Yes.

2 Q And you were friendly with his wife, correct?

3 A No, because he was a student.

4 Q So it wasn't proper for officers' wives to mix with
5 students' wives; is that right?

6 A It's different when it's the in-house officers and
7 when they are students because they can be by themselves.

8 Q But this student, you told us a moment ago, was
9 actually a captain, correct?

10 A Yes, of course.

11 Q So his rank was actually higher than your husband's
12 rank at the time, correct?

13 A Yes, of course.

14 Q And yet you felt that it was still not proper for you
15 to mix with he and his wife because they had the status of
16 students at Tejas Verdes? Is that what you're telling us?

17 A He was a student at Tejas Verdes. But the wives would
18 not mix with the wives of the in-house officers.

19 Q But, ultimately, what happened after he -- how long
20 was his -- I'm sorry. Strike all this.

21 How long was his course of study at Tejas Verdes
22 in 1973?

23 MR. CALDERON: I'm going to object as to scope.

24 THE COURT: Objection is overruled.

25 THE WITNESS: That, I don't know. Maybe four,

1 five, six months. I don't know.

2 BY MR. BECKETT:

3 Q And after he completed his course of study, where was
4 he assigned?

5 A To Calama.

6 Q Is that Calama or Atacama?

7 A Calama. It's another city of the second region.

8 Q How did you know Von Chrismar?

9 A Because he was an officer at the military academy when
10 my ex-husband was a student.

11 Q What was his rank in 1973?

12 A I don't know.

13 Q When did you first meet him?

14 A At the parties when my husband was a student, he was
15 there as a staff military officer.

16 Q And you also talked about Captain Enriotti. And, of
17 course, in 1973 --

18 A Yes.

19 Q -- your husband reported directly to Captain Enriotti,
20 correct?

21 A No.

22 Q So in October of 1973, Captain Enriotti was at Tejas
23 Verdes, correct?

24 A No.

25 And he was a major, not a captain.

1 Q Do you know at any time Captain Enriotti was assigned
2 to Tejas Verdes, yes or no?

3 A When we arrived, he was an in-house officer and he was
4 an Army major.

5 Q Okay. Let me just break that down.

6 You say when we arrived. Are you talking about you
7 and your then husband?

8 A Of course.

9 Q And what was the place at which you arrived when you
10 were describing that? Was that Tejas Verdes?

11 A Yes, of course.

12 Q So when you arrived, he was an officer.

13 Remind us again when you arrive. The month and the
14 year, please?

15 A We arrived at Tejas Verdes in the month of September
16 of '71. And we were being transferred from Copiapo.

17 Q Okay. And from the time you arrived in 1971 through
18 the end of 1973, Captain Enriotti was an officer at Tejas
19 Verdes, correct?

20 A No. Not till '73. Because he withdrew prior to that
21 with a regiment to the south.

22 Q When you say he withdrew prior to that, are you saying
23 that he was reassigned at some point, correct?

24 A He was sent to a regiment in the south.

25 Q What month and year was that, as far as you can

1 remember?

2 A That, I cannot recall.

3 Q And he was sent to Copiapo, correct?

4 A It would seem that it was to the south because they
5 were from the south.

6 Q And do you know from reading the book that the book
7 details that Captain Enriotti ran a concentration camp or
8 detention camp, correct?

9 A So many years have gone by. It was 1987. And I never
10 again read that book. It was in '87.

11 Q Well, ma'am, you told us yesterday that that book had
12 quite an impact on you, correct?

13 A Oh, yes, of course.

14 Q And you told us specifically that you recognized three
15 officers' names in that book, correct?

16 A Yes, of course.

17 Q And the reason it had a particular impact on you is
18 because this book about atrocities mentioned three officers
19 that you personally knew, correct?

20 A Yes, of course.

21 Q And the book described how these officers had some
22 measure of involvement in the torture and killing described
23 in that book, correct?

24 A Yes, of course.

25 Q And you know that that book describes the fact that

1 Officer Enriotti, in 1973, in Copiapo, killed 13 detainees,
2 correct?

3 A I don't recall it now at this moment. It was in '87.

4 Q So you read this book that had this tremendous impact
5 on you because you knew the three officers, but you can't
6 tell us now what those three officers are described as
7 having done in the book; is that right?

8 A That's correct.

9 Q In 19 -- sorry. Strike that.

10 In 2015 --

11 A Yeah.

12 Q -- you met with a colonel named Arredondo, correct?

13 A He's not a colonel.

14 Q What is his rank?

15 A Army captain.

16 Q You met with him in 2015, correct?

17 A At the end of the year.

18 Q And Arredondo is also mentioned in the book Zarpazos
19 Puma, correct?

20 A No, no. I have no idea. He had such a low rank, he
21 wasn't probably even in the military academy.

22 Q So you don't remember the passage of the book where
23 Arredondo gives orders to Minoletti to stack bodies from a
24 detention camp, to pile dead bodies up?

25 You don't remember that?

1 A That's impossible. Captain Arredondo may be about
2 30 years old. He hadn't even been born.

3 Q When you were at Tejas Verdes, you told us yesterday
4 that you knew many of the officers, correct?

5 A Of course, yes.

6 Q And in 1973, who was the head of Tejas Verdes?

7 A Colonel Manuel Contreras Sepulveda.

8 Q And you knew him at that time, correct?

9 A Yes, of course. He was the colonel of the academy,
10 the headmaster of the academy.

11 Q And you knew his wife, correct?

12 A Yes. Nelida.

13 Q And you know that he went on to be the head of DINA,
14 correct?

15 A Yes, of DINA, yes.

16 Q And you're aware that he was accused and ultimately
17 convicted of torture and extrajudicial killing at DINA,
18 correct?

19 A Yes. Yes, of course. It's public knowledge.

20 Q There was an officer's casino at Tejas Verdes,
21 correct?

22 A Yes, of course. Very nice.

23 Q It was on the border, correct?

24 THE INTERPRETTER: Interpreter requests repeat.

25 BY MR. BECKETT:

1 Q It was on the water, correct?

2 THE INTERPRETER: Interpreter requests permission
3 for clarification from the witness.

4 THE COURT: Yes.

5 THE WITNESS: Standing in the living room, you
6 could see below you there was the water.

7 BY MR. BECKETT:

8 Q So it had beautiful views, correct?

9 A Yes, very beautiful.

10 Q And you spent time there as an officer's wife,
11 correct?

12 A Four years.

13 Q Did you know that beneath that facility there was a
14 detention center where people were tortured in 1973?

15 Did you know that beneath the casino in 1973, there
16 was a detention center where people were tortured?

17 A No.

18 Q You had no idea about that?

19 A If it was at the beginning, I was in Santiago with my
20 parents. I saw nothing.

21 Q No, ma'am. I'm asking you about the time you were
22 living there with your husband in 1973.

23 Is it your testimony at that time you had no idea that
24 there was a torture facility beneath the very casino where
25 you were enjoying the lovely views?

1 A I did not know, no.

2 Q And at that time did you know that Lieutenant Colonel
3 Contreras was giving orders to torture?

4 A No.

5 Q These were things you didn't know at the time,
6 correct?

7 A No, of course.

8 Q When you were considering the possibility that your
9 husband may have been involved in abuses and atrocities
10 after reading the book you've told us about, did it occur
11 to you that there may have been things going on at Tejas
12 Verdes that you didn't know about?

13 A I never saw anything.

14 Q Ma'am, my question was not whether you saw something,
15 but did reading the book make you think that things were
16 going on at Tejas Verdes that you may not have known about
17 at the time?

18 A No, it did not occur to me.

19 Q And even after Lieutenant Contreras was convicted for
20 crimes in Chile connected with torture, that didn't make
21 you think that perhaps things were going on at Tejas Verdes
22 where he was the commanding officer that you didn't know
23 about?

24 A No.

25 Q Ma'am, from the day of the coup onward,

1 September 11th, for instance -- let's just go day by
2 day.

3 September 11th, were you with your husband?

4 Were you with your husband on September 11th.

5 A No.

6 Q So you have no idea, you cannot tell us as an
7 eyewitness what he did on September 11th, correct?

8 A No. I bid him farewell the previous day, on the
9 10th, at 11:00 at night.

10 Q And on September 12th, you were not with your
11 husband, correct?

12 A No.

13 Q So you can't tell us as an eyewitness what he did on
14 September 12th, correct?

15 A No, I did not see him.

16 Q And on September 13th, you were not with your
17 husband, correct?

18 A No. Yesterday I said that I wasn't with him, that it
19 was a weekend, and that it was either Saturday or Sunday.

20 Q Yeah. Just try to answer my questions yes or no. I'm
21 going to ask for questions that can be answered yes or no.

22 You weren't an eyewitness to what he did on
23 September 13th, correct?

24 A No.

25 Q Okay. You weren't with him on September 14th,

1 correct?

2 A No.

3 Q And you weren't an eyewitness, therefore, to anything
4 that happened on September 14th, correct?

5 A No.

6 Q And you told us yesterday that you happened to go to
7 your parents and find Lieutenant Barrientos there in
8 Santiago at some point during that weekend, correct?

9 A Correct. But it was -- it seems like it was the
10 following day.

11 Q All right. I'll ask you questions about that.
12 He was alone with your parents in the house, correct?

13 A And I was there with my child.

14 Q And I think you told us that you saw him at 10:00
15 p.m., correct?

16 A I was with my parents.

17 Q Ma'am, ma'am.

18 A And he arrived at 10:00 at night.

19 Q Okay. So he arrived at 10:00 at night?

20 A Yes. More or less.

21 Q And you were telling us that was on either the
22 15th or the 16th, correct?

23 A I haven't made the calculation. Monday was the
24 10th. 11th, 12th, 13th, 14th. It was
25 the 15th or the 16th. But I cannot remember

1 whether it was a Saturday or Sunday.

2 Q Okay. Well, if it was the 16th, then you didn't
3 see him on the 15th at all, correct?

4 A I'm not sure. Yesterday I said twice I don't recall
5 if that was a Saturday or a Sunday. But I do recall is
6 that it was the weekend after the 11th.

7 Q Are you quite sure it was possible for vehicles to
8 travel freely on September 15th?

9 A At 2:00 in the afternoon, yes. My father did so. He
10 went to pick me up.

11 Q You've given us two different alternatives. So I want
12 to just explore each alternative. I want to go back to my
13 question.

14 Since you can't tell us whether it was the 15th or
15 the 16th, my question is --

16 A No, I can't.

17 Q My question is, if it was on the 16th that you saw
18 him at 10:00 p.m., that means you did not see him at all on
19 the 15th, correct?

20 A It's just that I can't know. I can't remember. I
21 don't know if it was Saturday or Sunday.

22 Q Okay. Let's say that it was on the 15th. You did
23 not see him until 10:00 p.m. that evening, correct?

24 A Okay.

25 Q And that means you were not an eyewitness to anything

1 he did prior to 10:00 p.m. on the 15th, correct?

2 A Of course.

3 Q I want to go back to one thing. You have coordinated
4 closely with your husband in preparing his defense in this
5 case, correct?

6 A No, not with my husband. With the Baez firm.

7 Q Okay. In connection with your work with the Baez
8 firm, and without giving me any information about
9 communications that you had with them, did you participate
10 in the preparation of answers to interrogatories in this
11 case?

12 A Yes. Of course.

13 Q And you know when I say interrogatories, these are
14 written questions that then require answers, correct?

15 A Yes. These are the questions sent by Mr. Kubicz.

16 Q Now, I want to ask you one more time, is it your
17 recollection that Mr. Barrientos reported to Captain
18 Enriotti in 1973? Yes or no?

19 A No. They were at many kilometers, many kilometers
20 away.

21 Q Did you review a draft of the answers to the
22 interrogatories in this case in connection with your work
23 with the Baez firm?

24 A No. I was asked for a draft written in my
25 handwriting. Jaras' firm.

1 Q I want to be clear. You were asked some questions by
2 lawyers that work with me. I'm asking you about an
3 interrogatory that was sent to your husband for him to
4 answer.

5 Did you participate in the development of the
6 information in response to that document?

7 A I have no idea that he had been asked questions.

8 Q Would it surprise you to know that in the answers to
9 those questions, your husband said that he reported to
10 Captain Enriotti in 1973?

11 A That wouldn't happen. Enriotti was in the south.

12 THE COURT: I'm sorry. Mr. Icaza, would you
13 explain to the witness that she needs to listen to your
14 translation of the question. Answer the question. Don't
15 provide information that's not asked for. All right?

16 So listen to the translation of the question.
17 Answer the question.

18 BY MR. BECKETT:

19 Q Would it surprise you to know that your husband, in a
20 sworn statement to the Court, said that he reported to
21 Captain Enriotti at Tejas Verdes in 1973?

22 MR. CALDERON: I'm going to object on hearsay
23 grounds.

24 THE COURT: Objection is overruled.

25 THE WITNESS: It would surprise me because he

1 wasn't there.

2 BY MR. BECKETT:

3 Q When you were at Tejas Verdes, did you ever hear of an
4 institution there known as Prison Camp Number 2?

5 A No.

6 Q No? You've never heard of that?

7 A No.

8 Q Have you heard of it since?

9 A I've heard that it was -- I have heard that it was
10 seen that it was in Santo Domingo but not Tejas Verdes.

11 Q Where is Santo Domingo?

12 A Crossing a bridge about, of about two kilometers.

13 Q It's two kilometers away from the military base at
14 Tejas Verdes, correct?

15 A No.

16 Q It's very close to Tejas Verdes, correct?

17 A Close but not next door.

18 Q In 1973, were you aware of the existence of Prison
19 Camp Number 2 in Santo Domingo? Yes or no?

20 A No.

21 Q Since that time, since 1973, did you become aware of
22 the existence of Prison Camp Number 2 in Santo Domingo?

23 A I have heard.

24 Q When did you first hear about the existence of a
25 prison camp at Santo Domingo near Tejas Verdes?

1 A I have no idea. I could not tell you the date. It's
2 what I read over the last few years.

3 Q You read about this in newspaper accounts. Is that
4 your testimony?

5 A Yes, of course.

6 Q And when you found out that there was a prison camp --
7 well, let me ask you another question. I'm sorry. Let me
8 withdraw that.

9 In these accounts, did you become aware from these
10 accounts that there was torture that was practiced at
11 Prison Camp Number 2 in Santo Domingo?

12 A What I read is that there was a prisoner's camp in
13 Santo Domingo. Nothing more.

14 Q When you learned about the existence of this prison
15 camp, did you ask Mr. Barrientos about it?

16 A He hadn't been my husband for many years.

17 Q Well, maybe I'm wrong in chronology. You were
18 divorced in 1985, correct?

19 A '85.

20 Q I'm sorry, 1985.

21 And when you had the conversation with Mr. Barrientos
22 after reading that book, he was no longer your husband at
23 the time, correct?

24 A No. It was two years since he had been my husband.

25 Q So at that time when you were confronted with stories

1 of these atrocities, accounts of these atrocities, you
2 called your ex-husband, correct?

3 In the book, yes.

4 A Yes, of course.

5 Q And you called him even though he was no longer your
6 husband, correct?

7 A Of course.

8 Q Because it tore you up inside thinking that you might
9 have been living with a man who was a killer and a
10 torturer, correct?

11 A No.

12 Q Then you learned about what happened -- sorry, strike
13 that.

14 Then you learned about Prison Camp Number 2 at Santo
15 Domingo, correct?

16 A Many years later. Many years.

17 Q You could easily have picked up the phone and asked
18 your husband a very specific question about a prison camp
19 that was associated with Tejas Verdes, correct?

20 A No, I didn't do that.

21 Q You didn't do that because you didn't want to know the
22 answer, correct?

23 A No. That's not how it was.

24 Q You didn't do that because you had already decided in
25 your mind that the family was taking the position that he

1 was innocent of anything, correct?

2 A It was clear to me the last time I spoke to him
3 personally.

4 Q And when was that?

5 A When I called him in '87.

6 Q So once you spoke to him over the phone in 1987, that
7 satisfied any doubts you had, correct?

8 A Of course. Of course.

9 Q Once he told you back in 1987 that his hands were
10 entirely clean, you have never doubted him, correct?

11 A No. Never again.

12 Q But, ma'am, would you agree with me in the almost
13 30 years that has been transpired since that date, a wealth
14 of additional information about the abuses that occurred
15 during the Pinochet regime has come to public light?

16 A Of course.

17 Q You told us on, in response to questions by
18 Mr. Calderon, that your husband would get drunk, correct?

19 A Yes, of course.

20 Q He was a drinker, right?

21 A Just like any young -- just like all young officers.

22 Q Well, you didn't really like the fact that he drank a
23 lot, right?

24 A They all did it.

25 Q I asked you the question, you didn't really like it

1 that he drank a lot, correct?

2 A All the same to me.

3 Q You didn't sit around and get drunk with him, did you?

4 A No. I've never gotten drunk, even all the way to
5 today.

6 Q My question was, well, you never really got drunk with
7 him, correct?

8 A Never.

9 Q So if he wanted to go out drinking, he would go out
10 drinking with his fellow officers, correct?

11 THE INTERPRETER: Interpreter requests repeat.

12 BY MR. BECKETT:

13 Q If he wanted to go out drinking, if your husband
14 wanted to go out drinking, he went out with his fellow
15 officers, correct?

16 A Sometimes with me as well.

17 Q He didn't always go out with you, ma'am, did he?

18 A No, not always.

19 Q I mean, that's not what young officers do. Young
20 officers go out and drink with their friends, correct?

21 A Sometimes, yes.

22 Q And when they go out and drink with their friends,
23 they get drunk sometimes, right?

24 A Of course.

25 Q In fact, you wouldn't let him drink -- you wouldn't

1 let him get drunk in the house, correct?

2 A No. Never.

3 Q You told us your divorce was in 1985, correct?

4 A Correct.

5 Q What year did your husband, your ex-husband, leave the
6 Army? Or what -- strike that.

7 In what year -- in what year was your husband fired
8 from the Army?

9 A It would seem that it was '83, '84. I don't know.

10 Q In 1995, when you were divorced, how old were the
11 children at that time?

12 A '95?

13 Q Sorry. If I said '95, I was mistaken.

14 In 1985, at the time of your divorce, how old were the
15 children?

16 A It would seem that it was 14, 13, and 4, something
17 like that.

18 Q Two children were just becoming teenagers and --

19 A Yes.

20 Q -- and a toddler, correct?

21 A Four years old.

22 Q In 1988, there was a vote in Chile about whether to
23 retain the dictatorship or to return to democracy.

24 MR. CALDERON: Objection, Your Honor. That is
25 outside the scope.

1 MR. BECKETT: Judge, I'm trying to build
2 chronology. If I could get some leeway here.

3 THE COURT: All right. Limited leeway,
4 Mr. Beckett. I think it is outside the scope. At least
5 I'm trying to recall the direct examination and anything
6 this might touch on.

7 But I'll allow this question to stand. You can
8 answer.

9 Objection is overruled.

10 BY MR. BECKETT:

11 Q In 1988, there was a vote in the country about whether
12 to retain the military dictatorship or to return to
13 democracy, correct?

14 A Yes.

15 Q And --

16 A It was a plebiscite.

17 Q Correct. And the vote was to return to democracy,
18 correct?

19 A Yes, yes, yes.

20 Q The very next year your husband goes to the United
21 States, correct?

22 A Correct.

23 Q None of his children were in the United States at that
24 time, correct?

25 A No. None of them.

1 Q He had no brothers or sisters in the United States at
2 that time, correct?

3 A Yes, he did.

4 Q Did it ever strike you as strange that one year after
5 the return to civilian rule, your husband completely leaves
6 the country?

7 A No. Nothing.

8 Q That never made you think that maybe he was running
9 from something?

10 A From his ex-wife in Antofagasta.

11 Q So Chile is such a geographically small country that
12 he had to leave Chile entirely to get away from his second
13 wife; is that your testimony?

14 A Once that marriage was over, he decided to come here
15 to his sisters.

16 Q How do you know what he was thinking at the time?

17 A Because we would spoke -- we would speak by phone.

18 THE INTERPRETER: The interpreter corrects
19 himself.

20 BY MR. BECKETT:

21 Q And he would tell you about the problems in the second
22 marriage, right?

23 A Yes, correct.

24 Q He would confide in you, right?

25 A Always.

1 MR. BECKETT: Can I have one moment, Judge?

2 THE COURT: Yes.

3 MR. BECKETT: Just a few more questions, Judge.

4 BY MR. BECKETT:

5 Q I want to turn to Gustavo Baez.

6 A Okay.

7 Q You say that you met Mr. Baez, correct?

8 THE INTERPRETER: The interpreter requests
9 permission for clarification.

10 THE COURT: Yes.

11 THE WITNESS: First, I knew him by word. And
12 that's when I found out -- when he decided to take the
13 case, that's when I found out --

14 THE COURT: I'm sorry. Mr. Icaza, I know you're
15 repeating the answer.

16 The question -- would you remind the witness that
17 the question was, you say that you met Mr. Baez; is that
18 correct?

19 THE WITNESS: Not physically.

20 BY MR. BECKETT:

21 Q Judge, I think we may have a confusion because we have
22 another Baez that's in the case. It's the Baez law firm.
23 So it's my fault.

24 THE COURT: Mr. Duarte.

25 MR. BECKETT: Exactly. Mr. Duarte.

1 THE WITNESS: No. I know who each, who the two
2 Baezes are.

3 BY MR. BECKETT:

4 Q Very good. So we're talking about Conscript Baez?

5 A No. I'm being asked about the Baez firm.

6 Q Okay. I don't think we're communicating. So it's my
7 fault.

8 Let me say that I'm talking about Conscript Baez.

9 A Yeah, okay.

10 Q If I call him Conscript Baez, you're familiar that I'm
11 talking about Mr. Baez Duarte, right?

12 I need a verbal response, ma'am.

13 A Yes, of course.

14 Q You met him, correct?

15 A Yes, of course.

16 Q Was the first time you had ever met -- strike that.

17 What year did you first meet him?

18 A 2015, midyear.

19 Q When you met him, you spoke with him, right?

20 A Physically, yes. And prior to that, by phone.

21 Q When you talked to him, you quickly learned that he
22 was not a very sophisticated man, correct?

23 A He was a man much of the Chilean people.

24 Q He was not an educated man. He's not an educated man,
25 correct?

1 A In Chile, we have laws of no discrimination.

2 Q Ma'am, I'm just trying to get a sense of your
3 appraisal of him at the time. I'm not saying anything
4 discriminatory.

5 I'm asking you, isn't it true that he was not an
6 educated man, in your view?

7 A I thought he was kind of like a peasant.

8 Q So in response to my earlier question, you agree with
9 me, then, that he is not a sophisticated man, correct?

10 A Correct.

11 Q And you also knew that as someone associated with a
12 former officer from his company that he would tend to defer
13 to you, correct, that he would trust you?

14 Let me put it that way. He would trust you, correct?

15 A I believe so.

16 Q And, you know -- in fact, when he would speak to you,
17 he would call you senora, correct?

18 A Correct.

19 Q You know today that he is illiterate, correct?

20 A No.

21 Q So you don't know that he can't read and write?

22 A In the statement, it says, I know how to read. In his
23 handwriting.

24 On the back side of the statement, it says, I know how
25 to read.

1 MR. BECKETT: We just have a little bit of an
2 issue because of the two documents. Can I just have
3 two minutes?

4 THE COURT: Yes. You can have a moment.

5 MR. BECKETT: Thank you.

6 Judge, can we approach so I can explain the issue
7 and so that I can work through this?

8 THE COURT: Yes.

9 MR. BECKETT: Thank you.

10 (Discussion at sidebar on the record.)

11 MR. BECKETT: We've got two different versions of
12 this declaration. One is redacted. One is not.

13 I want to show her the original, which is not in
14 evidence because the redacted one is in evidence. So what
15 I would propose is that I just show her this.

16 MR. CALDERON: This is in evidence. The redacted
17 in Spanish is in evidence.

18 MR. BECKETT: The redacted in Spanish takes off
19 the part we need to talk about.

20 MR. CALDERON: The English version.

21 MR. BECKETT: So I give her the English version?
22 She needs to see the original.

23 MR. CALDERON: Right.

24 MR. BECKETT: She said there was handwriting on
25 this document.

1 THE COURT: Mr. Calderon is saying the Spanish
2 version is not redacted. The English version is redacted.

3 MR. BECKETT: I'm aware. This means nothing to
4 her. She said there is handwriting on the document that's
5 not there. So I need to show her the original -- is that
6 okay -- not the one that's in evidence. That's the issue.

7 MR. CALDERON: I don't think you're understanding.
8 The original is in evidence. It's in the binder. It's
9 there.

10 MR. BECKETT: Okay.

11 MR. CALDERON: The redacted version is only the
12 English version that's redacted.

13 MS. BELSHER: The Spanish version.

14 THE COURT: The Spanish version is in evidence.

15 MR. BECKETT: That's risky if somebody reads
16 Spanish. I didn't realize that.

17 THE COURT: That's the point I made when you all
18 were talking about the redaction. I was putting it back on
19 the lawyers to make sure the exhibits were properly
20 reviewed.

21 MR. BECKETT: Okay.

22 THE COURT: So I have no, I have no concern about
23 you showing her the original document and directing her
24 attention to the area where she maintains that there's some
25 notation about speaking or reading.

1 But just make sure that you don't display anything
2 until we're comfortable that she is not looking at some
3 portion of it that is going to be, is going to disclose
4 information that's in the redacted version.

5 I don't know how the document is laid out.

6 MR. BECKETT: I think it's just the last page is
7 what I would show her.

8 THE COURT: Okay. If you stick with the Spanish
9 version, you should be okay.

10 Do you have any issues with that, Mr. Calderon?

11 MR. CALDERON: No, Your Honor.

12 THE COURT: Okay.

13 (End of discussion at sidebar.)

14 MR. BECKETT: Judge, may I ask permission to
15 publish Defendant's Exhibit Number 1 at this time, the last
16 page?

17 THE COURT: Yes.

18 THE WITNESS: Over here?

19 MR. BECKETT: Yes, it will be on your screen,
20 ma'am.

21 Maybe we can go to the first page just to orient
22 the witness, please. It's not a very good version.

23 BY MR. BECKETT:

24 Q Are you familiar with this document that you're
25 looking at now?

1 My question is a yes-or-no question. Are you familiar
2 with this document?

3 A Yes, of course I am.

4 Q And this is the declaration from Conscript Baez,
5 correct?

6 A Correct.

7 Q Let me refer you to the last page of this document.

8 A Yes.

9 Q Take a careful look at the last page, ma'am.

10 A Yes.

11 Q Let me know when you've looked at it sufficiently.

12 A Yes, of course.

13 Q There is a scrawled signature in the middle of the
14 page, correct?

15 A Yes.

16 Q And there is a number beneath the signature, correct?

17 A It's called a RUN in Chile.

18 Q That's a citizen identification number, correct?

19 A Yes. Okay.

20 Q And there's a scribbled blue line at the very bottom
21 of the page above this stamp, correct?

22 A Yes.

23 Q There's no other handwriting on this page, correct?

24 A No.

25 Q There's no handwritten notation by Mr. Baez on the

1 page that we're looking at, correct?

2 A (Speaking.)

3 Q No. It's a yes or no -- it's a yes-or-no question.

4 A No. None.

5 Q Okay. And if I can just refer you to the, to the last
6 sentence, there is the phrase in Spanish, "So justice will
7 prevail," correct?

8 The very last sentence.

9 A I can't see it.

10 MR. BECKETT: May I approach?

11 THE COURT: Yes.

12 MR. BECKETT: Handing the witness a copy of
13 Defense Exhibit 1.

14 BY MR. BECKETT:

15 Q I refer you to the last sentence, the last typewritten
16 sentence.

17 A Yes. Yes, of course.

18 Q And there's the phrase in that sentence, "So justice
19 will prevail," correct?

20 A That the truth be known.

21 Q "That the truth be known, and so justice will
22 prevail," correct?

23 A Yes. That, yes.

24 Q That's exactly the same phrase that's in the
25 declaration that you obtained from Mr. Hinojosa as well,

1 correct?

2 A Each one of them would ask it differently.

3 Q That's the exact same phrase that was used in the
4 declaration that you obtained from Mr. Hinojosa, correct?

5 A It's what he said, and that's what I wrote.

6 Q So both witnesses said the same thing, that they were
7 interested in truth and justice, correct?

8 A Yes. Correct.

9 Q And that wasn't something that you added to these
10 declarations, was it?

11 A No, not at all. No.

12 MR. BECKETT: No further questions, Judge.

13 THE COURT: Redirect, Mr. Calderon?

14 MR. CALDERON: Thank you, Your Honor.

15 May I inquire, Your Honor?

16 THE COURT: You may.

17 **REDIRECT EXAMINATION**

18 BY MR. CALDERON:

19 Q With response to question number 18, could you please
20 review that question?

21 MR. CALDERON: May I approach the witness,
22 Your Honor?

23 THE COURT: Yes. For the record, the witness is
24 now reviewing again Joint Exhibit Number 1; is that
25 correct?

1 MR. CALDERON: That's correct, Your Honor. It's
2 Defense.

3 THE COURT: Defense Exhibit 1. My mistake. Thank
4 you.

5 BY MR. CALDERON:

6 Q Miss Castro, would you please review the question and
7 the answer to number 18?

8 A (Complying.)

9 Okay.

10 Q And is that, does that include the line that
11 Mr. Beckett referred to, "because I want the truth to be
12 known and for justice to prevail"?

13 MR. BECKETT: Objection. Characterization.

14 THE COURT: I'm sorry. I can't make a judgment on
15 that until I hear the witness' response.

16 So objection is overruled.

17 THE WITNESS: Yes, of course.

18 MR. CALDERON: During this time, we would seek to
19 publish the entire response --

20 MR. BECKETT: Objection.

21 MR. CALDERON: -- of question 18.

22 THE COURT: Ladies and gentlemen, we're going to
23 take our break. It's a little bit early. I'll take care
24 of this while you all are refreshing yourselves.

25 Let's come back at 10:30.

1 (Jury exited the courtroom at 10:12 a.m.)

2 THE COURT: The witness may be excused.

3 MR. BECKETT: Judge, I know you excused the
4 witness, but may I ask that this be done outside the
5 presence of the witness?

6 THE COURT: That's why I'm excusing her.

7 MR. BECKETT: I just wanted to make sure she left
8 the courtroom.

9 THE COURT: All right. Now, the question is, you
10 want this witness to read the question and response on
11 paragraph 18 to Defense Exhibit Number 1?

12 MR. CALDERON: That's correct, Your Honor.

13 THE COURT: And what's your -- and the objection
14 is what?

15 MR. BECKETT: Judge, the objection, Your Honor, is
16 that the sentence that she was directed to is not part of
17 question 18.

18 I know what the witness has said. But the witness
19 said that in response to a leading question from my friend
20 here.

21 What this sentence says in English is,
22 "Voluntarily and without any pressure, I'm answering these
23 questions in the sworn statement, these questions, because
24 I want the truth to be known and for justice to prevail."

25 That's obviously -- although the text is

1 compressed together in the English translation, at least --
2 and perhaps in the Spanish -- it's distinct from the
3 question above and the answer to that question.

4 That question: "Is there anything else you would
5 like to say regarding Pedro Barrientos being accused of
6 killing Victor Jara?"

7 There are then one, two, three sentences that give
8 direct or they purport to give a direct answer to that.

9 And then this is the kind of statement we would
10 expect to see at the end of any declaration. I mean, maybe
11 not these words, certainly not these words, but words to
12 this effect that all of the answers above are true. And
13 then there's the signature. So it's the recitation
14 received for the entire declaration.

15 Moreover, this was put into issue by the witness.
16 The witness claimed that there was handwriting on this page
17 or the back of the page. Something that's not in evidence.

18 She was asked to identify it. And we just
19 referred her to that one section that had to do with the
20 entire, the entire declaration.

21 THE COURT: I followed that.

22 Let me ask the question. When the witness
23 responded to your question, Mr. Calderon, about whether or
24 not the answer to question 18 included the language, I want
25 truth to be known and for justice to prevail, was she

1 reading from the English translation, or was she looking at
2 the Spanish, at the original version?

3 MR. CALDERON: The original version.

4 THE COURT: Well, the original version -- I don't
5 speak Spanish. So in the answer under 18, I see where that
6 language appears in the jurat, what I would call the jurat,
7 affixed to the bottom of the document.

8 I'm trying to find where that is in the response
9 to question number 18.

10 MR. CALDERON: Judge, if you look at number 18,
11 the last two lines where it says "yo."

12 THE COURT: Yes.

13 MR. CALDERON: That translates to what the last
14 sentence is in the English version.

15 THE COURT: Okay.

16 MR. CALDERON: So that's part of the response.
17 And if I could direct the Court to also look at the
18 introduction, in which it says that the statement -- as
19 answers, each of the following questions under oath as
20 follows.

21 That's the part where it says under oath.

22 So with response to how declarations are typically
23 formatted, I think that's a misnomer because this document
24 has the sworn part at the very beginning.

25 THE COURT: All right.

1 MR. CALDERON: And it's clear that that sentence
2 was part of the response to number 18.

3 MR. BECKETT: Judge, if I may.

4 That sentence says the request being made, without
5 pressure in answering these questions in the sworn
6 statement. That's what the English says. That's a
7 faithful translation of the Spanish.

8 This is a rustic declaration put together by
9 someone who's acting as a lawyer but isn't actually a
10 lawyer. She's merely reciting the same kind of thing
11 that's put at the head of a statement to emphasize that
12 these are the conditions under which the statement was
13 being given.

14 THE COURT: All right. I don't see that there's
15 any connection between that statement and the body of the
16 answer in number 18.

17 I think that if you want to -- you've already
18 asked her whether or not the document contains the language
19 that you've read.

20 I'm going to sustain the objection to the extent
21 that you're seeking to publish the full answer to paragraph
22 number 18 because it was not covered in the direct
23 examination -- in the cross-examination.

24 MR. BECKETT: Thank you, Judge.

25 THE COURT: Let's go ahead and take our break.

1 We'll come back at 10:30.

2 (Recess at 10:17 a.m. to 10:31 a.m.)

3 THE COURT: Back on the record in Jara versus
4 Barrientos Nunez, 6:13-civil-1426.

5 Court notes counsel and parties are present.

6 MR. CALDERON: Your Honor, could we have the
7 witness enter the room again?

8 THE COURT: Yes.

9 Miss Castro Barrientos, if you'll get back to the
10 witness stand, please.

11 Are you ready to proceed, Mr. Calderon?

12 MR. CALDERON: Yes, Your Honor.

13 THE COURT: Okay. Let's bring our jury back,
14 Mr. Carter.

15 COURT SECURITY OFFICER: Yes, sir.

16 MR. CALDERON: Your Honor, are the mics on.

17 (Jury entered the courtroom at 10:33 a.m.)

18 THE COURT: All right. Welcome back, ladies and
19 gentlemen.

20 Objection is sustained.

21 New question, Mr. Calderon.

22 MR. CALDERON: Thank you, Your Honor.

23 BY MR. CALDERON:

24 Q Miss Castro, were you present with Mr. Baez during the
25 notary process?

1 A Yes.

2 Q Were any questions asked of Mr. Baez with regard to --
3 or from the notary?

4 A All of them.

5 Q Was he asked whether he read the document?

6 A Yes, of course.

7 Q And what was his response?

8 A That he had.

9 Q Did you give Mr. Baez a copy of that document?

10 A Yes, of course.

11 Q And did you believe that he could read that document?

12 MR. BECKETT: Objection, Judge, to leading
13 questions.

14 THE COURT: Objection sustained.

15 MR. CALDERON: I'll withdraw the question.

16 BY MR. CALDERON:

17 Q Now, you were asked earlier about Mr. Barrientos being
18 the father of your children and grandfather of your
19 grandchildren.

20 Would that make you give false testimony in this
21 proceeding?

22 MR. BECKETT: Objection, Judge.

23 THE COURT: Sustained.

24 Direct questions, Mr. Calderon.

25 MR. CALDERON: Sure.

1 BY MR. CALDERON:

2 Q Is there anything that would influence your ability to
3 be truthful in this proceeding?

4 A No, there's nothing that would impede me from telling
5 the truth.

6 Q The nature of your relationship with Mr. Barrientos,
7 does that have any impact on your testimony here?

8 A No.

9 Q Now, when you were asked by Mr. Beckett about the
10 indictment of Mr. Gumucio --

11 A Gumucio?

12 Q Yes.

13 A Yes.

14 Q -- did you hear that others had been indicted for the
15 murder of Victor Jara?

16 MR. BECKETT: Objection. Beyond the scope, Judge.

17 THE COURT: Objection is overruled.

18 MR. BECKETT: Judge, may I have permission to
19 recross on that point?

20 THE WITNESS: (Speaking.)

21 THE COURT: Stop, please.

22 I'll make that determination when this examination
23 is over.

24 MR. BECKETT: Thank you, Judge.

25 THE WITNESS: May I hear the question again,

1 please?

2 BY MR. CALDERON:

3 Q Did you hear that others had been indicted for the
4 murder of Victor Jara?

5 A Yes, of course.

6 Q And did you hear that an officer named Dimter was one
7 of the persons being held responsible for the death of
8 Victor Jara?

9 MR. BECKETT: Objection. Leading.

10 THE COURT: Sustained.

11 MR. CALDERON: I'll withdraw the question.

12 BY MR. CALDERON:

13 Q Miss Castro, did different soldiers have nicknames
14 within the regiment?

15 A Yes.

16 Q And was this how they were referred to by the entire
17 regiment?

18 A Well, I wouldn't know. I didn't live in the regiment
19 with the soldiers.

20 Q Whenever -- did you have contact with soldiers in the
21 regiment?

22 A At that time, those dates, '72, '73, '71?

23 Q Yes.

24 A No.

25 MR. CALDERON: No further questions, Your Honor.

1 THE COURT: Thank you.

2 I don't think any -- I'm not going to permit any
3 further examination of this witness, Mr. Beckett.

4 MR. BECKETT: Thank you, Your Honor.

5 THE COURT: All right. You can step down, ma'am.
6 May this witness be excused?

7 MR. BECKETT: Yes, Judge.

8 THE COURT: Mr. Calderon?

9 MR. CALDERON: Yes, Your Honor.

10 THE COURT: All right. Ma'am, you are excused.
11 If you are here pursuant to a subpoena, you're released
12 from it. You can go on about your business.

13 Call your next witness, Mr. Calderon.

14 MR. CALDERON: Thank you, Your Honor.

15 At this time the defense would call Mr. --

16 THE WITNESS: Can I leave the courtroom then?

17 THE COURT: Yes, you may.

18 THE WITNESS: Thank you.

19 THE COURT: You're welcome.

20 MR. CALDERON: -- Mr. Quiroz.

21 THE COURT: Mr. Quiroz, if you'll come all the way
22 to the front of the courtroom and be sworn.

23 Does this witness require an interpreter?

24 MR. CALDERON: Yes, he does, sir.

25 THE COURT: Mr. de la Mora, would you ask the

1 witness to step forward and raise his right hand to be
2 sworn, please.

3 (Witness sworn.)

4 THE WITNESS: Excuse me. Can you talk from the
5 other side, because I can't hear in that ear.

6 THE INTERPRETTER: I apologize, Your Honor.

7 THE COURT: Yes.

8 THE WITNESS: I do so swear.

9 THE DEPUTY CLERK: Please take the witness stand.

10 THE COURT: All right. Mr. de la Mora, would you
11 ask the witness to state his full name please, and spell
12 his surname.

13 THE WITNESS: Francisco del Carmen Quiroz Quiroz.
14 How do I spell my last name?

15 THE COURT: Yes, please.

16 THE WITNESS: Q-U-I-R-O-Z.

17 THE COURT: All right. Thank you.

18 Mr. de la Mora, would you ask the witness to be
19 sure that he waits until Mr. Calderon's question has been
20 completely translated, answer the question to you in
21 Spanish, and wait for you to complete your translation.

22 THE INTERPRETTER: Yes, Your Honor.

23 THE WITNESS: Okay.

24 THE COURT: All right. You may inquire,
25 Mr. Calderon.

1 MR. CALDERON: Thank you, Your Honor.

2 **DIRECT EXAMINATION**

3 BY MR. CALDERON:

4 Q Good morning, Mr. Quiroz.

5 A Good morning.

6 Q When did you enter the military?

7 A On 1973.

8 Q With what rank did you enter the military?

9 A A soldier, conscript.

10 Q And what is a conscript?

11 A You were required, you have to do obligatory two-year
12 service in the military.

13 Q And where were you assigned upon entering the
14 military?

15 A The unit I was assigned to, the unit I entered was the
16 unit of Tejas Verdes in San Antonio.

17 Q What company were you assigned to?

18 A Second Combat Company.

19 Q What section within that company were you assigned to?

20 A First Section, Second Company.

21 Q Prior to entering the military, were you a civilian?

22 A Civilian.

23 Q And upon entering the military, did you receive any
24 training?

25 A Training? No. You mean before I entered the

1 military?

2 Q No. Upon entering the military, did you receive any
3 kind of instruction?

4 A Oh, okay. Yeah. That's where I received military
5 training.

6 Q And what, could you please tell me what kind of
7 training you received or instruction?

8 A What type of military instruction, you mean?

9 Q Yes, sir.

10 A Well, basic instruction, school instruction, and
11 handling rifles. How to shoot. Basic personal defense and
12 physical preparation. Fitness. Yes.

13 Q Did you ever receive any special instruction?

14 A No.

15 Q Did you ever receive any training with regards to
16 torture or interrogation techniques?

17 MR. DELLINGER: Objection. Leading.

18 THE COURT: Sustained.

19 BY MR. CALDERON:

20 Q Did you ever receive any other specialized training?

21 MR. DELLINGER: Objection. Asked and answered.

22 THE COURT: I'm sorry, Mr. Dellinger. I can't
23 keep up with the intervention of the translator.

24 So give me a minute to look -- the question is,
25 did you ever receive any other specialized training?

1 And your objection to that is that it's asked and
2 answered?

3 MR. DELLINGER: Yes. That was the question before
4 the objection.

5 THE COURT: The first question was, did you ever
6 receive any specialized training?

7 And the next question was, did you ever receive
8 any other specialized training?

9 So I'm going to overrule your objection and permit
10 the witness to respond.

11 THE WITNESS: Could you ask it again?

12 BY MR. CALDERON:

13 Q Did you ever receive any other specialized training or
14 instruction?

15 A As I said before, the basic instruction and the school
16 that consists of physical training, how to participate in
17 parades. The basic military training and discipline.

18 Any preparation that is given to soldiers, just the
19 normal preparation for -- that you do as a soldier.

20 Q Do you remember where you were in September of 1973?

21 A On the 11th, on the School of Engineers at Tejas
22 Verdes.

23 Q And did you ever leave that location?

24 A On that night, at night, we were shipped to Arsenales
25 de Guerra at night, on the 11th.

1 Q And on that date, September 11th, and that time,
2 11:00 p.m., or -- what time was it again?

3 A We arrived to Santiago between 4:30 and 5:00 a.m.

4 Q And when did you leave Tejas Verdes?

5 A Excuse me?

6 Q When did you leave Tejas Verdes?

7 A On the 11th, between 1:30 and 2:00 in the morning.

8 Q And on September 11th, in those early morning
9 hours, did you know where you were going?

10 A No. We were not aware of our destination.

11 Q How did you get from San Antonio to Santiago?

12 A Army trucks.

13 Q And who is in the truck with you?

14 A Well, I want to make it clear that there was four
15 trucks.

16 MR. DELLINGER: Objection. Nonresponsive,
17 Your Honor.

18 THE WITNESS: (Speaking.)

19 THE COURT: Objection is overruled.

20 THE WITNESS: We would have the officers that were
21 in command.

22 Can I continue?

23 BY MR. CALDERON:

24 Q Yes, please.

25 A Four trucks with the corresponding officers.

1 Q Who is in the truck with you specifically?

2 A Class. In that, only class. Sergeants and soldiers
3 only.

4 Q From what section?

5 A First Section, Second Combat Company.

6 Q Was Mr. Barrientos in the truck with you?

7 MR. DELLINGER: Objection. Leading.

8 THE COURT: Overruled.

9 THE WITNESS: Negative. They were in front of the
10 troops themselves.

11 BY MR. CALDERON:

12 Q Was that in a different truck?

13 A They were in another truck that had the officers
14 Rodriguez Montero and Mr. Barrientos.

15 Q Where did you first arrive in Santiago?

16 A Arsenales de Guerra.

17 Q And did you receive any orders or instructions upon
18 your arrival?

19 A We got out of the trucks and we went to the second
20 floor.

21 At that time we got there, it was about 5:00 p.m. We
22 got together our emblems and our flags and put together our
23 sleeping bags. And we stayed there until dawn.

24 THE COURT: Mr. de la Mora, would you remind the
25 witness, Mr. Quiroz, to listen to the question, answer the

1 question that he's asked, don't provide information that's
2 not included in the question.

3 The question was, when you arrived at Arsenales de
4 Guerra, did you receive any orders or instructions?

5 THE WITNESS: Well, the first order that they told
6 us was to get out. It was not until 8:30 in the morning
7 that we got orders.

8 BY MR. CALDERON:

9 Q And what was the first set of instructions that you
10 received after -- I guess, on September 12th?

11 A On the 12th or the 11th?

12 Q The 12th.

13 A Well, you're skipping, because that's all on the
14 11th.

15 Q Okay. Well, let me ask you this: What other
16 instructions did you receive on the 11th?

17 A On the 11th, at 8:30, at 8:30, they form, they put
18 us in formation and informed us that the carabineros were
19 going to take over the Government.

20 MR. CALDERON: And if I could ask the translator
21 to translate the word carabineros?

22 THE INTERPRETTER: May the interpreter do it,
23 Your Honor?

24 THE COURT: Well, let's ask the witness -- if the
25 witness used the term carabineros, ask the witness what he

1 meant by that term.

2 THE WITNESS: The police. The police.

3 THE COURT: Mr. Dellinger?

4 MR. DELLINGER: Objection. The last statement is
5 hearsay and it appears to be offered for the truth of the
6 matter asserted.

7 THE COURT: Objection is overruled.

8 BY MR. CALDERON:

9 Q After you received that instruction, did you receive
10 any additional orders or instructions?

11 A Yes. We were put in trucks and sent to La Moneda.

12 Q Was this on the same day, on September 11?

13 A On the same day, the 11th.

14 Q And did you receive any instructions at La Moneda?

15 A Well, the instructions were to guard the Ministry of
16 Defense, which was on the other side of La Moneda, and take
17 cover.

18 Q And who was with you when you were at La Moneda?

19 A It was Lieutenant Barrientos and other troops.

20 Q What other troops were there?

21 A Well, at that time there were troops from several
22 units.

23 Q Could you indicate which ones?

24 A There was our Second Company from the School of
25 Engineers. Should I continue?

1 Q Well, let me ask you, within the company, what
2 sections were present?

3 A At that time also the Third Company of the School of
4 Engineers was also at La Moneda.

5 Q When you say also the Third Company, that's in
6 addition to what other companies?

7 A Well, I didn't know all the other units; but I did
8 know my unit, which was the Second Company and the Third
9 Company.

10 Q Was that the entire Second Company?

11 A At that time it was all of them.

12 Q Were any of the commanders of the Second Company
13 present?

14 A At that moment, yes.

15 Yes. At that time, Major Rodriguez and Captain
16 Montero and Lieutenant Barrientos were in charge of those
17 companies.

18 Q Did you, during the period between September 11th
19 and September 18, did you leave Santiago?

20 A On the same date, on the 11th, us, the First
21 Section, were shipped in a truck commanded by Captain
22 Montero and Lieutenant Barrientos and the troops.

23 Q And where did you go?

24 A We were sent to a different state, about 70 kilometers
25 from there.

1 Q For clarification, what was the location again?

2 A It was Padre Hurtado. It's a province.

3 Q And do you know the distance where -- from Padre
4 Hurtado to Santiago?

5 A More or less should be about 60 kilometers.

6 Q And do you recall about how long it took to get there
7 from Santiago in 1973?

8 A You mean from the regiment to Santiago?

9 Q Yes, sir.

10 A I don't understand. From Padre Hurtado to Santiago is
11 about an hour, more or less.

12 Q Thank you.

13 Do you know or have you met an individual named Maria
14 Teresa Castro Barrientos?

15 A I do know her. But there is something that is not
16 quite clear on this statement that I'm making.

17 Can I clarify something or no?

18 Q We're going to just do it in a question-and-answer
19 format.

20 A Okay.

21 Q When did you first have contact with Miss Castro
22 Barrientos?

23 A I, I believe it's in 2013, yeah.

24 Q And did Miss Castro ever ask you for any help or
25 assistance?

1 A Yes, she did ask.

2 Q What did she ask you to do?

3 MR. DELLINGER: Objection. Hearsay.

4 THE COURT: Objection is overruled.

5 THE WITNESS: If I could contact the soldiers that
6 live, because I live in that province.

7 BY MR. CALDERON:

8 Q Okay. And aside from that, did she ask you to do
9 anything else?

10 A No. Only contact with the soldiers because I live in
11 that province.

12 Q Did you ever give Miss Castro Barrientos a
13 declaration?

14 A Correct.

15 Q And can you describe the format of that declaration?

16 A Well, the declaration, she would read it. And then
17 she would ask us if it was correct. And we would hear it.
18 And then we would state yes, it was correct.

19 Q So you were asked a series -- were you asked a series
20 of questions?

21 A True. Several. Yes.

22 Q And did you provide answers?

23 A Correct.

24 Q After the declarations were completed, what did you
25 do?

1 A I read all the questions that she had, that she had
2 asked.

3 Q And was that consistent with your answers?

4 A Correct. Those were the answers. Yes.

5 Q And after that information was collected, what did you
6 do next?

7 A Afterwards, we went in front of a notary to sign it.

8 Q And did the notary ask you any questions?

9 A Yeah. The notary had already reviewed the declaration
10 and he asked us if we were totally in agreement with it.

11 Q Were you then asked to do anything to the document?

12 A We signed it, an agreement. And I kept one copy. And
13 Mrs. Maria Teresa kept another one.

14 Q Do you know a conscript by the name of Baez Duarte?

15 A He was one of the members of the Second Combat
16 Company, Second Section.

17 Q How did you know him aside from the -- or how did you
18 know him?

19 A He was part of the Second Section on the same company
20 I belonged to.

21 Q Other than being in the same company, did you have
22 any -- did you have any other reason to know him?

23 A Well, I did know him. I met him in the Army.

24 Q And how was that?

25 A We met in the Army. And then we continued to have

1 contact in civil life. Civilian life.

2 Q And after or in the last two years, have you had any
3 contact with Mr. Baez?

4 A Yes.

5 Q And could you describe what that contact was?

6 A Mr. Baez, during the summer, he has a business in
7 Playa Blanca. And I used to work there as a lifeguard. So
8 we would have contact all through the summer.

9 Q Did you ever discuss at any point in time this case
10 with Mr. Baez?

11 A Well, before all of this happened, we did talk about
12 the coup in Santiago. Because he was at the Estadio Chile.

13 Q And do you ever talk to him with regards to Maria
14 Teresa Castro Barrientos?

15 A Yes, of course. After she contacted me, I did talk to
16 him to ask him if he was willing to come and give a
17 statement in Santiago.

18 Q And what did you do after you had that conversation?

19 A Well, we agreed that he had no problem in coming to
20 Santiago to make a statement, to give a declaration to
21 Miss Maria Teresa. To be -- to serve as a witness
22 regarding Mr. Barrientos not being at the Estadio Chile.

23 Q Was --

24 A Because Mr. Barrientos was never present --

25 MR. DELLINGER: Objection. That's nonresponsive.

1 It's also hearsay.

2 THE COURT: Objection sustained.

3 The jury will disregard the witness' response to
4 the last question.

5 New question, please.

6 BY MR. CALDERON:

7 Q Where was this statement given?

8 A At the apartment, Mrs. Maria Teresa's apartment.

9 Q And were you present?

10 A I was present. I brought him from Santiago and took
11 him back to Santiago.

12 Q And were you able to hear the conversations between
13 Miss Castro Barrientos and Mr. Baez Duarte?

14 A The three of us were together.

15 Q And could you tell us what that conversation was?

16 MR. DELLINGER: Objection. Hearsay.

17 THE COURT: Sustained.

18 BY MR. CALDERON:

19 Q Okay. Were you present during questions being asked
20 of Mr. Baez Duarte?

21 A Present.

22 Q And were you able to hear the responses?

23 A Correct.

24 MR. CALDERON: Your Honor, may I approach the
25 witness?

1 THE COURT: Yes.

2 BY MR. CALDERON:

3 Q Mr. Quiroz, could I ask you to review what's been
4 marked as Defense Exhibit Number 1.

5 A (Complying.)

6 Q And if I could just draw your attention to the
7 questions and responses to one through eight.

8 A From number one?

9 Q From number one through number eight.

10 A (Complying.)

11 Q Mr. Quiroz, is that document consistent with your
12 recollection of the declaration?

13 MR. DELLINGER: Objection. This is a statement
14 about a statement. It's hearsay.

15 THE COURT: Do you want to be heard, Mr. Calderon?

16 MR. CALDERON: Judge, the document is already in
17 evidence.

18 THE COURT: That's not the objection. The
19 objection is that this witness is being asked to testify
20 with respect to the accuracy of the document which he could
21 only do based on hearsay. So that's the objection.

22 MR. CALDERON: Judge, he has personal knowledge of
23 this document. And it goes to the witness' state of mind
24 that we're referring to.

25 THE COURT: Objection sustained.

1 BY MR. CALDERON:

2 Q Mr. Quiroz, do you recall the questions that were
3 asked that day?

4 A Yes, about the places we had been, yes, I remember.

5 Q And do you recall the responses to those questions?

6 A The answers that were all the same for everybody, to
7 tell the truth.

8 Q Well, as specifically to the date that you were with
9 Mr. Baez.

10 THE WITNESS: (Speaking.)

11 MR. DELLINGER: Objection. I don't think there's
12 a question. I don't understand --

13 THE COURT: Ladies and gentlemen, I'm going to ask
14 you to step out for just a minute.

15 (Jury exited the courtroom at 11:15 a.m.)

16 THE COURT: So Mr. Calderon, the question --
17 Mr. de la Mora, I want to ask you to ask the witness if
18 he'd just step out for just a moment, please.

19 THE INTERPRETER: Yes, Your Honor.

20 THE COURT: I want to take the precaution of
21 addressing this issue outside the presence of the jury with
22 the witness out of the room because with the translation
23 and languages, I'm concerned about making sure that the
24 witness doesn't provide a response that includes
25 objectionable hearsay.

1 So I wanted to kind of give you an opportunity to
2 tell me where you're going with this witness as it relates
3 to the statement that was provided by Mr. Baez Duarte.

4 MR. CALDERON: And, Judge, what I'm trying to
5 establish is that the witness has personal knowledge of the
6 questions and answers that were conducted with Mr. Baez.

7 We're not seeking to offer the information for the
8 truth of the matter asserted. We're actually just seeking
9 to introduce whether it's consistent, not whether it's
10 true, whether it's consistent with what's on the document.

11 THE COURT: Well, that, in my judgment, that is
12 the essence of truth. It seems to me that the purpose of
13 this line of questioning is to establish whether or not
14 what Mr. Baez Duarte put in this affidavit is true or not
15 true.

16 And you're attempting to do that through this
17 witness by asking him questions that he can only answer
18 based on what he heard Mr. Baez Duarte say.

19 That's the reason I have a problem with it because
20 it is the classic definition of hearsay.

21 What Mr. Baez Duarte said at this time is a
22 statement that is offered out of court. And it's being
23 offered, this testimony is being offered to establish
24 either the truth or lack of truth of that statement.

25 So it strikes me that it is classic hearsay. So

1 if you can tell me what exception that it would fall under,
2 I'd happy to hear from you.

3 MR. CALDERON: Sure, Your Honor. It's a prior
4 inconsistent statement.

5 THE COURT: Not from this witness. You can't use
6 another witness to attack the credibility of a consistent
7 statement -- or an inconsistent statement given by someone
8 else.

9 MR. CALDERON: The best way I can explain it,
10 Judge, is, for example, with respect to question number
11 one, the question is what year, you know, was he, or what
12 assignment did he have?

13 We're not asking him whether that's true or not.
14 We're asking as to whether or not the question is the same
15 and whether the answer is the same.

16 So I guess maybe I'm off base here. But that's
17 what I'm trying to offer is that there's been no change in
18 the document, that it was transcribed word for word, not
19 whether he was actually there or whether he wasn't there
20 because this witness would have personal knowledge of that.

21 THE COURT: You can certainly ask him those
22 questions as it relates to his own declaration. But with
23 respect to Mr. Baez Duarte's declaration, he can only know
24 that -- anyway, I think that's -- I think the objection is
25 proper, and I'm going to sustain the objection.

1 The reason I wanted to do it outside the presence
2 of the jury is so that we could have this discussion so I
3 could make my views known on the record in the event it
4 becomes necessary for the appellate court to review it.

5 In my judgment, I'm going to sustain hearsay
6 objections as it relates to this witness offering testimony
7 about whether or not what's in Mr. Baez Duarte's
8 declaration is consistent with what he heard or understood
9 Mr. Baez Duarte to have either said or been told at the
10 time it was executed.

11 MR. CALDERON: Understood, Your Honor.

12 THE COURT: Okay. Thank you.

13 All right. Let's bring our jury back, please,
14 Mr. Carter.

15 And you can have our witness step back in.

16 (Jury entered the courtroom at 11:20 a.m.)

17 THE COURT: Thank you for your patience, ladies
18 and gentleman. I apologize for shuffling you in and out.
19 But it's sometimes hard for us to resolve -- it's hard for
20 me to resolve these things at sidebar without having an
21 opportunity to give the lawyers an opportunity to explain
22 their positions so that I understand them.

23 So thank you for your patience.

24 And the objection was sustained.

25 And you may proceed, Mr. Calderon.

1 MR. CALDERON: Thank you, Your Honor.

2 BY MR. CALDERON:

3 Q Mr. Quiroz, during the declaration, how would you
4 describe Mr. Baez', I guess, his manner during those
5 questions and answers?

6 MR. DELLINGER: Objection. Hearsay.

7 THE COURT: Overruled.

8 THE WITNESS: Normal. Like any other person.
9 Like any person that is 18 years old and was in the
10 military.

11 BY MR. CALDERON:

12 Q Was there anything about his behavior that stood out
13 in your mind?

14 MR. DELLINGER: Objection. Leading.

15 I withdraw it, Your Honor.

16 THE COURT: Objection is overruled.

17 THE WITNESS: Other than knowing that he was a
18 good drinker, that he liked beer.

19 BY MR. CALDERON:

20 Q And when he gave that statement, did he appear to be
21 intoxicated?

22 A Oh, no. He was totally normal.

23 Q After the declaration was done, what did you do next?

24 A We went to have lunch at my house.

25 Q Who was at your house for lunch?

1 A Just the two of us. I lived alone.

2 Q And did the two of you discuss the declaration?

3 A Yeah, because it was clear that's what he lived
4 through and I lived through.

5 Q And how was, in discussing the prior declaration,
6 how -- could you describe how he was acting?

7 A (Speaking.)

8 MR. DELLINGER: Objection. Hearsay.

9 THE COURT: There's not -- there's nothing about
10 the question that calls for hearsay.

11 So the objection to the question is overruled.

12 If the answer is not responsive or includes
13 hearsay, I'll deal with it.

14 MR. DELLINGER: I wanted to interrupt before the
15 complete answer was given. Now you can hear the
16 translation and hear that it's hearsay.

17 THE COURT: Give me the answer, please.

18 THE WITNESS: Well, what we made a comment about
19 is that he had been in the Estadio Chile but never
20 Mr. Barrientos.

21 THE COURT: All right. Objection is sustained.

22 The jury is instructed to disregard this witness'
23 answer to the last question.

24 MR. DELLINGER: Your Honor?

25 THE COURT: Mr. de la Mora, would you please

1 instruct Mr. Quiroz to answer the question and do not
2 provide information that is not asked for.

3 MR. DELLINGER: May I approach?

4 THE COURT: Do not under any circumstances --

5 THE WITNESS: Well, that's how I understood the
6 question. They're asking me questions that are not very
7 clear.

8 THE COURT: Okay. Do not -- you have to tell
9 Mr. Quiroz, do not tell me, tell us in his answers,
10 anything he was told by someone else.

11 Understood?

12 THE WITNESS: Correct. Correct.

13 THE COURT: All right. You may inquire.

14 MR. CALDERON: Thank you.

15 BY MR. CALDERON:

16 Q Without saying what you discussed, how was he acting
17 during the conversation?

18 A Normal.

19 Q And after lunch, what did you do?

20 A I took him to San Antonio where he lived.

21 Q Prior to going to San Antonio, did you go anywhere
22 else?

23 A No.

24 Q I'm going to ask you to look at the document at the
25 last page.

1 Have you seen this document before?

2 THE COURT: For the record, what document is the
3 witness reviewing?

4 MR. CALDERON: This is -- I'm sorry, Your Honor.
5 This is Defense Exhibit 1.

6 THE COURT: Thank you.

7 THE WITNESS: Excuse me?

8 BY MR. CALDERON:

9 Q If you can just please review the last page of the
10 document.

11 Have you seen this document before?

12 A Yes.

13 Q When was the first time you saw this document?

14 A When we did it with Mrs. Maria Teresa. And the
15 statements we did ourselves, as is stated there.

16 Q Okay. And did you do anything with this document?

17 A I still have it with me.

18 Q And did you take this document anywhere on
19 June 11th of 2015?

20 A Noplace. I still have it.

21 Q After you gave your declaration, were you contacted by
22 anyone?

23 A Well, me? Well --

24 Q Yes, you.

25 A Like who, for instance?

1 THE COURT: Can I stop you for a second? Can I
2 see the lawyers briefly at sidebar?

3 (Discussion at sidebar on the record.)

4 THE COURT: I trust all are doing as well as you
5 can with the language difficulties.

6 But this witness just testified in reference to
7 Defense Exhibit 1, which is the declaration of Mr. Baez
8 Duarte that he's had -- that he took this document with him
9 and that he had this document with him.

10 That's simply not true, I don't believe. I
11 believe he thinks that you're talking about his
12 declaration. And perhaps I'm mistaken, but I think it's a
13 significant matter.

14 And I want to ask you the question, whether or not
15 you think perhaps I'm mistaken. If I am, I'll be quiet.
16 But I don't want the jury to be misled if this witness is
17 answering a question because of some problem with the
18 translation of question and answer.

19 But I would like for you to establish whether or
20 not when he said he kept this document with him after he
21 left if he's talking about his own declaration or if he's
22 talking about Mr. Baez Duarte's declaration. Because it
23 may make a difference.

24 MR. CALDERON: All right. I'll clear that up.

25 I'm not sure really the answer to that because

1 there was several copies of the document made and
2 notarized. But I'll clear that up and make sure the jury
3 understands whether he had a copy of this or his own.

4 THE COURT: Perhaps he had a copy of both of them.
5 If he did, he did. I don't mind telling you, I'm confused
6 by his response. And I suspect the jurors may be as well.

7 MR. DELLINGER: While we're up here, the question
8 that's pending is asking for what people told him on the
9 phone.

10 It's going to be hearsay. I'm waiting to listen
11 to the answer. Clearly he's about to talk about what
12 someone told him on the phone.

13 MR. CALDERON: The question is, have you been
14 contacted with regards to -- after your, after you gave
15 your declaration? It's a yes-or-no answer.

16 MR. DELLINGER: He said somebody called me on the
17 phone. And then we stopped.

18 THE COURT: Again, if the witness provides a
19 nonresponsive answer or provides an answer that is not
20 appropriate, I'll strike the response and instruct the
21 jury.

22 Especially with the translation problem, I can't
23 hear the answer as it's coming out, so I have to respond to
24 the translator when he starts.

25 I'll do the best I can to try to head off improper

1 responses.

2 MR. DELLINGER: And I'm listening to my people who
3 are fluent. And they are telling me when he gets to the
4 objectionable part. And I stand up.

5 And then you can hear the interpretation in order
6 to make a ruling. I'm trying to stop it before it gets
7 there.

8 THE COURT: I understand it. And the problem is
9 everyone is speaking on top of one another, and I can't
10 hear anything. And that's what I would like to try to
11 avoid.

12 MR. CALDERON: Your Honor, I can try to corral the
13 witness, but it would require me to lead them a little bit.
14 That's the best I can do.

15 THE COURT: I don't want you to lead the witness.
16 It's too important. And I don't think it's fair.

17 But I do -- I'm going to continue to interrupt the
18 witness if he provides information that's not responsive to
19 the question or if he insists on telling us things he was
20 told by someone else.

21 I think I've made it pretty clear to him that's
22 not to be done. I've corralled him myself.

23 MR. CALDERON: I'll remind him myself as well,
24 Judge.

25 MR. DELLINGER: Thank you, Your Honor.

1 (End of discussion at sidebar.)

2 MR. CALDERON: May I inquire, Your Honor?

3 THE COURT: Hold on just a minute, Mr. Calderon.

4 All right. Mr. Quiroz, the question that was
5 asked by Mr. Calderon is, after you gave your declaration,
6 were you contacted by anyone?

7 THE WITNESS: After my declaration? No.

8 BY MR. CALDERON:

9 Q Okay. At any point after you gave your declaration,
10 did anyone contact you with regards to that declaration?

11 A No, no.

12 Q Now, with regards to --

13 A (Speaking.)

14 MR. DELLINGER: Objection. Nonresponsive.

15 THE COURT: Objection sustained.

16 Wait for a question, Mr. Quiroz.

17 BY MR. CALDERON:

18 Q Mr. Quiroz, in front of you, you had an opportunity to
19 review Mr. Baez Duarte's declaration?

20 A Correct.

21 Q Do you have a copy of Mr. Baez Duarte's declaration in
22 your possession?

23 A Not at this moment. Not right here. But I have it in
24 the car. Mr. Baez's or mine?

25 Q Mr. Baez's.

1 A I don't have a copy of Mr. Baez's.

2 Q Do you have a copy of your own declaration that you
3 gave?

4 A Yeah. You know the four of us -- I have my copy.
5 They have theirs.

6 MR. CALDERON: Nothing further, Your Honor.

7 THE COURT: Cross-examination, Mr. Dellinger?

8 THE INTERPRETER: Are we switching interpreters?

9 MR. DELLINGER: Sure.

10 THE COURT: Do you want to take a rest,
11 Mr. de la Mora? And we'll put Mr. Icaza back to work.

12 THE INTERPRETER: Yes, Your Honor. Thank you.

13 THE COURT: Okay.

14 **CROSS EXAMINATION**

15 BY MR. DELLINGER:

16 Q Mr. Quiroz, you mentioned Miss Marie Teresa.

17 A Correct.

18 Q Did you speak with her to prepare for today's
19 testimony?

20 A No. No. I haven't spoke to her. I spoke to her in
21 the past.

22 Q When was the last time you spoke to her?

23 A It was June, July. When were the statements made?
24 Related to that, I think it was in June.

25 Q What did you do to prepare for today's testimony?

1 A I have not prepared. I just came to make the
2 statements that I've already made in the past.

3 Q Well, how did you -- who paid for you to get here?

4 A The Barrientos family.

5 Q Okay. Who, particularly, in the Barrientos family
6 paid for you to get here?

7 A I don't know.

8 Q Who gave you the plane ticket?

9 A In Santiago, Chile. Chile.

10 Q That's where you flew from. Who gave you the ticket?

11 A The ticket was given to me at Santiago by -- Santiago,
12 we were given the tickets for all of us to come out at the
13 plane.

14 Q Who gave you the ticket, sir?

15 A The son of Mr. Barrientos.

16 Q Okay. Now, you were actually in the room with
17 Mrs. Castro Barrientos yesterday, correct, sir?

18 A Correct.

19 Q Did you discuss what was happening in the case?

20 A Well, we all know what we're here for.

21 Q Sir, did you discuss what was happening in the case?

22 A Well, you talk, you converse. Obviously we all know
23 what is going on so we're talking.

24 Q So you're talking about what's happening in the case,
25 correct, sir?

1 A No.

2 Q Who did you fly here with, sir?

3 A With Hinojosa.

4 Q Anyone else?

5 A No.

6 Q Who is Mr. Hinojosa?

7 A Mr. Hinojosa is a colleague of mine from the military
8 service. And a bodyguard to Mr. Barrientos.

9 Q You were also a bodyguard to Mr. Barrientos, correct,
10 sir?

11 A No, I was not a bodyguard to Mr. Barrientos.

12 Q Have you ever been a bodyguard with Mr. Barrientos?

13 A Prior to the 11th, yes.

14 Q Prior to September 11th, 1973?

15 A When I was doing my military service, we went out on
16 several opportunities in San Antonio.

17 Q After September 11th, 1973, who were you a
18 bodyguard for?

19 A We were at Padre Hurtado under -- that was under the
20 command of Captain Montero.

21 Q Now, you mentioned Mr. Hinojosa a minute ago.

22 MR. DELLINGER: Your Honor, it would help me if I
23 could write down the name on the screen for the jury to
24 see.

25 Would that be objectionable for demonstrative

1 purposes?

2 THE COURT: That's fine. You can use the ELMO.

3 BY MR. DELLINGER:

4 Q Is that Mr. Hinojosa?

5 A I beg your pardon?

6 Q Is that his name?

7 A Hinojosa, yes, right.

8 Q That's the man that you flew here with?

9 A Correct.

10 Q Did you talk to him about the case?

11 A Well, we were fully advised that we were coming here
12 to face this case.

13 Q Okay. So you talked about the case on the way here?

14 A Yeah. Nothing. Just normal things that, you know,
15 just what you talk about.

16 Q Okay.

17 A Nothing important.

18 Q Was Mr. Hinojosa a bodyguard for Mr. Barrientos?

19 A Mr. Hinojosa or myself? I don't understand.

20 Q Mr. Hinojosa, was he a bodyguard for Mr. Barrientos?

21 A Affirmative.

22 Q Who else was a bodyguard for Mr. Barrientos after
23 September 11th, 1973?

24 A I know not of that question because I was at Padre
25 Hurtado.

1 Q And Mr. Barrientos was not at Padre Hurtado, was he,
2 sir?

3 A Affirmative.

4 Q You don't know where Mr. Barrientos was from September
5 11th through September 16, 1973, do you, sir?

6 A No. I don't know. No.

7 Q And, sir, you don't know whether or not Mr. Baez
8 Duarte saw Mr. Barrientos in Chile Stadium with a portfolio
9 and that you were one of his bodyguards, do you, sir?

10 THE INTERPRETER: The interpreter requests --

11 MR. DELLINGER: That's compound.

12 THE COURT: It is. Let's have a new question.

13 BY MR. DELLINGER:

14 Q You don't know -- you say you don't know if
15 Mr. Barrientos was in Chile Stadium, do you, sir?

16 A Yes. I don't know.

17 Q And you don't know whether or not Mr. Baez Duarte saw
18 Mr. Barrientos in a stadium -- in Chile Stadium carrying a
19 portfolio, do you, sir, because you weren't there?

20 A I don't know because I was not at Chile Stadium.

21 Q And you don't know, sir, whether or not Mr. Garcia
22 Mella saw Mr. Barrientos arrive with a briefcase and he met
23 with the heads of the stadium and he would go to the floors
24 downstairs?

25 MR. CALDERON: Objection, Your Honor. Counsel is

1 testifying.

2 THE COURT: Mr. Dellinger --

3 Objection sustained.

4 -- you're going to have to ask simple, direct
5 questions that are not compound.

6 So let's have a new question.

7 BY MR. DELLINGER:

8 Q Sir, you don't know whether or not Mr. Garcia Mella
9 saw Mr. Barrientos at the stadium as well, do you, sir?

10 A No.

11 Q And you don't know whether or not Miss Erica Osorio
12 Araya saw Mr. Barrientos at the stadium as well, do you,
13 sir, because you weren't there?

14 MR. CALDERON: Objection, Your Honor. Form of the
15 question. Compound.

16 THE COURT: Objection is overruled.

17 THE WITNESS: No, I was not at that location.

18 BY MR. DELLINGER:

19 Q And you don't know if Mr. Isidoro Chaura saw
20 Mr. Barrientos at the stadium as well because you weren't
21 there?

22 A I was not at Chile Stadium. I could not see him.

23 Q And you don't know if Mr. Gonzalez Riquelme saw
24 Mr. Barrientos at the stadium because you weren't there,
25 correct?

1 A I was not there.

2 Q And you don't know if Mr. Rivero Valenzuela saw
3 Mr. Barrientos at the stadium because you weren't there?

4 A Correct, I was not there.

5 Q And you don't know if Mr. Vargas Matta saw
6 Mr. Barrientos at the stadium because you weren't there?

7 A Correct.

8 Q In fact, you were at Padre Hurtado --

9 MR. DELLINGER: Could you please show Exhibit
10 Number 64?

11 Joint Exhibit 64, Your Honor.

12 THE COURT: Yes, you may publish. May need to go
13 to the computer screen.

14 BY MR. DELLINGER:

15 Q Sir, do you see Joint Exhibit Number 64 in front of
16 you?

17 A Yes.

18 Q Can you see the red marker that references Padre
19 Hurtado?

20 A Uh-huh.

21 Q That's where you were, right?

22 A At Padre Hurtado, yes.

23 Q And you say Chile Stadium is approximately one hour
24 away?

25 A Give or take, if there's no traffic.

1 Q In Santiago?

2 A Yes, in Santiago. That's where the stadium is.

3 MR. DELLINGER: Let me switch back to the ELMO,
4 please.

5 BY MR. DELLINGER:

6 Q When you were at Padre Hurtado --

7 A Affirmative.

8 Q -- did you see the man that has the arrow on his name,
9 Mr. Vargas Matta?

10 A Mr. Vargas Matta was from the First Section of the
11 Second Company, my section.

12 THE COURT: The question was, when you were at
13 Padre Hurtado, did you see the man who has the arrow by his
14 name, Vargas Matta?

15 THE WITNESS: No.

16 BY MR. DELLINGER:

17 Q And you say you were not the bodyguard for
18 Mr. Barrientos after September 11, 1973, correct, sir?

19 A Correct.

20 MR. DELLINGER: May I approach the witness,
21 Your Honor?

22 THE COURT: Yes.

23 Make sure Mr. Calderon knows what it is you're
24 going to examine him about.

25 MR. DELLINGER: Can we switch the screen so that

1 the witness is just able to see the document that I have,
2 Your Honor?

3 THE COURT: Yes. You have to turn the projector
4 off.

5 BY MR. DELLINGER:

6 Q Can you see the statement on the screen?

7 A More or less.

8 Q Do you remember being interviewed at the national
9 headquarters for Crimes Against Human Rights on
10 May 22nd, 2009?

11 A The date again, sir?

12 Q May 22nd, 2009.

13 A Who was given that interview?

14 Q At the national headquarters for Crimes Against Human
15 Rights. It was a police statement by you given on
16 May 22nd, 2009. I believe you gave two statements that
17 day.

18 A Of me?

19 Q Yes, sir.

20 A In investigations of Chile?

21 Q Yes, sir.

22 A Of me? Yes.

23 Q And do you remember giving a statement to the police
24 about your relationship with Mr. Barrientos?

25 THE INTERPRETTER: Please repeat the question.

1 The interpreter is incomplete.

2 BY MR. DELLINGER:

3 Q Do you remember giving a statement to the police about
4 your relationship to Mr. Barrientos?

5 A With Mr. Barrientos, no.

6 Q Do you remember giving a statement to the police that
7 day?

8 A Yes. Investigations took a statement from me, yes,
9 but not related to Mr. Barrientos.

10 Q It was important that you provide them full and
11 complete information at the time, correct?

12 A Correct.

13 Q And you wanted to make sure it was truthful?

14 A Correct.

15 Q And on that day, did you say, in relation to what I am
16 asked --

17 MR. CALDERON: Objection, Your Honor. Hearsay.

18 MR. DELLINGER: -- I must say --

19 THE COURT: Objection is overruled.

20 BY MR. DELLINGER:

21 Q In relation to what I am asked, I must say that
22 independent of being the driver I would sometimes carry out
23 bodyguard duties for Officers Montero, Barrientos, and
24 Rodriguez?

25 A Affirmative. But what date to what date?

1 Q You went back to Chile Stadium after September 16,
2 1973, correct, sir?

3 A Negative.

4 Q Did you go back to Santiago?

5 A I want to clarify something. May I?

6 Q Sir, in September of 1973, you went back to Santiago?

7 A We went to Padre Hurtado.

8 Q When you left Padre Hurtado, you went back to Santiago
9 where you met the conscripts?

10 A May I clarify something first?

11 Q Sir, I get to ask the questions. You have to answer
12 them, okay?

13 When you left Padre Hurtado, you went back to
14 Santiago, correct?

15 A Correct.

16 Q There you met other conscripts?

17 A Correct.

18 Q And they told you what had happened in Chile Stadium,
19 correct?

20 A Affirmative.

21 Q They told you about torture?

22 A No. No.

23 Q They told you about killing?

24 A No, no. No.

25 Q They talked to you about what had happened in Chile

1 Stadium, didn't they, sir?

2 A They would tell me something, some things about, well,
3 normal detainees.

4 Q Now, you had been to Chile Stadium before, hadn't you?

5 A Correct.

6 Q You knew Mr. Baez Duarte because the two of you boxed
7 together?

8 A Yes, affirmative.

9 Q On the military boxing team?

10 A Affirmative.

11 Q And you had boxed in Chile Stadium?

12 A Correct.

13 Q Before September 11th, 1973?

14 A Correct.

15 Q In fact, you had boxed just a few months earlier in
16 Chile Stadium?

17 A Correct.

18 Q And because of that, you knew the dressing rooms at
19 Chile Stadium?

20 A Correct.

21 Q The dressing rooms were upstairs or downstairs?

22 MR. CALDERON: Objection, Your Honor. Scope.

23 THE COURT: Objection is overruled.

24 THE WITNESS: Downstairs.

25 BY MR. DELLINGER:

1 Q Did any of the conscripts tell you after the coup that
2 torture had taken place in those same dressing rooms?

3 A No.

4 Q Did any of the conscripts tell you that civilians had
5 been murdered in those same dressing rooms?

6 A No.

7 Q Did any of those conscripts tell you that women had
8 been raped in those very dressing rooms?

9 A No.

10 Q Before the coup you were placed with Tejas Verdes,
11 correct?

12 A Correct.

13 Q The commander at Tejas Verdes was Lieutenant Colonel
14 Contreras?

15 A Affirmative.

16 MR. DELLINGER: May I publish that name,
17 Your Honor, please?

18 THE COURT: Yes.

19 Is there a question pending?

20 MR. DELLINGER: I was hoping to publish the name
21 that's on the screen. I apologize, on the ELMO.

22 BY MR. DELLINGER:

23 Q Lieutenant Colonel Contreras was the commander at
24 Tejas Verdes?

25 A Correct.

1 Q Before the coup?

2 A Before the coup.

3 Q And this is the man who later became the head of DINA,
4 correct?

5 A Correct.

6 Q The casino at Tejas Verdes had a waterfront view?

7 A The casino?

8 Q Yes.

9 A There is -- it's not a lake. It's a river.

10 Q Under that casino, did you know that people were
11 tortured?

12 A I know nothing because I was never there.

13 Q Are you familiar with Prison Camp Number 2 that was at
14 Santo Domingo near Tejas Verdes?

15 MR. CALDERON: I'm going to object as to scope,
16 Your Honor.

17 THE COURT: Objection sustained.

18 BY MR. DELLINGER:

19 Q You mentioned in direct examination a Lieutenant
20 Smith.

21 A Yes.

22 Q Is this the man who stuttered?

23 A Oh, yeah. Oh, yes, him. Yes.

24 MR. CALDERON: Objection. Leading.

25 I'm going to object as to scope and

1 mischaracterization of direct testimony.

2 MR. DELLINGER: He talked about Lieutenant Smith
3 on direct, Your Honor.

4 THE COURT: The scope objection is overruled.

5 And ladies and gentleman, as I've told you many
6 times, what the lawyers say or what they include in their
7 questions is not evidence. So if the testimony is
8 inconsistent or different from the question as you recall
9 it, you rely upon your own recollection of the testimony.

10 You may proceed, Mr. Dellinger.

11 BY MR. DELLINGER:

12 Q Perhaps my question was not clear. You didn't testify
13 that Lieutenant Smith stuttered. I'm asking you if this is
14 the man who stuttered?

15 A If you would stare at him fixedly, he would become a
16 stutterer.

17 Q Okay. Where was Lieutenant Smith from September
18 11th, 1973, through September 16, 1973?

19 MR. CALDERON: Objection, Your Honor. Scope and
20 personal knowledge.

21 THE COURT: The scope objection is overruled.

22 Mr. Icaza, tell the witness to respond, if he
23 knows.

24 THE WITNESS: I don't know.

25 BY MR. DELLINGER:

1 Q Did you see Lieutenant Smith at Padre Hurtado?

2 A No.

3 Q Did Lieutenant Smith and Lieutenant Barrientos
4 frequently work together?

5 A I never saw them, no.

6 Q You don't know?

7 A No, no, no.

8 Q The sections of Tejas Verdes were separated between
9 Padre Hurtado and Chile Stadium, correct?

10 A From Tejas Verdes to Padre Hurtado, did we go there?
11 What is it you want to know?

12 Q Okay. After you left Padre Hurtado, you spoke to the
13 other conscripts and you exchanged notes about where you
14 had been?

15 A Correct. Correct. Affirmative. Affirmative.

16 Q And you learned that some of the conscripts were at
17 Padre Hurtado and some of the conscripts were at Chile
18 Stadium?

19 A Yes. I was at Padre Hurtado.

20 Q You didn't hear of any other places where they went?

21 A No. I was at Padre Hurtado. I know nothing about
22 that.

23 Q When you were at Padre Hurtado, did Mr. Barrientos
24 ever visit?

25 A Occasionally he would go there to talk to Mr. Montero.

1 Q Okay. But he would stay, stay briefly and leave?

2 A Yes. Okay.

3 Q And was he carrying a briefcase or a portfolio?

4 A No, no.

5 Q Did he have any special insignia, like an armband or a
6 scarf?

7 A A scarf and a -- and an armband, orange in color.

8 Q Okay. And did he have his rank?

9 A No, no. No.

10 Q What -- what happened to the rank, if you know?

11 A I'll tell you something. No officer would wear his
12 rank in those days. They were all without their rank.

13 Q Could they be removed easily and reapplied?

14 A Correct.

15 Q What type of uniform was Mr. Barrientos wearing when
16 you saw him?

17 A An olive green color.

18 Q Olive green?

19 A Yes.

20 Q And was he carrying a pistol?

21 A Pistol, yes.

22 Q The officers had pistols?

23 A Correct.

24 Q And the conscripts had rifles?

25 A Yes.

1 Q And Mr. Barrientos carried a long-barreled pistol?

2 A Correct.

3 Q One like from World War II?

4 A Correct.

5 Q And when you boxed at Chile Stadium, who watched the
6 event?

7 A Family members of those who were fighting. And
8 personnel from the Army because it was a championship
9 amongst soldiers.

10 Q And so this was a -- you had Tejas Verdes officers
11 there?

12 A There was an officer in charge of us, yes.

13 Q Who was that? The date of the boxing match.

14 A On the day of the boxing match, it was Captain --
15 Captain Ricardo Soto (phonetic.)

16 Q And was this boxing match publicized to the regiment?

17 MR. CALDERON: Objection, Your Honor. Relevance
18 and scope.

19 MR. DELLINGER: I can tell you the relevance,
20 Your Honor.

21 THE COURT: All right. Come to sidebar and tell
22 me the relevance.

23 (Discussion at sidebar on the record.)

24 MR. DELLINGER: Mr. Barrientos claimed he had
25 never been to Chile Stadium. Now we have the entire

1 regiment there watching him boxing two months before the
2 event -- two months before the coup.

3 It's directly relevant.

4 THE COURT: Has the date been established?

5 MR. DELLINGER: The date was two months before.
6 That's when he said he was in -- I can establish the date.
7 If you don't know it, I definitely need to establish it.

8 THE COURT: I don't remember the date being
9 established. But if you can establish the date, make sure
10 that's established.

11 And I'll overrule the relevance objection.

12 MR. DELLINGER: Thank you, Your Honor.

13 (End of discussion at sidebar.)

14 BY MR. DELLINGER:

15 Q This boxing match that you're talking about where you
16 were boxing another soldier --

17 A Yes.

18 Q -- where you learned about the dressing rooms?

19 A Yeah. We went into the dressing rooms to dress up,
20 yes.

21 Q It was approximately two months before the coup,
22 correct?

23 A More or less, correct, yes.

24 Q So around July of 1973?

25 A July, August. More or less.

1 Q Okay. Now, this was a big event for the military?

2 A It was an intra-military championship. It was big.
3 There were several units there.

4 Q And were you fighting for your unit?

5 A For the School of Military Engineers.

6 Q Tejas Verdes?

7 A Tejas Verdes.

8 Q And you were fighting against which unit?

9 A It was against the -- it was against the Mountaineer
10 regiment. It was an intra-military thing. It was amongst
11 military people.

12 Q It was an intra-military championship?

13 A Correct.

14 Q And the officers were all there?

15 A Those that were in charge, yes, and the troops.

16 Q Okay. What officers do you remember being there?

17 A No, I remember the officer who was in charge of us.

18 Q So you don't remember what other officers were there?

19 A No. No. The other ones were troops, you know,
20 corporals, second class, first class.

21 Q You don't remember whether or not Mr. Barrientos was
22 there or not?

23 A No, no.

24 Q You don't know one way or the other?

25 A He wasn't there, no. He wasn't there.

1 Q How was this boxing match publicized at Tejas Verdes?

2 A Tejas Verdes, we were in Santiago for the boxing. The
3 championship was in Santiago. It was at Chile Stadium.

4 Q Right. But how did your section find out about the
5 championship?

6 A I was from the engineers school team.

7 Q Who won?

8 A I came in second.

9 Q Second. Okay. But you had people there cheering you
10 on, right?

11 A There were people there. It was all soldiers. It was
12 all my colleagues. It was my brothers in arms.

13 Q Everyone from Tejas Verdes?

14 A Yes. We returned to Tejas Verdes after the
15 championship was over.

16 Q Right. But the people that were there cheering you on
17 were people from Tejas Verdes?

18 A Yeah. But family members came from Tejas Verdes.

19 Q And other soldiers?

20 A No, from the team. There were 12 of us.

21 Q How many --

22 A It was a delegation that went to Santiago.

23 Q You're fighting in Chile Stadium. That's a big venue
24 for you, right?

25 A Okay. Yes.

1 Q At the time, you agree with me, that you were
2 Mr. Barrientos' bodyguard?

3 A No, negative.

4 Q I thought you told us earlier that you were at least
5 his bodyguard until September 11, 1973?

6 A Well, we were escorts. Not so much bodyguards,
7 bodyguards. We were going to the center to do some
8 shopping. We were not so much bodyguards as escorts.

9 Q Okay. Escorts. At the time you were in this fight,
10 you were an escort for Mr. Barrientos?

11 A Prior to the delegation coming into Santiago, once I
12 became a member of the boxing team, I no longer was an
13 escort.

14 Q You fight -- at the time you were in this fight in
15 Chile Stadium, Mr. Barrientos was your commanding officer?

16 A Prior to coming to Chile Stadium?

17 Q On the day you were in the fight, Mr. Barrientos was
18 your commanding officer?

19 A Mr. Barrientos was the section commander.

20 Q For your section?

21 A For my section at Tejas Verdes.

22 Q And you were fighting for Tejas Verdes in Chile
23 Stadium, weren't you, sir?

24 MR. CALDERON: Objection, Your Honor. Asked and
25 answered.

1 THE COURT: Overruled.

2 THE WITNESS: Correct.

3 BY MR. DELLINGER:

4 Q And Mr. Barrientos was proud of you?

5 MR. CALDERON: Objection, Your Honor. Calls for
6 speculation.

7 THE COURT: The witness can answer if he knows.

8 Mr. Icaza, tell the witness, if he knows.

9 THE INTERPRETTER: Yes, sir.

10 THE WITNESS: When we returned to Tejas Verdes, he
11 did congratulate us.

12 BY MR. DELLINGER:

13 Q You were also, in addition to being an escort -- well,
14 were you an escort for Mr. Barrientos after September 11,
15 1973?

16 A No.

17 Q Were you a driver for Mr. Barrientos after
18 September 11, 1973?

19 A No.

20 THE COURT: How much longer do you think you have,
21 Mr. Dellinger?

22 MR. DELLINGER: About 30 minutes. But I can tie
23 it up if we have a break.

24 THE COURT: We're going to definitely take a
25 break. I've had the jurors sitting longer than I'd like.

1 So it's 20 minutes after, ladies and gentleman.

2 So let's take a break, and ask you to come back,
3 if you would, at -- I guess that would be 1:35. That will
4 give us our hour and 15 minutes.

5 Remember, this is not the time to discuss the case
6 amongst yourselves or with anyone else.

7 Thank you for your patience with us this morning.
8 See you after lunch.

9 (Jury exited the courtroom at 12:19 p.m.)

10 THE COURT: Mr. Quiroz, you are in the midst of
11 your testimony, so it's important that you not discuss it
12 with anyone.

13 THE WITNESS: Correct.

14 THE COURT: So if you could be back in that
15 witness box at 1:35, we'll proceed.

16 THE WITNESS: Okay. Correct.

17 THE COURT: We'll be in recess until 1:35.

18 (Luncheon recess at 12:20 p.m. to 1:38 p.m.)

19 THE COURT: Back on the record in Jara versus
20 Barrientos Nunez, 6:13-civil-1426.

21 Court notes counsel and the parties are present.

22 Is our jury back and ready, Mr. Carter?

23 COURT SECURITY OFFICER: Yes.

24 THE COURT: Are you ready to proceed,

25 Mr. Dellinger?

1 MR. DELLINGER: Yes, Your Honor.

2 THE COURT: All right. Mr. Carter, bring our jury
3 back.

4 Mr. Calderon, there was a woman that was in the
5 back left of the courtroom with a laptop. She didn't come
6 back after lunch. I just wanted to confirm that she's with
7 your offices.

8 MR. CALDERON: Yes, Judge. She's an intern at our
9 offices.

10 THE COURT: Thank you.

11 (Jury entered the courtroom at 1:40 p.m.)

12 THE COURT: Welcome back, ladies and gentlemen.

13 Hope you had a pleasant lunch.

14 Were all of you able to abide by my instructions
15 not to discuss the case?

16 JURY: Yes.

17 THE COURT: Yes. Thank you.

18 All right.

19 MR. DELLINGER: Thank you, Your Honor.

20 THE COURT: You may inquire, Mr. Dellinger.

21 MR. DELLINGER: Thank you, Your Honor.

22 BY MR. DELLINGER:

23 Q Before the break, we mentioned a Mr. Vargas Matta and
24 you testified that Mr. Matta was not at Padre Hurtado; is
25 that right.

1 A Correct.

2 Q Is it possible that he was there and you didn't see
3 him?

4 MR. CALDERON: Objection, Your Honor. Calls for
5 speculation.

6 THE COURT: Objection is overruled.

7 THE WITNESS: I did not see him.

8 BY MR. DELLINGER:

9 Q I mean, how many people were at Padre Hurtado?

10 A We were some 30.

11 Q Were you, what were you doing there?

12 A We were doing traffic control.

13 Q Anything else?

14 A Patrolling the sector.

15 Q Did you see any ambulances pass your traffic control
16 point?

17 A No.

18 Q Did you notice any weighted-down ambulances that
19 passed the traffic control point?

20 A No.

21 Q Did you notice military trucks passing your traffic
22 control point?

23 A No. No.

24 Q You all would have seen all of the vehicles that came
25 and went through your point, correct?

1 A Correct.

2 Q And so you never saw any weighed-down trucks or
3 ambulances going through your traffic control point at
4 Padre Hurtado?

5 A No.

6 Q Now, before the break, we talked a little bit about
7 you acting as a driver. Do you remember that?

8 A That I was a driver?

9 Q Yes, sir.

10 A Yes. You tell it like that, yes.

11 Q Okay. After September 11, 1973, did you drive a truck
12 to transport Officers Montero, Rodriguez, and Barrientos?

13 A No.

14 MR. DELLINGER: May I approach, Your Honor?

15 THE COURT: Yes.

16 Mr. Dellinger, while we are at break, also,
17 earlier in this witness' testimony, you referred him to a
18 document. Can you identify what that document was by
19 exhibit number or if it's marked for identification?

20 MR. DELLINGER: It was -- it is not marked for
21 identification, but I can identify the document. It's a
22 prior statement. It was a May 22, 2009, statement before
23 the national headquarters for Crimes against Human Rights.

24 MR. CALDERON: I'm going to object to this
25 document being published by counsel.

1 THE COURT: I wasn't asking you to publish it.
2 I'm only asking you if it was not marked for
3 identification, please do that so that the record will
4 reflect what it is that you were referring the witness to.

5 MR. DELLINGER: This is the same document. So if
6 I could, if Miss Flick has a sticker or some sort of
7 identification, I would appreciate it.

8 May I approach?

9 THE COURT: Yes.

10 MR. DELLINGER: Your Honor, I'm going to mark this
11 as Plaintiff's Exhibit 10 for identification.

12 THE COURT: Plaintiff's 10 for identification.
13 Thank you.

14 (Plaintiff's Exhibit 10 was marked
15 for identification.)

16 MR. DELLINGER: If I may approach.

17 BY MR. DELLINGER:

18 Q I'm handing you a document that's been marked as
19 Plaintiff's Exhibit 10 for identification. Plaintiff's
20 Exhibit 10 contains a statement both in Spanish and in
21 English.

22 Please take a look at Plaintiff's Exhibit 10.

23 A (Complying.)

24 Q If you turn to the third page, you'll see the Spanish.
25 And you turn to the fourth page, you'll see a signature.

1 A Is this it?

2 Q Yes, sir.

3 Turn to the fourth page. You'll see a signature.

4 Oh, I'm sorry. It looks like you were looking at the
5 signature.

6 Can you turn back until you see your signature on the
7 document?

8 A (Complying.)

9 Q Do you recognize your signature on Plaintiff's
10 Exhibit 10?

11 A Correct.

12 Q Did you sign this document in front of a notary on
13 May 22nd, 2009?

14 A Correct.

15 Q Okay. At that time, did you state --

16 MR. CALDERON: Your Honor, I object. Improper
17 impeachment on the grounds that this is not material.

18 THE COURT: Objection is overruled.

19 BY MR. DELLINGER:

20 Q Take a look at the first page of the statement. Go
21 down to the sixth paragraph.

22 MR. DELLINGER: May I approach the witness,
23 Your Honor?

24 THE COURT: Yes.

25 MR. DELLINGER: Can I see it, please?

1 I'm going to refer you to this paragraph and that
2 paragraph.

3 For the record, I'm referring to the sixth, start
4 with the sixth.

5 BY MR. DELLINGER:

6 Q On May 22nd, 2009, did you state: "After that
7 date, due to the lack of experience of the truck drivers on
8 duty, the conscripts who could drive were requested to
9 carry out the patrol duties. And in that case, I was
10 appointed to drive a truck in which I was transporting
11 Officers Montero, Rodriguez Diaz, Barrientos, and
12 noncommissioned Officer Montiel to carry out administrative
13 delivery tasks for the aforementioned officers or just as
14 an officer wherever they would ask me to go or just as a
15 driver wherever they would ask me to go. I went to Chile
16 Stadium once or twice, but I never went in."

17 Is that what you said on that date?

18 A Correct.

19 Q And that's what you said and signed in your statement?

20 A After three months of the 11th.

21 Q You also state in the last paragraph, "In relation to
22 Chile Stadium, I must state that after September 11, 1973,
23 I never went to that stadium. Only in the subsequent
24 months and only as a driver to drop off mail."

25 A Affirmative.

1 Q Okay. So you did serve as a driver for
2 Mr. Barrientos, correct, sir?

3 A Occasionally.

4 Q And you did drive to Chile Stadium to drop off mail?

5 A I never entered Chile Stadium.

6 Q But you drove to it, sir?

7 A To the place, to places, but not specifically Chile
8 Stadium.

9 Q And you took Mr. Barrientos to Chile Stadium, didn't
10 you, sir?

11 A I took Mr. Barrientos to the periphery of Chile
12 Stadium. I don't know what he did there.

13 Q So you did take Mr. Barrientos to Chile Stadium after
14 September 11, 1973?

15 A Three months later.

16 Q Is it four months or three months, sir?

17 A Three months after the 11th, we had returned to
18 Santiago.

19 Q Did you also give a statement on the same day at the
20 judicial branch relating to your duties and who you knew at
21 Chile Stadium?

22 A No one.

23 Q You didn't know anyone at Chile Stadium?

24 A No. Nobody. No, I didn't know anyone at Chile
25 Stadium.

1 Q You agree with me that Lieutenant Barrientos would
2 come and go from Padre Hurtado to Santiago?

3 A Yes. But I would remain at Padre Hurtado.

4 Q And Santiago was where Chile Stadium was?

5 A Correct.

6 Q When was it that you drove Mr. Barrientos to Chile
7 Stadium from Padre Hurtado?

8 A From Padre Hurtado, when we got there, the unit coming
9 back, they went back to the War Arsenales.

10 Q In Santiago?

11 A In Santiago.

12 Q Which is right near Chile Stadium?

13 A From Padre Hurtado to Chile Stadium is more or less
14 one hour, as I said.

15 Q I'm talking about Arsenales in downtown Santiago.

16 A Twenty-five minutes, half -- twenty-five minutes.

17 MR. DELLINGER: Your Honor, I'd like to publish
18 Joint Exhibit 64.

19 THE COURT: All right. You may proceed.

20 MR. DELLINGER: While we're waiting on the
21 technical issues, Your Honor, I'll move on for the sake of
22 time.

23 BY MR. DELLINGER:

24 Q You mentioned that Barrientos took you to Padre
25 Hurtado and then would come back at times to Padre Hurtado

1 from Santiago?

2 A Would you repeat the question?

3 Q Was it Barrientos that went with you to Padre Hurtado
4 originally?

5 A Well, let it be clear that we got to Santiago three
6 months later and we did not return to Padre Hurtado.

7 Q Did Barrientos accompany you to Padre Hurtado on
8 September 11, 1973?

9 A Affirmative.

10 Q I'm going to show you a document that's been marked as
11 Joint Exhibit 64. As you can see -- still part of Joint
12 Exhibit 64.

13 Do you see the black marker on Joint Exhibit 64?

14 MR. CALDERON: Your Honor, I'm going to object.
15 Can we approach?

16 THE COURT: Yes.

17 (Discussion at sidebar on the record.)

18 MR. CALDERON: Your Honor, this is not the exhibit
19 we were provided. This has a marking which denotes the
20 distance.

21 THE COURT: Are you saying that what's on the
22 screen is not Exhibit 64?

23 MR. CALDERON: That's not what I have.

24 I'll take you on your word.

25 I didn't see that one, the distance.

1 THE COURT: So is the objection, for the record,
2 as I understand it, is what's being displayed as being
3 representative as Exhibit 64 Joint is, in fact, not Joint
4 Exhibit 64?

5 MR. CALDERON: Judge, if they're saying they
6 provided it, I'll take them at their word. It's not in my
7 binder.

8 THE COURT: We have a binder brought into the
9 court. It either is the document or is not.

10 MS. BELSHER: The Court has this document.

11 THE COURT: None of what you just said is on the
12 record.

13 MR. DELLINGER: She said that the document that
14 counsel is holding was handed to him at the pretrial. And
15 that the exhibit was updated --

16 THE COURT: Okay.

17 MR. DELLINGER: -- before the trial.

18 And the Court should have the exhibit that the
19 witness is currently reviewing in his notebook.

20 THE COURT: Okay.

21 While you all are up here, you're trying, you're
22 all trying my patience a little bit because I'm very
23 concerned about the time.

24 Again, I spent a lot of time doing what you're
25 doing. I know it's hard to do. I know these circumstances

1 are difficult. But in my opinion, you're taking an awfully
2 long time to do what could be done in a lot less time.

3 And, you know, I'm not going to be here Thursday
4 morning. No matter what. I'm not going to be here
5 Thursday or Friday.

6 So the consequences of not finishing, just be
7 aware that there's nothing I can do about it. I'm not
8 going to be here. So that means this jury has a four-day
9 delay. So be it.

10 MR. DELLINGER: I'm almost done. I'm almost done.

11 MR. BECKETT: We're still intending to get this
12 case to the jury by tomorrow.

13 THE COURT: Okay. You have more optimism than I
14 do but perhaps it's founded.

15 (End of discussion at sidebar.)

16 THE COURT: All right. Ladies and gentlemen, we
17 had a little confusion about whether or not we had the
18 correct exhibit up. I think we've determined that, in
19 fact, we do.

20 So you may proceed, Mr. Dellinger.

21 BY MR. DELLINGER:

22 Q So I'm handing you a document that's been marked as
23 Joint Exhibit Number 64.

24 Do you recognize the black mark on Joint Exhibit 64?

25 A This one here I could barely read.

1 Q Do you recognize the black mark as being Arsenales de
2 Guerra?

3 A Can't barely see it. Yes, it looks like it. Okay.

4 Q And do you recognize the green mark as being Chile
5 Stadium, which is now known as Estadio Victor Jara?

6 A This one up here? This one up here at the top?

7 Q Yes, sir. Yes, sir.

8 A Or this one over here on the left?

9 Q The one on the left, sir.

10 A Yes. That is an area of Chile Stadium.

11 Q That's where you had your boxing match?

12 THE COURT: We need an audible response, please.

13 BY MR. DELLINGER:

14 Q Yes or no, sir?

15 A Okay. Yes, yes.

16 Q Isn't it true, sir, that if you were implicated in the
17 death of Victor Jara that you would be in prison in Chile?

18 A I'm not involved.

19 Q But if you were implicated, you would be in prison,
20 correct, sir?

21 MR. CALDERON: Objection, Your Honor. This calls
22 for speculation.

23 THE COURT: Sustained.

24 MR. DELLINGER: I'll restate the question, Your
25 Honor, to make it less speculative.

1 BY MR. DELLINGER:

2 Q Isn't it true, sir, that you were in prison for four
3 months because there was suspicion that you were involved
4 in the death?

5 A But not four months. Four days.

6 Q Because of suspicion that you were involved with the
7 death?

8 A Correct. Yes.

9 Q Yes. And if you were implicated in the deaths, you
10 would go back to jail, correct, sir?

11 MR. CALDERON: Objection, Your Honor. Calls for
12 speculation.

13 MR. DELLINGER: Less speculative now.

14 THE COURT: Objection sustained.

15 MR. DELLINGER: No further questions, Your Honor.

16 THE COURT: Any redirect?

17 MR. CALDERON: Can we strike Counsel's previous
18 comment?

19 THE COURT: Ladies and gentlemen, I'm going to
20 tell you for what may be now the 20th time, what the
21 lawyers say is not evidence. The only thing that's
22 evidence is what the witness says in response to the
23 question.

24 So to the extent the lawyers have said anything or
25 suggested anything outside the context of asking the

1 question that the witness has answered, obviously the
2 witness' answer and only the witness' answer is testimony
3 or evidence for your consideration.

4 You may proceed, Mr. Calderon.

5 MR. CALDERON: Thank you, Your Honor.

6 **REDIRECT EXAMINATION**

7 BY MR. CALDERON:

8 Q Mr. Quiroz, in 2009, you gave a statement regarding
9 the events of September 11th, 1973. Is that accurate?

10 A That's true.

11 Q And after you gave that declaration or made that
12 statement, were you contacted by anyone with regards to
13 that statement?

14 A After I left after having been detained or when after?

15 Q Well, were you detained prior to giving that
16 statement?

17 A Correct.

18 Q And were you questioned with regards to what counsel
19 was asking you about?

20 A Yes. I was interrogated for about seven hours.

21 Q And who interrogated you?

22 A Chilean Investigative.

23 Q Is this a -- can you describe the kind of agency that
24 it is?

25 A Can you repeat the question, please?

1 Q Can you describe the kind of agency that the
2 investigative division is?

3 MR. DELLINGER: Your Honor, I'm not sure I heard
4 the predicate, the date of this questioning, Your Honor.
5 So objection, lack of predicate.

6 THE COURT: Objection is overruled.

7 THE WITNESS: Well, the investigation, you mean
8 what the investigation was? They wanted me to implicate
9 myself in the murder of Victor Jara.

10 THE COURT: No, sir.

11 The question was -- Mr. de la Mora, the question
12 was, what type of agency is the investigative division that
13 conducted the inquiry?

14 THE WITNESS: Investigative Chile is like the
15 police, the police. The police here. It's the police.

16 BY MR. CALDERON:

17 Q And did they, when you were being questioned or being
18 interrogated, was there any indication as to what the
19 answers should be?

20 A They wanted me to make myself responsible, to shed
21 blame on myself, for me being the one who had killed
22 Mr. Jara.

23 Q And did you do that?

24 A Negative. I refused to do it.

25 Q And what happened when you refused?

1 A They interrogated me for seven hours. And after that,
2 they took me in front of the magistrate at 9:00 p.m.

3 Q And what happened after that?

4 A Since I didn't plead guilty, they left me there
5 detained. And then they sent me to Santiago Number One
6 Jail.

7 Q And how long were you there for?

8 A Four days.

9 Q Were you contacted by the investigative police with
10 regards to that statement any other time after that?

11 A Police investigation, police?

12 Q Yes, sir.

13 A Yes.

14 Q And when was that?

15 A It was around 2013. Investigative police called me
16 again to do another statement.

17 Q Was there any pressure on you, put on you at that time
18 to change your statement from the statement you had
19 originally made?

20 MR. DELLINGER: Objection. Leading.

21 THE COURT: Objection is overruled.

22 THE WITNESS: No.

23 BY MR. CALDERON:

24 Q And was your statement consistent with what -- well,
25 strike that.

1 What was the nature of the contact that you had with
2 the investigative police later on? Could you describe the
3 contact you had?

4 A They, I spent about three hours giving a statement.

5 Q And was there any pressure for you while you were
6 giving that statement to give any particular testimony?

7 MR. DELLINGER: Objection. Asked and answered.

8 THE COURT: Objection is overruled.

9 THE WITNESS: Not at that statement.

10 BY MR. CALDERON:

11 Q Were you detained with respect to, I guess, the
12 statement you made, after you made the statement?

13 THE COURT: When, Mr. Calderon, on which
14 statement? When?

15 MR. CALDERON: I'm sorry.

16 BY MR. CALDERON:

17 Q The second time you met with the investigative police,
18 were you --

19 A Not on the second statement.

20 MR. CALDERON: Nothing further, Your Honor.

21 THE COURT: May this witness be excused?

22 MR. DELLINGER: Yes, Your Honor.

23 THE COURT: Mr. Calderon?

24 MR. CALDERON: Yes, Your Honor.

25 THE COURT: All right.

1 Thank you, sir. You're excused. If you're here
2 pursuant to a subpoena, you're released from it.

3 THE WITNESS: Okay.

4 THE COURT: Call your next witness.

5 MS. BELSHER: May I approach?

6 MR. CALDERON: Your Honor, at this time the
7 defense would call Mr. Hinojosa.

8 Your Honor, may I approach the witness stand to
9 put away the exhibits?

10 THE COURT: I'm sorry. You want to do what?

11 MR. CALDERON: Approach the witness stand to put
12 away the exhibits.

13 THE COURT: Sure.

14 Mr. Hinojosa, if you'll come all the way forward,
15 please.

16 Does this witness require an interpreter?

17 MR. CALDERON: Yes, Your Honor.

18 (Witness sworn.)

19 THE WITNESS: Yes, I do so swear.

20 THE DEPUTY CLERK: Please take the witness stand.

21 THE COURT: Mr. Hinojosa, would you state your
22 full name, please, sir, and spell your surname.

23 THE WITNESS: Hector Manuel, H-I-N-O-J-O-S-A.

24 THE COURT: Thank you.

25 You may inquire.

1 MR. CALDERON: Thank you, Your Honor.

2 **DIRECT EXAMINATION**

3 BY MR. CALDERON:

4 Q Mr. Hinojosa, when did you join the Chilean military?

5 A April the 2nd, 1973.

6 Q And what rank did you enter the military with?

7 A Conscript recruit, soldier.

8 Q And was that -- and, I guess, why did you join the
9 military?

10 A In my country, we have the compulsory military
11 service. It was my turn.

12 Q And when did you leave or complete your compulsory
13 service?

14 A In April of 1974.

15 Q So you only -- did you only complete one year of
16 military service?

17 A Yes.

18 Q And is that all you're required to complete?

19 A I was given a leave in the middle of my military
20 training.

21 Q Upon entering the military, where were you assigned?

22 A Second Combat Company. And the engineering schooling
23 in Tejas Verdes.

24 Q What section were you in?

25 A First Section of the Company.

1 Q And upon entering your military service, did you
2 receive any training?

3 A Basic instruction.

4 Q Did you receive any additional instruction aside from
5 basic training?

6 A Yes.

7 Q What special instruction did you receive?

8 A Specialty in explosives and demolition.

9 Q Are you familiar with the other specializations in
10 that unit?

11 A No. Only that one.

12 Q Are you aware of any other specializations within that
13 unit?

14 MR. URRUTIA: Objection. Asked and answered.

15 THE COURT: Sustained.

16 THE WITNESS: Yes.

17 THE COURT: Oh, we have a new answer.

18 THE INTERPRETTER: I apologize, Your Honor.

19 THE COURT: So I'll overrule the objection in
20 light of the witness' response.

21 Let's make sure he understands the question,
22 Mr. Calderon.

23 MR. CALDERON: A little bit of it is the
24 translation. Sometimes we'll have to tweak the word, if
25 that's okay with the Court.

1 THE COURT: That's why I'm concerned, because the
2 answers at least appear to me to be inconsistent. So let's
3 ask a new question and make sure the witness understands.

4 MR. CALDERON: Sure.

5 BY MR. CALDERON:

6 Q Are you aware of the other specializations within your
7 unit?

8 A Yes.

9 Q What were those specializations?

10 A Placing of mines. Defensive positions. You know how
11 you call that? You know, the branch of engineering where
12 they have to do some digging and place some defenses. And
13 placement of mines.

14 Q Were you aware of any specialization in torture?

15 A No.

16 Q Were you aware of any specialization in interrogation
17 techniques?

18 MR. URRUTIA: Objection. Leading.

19 THE COURT: Objection is overruled.

20 THE WITNESS: No.

21 BY MR. CALDERON:

22 Q With respect to the special instruction that you
23 received, was that just with respect to you?

24 A Yes.

25 Q Did the entire section receive that same special

1 instruction?

2 A No.

3 Q And how was that decided with regards to who received
4 what specialization?

5 A We were just chosen by the command of the unit.

6 Q Who was the commander of your company in 1973?

7 A Captain Hernan Montero (phonetic.)

8 Q And who was the commander of your section?

9 A Pedro Barrientos Nunez.

10 Q And who was in charge of your direct instruction?

11 A Well, they were the corporals who were in charge of,
12 not the section, but my line.

13 Q If you were reprimanded, who would do that?

14 A Well, whoever was in charge at the time. Could have
15 been a corporal or a sergeant or the officer who was in
16 charge of the whole section.

17 Q Would an officer from another section ever discipline
18 you?

19 A No.

20 Q And do you know why?

21 A He should inform the officer in charge of my section.

22 Q Were you in Tejas Verdes for the entire time of your
23 service?

24 A No.

25 Q Where else did you go?

1 A To Santiago.

2 Q Do you recall what day that was?

3 A On September 11, 1973.

4 Q Do you recall what time?

5 A We left for Santiago around 4:00 or 5:00 in the
6 morning approximately.

7 Q And how did you get to Santiago?

8 A Army transport trucks.

9 Q And could you please describe how it is -- and when I
10 say how, referring to position when you rode the trucks?

11 A Those were our cargo trucks. And in the back of the
12 truck, the cargo area, we were all seated on the floor of
13 the cargo truck.

14 Q And who was in the truck with you?

15 A The whole section with us, including Lieutenant Pedro
16 Pablo Barrientos, 30 soldiers, plus 3 sub-officers.

17 Q Where in the truck was Mr. Barrientos?

18 A In the cabin.

19 Q Where was Captain Montero?

20 A He was together with the Major in charge of the
21 operation in a Jeep.

22 Q And who was the major?

23 A Rodriguez Faine.

24 Q And when you said -- when you referred to my section,
25 what section was that?

1 A First Section, Second Company.

2 Q Where did you arrive in Santiago?

3 A Arsenales de Guerra.

4 Q Could you please describe the Arsenales de Guerra?

5 A It was an old building where powder and ammunition was
6 kept. Old, in the beginning of the century.

7 Q Could you please describe the dimensions?

8 A A hundred by a hundred by a hundred.

9 Q A hundred meters?

10 A A hundred meters.

11 Q And could you describe what or who is in that
12 building, to your knowledge?

13 A It was divided in two parts. The north sector for
14 Arsenales de Guerra. And the south section, Tacna
15 regiment.

16 Q Have you been inside of that building in -- or were
17 you inside that building in 1973?

18 A On the side, it was Arsenales de Guerra, yes.

19 Q Is there access between the Arsenales de Guerra side
20 and the Tacna regiment side?

21 A No.

22 Q And do you recall the days between September 11th,
23 1973, and September 18th of 1973?

24 A Yes.

25 Q And do you recall your movements within Santiago

1 between September 11th and September 16th of 1973?

2 A Yes.

3 Q Do you recall what time you arrived at Arsenales on
4 September 11th, 1973?

5 A 6:00, 6:00 in the morning. A little past that, 6:15.

6 Q And what did you do when you got there?

7 A We left our equipment, our backpacks in the gym at the
8 Arsenales de Guerra.

9 Q And where did you go after that?

10 A I was nominated, I was named to go and accompany the
11 command, Commander Rodriguez Faine.

12 Q Were you the only one?

13 A No.

14 Q Who else was doing that with you?

15 A Pedro Pablo Barrientos. And soldier Marcella Mahan
16 (phonetic.)

17 Q So yourself, Mr. Barrientos, and Mr. Mahan, did you
18 all receive the same assignment?

19 A Yes.

20 Q And what was the first order of business upon
21 receiving that assignment?

22 A To accompany Major Rodriguez Faine to the Ministry of
23 Defense.

24 Q And what did you do -- well, how did you get to the
25 Ministry of Defense?

1 A We went in a Jeep, the command Jeep, to retrieve the
2 armbands and the neck identifiers for the, for the men for
3 that day.

4 Q And upon collecting those items, what did you do?

5 A We went back to Arsenales de Guerra to give them to
6 the rest of the battalion.

7 Q Did anything happen when you returned to Arsenales de
8 Guerra?

9 A Well, I found out there that my section was no longer
10 there.

11 Q And where were they?

12 A They were sent to Padre Hurtado.

13 Q When you received that information, what did you do?

14 A We were to continue to be guarding Rodriguez Faine,
15 the major.

16 Q What was the next order or instruction that you
17 received?

18 A Like I said, keep on guarding Rodriguez Faine.

19 Q And how did you do that or where did you do that?

20 A After that, we were sent to the side of the Ministry
21 of Defense.

22 Q And what did you do there?

23 A We were awaiting instructions.

24 Q And from who were you awaiting instructions?

25 A The Major.

1 Q What was the next assignment or instruction you were
2 given on September 11th?

3 A We were sent to search some of the building in front
4 of the Ministry of Defense.

5 Q Do you recall what building?

6 A The Continental Theater that was there. We went all
7 the way up to the last floor.

8 Q And why did you do that?

9 A We were informed that there were snipers.

10 Q And after you did that, what did you do next?

11 A We went back to the same sector of the side of the
12 Ministry of Defense.

13 Q And what did you do at that point?

14 A There was another building, a new building that was
15 under construction for the newspaper "El Clarin." And we
16 also searched it all the way to the last floor to make sure
17 there were no more people there.

18 Q And did anything happen during that search?

19 A On the last floor, we received a friendly fire.

20 Q And this was -- was this members of your own section?

21 A No.

22 Q Do you recall what unit these soldiers belonged to?

23 A We were shut out from the building where there was a
24 section for the carabineros, the police, which were in the
25 same level as ours.

1 Q And what did you do after you cleared the building?

2 A We went back to the first floor again and waited there
3 for further instructions.

4 Q Did you spend the night there?

5 A Yes.

6 Q So on September 12th, did you wake up in this
7 building?

8 MR. URRUTIA: Objection. Leading.

9 THE COURT: Objection is overruled.

10 THE WITNESS: Yes.

11 BY MR. CALDERON:

12 Q And where did you go? Where was the first place you
13 went on September 12th?

14 A On September 12, we were, we were instructed -- we
15 were given instructions to go to a chapel or a parish to
16 look for a priest.

17 Q And who gave you this instruction?

18 A We received them from the command.

19 Q And how did you receive that from the command?

20 A The command sent them to Lieutenant Barrientos.

21 Q Was there a specific person or courier who did that?

22 A No. I don't think so.

23 Q Did you ever see Mr. Barrientos between the 11th
24 and the 16th of September of 1973, did you ever see him
25 carrying a portfolio or a briefcase?

1 A No.

2 Q Did you ever see -- during that time period, did you
3 ever see Mr. Barrientos receive a written order?

4 A No.

5 Q How were orders given between September 11th and
6 September 16th of 1973?

7 A They were transmitted from mouth to mouth, like the
8 patrol would be sent to communicate and find the unit and
9 give them the orders.

10 Q Was that how the order to go find this priest was
11 given?

12 A Yes.

13 Q Do you recall where you went?

14 A Well, on that sector, I was not very familiar with
15 Santiago at the time. But it was a place, I believe it was
16 in the south. And we found a chapel. It was made out of
17 wood. In a smaller town. Smaller town.

18 Q And what happened when you got there?

19 A We entered the building. And the person that we were
20 looking for was not there. And but medicines were found
21 and it was like a mini clinic.

22 Q Was anyone there?

23 A No.

24 Q Were you given orders with regards to what to do if
25 you found someone?

1 A Yes. Well, yes, to take him to the Ministry of
2 Defense.

3 Q And upon finding that medicine, what did you do next?

4 A We returned again to the site of the Ministry of
5 Defense. And all of the medicines were taken in big bags
6 and were taken inside the Ministry.

7 Q Okay. Was Mr. -- since September 11th, through
8 everything that you just walked us through, was
9 Mr. Barrientos with you?

10 A Yes.

11 Q After returning to the Ministry of Defense, where did
12 you go next?

13 A We stayed at the site waiting for instructions, at the
14 site of the Ministry.

15 Q And on September 12, did you go anywhere after the
16 Ministry of Defense?

17 A No. No. Well, at night we went back to Arsenales de
18 Guerra.

19 Q And could you just tell me who you're referring to as
20 we?

21 A The whole patrol.

22 Q Okay. And was Mr. Barrientos part of that patrol?

23 A Yes.

24 Q Did you sleep, did you sleep with the unit that night?

25 A We slept where the unit was, well, whatever was left

1 of our unit.

2 Q Now, you said what was left. Where were other parts
3 of the unit?

4 MR. URRUTIA: Objection, Your Honor. Beyond the
5 witness' personal knowledge.

6 THE COURT: Well, if you know.

7 THE WITNESS: They were sent in the First Section
8 to Padre Hurtado.

9 THE COURT: So the question, Mr. Hinojosa, would
10 be, do you know where the other portions of the units were?
11 Yes or no?

12 THE WITNESS: No.

13 THE COURT: Thank you.

14 BY MR. CALDERON:

15 Q Upon your arrival initially on September 11th at
16 Arsenales de Guerra, were you able to hear the orders that
17 were given to your company?

18 A No.

19 Q What did you do on September 13th?

20 A We were with the Commander and Major Rodriguez Faine.

21 Q Was that for the entire day?

22 A We were at the Ministry of Defense awaiting
23 instructions.

24 Q Did you go anywhere that day?

25 A On the 13th, 11, 12, 13, no.

1 Q Where did you sleep that night?

2 A That night, Arsenales de Guerra.

3 Q Was Mr. Barrientos with you the entire day?

4 A Yes.

5 Q Did you receive any orders on the 14th?

6 A On the 14th, yes.

7 Q What were those orders?

8 A That the patrol had to accompany some cashiers, some
9 money handling people, personnel from the Banco Central,
10 Central Bank, to the airport called Cerallo (phonetic.)

11 Q And did you go to the airport?

12 A Yes.

13 Q And did you meet with anyone at the airport?

14 A No.

15 Q What did you do after you arrived at the airport?

16 A After the vehicle was transporting the cashiers and
17 the money entered the airport, we went back to Arsenales de
18 Guerra.

19 Q And upon returning to Arsenales de Guerra, did you go
20 anywhere else on the 14th?

21 A No. We waited there for instructions.

22 Q Was Mr. Barrientos with you the entire day of the
23 14th?

24 A Yes.

25 Q What did you do on the 15th?

1 A On the 15th, we had orders to carry out patrol
2 duties in a sector of Santiago.

3 Q Were you given a vehicle to do this?

4 A Yes.

5 Q Could you please describe that vehicle?

6 A It was a Ford, white Bronco.

7 Q What area, what sector in Santiago were you
8 patrolling?

9 A The southwest corner.

10 Q Where is that in relation to the Estadio Chile?

11 A Excuse me, the southeast sector.

12 Q I'm sorry. Where is that in relation to the Estadio
13 Chile?

14 THE INTERPRETER: The interpreter cannot hear the
15 question.

16 BY MR. CALDERON:

17 Q Where is that in relation to the Estadio Chile?

18 A At the other side. I am in the sector that is in the
19 east. And the stadium is at the west.

20 Q What time did this patrol begin?

21 A It was the whole day, during the hours of the day,
22 12 hours.

23 Q And who else was with you as part of that patrol?

24 A The command was Mr. Pedro Barrientos Nunez, Mahan, and
25 myself.

1 Q What time did you finish your patrol?

2 A Approximately 5:00, 6:00 p.m.

3 Q Did you go anywhere after that?

4 A At that time, whatever time that was, we went to the
5 house of Mr. Barrientos' father-in-law.

6 Q And is that Miss Marie Teresa Castro Barrientos'
7 father?

8 A Yes.

9 Q And do you recall where in Santiago that was?

10 A Yes. In the east side of Santiago.

11 Q And do you recall how long he was there?

12 A Thirty minutes, tops.

13 Q Could you describe -- well, did -- during the days
14 between September 11th and September 15th, which is
15 the date we're talking about now, did you ever have an
16 opportunity to change your clothes or take a shower?

17 A At night, yes. When we got to Arsenales de Guerra, we
18 had that opportunity at night.

19 Q And during that time, did you -- were you able to see
20 what Mr. Barrientos was wearing each day?

21 A Yes.

22 Q Can you describe what he wore?

23 A The olive green uniform, military uniform that was the
24 appropriate one for all of us soldiers at that time.

25 Q Did he have any weapons?

1 A Yes.

2 Q Can you describe those weapons?

3 A As an officer, other than the SIG rifle, he was
4 wearing a sidearm that all the officers and the staff
5 officers have, carry.

6 Q Did he have anything on his head?

7 A The helmet.

8 Q Was -- did he have any insignia with respect to rank?

9 A No.

10 Q Why not?

11 A They were asked, for whatever reason, during that time
12 all officers and sub-officers to not carry any insignias to
13 indicate rank at the time.

14 Q Was this an order?

15 A Yes.

16 Q Did you ever see Mr. Barrientos wearing any ammunition
17 on his body?

18 A No.

19 Q Are you familiar with an historical figure named
20 Pancho Villa?

21 A Yes. Mexican.

22 Q And are you familiar with the way he wore his
23 ammunition?

24 A Pancho Villa?

25 Q Yes.

1 A Yes.

2 Q Can you describe how he wore his ammunition, to your
3 knowledge?

4 A Pancho Villa?

5 Q Yes.

6 A Crossing his body from both sides.

7 Q Did you ever see Mr. Barrientos wear ammunition in
8 that fashion?

9 A No, no.

10 Q Were you given a weapon on or about September 10th
11 of 1973?

12 A Only my service weapon that was mine.

13 Q Okay. Were you given a rifle?

14 A Yes. A rifle, yes.

15 Q How many rounds were you given?

16 A Three charges.

17 Q How many rounds does each charger have?

18 A Twenty.

19 Q So that was 60 rounds of ammunition?

20 A That's correct, yes.

21 Q How are these chargers carried?

22 A Two have the belt. And one in the actual rifle.

23 Q And could you just describe how the charger was
24 attached to the rifle?

25 A The rifle has a place where the charger is inserted.

1 Q How much did each of these chargers weigh
2 approximately?

3 A Approximately about 500 grams.

4 Q And are you aware of any soldier who had been issued
5 200 rounds?

6 A No.

7 Q Would that have been possible?

8 A No. It wasn't possible because you wouldn't even have
9 the capacity to do that because you wouldn't have enough
10 chargers. We only carried three chargers, each one of us.

11 Q Approximately how many chargers would you need to
12 carry 200 rounds of ammunition?

13 A Ten chargers.

14 Q The weapon you were issued, did those rounds of
15 ammunition, did they only come in chargers?

16 A Yes.

17 Q And other than the weapons you described, did you ever
18 see Mr. Barrientos with any other weapons?

19 A His sidearm only.

20 Q And did you ever see him carrying a machine gun or a
21 submachine gun?

22 A No.

23 Q Now, in 1973, did you know where the Estadio Chile was
24 located?

25 A No.

1 Q Between September 11th and September 16th, did
2 you ever go to the Estadio Chile?

3 A No.

4 Q Did Mr. Barrientos ever leave your side between the
5 dates of September 11th and September 16th?

6 MR. URRUTIA: Objection. Leading, Your Honor.

7 THE COURT: The objection is sustained.

8 You can restate it, Mr. Calderon.

9 BY MR. CALDERON:

10 Q Was Mr. Barrientos with you the entire time between
11 September 11th and September 16th?

12 A Yes.

13 Q Do you know where the Estadio Chile is currently
14 located or the Estadio Victor Jara?

15 A Yes.

16 Q And in your estimate, what is the closest you ever got
17 to that stadium between September 11th of 1973 and
18 September 16th of 1973?

19 A About two kilometers.

20 Q Did you ever witness Mr. Barrientos give any orders to
21 anyone in the Estadio Chile in 1973?

22 And I'll actually narrow that to between actually
23 September 11th and September 18th.

24 A No.

25 Q In 1973, did you know who Victor Jara was?

1 A No.

2 Q Between September 11th and September 16th, did
3 you ever see anyone being detained?

4 A For people to be detained?

5 Q Persons being detained.

6 A Yes.

7 Q Where was that?

8 A At the Ministry of Defense.

9 Q And how were these individuals treated?

10 A Badly.

11 Q And who was -- and how were they being mistreated?

12 A Beating them.

13 Q And who was beating them?

14 A At the entrance of the Ministry of Defense, and there
15 was a guard. The guard was Marines.

16 Q And could Mr. Barrientos have ordered them to stop
17 beating the detainees?

18 MR. URRUTIA: Objection, Your Honor. Beyond his
19 knowledge.

20 THE COURT: I'll sustain the objection.

21 You can try to establish a predicate.

22 MR. CALDERON: Sure.

23 BY MR. CALDERON:

24 Q Did you know -- I'll ask it this way.

25 What branch is Mr. Barrientos in?

1 A The Army.

2 Q What branch were these officers who were beating the
3 detainees in?

4 A The Marine. The Navy.

5 THE INTERPRETER: Correct by the interpreter, the
6 Navy.

7 BY MR. CALDERON:

8 Q Given your training and experience in the military,
9 could Mr. Barrientos have given an order to those
10 individuals, to those soldiers?

11 MR. URRUTIA: Objection, Your Honor.

12 THE COURT: Same grounds?

13 MR. URRUTIA: Yes.

14 THE COURT: Objection is overruled.

15 THE WITNESS: No.

16 BY MR. CALDERON:

17 Q And why was that?

18 A Because they belong to another branch and he would
19 have had to then talk to the person in charge of that
20 branch.

21 Q Between September 11th and September 16th,
22 were you aware of or did you witness any torture or
23 executions?

24 A No.

25 Q Between September 11th and September 16th of

1 1973, were you aware or did you ever see any torture
2 killing or abuses taking place at Estadio Chile?

3 A No.

4 Q Did you have any knowledge about the ongoings at the
5 Estadio Chile between September 11th of 1973 and
6 September 16th of 1973?

7 A No.

8 Q Were you ever asked to give a declaration with regards
9 to this case?

10 A Yes.

11 Q Who asked you to give a declaration in this case?

12 A Mrs. Maria Teresa Barrientos.

13 Q Where was that declaration taken?

14 A In the home of Mrs. Maria Teresa Barrientos.

15 Q And do you recall when that was done?

16 A Yes, it was July of last year.

17 Q And could you please describe the way in which that
18 declaration was done?

19 And I'll be specific. First, let's start with who was
20 present.

21 A Present was Mrs. Maria Teresa Barrientos, my wife, and
22 myself.

23 Q And could you describe the format in which this, the
24 declaration was conducted?

25 A It was to ratify what had occurred the 11th of

1 September and beyond that, afterwards.

2 Q Were you asked questions?

3 A Yes.

4 Q And were these questions transcribed?

5 A Yes.

6 Q Who transcribed them?

7 A My wife.

8 Q And could you just walk us through the process of
9 making the declaration?

10 A I was asked to do it. And the questions I was asked
11 first was, what was my duties on September 11.

12 MR. URRUTIA: Objection. Hearsay, Your Honor.

13 THE COURT: All right. The objection is sustained
14 as it relates to the specifics of the questions and
15 answers.

16 The process is fair game.

17 BY MR. CALDERON:

18 Q Without saying what's actually on the document, the
19 actual questions, can you just generally describe the way
20 in which the declaration was conducted?

21 A Yes. They asked me questions about what my rank
22 was --

23 MR. URRUTIA: Objection, Your Honor. Hearsay.

24 THE COURT: Mr. de la Mora, would you explain to
25 Mr. Hinojosa that he's not to include in his answer

1 anything that was told to him by someone else.

2 And he can tell us what he did, saw, heard,
3 smelled, felt. Not what someone else did.

4 THE WITNESS: Okay.

5 BY MR. CALDERON:

6 Q Specifically how did you ratify that your responses
7 were correct?

8 A We ratified it in front of a notary.

9 Q Prior to going to the notary, did you have an
10 opportunity to review your answers?

11 A Yes.

12 Q And could you describe the process that you went
13 through upon meeting with the notary?

14 A Yes.

15 Q Please go ahead and describe.

16 A The notary asked me if I agreed to what was written on
17 the declaration that was written down. And he asked me to
18 please read them again to see if what was written down
19 there was correct.

20 And that if I agreed after reading them, then I should
21 put my I.D. number, my signature, and my fingerprint at the
22 end of the page.

23 Q After giving that declaration, were you provided with
24 a copy of that document?

25 A Yes.

1 Q And were you satisfied with the way the document was
2 formulated?

3 A Yes.

4 Q Did it accurately depict your responses?

5 A Yes.

6 Q After giving that declaration, were you contacted by
7 anyone with regards to that declaration?

8 A Afterwards, yes.

9 Q Who contacted you?

10 A A policeman from the investigation division.

11 Q And do you know who that was?

12 A Well, I don't have the name, but he did show me his
13 I.D. And I believed he was a policeman because he came in
14 a vehicle that said police.

15 Q And what did he request of you with regards to your
16 declaration, if anything?

17 A He named the case again. He talked about the
18 statement that I had done previously during the trial and
19 that he would get in touch with me later on to make a new
20 statement.

21 MR. URRUTIA: Objection, Your Honor. Hearsay.

22 THE COURT: Objection is overruled.

23 BY MR. CALDERON:

24 Q At any point, did this officer put any pressure on you
25 to change your statement?

1 A Well, he did invite me to go with him to have a
2 meeting with him, but I refused because it was not an
3 official place.

4 Q Were any threats made in regards to your refusal?

5 A Just like to be careful and mindful about my work,
6 job.

7 Q Who paid for you to fly from Chile to Orlando for this
8 case?

9 A The children of Mr. Pedro Pablo.

10 Q And is that in any way the fact that you've received
11 that benefit, has that in any way affected the truthfulness
12 of your testimony here today?

13 A No.

14 Q Other than that, have you received any other benefit
15 from giving testimony here today or having done that
16 declaration with Maria Teresa Castro Barrientos?

17 A No.

18 Q Then why do it?

19 A Because I'm ratifying what was stated in the first
20 trial that happened in Chile.

21 MR. CALDERON: Nothing further.

22 THE COURT: Ladies and gentlemen, how are you
23 doing? It's about time for our break. Do you want to take
24 it now? Looks like a unanimous yes.

25 All right. We'll be in recess then for

1 15 minutes. And I'll see you back here at 3:30 for the
2 cross-examination of Mr. Hinojosa.

3 (Jury exited the courtroom at 3:15 p.m.)

4 THE COURT: Mr. Hinojosa, during the break don't
5 discuss your testimony with anyone, lawyers or otherwise.

6 Understood?

7 THE WITNESS: Yes.

8 THE COURT: All right. Fifteen-minute recess.

9 (Recess at 3:16 p.m. to 3:33 p.m.)

10 THE COURT: Thank you.

11 Back on the record in Jara versus Nunez
12 Barrientos, 6:13-civil-1426.

13 The Court notes counsel and parties are present.
14 And Mr. Hinojosa is back on the witness stand.

15 Let's bring our jury in please, Mr. Carter.

16 (Jury entered the courtroom at 3:34 p.m.)

17 THE COURT: Welcome back, ladies and gentlemen.

18 Mr. Urrutia, you may inquire.

19 **CROSS EXAMINATION**

20 BY MR. URRUTIA:

21 Q How are you, sir?

22 A Very well.

23 Q You said you left the Army in 1974, correct?

24 A In April of 1974.

25 Q Between April of 1974 and December 31st of 2014, did

1 you ever speak with Mr. Barrientos?

2 A No.

3 Q When is the first time you spoke with Mr. Barrientos
4 in 2015?

5 A No, I cannot -- no, just to bid farewell on the
6 12th of April when I was discharged.

7 Q Okay. But in 2015, did you ever speak with
8 Mr. Barrientos?

9 A No.

10 Q Who did you first speak about this case with?

11 A With Mrs. Maria Teresa Barrientos.

12 Q Did you know her previous to that conversation?

13 A In 1973, only to look at.

14 Q And she asked you to declare in favor of
15 Mr. Barrientos in 2015, didn't she?

16 A She asked me if I could make that statement.

17 Q And why did she reach out to you?

18 A Because in the trial going on in Chile, my statement
19 that I made before the Chilean court mentioned that
20 Lieutenant Barrientos had been with me.

21 Q So did she tell you that she went through your
22 previous declaration?

23 A Yes.

24 Q And then she told you that she reached out to you
25 because you said that you were with Mr. Barrientos?

1 A She visited me. She left her telephone number and
2 asked me to call.

3 Q And then you gave a declaration around July of 2015?

4 A Approximately.

5 Q And prior to that declaration, did you ever declare
6 that you were always with Mr. Barrientos?

7 A Yes.

8 Q What declaration?

9 A In a human rights trial for the death of Victor Jara
10 in Chile.

11 Q You said you were always with Mr. Barrientos. Is that
12 your testimony?

13 A Yes.

14 Q Did you give any other declarations other than the one
15 you just referenced?

16 A No.

17 Q You've never given any other declarations other than
18 the 2015 declaration and this declaration that you've given
19 the Court; is that correct?

20 A Yes.

21 Q Did you give a declaration in 2009?

22 A That is so.

23 Q You just told me you only gave two declarations?

24 A Yes. But you were asking about 2015.

25 Q But you told me that you gave a declaration to the

1 Court, didn't you?

2 A That is so.

3 Q You did give that declaration in 2015?

4 A Obviously.

5 Q Okay. Let's talk about the 2009 declaration.

6 Did you review that declaration? Did you review that
7 declaration?

8 A When I gave it at the court, yes.

9 Q Are you saying you gave a court declaration in 2009?
10 Yes or no?

11 A Yes.

12 Q I'm going to write down three dates. Okay? You said
13 you gave a declaration in 2009, correct?

14 A Yes. It must have been in 2009, yes.

15 Q Does the 9th of July 2009 sound correct?

16 A I don't have the date.

17 Q And did you give any other declarations in 2009 other
18 than the one you're thinking about?

19 A In 2009, no.

20 Q So you're saying you've only given one declaration in
21 2009, correct?

22 A At the court, yes.

23 Q Okay. I'm not asking you that. I'm asking a very
24 simple question.

25 How many declarations did you give in 2009?

1 A Well, first, it must have been first the police
2 investigates, so a declaration at the police.

3 And then it was ratified at the court where the
4 Minister sits.

5 Q I'm going to hand you a declaration right now.

6 MR. URRUTIA: May I approach, Your Honor?

7 THE COURT: Yes. Is that marked for
8 identification?

9 MR. URRUTIA: Yes. Plaintiff's Exhibit 11.

10 THE COURT: And that's for identification,
11 correct?

12 MR. URRUTIA: Sir?

13 THE COURT: That's marked for identification,
14 correct? It's not in evidence, in other words?

15 MR. URRUTIA: No, it is not.

16 THE COURT: Yes, you may give it to the witness.

17 MR. CALDERON: Your Honor, I don't have a copy of
18 this exhibit.

19 THE COURT: All right. Show it to Mr. Calderon so
20 he knows what you're referencing.

21 BY MR. URRUTIA:

22 Q Let's look at the top page.

23 Now, I'm going to be looking at one in English, and
24 you're going to be looking at one in Spanish, so we're
25 going to have to be very accurate here.

1 Does this declaration say "Voluntary Police Statement
2 of Hector Manuel Hinojosa Retamal"?

3 A Yes.

4 Q And in the first line, does it say on the 9th day
5 of July 2009?

6 A That is so.

7 Q Now, do you recall giving this declaration?

8 A Yes.

9 Q Okay. Now, I want you to go to the last page.

10 Are you on the last page?

11 Sir, are you on the last page?

12 A Yes, the signature.

13 Q Who's signature is that?

14 A Mine.

15 Q Do you recall placing that signature on that document?

16 A Yes.

17 Q You signed that document because you were attesting to
18 what was declared within it, correct?

19 A Exactly.

20 Q Now, just five minutes ago, you said you've never
21 declared that you weren't sure where Mr. Barrientos was; is
22 that correct?

23 A That is so.

24 Q I want you to look at the second page, paragraph one,
25 two, three, four, five.

1 A (Complying.)

2 Q Do you see that paragraph?

3 A Yes.

4 Q Let me read it for you.

5 "In accordance with what I'm asked, I must say that I
6 never went to Chile Stadium but do not know if Lieutenant
7 Barrientos or Conscript Mahan did so."

8 A Yes.

9 Q Do you recall giving a declaration to Maria Teresa?

10 A Yes.

11 Q And do you recall the testimony you just gave today?

12 A Yes.

13 Q And didn't you just say that you were always with
14 Mr. Barrientos?

15 A That is the way it was, yes.

16 Q So how's it possible that on one hand you don't know
17 that Mr. Barrientos went to Chile Stadium; but on the other
18 hand, you were always with him?

19 A As you remember, I also said that I slept.

20 Q Okay. So you don't know where Mr. Barrientos --

21 A (Speaking.)

22 Q I'm asking the questions.

23 MR. CALDERON: Objection, Your Honor. The witness
24 was trying to answer.

25 THE COURT: I don't think so. There's no question

1 pending. So let's get a question.

2 Objection is overruled.

3 BY MR. URRUTIA:

4 Q So you don't know where Mr. Barrientos was at all
5 times between the 11th and the 16th then, right?

6 A Yes.

7 Q But you just declared in 2009 that you don't know that
8 he went to Chile Stadium?

9 THE COURT: Mr. Icaza, let me make sure that the
10 witness understands you're not there to assist him. You
11 are here to only translate verbatim as best you can the
12 question and his response.

13 So if the witness needs a clarification, he can
14 ask you for that. And then you'll ask us, and we'll do it.

15 THE WITNESS: The question is, is this statement
16 relevant to this trial?

17 BY MR. URRUTIA:

18 Q Normally, this is a question and answer. So I'll ask
19 you another question.

20 When you gave this highly relevant statement --

21 MR. CALDERON: Objection, Your Honor. Counsel is
22 testifying.

23 THE COURT: Objection is overruled.

24 BY MR. URRUTIA:

25 Q When you gave this highly relevant statement, you

1 signed it, correct? You signed it?

2 A Yes.

3 Q And you signed it because you were telling the truth,
4 correct?

5 A Yes.

6 Q And so the truth doesn't change from 2009 to 2016,
7 does it?

8 A Yes.

9 Q So this statement must then still be the truth,
10 correct?

11 A It has to be, yes.

12 Q So when you said that you always knew where
13 Mr. Barrientos was, that was a lie, wasn't it?

14 THE INTERPRETTER: Interpreter requests repeat the
15 question.

16 BY MR. URRUTIA:

17 Q So when you said that you always knew where
18 Mr. Barrientos was, that's a lie, isn't it?

19 A I was with him.

20 Q That's not my question.

21 When you made the statement in the declaration of
22 2015, you didn't include the statement that's included in
23 the 2009 declaration, correct?

24 A That is so.

25 Q So your 2015 declaration is different than your 2009

1 declaration?

2 A Based on the data in here, yes.

3 Q Who gave that data?

4 A Which ones?

5 Q The ones in the declaration in front of you.

6 A These were the others I provided to the police
7 officer.

8 Q And you're an honest man, correct?

9 A Yes, sir.

10 Q And so when you're asked the question on a serious
11 matter like this, you give an honest answer, correct?

12 A Yes.

13 Q Okay. And that's why you gave that statement to the
14 2009 declaration, correct?

15 A Yes.

16 Q Before the 2015 declaration, you spoke with Maria
17 Teresa Castro Barrientos, correct?

18 A For that statement, yes.

19 Q And she told you you needed to declare in favor of
20 Mr. Barrientos, correct?

21 A That I should answer, that I should answer what I had
22 stated in this declaration. But I did not read it in order
23 to do so.

24 Q Let's go through the conversation you had with Maria
25 Teresa.

1 When she first reached out to you, did she ask you,
2 can you help Mr. Barrientos?

3 A No.

4 Q When did she ask you to help Mr. Barrientos?

5 A She asked me whether I could ratify my statement as I
6 had given it at the police station.

7 Q But you didn't do that, did you?

8 A A bit of information did escape me.

9 Q This is pretty material information, isn't it?

10 A Yes.

11 Q You were saying you were always with Mr. Barrientos in
12 the 2015 declaration, correct?

13 A (Speaking.)

14 Q And you testified here under oath that you were always
15 here with Mr. Barrientos?

16 A That is so.

17 Q But in your hands, you hold a declaration that says
18 that you actually don't know where Mr. Barrientos was at
19 all times, don't you?

20 A At one exact time.

21 Q Did anyone ever ask -- strike that.

22 Did you ever have any information to believe that
23 Mr. Barrientos may have been at Chile Stadium?

24 A No.

25 Q Let's go down one, two, three, fourth paragraph on the

1 second page, not the first.

2 Now, I want you to read with me. Okay?

3 "In accordance with what I'm asked, I must say that I
4 never went to Chile Stadium but do not know if Lieutenant
5 Barrientos or Conscript Mahan did so.

6 "However, I later found out from the comments of
7 conscripts of the Second Section that they were, in fact,
8 at Chile Stadium and that there were a large number of
9 detainees who were stripped of their money and wrist
10 watches which were collected in the offices."

11 Did Mr. Barrientos ever talk to you about
12 Regimiento Tacna?

13 MR. CALDERON: Your Honor, I'm going to object as
14 to the translation of that document.

15 Can we approach?

16 THE COURT: Yes.

17 (Discussion at sidebar on the record.)

18 THE COURT: Whose translation are you objecting
19 to?

20 MR. CALDERON: The translation that Mr. Urrutia
21 just read. There's several words in the original document
22 that were not translated, specifically conscripts of the
23 Second Section that were, in fact, in the Stadium of Chile.
24 Here it just says that they were.

25 And it seems to me to mislead the jury in

1 believing that they refer to the prior paragraph, which is
2 Barrientos in the --

3 THE COURT: Is there an accuracy certificate of
4 the translation?

5 MR. URRUTIA: There is indeed. Actually, from
6 Francis Icaza. No one has said he's a bad translator
7 through this whole trial.

8 THE COURT: Well, you can explore that on
9 cross-examination if you like with respect to the accuracy.

10 There's no way I can -- I mean, I don't speak
11 Spanish. What am I supposed to do about your objection?

12 MR. CALDERON: If there's going to be portions of
13 the document read that they be read by the translator into
14 the record.

15 THE COURT: Well, Mr. Icaza is reading from the
16 written translation. So are you suggesting that he read it
17 wrong?

18 MR. CALDERON: No, I'm suggesting that the
19 translation is wrong.

20 THE COURT: I understand that.

21 MR. URRUTIA: With all due respect, the translator
22 that we have up here is the one that did this translation.

23 MR. CALDERON: Okay. I'm going to see if I can
24 say this.

25 There's an entire word right here speaking

1 Spanish.

2 Conscripts of the Second Section that were, in
3 fact, in the Stadium of Chile.

4 And here it just says they. The prior, the proper
5 nouns are Barrientos and Mahan. So it makes -- it seems it
6 would mislead the jury to believe when they use the word
7 "they" it may be Barrientos and Mahan.

8 THE COURT: Here's what I'm asking, Mr. Calderon,
9 because I can't solve the issue.

10 I'm going to allow you to give the witness the
11 Spanish version, and he can read the Spanish version. And
12 you can ask him whether or not that is consistent with the
13 question that was asked of you by Mr. Icaza.

14 If it's not, he can explain it.

15 So I'm not precluding you from pointing out the
16 accuracy. I'm just trying to figure out how to deal with
17 it on the basis of the accuracy of the transcription that I
18 have no ability to compare, because I don't have the
19 language skill to do it.

20 But the witness can certainly read the Spanish and
21 compare it as Mr. Icaza can tell him what was recited in
22 English. And he can say whether that matches up with
23 what's on the Spanish document.

24 In other words, I don't want the jury to be
25 misled. I want them to get accurate information. If

1 there's a discrepancy in the transcription, I want that to
2 be pointed out. I'm just trying to figure out how to do
3 it.

4 MR. URRUTIA: And for the record, it does say
5 Second Section right here. I mean, just so it's clear on
6 the record there aren't missing words.

7 THE COURT: Well, I don't know whether there are
8 or there aren't. But we'll sort it out with questions when
9 you have an opportunity to address the witness on
10 cross-examination -- redirect examination.

11 MR. URRUTIA: All right. Thank you, sir.

12 (End of discussion at sidebar.)

13 THE COURT: Ladies and gentlemen, just so you know
14 what's up, we're having a little bit of a debate about the
15 accuracy of the translation of the document from Spanish to
16 English.

17 Unfortunately, I'm not proud of it, I'm
18 disadvantaged because I don't speak Spanish nor am I able
19 to read Spanish. So I can't solve the problem.

20 But we're going to give the lawyers an opportunity
21 to ask the witness and the interpreter whether or not there
22 is a disagreement between the translation between Spanish
23 and English.

24 And if there is, hopefully the interpreter can
25 sort it out for us. But I just wanted to bring to your

1 attention, that's what we're discussing.

2 You may proceed, Mr. Urrutia.

3 BY MR. URRUTIA:

4 Q Let me go back to what I believe was the question we
5 left off.

6 Did you ever have any conversations with
7 Mr. Barrientos between the 11th and the 16th of
8 September regarding Regimiento Tacna?

9 A The exact date, I could not say. But it is very
10 possible that we had a conversation of having a regiment on
11 the south side of the War Arsenales.

12 Q Isn't it true that Mr. Barrientos commented to you
13 that detainees were going to Regimiento Tacna?

14 THE INTERPRETER: Could you please repeat that
15 question?

16 BY MR. URRUTIA:

17 Q Isn't it true that Mr. Barrientos commented to you
18 that there were detainees at Regimiento Tacna?

19 A It's possible.

20 Q Indeed, haven't you declared to that?

21 A Yes.

22 Q Isn't it true that those detainees came from
23 La Moneda?

24 A I don't know.

25 Q Have you ever heard of Regimiento Tacna?

1 A Yes.

2 Q Have you ever heard that the detainees from Regimiento
3 Tacna were transferred to Chile Stadium?

4 A At that time, no.

5 Q But it sounds like you do know now that detainees were
6 moved from Regimiento Tacna to Chile Stadium; is that
7 correct?

8 A As a result that has been received now -- of the
9 information that has been received now.

10 THE INTERPRETER: The interpreter corrects
11 himself.

12 BY MR. URRUTIA:

13 Q And you are aware of the -- strike that, please.

14 And you are aware that Chile Stadium was a detention
15 center, correct?

16 A As a result of the information that we have received
17 over the recent years, yes.

18 Q But don't you declare in here that, that other
19 conscripts told you there were detainees at Chile Stadium?

20 A That was after the month of September.

21 Q So you did know in 1973 that Chile Stadium was a
22 detention center, correct?

23 A I didn't know it. Only through corridor
24 conversations, you could call it that.

25 Q And who did you have these corridor conversations

1 with?

2 A It was remarked, it was what was remarked by soldiers
3 who were doing guard duty at Chile Stadium.

4 Q Where were those soldiers from?

5 A From the Second Section of my company.

6 Q So you knew that Chile Stadium in 1973, in 1973 was a
7 detention center?

8 A Through remarks only.

9 Q I understand. I understand.

10 The Second Section we're talking about is the Second
11 Section of the Tejas Verdes Second Company, correct?

12 A Yes.

13 Q And do you recall exactly when you first found out
14 that Chile Stadium was used as a detention center?

15 A Months later.

16 Q Who were you with when you found out?

17 A We were at the War Arsenales when the soldiers
18 returned to the War Arsenales. That's what -- that's where
19 I heard those very same corridor remarks that I mentioned.

20 Q So there are a lot of conversations about Chile
21 Stadium it sounds like, correct?

22 A When that section returned to our unit.

23 Q Okay. That's not the question.

24 There were a lot of commentary about Chile Stadium
25 when that section returned, correct?

1 A That is what I have just said.

2 Q And so it was common knowledge that the detainees were
3 at Chile Stadium among the Tejas Verdes, correct?

4 I'm asking you. Oh, sorry. Excuse me. Go ahead.

5 A Chile Stadium was under the custody of the Second
6 Section of our company.

7 Q I understand that. You have to really --

8 THE COURT: Mr. Hinojosa, the question is, was it
9 common knowledge that the detainee, that the -- was it
10 common knowledge that detainees were at the Chilean
11 stadium?

12 THE WITNESS: Those were the remarks. But I
13 didn't have the official news of it.

14 THE COURT: The question is not whether you had
15 official news of it.

16 The question is, to your knowledge, was it common
17 knowledge that detainees were kept at the Chile Stadium?

18 THE WITNESS: This I found out months later.

19 BY MR. URRUTIA:

20 Q Okay. Did those conscripts speak of who was there?

21 A Only that they were detainees. They gave no names.

22 Q Did they say that there were officers of the Tejas
23 Verdes there?

24 MR. CALDERON: Objection, Your Honor. That calls
25 for hearsay.

1 THE COURT: Objection is overruled.

2 THE WITNESS: There must have been an officer
3 there in charge of the section.

4 BY MR. URRUTIA:

5 Q That's not really my question.

6 Did they say that there were officers of the Tejas
7 Verdes at the Chile Stadium?

8 A I don't recall.

9 Q Okay. Are you aware of National Stadium?

10 A Yes.

11 Q In September of 1973, what was the purpose of National
12 Stadium?

13 MR. CALDERON: Objection, Your Honor. Scope.

14 THE COURT: What's the point of this? Haven't we
15 beaten this horse to death, Mr. Urrutia?

16 MR. URRUTIA: It actually goes to the, the alibi
17 that's been presented by Mr. Barrientos.

18 THE COURT: How about asking a new question and
19 see if you can narrow it down from the purpose of National
20 Stadium.

21 MR. URRUTIA: Okay. I understand. I understand.

22 BY MR. URRUTIA:

23 Q In September of 1973, did you go to National Stadium?

24 MR. CALDERON: Objection, Your Honor. Scope.

25 THE COURT: Objection is overruled.

1 THE WITNESS: Yes.

2 BY MR. URRUTIA:

3 Q Why did you go to National Stadium?

4 A Our patrol sector included the National Stadium on the
5 outside, the perimeter.

6 Q And did you go there with other people?

7 A The patrol, the patrol.

8 Q Who's in that patrol?

9 A Lieutenant Pedro Pablo Barrientos Nunez; a soldier,
10 Mahan. A third soldier who's name I do not recall. And
11 myself.

12 Q And when you went to National Stadium, you were
13 outside the stadium, correct?

14 A Affirmative. Yes, yes.

15 Q And how many times did you go to National Stadium?

16 A Our patrols started on the 15th of September until
17 April of 2015 when I was in service. We were all -- we
18 would every day drive across the front of the stadium or
19 the back end of the stadium.

20 Q But during that time, did you ever provide guard duty
21 at National Stadium?

22 A Once. Later on we were assigned to protect the
23 perimeter most especially, that of the National Stadium.
24 Only the perimeter.

25 Q And isn't it true that Mr. Barrientos went into the

1 stadium?

2 A No. We didn't go in.

3 Q Why were you guarding National Stadium?

4 A Because it belonged to the patrol.

5 Q You gave a sworn declaration in 2015 saying you were
6 always with Mr. Barrientos, right?

7 A Yes.

8 Q And it's now your testimony today that you are not
9 always with Mr. Barrientos, correct?

10 A Based on the statement that you have shown me, yes.

11 Q That is your declaration, sir.

12 A Yes.

13 Q So when you said that, you were declaring that at that
14 time, you understand that, correct?

15 A Yeah.

16 Q Okay. Who did you travel here with?

17 A With Francisco Quiroz.

18 Q And did you speak about the case?

19 A Merely that we were coming to state what we had
20 already declared.

21 Q And did you talk about your declarations with anyone
22 else?

23 A No.

24 Q So you never spoke about your declarations with Maria
25 Teresa Castro Barrientos?

1 A But I gave it to her. The same one that I made.

2 Q Sorry. I think we might have something lost in
3 translation.

4 Did you speak with Maria Teresa Castro Barrientos
5 regarding testifying at this court?

6 A Yes. That's why I'm here.

7 Q Did you speak with her yesterday about that?

8 A Remarks as I -- no, no. No, no, no. No. That is to
9 say it was only about providing a statement and coming
10 here.

11 We also spoke about trivial things with her.

12 Q Did you speak with her yesterday evening?

13 A Yes.

14 Q What did you talk about?

15 A That we had strolled around Orlando, that I had
16 walked. That it was a nice day.

17 Q Okay. Did she talk to you about her testimony?

18 A No.

19 Q Okay. Do you know who Lieutenant Smith Gumucio is?

20 MR. CALDERON: Objection, Your Honor. Scope.

21 THE COURT: Is this the same Lieutenant Smith?

22 MR. URRUTIA: Yes, sir.

23 THE COURT: Objection is overruled.

24 THE WITNESS: Yes. A lieutenant with the
25 engineers.

1 BY MR. URRUTIA:

2 Q The Tejas Verdes engineers, correct?

3 A Yes.

4 Q And Mr. Smith went to Santiago on September 11th,
5 correct?

6 A I don't recall that very well.

7 Q Okay. Well, let me refresh your recollection.

8 I'm going to hand you a declaration from
9 August 24th, 2009. And we'll talk about it a little.

10 A Yeah.

11 MR. URRUTIA: Plaintiff's Exhibit 12.

12 BY MR. URRUTIA:

13 Q Do you recall giving that declaration?

14 A Yes.

15 Q Is this a declaration -- okay.

16 Let's look at the first page, paragraph five.

17 You can move down to the seventh line of that
18 paragraph.

19 A Yes.

20 Q Take an opportunity to read that line, the next two
21 lines.

22 A Yeah.

23 Q Do you remember now whether Lieutenant Smith traveled
24 to Santiago?

25 A Yes.

1 Q He traveled there on the 11th, correct?

2 A I could not assure you fully, but I do remember it
3 because -- because I provided him with a pair of glasses.
4 What I don't remember is whether it was from the 11th
5 forward or if it was later.

6 Q But he was in Santiago, correct?

7 Okay?

8 A I don't see the date.

9 Q It's okay. We can move on.

10 Your sworn declaration of 2015 and the testimony you
11 provided about 30 minutes ago, 45 minutes ago, stated you
12 were always with Mr. Barrientos, correct?

13 A Yes.

14 Q And so anything he did by implication you did?

15 A Yes, yes.

16 Q Now, I understand that you assert you were not at
17 Chile Stadium. However, had Mr. Barrientos gone to Chile
18 Stadium, you would have gone to Chile Stadium, correct?

19 A That is so, yes.

20 Q And that would mean that you were present at a
21 detention center, correct?

22 A Yes.

23 Q And Chile Stadium is a pretty notorious detention
24 center, isn't it?

25 A It is now.

1 Q A lot of abuses have come out to light, correct?

2 A After, yes.

3 Q Including the death of Victor Jara, correct?

4 A It is what I have found out recently through the
5 newscasts.

6 Q So if Mr. Barrientos had been accused of killing
7 Victor Jara and you were there, that could lead to some
8 complications, couldn't it?

9 MR. CALDERON: Objection, Your Honor. Calls for
10 speculation.

11 THE COURT: Objection is overruled.

12 THE WITNESS: But we were never there.

13 BY MR. URRUTIA:

14 Q That's not my question.

15 MR. URRUTIA: Can I have that question read for
16 the record again?

17 THE COURT: Back off your microphone just a
18 little, Mr. Urrutia. There's a happy medium. You need to
19 be close enough, but not too close.

20 MR. URRUTIA: I understand. My apologies.

21 THE COURT: The question was: If Mr. Barrientos
22 had been accused of killing Victor Jara and you were there,
23 that could lead to some complications for you, could it
24 not?

25 THE WITNESS: Yes.

1 BY MR. URRUTIA:

2 Q In your opinion, it could lead to jail time, couldn't
3 it?

4 A Yes.

5 MR. URRUTIA: One second, sir.

6 I have nothing further at this time.

7 THE COURT: Redirect, Mr. Calderon?

8 MR. CALDERON: Thank you, Your Honor.

9 THE COURT: Thank you, Mr. Icaza.

10 THE INTERPRETTER: At your service.

11 **REDIRECT EXAMINATION**

12 BY MR. CALDERON:

13 Q Mr. Hinojosa, you were asked earlier what you were
14 told by the conscripts with relation to Estadio Chile.

15 Do you recall that?

16 A Yes.

17 Q These are the conscripts from what company?

18 A First Company, Second Section.

19 Q And did the conscripts tell you that Barrientos was in
20 Chile Stadium?

21 A No.

22 Q Did those conscripts tell you who killed Victor Jara?

23 A No.

24 Q You were asked to refer back to a statement that you
25 gave back in 2009. And in that statement --

1 A Yes.

2 Q And in that statement -- and in that statement you
3 were read one of your responses. Isn't that correct?

4 A Yes.

5 Q Do you recall giving that statement?

6 A I have it here, yes.

7 Q Do you recall being questioned with regards to those
8 statements?

9 A No.

10 Q Do you recall who asked you the questions?

11 A A police officer.

12 Q And is that something that you have from your own
13 recollection or by looking at the document?

14 A Because of reading the document.

15 Q Do you have any independent recollection of giving
16 that statement?

17 A Yes.

18 Q Okay. And do you recall the formatting which the
19 questions were given?

20 A It was, you know, all over the place. They were
21 asking us where we were, but I didn't have the exact dates.

22 Q And in reviewing the document, do you see specifically
23 what questions you were asked?

24 A Yes.

25 Q Okay. Can you point to the specific questions you

1 were asked?

2 A In first place, what company did I belong to.

3 Q And where is that question on this document?

4 A On the second page.

5 Q And can you please read to me what that question was?

6 A According to what was asked of me, I must say that I
7 have never been to the stadium.

8 Q But that's not -- that's not a question, is it?

9 A You're right. You're right. There is no question.
10 There is just a statement, a complete statement.

11 Q So this is in a narrative form; is that right?

12 THE COURT: Redirect, Mr. Calderon. Redirect.

13 MR. CALDERON: I apologize, Your Honor.

14 BY MR. CALDERON:

15 Q What form is this in?

16 A This is a narrative of what happened -- it's a
17 narrative that tells, relates what happened from the
18 11th forward. But there's no specific dates.

19 Q Excuse me. Did you write this?

20 A No.

21 Q Do you recall how the accuracy of your responses were
22 verified?

23 A Only by the officer who took down my declaration.

24 He asked me to give him -- to relate everything that I
25 remembered happened on those dates of September of 1973.

1 Q Okay. And specifically with regards to a question you
2 were asked earlier, you said, "In accordance with what I am
3 asked, I must say that I never went to Chile Stadium but do
4 not know if Lieutenant Barrientos or Conscript Mahan did
5 so."

6 Can you tell me specifically what question you were
7 responding to?

8 You say in accordance with. What question were you
9 asked? Do you recall specifically?

10 A Apparently, from what I can see here, is Lieutenant
11 Barrientos had been at the Estadio Chile, Chile Stadium.

12 Q So what was -- do you recall what question
13 specifically you were asked that you reference in your
14 response?

15 MR. URRUTIA: Your Honor, asked and answered.

16 THE COURT: Do you want to be heard?

17 MR. CALDERON: Judge, again, it's kind of a -- I
18 believe that it's kind of a translation issue. I'm asking
19 specifically with reference to the questions referring to
20 his answer, if he recalls specifically the question.

21 THE COURT: Well, the question was asked and
22 answered. You can ask the witness whether he understood
23 your last question.

24 BY MR. CALDERON:

25 Q Did you understand my last question?

1 A Yes.

2 Q Okay. Do you recall specifically if you were asked
3 within a range of dates when you answered that question?

4 A No.

5 Q Could this have been any date after September 11th
6 of 1973?

7 MR. URRUTIA: Objection. Speculation. Overbroad
8 and leading.

9 THE COURT: Sustained.

10 MR. CALDERON: I'll withdraw the question.

11 BY MR. CALDERON:

12 Q Did you feel any pressure when you gave this
13 statement?

14 A Well, a little bit by being at a police station and
15 giving a statement about something that happened so long
16 ago.

17 Q And how did you feel when you had to sign this
18 document?

19 A A little shaky because, you know, my memory, I was
20 hoping, hopefully, I didn't make a mistake.

21 Q Was the process of signing this document similar to
22 when you did your declaration with Maria Teresa Castro
23 Barrientos?

24 A No, because with Maria Teresa we had specific
25 questions to answer to.

1 Q Now, you gave testimony in a proceeding in 2009 as
2 well; is that right?

3 THE INTERPRETTER: Excuse me. Interpreter needs
4 repeat. 2009?

5 BY MR. CALDERON:

6 Q Yes. You gave testimony. You testified earlier that
7 you gave testimony in a court proceeding in 2009, correct?

8 A Yes.

9 Q And do you recall giving that testimony?

10 A Yes.

11 Q And in that testimony could you -- well, could you
12 describe how you gave that testimony?

13 MR. URRUTIA: Objection, Your Honor. This has
14 been covered now throughout. And it's beyond the scope of
15 cross.

16 THE COURT: Do you want to be heard, Mr. Calderon?

17 MR. CALDERON: Your Honor, first, I never covered
18 this in direct. However, opposing counsel did, in fact,
19 mark this exhibit and actually present it to the witness
20 during their cross-examination.

21 THE COURT: Well, you asked the question whether
22 he gave testimony. Are you referring to this declaration
23 as testimony?

24 MR. CALDERON: Yes, Your Honor.

25 THE COURT: So you mean something other than

1 question and answers like he's doing now, which is commonly
2 what's thought of as testimony?

3 MR. CALDERON: Correct, Your Honor.

4 THE COURT: Well, I'm confused. I don't know
5 whether the jurors are or not.

6 But if you mean a prior declaration, you can
7 inquire about a prior declaration.

8 If you're talking about something else, like
9 testimony, I haven't seen a transcript of that or heard any
10 reference to it prior to now.

11 But if it's out -- you know, if you have some, we
12 can talk about it.

13 MR. CALDERON: Well, it's already been marked.
14 And it's actually been presented to the witness. So that's
15 the document I'm referring to.

16 THE COURT: Okay. As I said, I don't know whether
17 the jurors are confused. I was confused by the use of the
18 word testimony. We've been calling it a declaration.

19 MR. CALDERON: Right.

20 THE COURT: With that understanding, you can go
21 ahead.

22 Your objection is overruled with that
23 clarification.

24 BY MR. CALDERON:

25 Q And this testimony that you gave in the court

1 proceeding, this was transcribed to a document?

2 A Yes.

3 Q Did you sign that document?

4 A Yes.

5 Q And do you consider that document a declaration?

6 A Yeah. I signed it.

7 MR. CALDERON: May I approach the witness,
8 Your Honor?

9 THE COURT: Yes.

10 MR. CALDERON: And, Your Honor, I'm showing the
11 witness Plaintiff's Exhibit 12.

12 THE COURT: Thank you.

13 MR. CALDERON: Thank you, Your Honor.

14 BY MR. CALDERON:

15 Q Have you had an opportunity to review that statement
16 or that declaration?

17 A Yes.

18 Q And can you authenticate its accuracy and that that
19 was your testimony on a given date on the document?

20 A Yes.

21 MR. CALDERON: Your Honor, at this time we would
22 move what's been previously marked as Plaintiff's Exhibit
23 12 into evidence.

24 MR. URRUTIA: Objection. It's just not something
25 that was shown to us earlier in the pretrial conference for

1 purposes of moving it into evidence during our --

2 And it's a prior inconsistent statement. I mean,
3 the exclusive use for purposes other than for the evidence.
4 And we object.

5 THE COURT: Objection sustained.

6 BY MR. CALDERON:

7 Q Mr. Hinojosa, were you with Mr. Barrientos during the
8 entire period from September 11th to September 16th
9 of 1973?

10 MR. URRUTIA: Objection, Your Honor. This has
11 been asked and answered.

12 THE COURT: Sustained.

13 MR. CALDERON: Your Honor, if I could just -- I'm
14 trying to frame the line of questioning.

15 THE COURT: Sustained. Next question.

16 MR. CALDERON: Okay.

17 BY MR. CALDERON:

18 Q Were you with Mr. Barrientos during September 11th
19 through September 18th when he went to the bathroom?

20 A Well, in the stadium where we're in the unit,
21 obviously not.

22 Q Were you with him when he went to take a shower?

23 A No. He had a shower, a place at the officers' side.

24 Q Were you with him when you were sleeping?

25 A We were in the same square or dormitory.

1 Q But you were in the same area with Mr. Barrientos --
2 or were you in the same area with Mr. Barrientos during
3 that period of time?

4 A Yes.

5 MR. URRUTIA: Objection, Your Honor. Asked and
6 answered.

7 THE COURT: Overruled.

8 BY MR. CALDERON:

9 Q Based on the records that you had been given when you
10 arrived at Arsenales de Guerra, would it have been
11 reasonable for Mr. Barrientos to have left that area
12 without you?

13 A No.

14 MR. CALDERON: No further questions.

15 THE COURT: May this witness be excused?

16 MR. URRUTIA: Yes, Your Honor.

17 MR. CALDERON: Yes, Your Honor.

18 THE COURT: All right. You can step down,
19 Mr. Hinojosa. If you're here pursuant to a subpoena,
20 you're released from it.

21 Call your next witness.

22 THE WITNESS: What do I do with these documents?

23 THE COURT: Just leave it right where it is.

24 Thank you.

25 Mr. Urrutia, do you want to recover your exhibit?

1 MR. URRUTIA: Yes. Thank you.

2 MR. CALDERON: Your Honor, at this time the
3 defense will call Pedro Pablo Barrientos Nunez.

4 THE COURT: Do you want to come forward, sir?

5 Mr. de la Mora, would you ask the witness to raise
6 his right hand to be sworn, please.

7 (Witness sworn.)

8 THE WITNESS: I do so swear.

9 THE DEPUTY CLERK: Please take the stand.

10 THE COURT: Tell us your name, please, sir.

11 THE WITNESS: Pedro Pablo Barrientos Nunez.

12 THE COURT: You may inquire.

13 MR. CALDERON: Thank you, Your Honor.

14 **DIRECT EXAMINATION**

15 BY MR. CALDERON:

16 Q Mr. Barrientos, just -- I know that you understand
17 some English. I'm going to ask that you wait for the
18 translator to translate the question. Give him a response
19 and wait for him to translate that answer back just so we
20 can keep the record clear.

21 A That's fine.

22 Q Thank you.

23 Mr. Barrientos, do you remember being interviewed by
24 the FBI recently?

25 A Yes.

1 Q Okay. Can you tell me what the word advocate means to
2 you?

3 THE INTERPRETER: Excuse me. The interpreter
4 cannot understand the question.

5 BY MR. CALDERON:

6 Q Can you tell me what the word advocate means to you?

7 THE INTERPRETER: Interpreter is confused about
8 the word, advocate.

9 MR. CALDERON: Advocate.

10 THE WITNESS: To advocate is to make some comments
11 so people can follow ideas, your ideas.

12 BY MR. CALDERON:

13 Q Okay. Does it mean anything else to you?

14 A It is also used when there's a campaign of some class
15 and kind. And when somebody is campaigning for something.
16 So the arguments that you're using could be followed by
17 other people.

18 Q Between 1972 and the time that you met with the FBI
19 agents, did you ever publicly make any comments in favor of
20 the coup d'etat?

21 A No.

22 Q Were you ever part of the campaign in which the ideas
23 in favor of a coup d'etat were expressed and those
24 arguments made?

25 A No.

1 Q Therefore, did you ever advocate for the coup d'etat
2 in 1973 in Chile?

3 A No.

4 Q Were you part of the military that was involved in a
5 coup d'etat?

6 A Yes.

7 Q Do you consider doing your military service as being
8 the same as advocating?

9 A No.

10 Q Mr. Barrientos, when did you get -- or when did you
11 get a DUI?

12 A That was in Chile when I was a Major at the Army.
13 That was in the year of, around the year '84, '83, '84.

14 Q Could you explain the circumstances regarding that
15 arrest and conviction for driving under the influence?

16 A Yes.

17 Q Go ahead.

18 A I was parked in my vehicle and somebody hit me.

19 Q Was your vehicle in motion?

20 A No.

21 Q And were you able to pass the sobriety tests that were
22 given, if any?

23 A No.

24 Q Did all of that occur prior to you coming to the
25 United States?

1 A Yes. Many years before.

2 Q When did you come to the United States?

3 A I came here on June 19th, 1990.

4 Q Why did you come to the United States?

5 A Because I was coming here to look to make some money
6 for my children's education.

7 Q When you were younger and in school, what institution
8 did you attend?

9 A I attended the military academy or school of Bernardo
10 O'Higgins.

11 Q And was this a private institution?

12 A Yes, it was a private educational system.

13 Q Was there tuition to be paid?

14 A Yes. Yes.

15 Q Was it expensive?

16 A Very expensive.

17 Q How is it that you were able to afford that school?

18 A My mother first received an inheritance. And then she
19 sold the house so she would be able to afford paying for my
20 military studies.

21 Q Is education important to you?

22 A It's very important.

23 Q Is that why you came to the United States?

24 MR. BECKETT: Objection. Leading questions,
25 Judge.

1 THE COURT: It's not your witness, Mr. Beckett.

2 I'm sorry, Mr. Beckett. My mistake. I'm sorry.

3 What was your objection?

4 I saw Mr. Urrutia sitting there and I thought this
5 was his witness.

6 MR. BECKETT: Oh, I'm sorry. I was objecting to
7 the leading questions, Judge.

8 THE COURT: All right.

9 I've lost the question now, Mr. Calderon. So
10 we've moved past it.

11 So I'll overrule the objection.

12 But confine, especially in the circumstances here,
13 confine your questions to direct examination.

14 BY MR. CALDERON:

15 Q Did you send money back to your children in Chile upon
16 arriving to the United States?

17 A That was the reason why I came to this country so that
18 my children could have an education.

19 Q Had you ever been investigated or persecuted prior to
20 your leaving Chile in 1990?

21 A Only because of the wreck.

22 Q And are you referring to the driving under the
23 influence?

24 A Exactly. Yeah. For two years I have to go every
25 month to sign in a court of law.

1 Q Now, are you currently a U.S. citizen?

2 A Yes. And I'm proud of it.

3 Q When did you begin the process of getting legal status
4 in the United States?

5 A Oh, I started first with trying to obtain my green
6 card around 1998.

7 Q In order to get that green card, did you have to do
8 anything?

9 A Yes, I got married.

10 Q And did Immigration Services require anything of you
11 in order to get legal status to get the green card?

12 A Yes, a lot of documents. Lots of information.

13 Q Were you interviewed?

14 A Yes, I did get interviewed.

15 Q What did you disclose in that interview?

16 A Well, at the beginning, they ask you to show that
17 there's some financial solvency, having been married to an
18 American citizen, having paid taxes, having committed no
19 felonies or anything similar, or having involvement with
20 the police or any other law enforcement agency.

21 Q Were you asked about periods in which you were here
22 illegally?

23 A No. I myself made it clear that there was a point in
24 time where I was here illegally.

25 Q So you disclosed your undocumented status?

1 MR. BECKETT: Objection. Leading questions.

2 THE COURT: Sustained.

3 You don't need to answer that.

4 New question.

5 Objection sustained.

6 BY MR. CALDERON:

7 Q Were you asked about having an undocumented status?

8 A No.

9 Q Did you provide that information?

10 A Yes. I even -- I hadn't even paid taxes for a while.

11 Q And you were able to get legal status? Were you able
12 to get legal status after that interview?

13 A It took a while. It took them about two or
14 three years.

15 Q Mr. Barrientos, do you know an individual named Jose
16 Eladio Armesto?

17 A I do know him.

18 Q Okay. And with regards to Mr. Armesto, how did you
19 meet him?

20 A I met Mr. Armesto because I went to see him so he
21 would do well -- well, I went to see him so he would give
22 me advice regarding the situation, this situation in which
23 I am in right now.

24 Q Okay. And what did you perceive his occupation to be?

25 A I believed him to be an attorney.

1 Q And why did you believe that?

2 A Well, because he would refer to other attorneys as his
3 colleagues.

4 Q Did he give you any advice?

5 A Yes, he gave me really bad advice.

6 Q Was that -- well, what type of advice did he give you?

7 MR. BECKETT: The question called -- objection,
8 Judge. The question calls for hearsay.

9 THE COURT: Let me see the lawyers briefly.

10 I'll tell you what, ladies and gentlemen. It's
11 about 5:00. So I'll take this -- I'll sort this out while
12 you are gone rather than have you wait.

13 I'm going to excuse you for the evening with my
14 now tiresome instruction about not discussing the case
15 amongst yourselves or with anyone else.

16 I hope you have a pleasant evening. I'll see you
17 all back here at 9:00 in the morning.

18 (Jury exited the courtroom at 4:58 p.m.)

19 THE COURT: All right. So the question that's
20 pending is what type of advice did he provide.

21 I guess it's an anticipatory objection that
22 perhaps the response might disclose the actual contents of
23 the advice.

24 So where is this going, Mr. Calderon?

25 MR. CALDERON: And, Your Honor, if it did call for

1 hearsay, I think that that would be an exception because it
2 goes to the effect on the listener.

3 There are documents that were introduced during
4 the depo designations with regard to quit deed claims, a
5 trust, and other information. We're basically establishing
6 why that was done and on whose advice.

7 I understand that opposing counsel wants to use
8 that to purport to show consciousness of guilt. And we
9 believe there is a reasonable explanation as to why those
10 steps were taken.

11 MR. BECKETT: Judge, we can't cross the gentleman
12 who gave him the advice.

13 Moreover, the documents to which my colleague
14 refers were not submitted because of the status of the
15 person that was providing the advice. That's secondary, if
16 even that.

17 It was to show that this witness was hiding his
18 assets and evading legal process. It has nothing to do
19 with whether he was illegally practicing law or holding
20 himself out to be an attorney. We will examine that, but
21 that's not what is at issue.

22 THE COURT: Well, that's not the question that is
23 pending. The question that's pending is what type of
24 advice did he give you?

25 And I'm going to permit the witness to respond to

1 that question. I do think it's a presence -- impression
2 type of exception to the hearsay rule under 801.

3 And it's not -- whether the advice was good, bad,
4 or indifferent is not the point. The point is what the
5 witness did in response to receiving the advice.

6 So I don't think it's objectionable. I'll
7 overrule your objection, at least on hearsay grounds.

8 MR. BECKETT: Very good, Judge.

9 THE COURT: Anything else that we can -- I'm going
10 to give you my copy of the instructions.

11 A couple of caveats. It's my practice to prepare
12 an index. My clerk is going to hand them out to you now.

13 If you'll go through the index, you'll see an
14 explanation from the Court as to what's being given, why
15 it's being given. If it's different from what you all
16 submitted, it will explain to you why it is different.

17 I'd like for you all to spend the evening going
18 over the Court's instructions.

19 I did not give you a verdict form because I'm,
20 frankly, troubled by the verdict form that you all
21 submitted. My concerns are that the -- I'm not certain
22 whether you all have done any comprehensive research as to
23 the elements of damage under the Torture Victim Protection
24 Act.

25 But I'm concerned about the -- my questions are

1 these:

2 The Estate of Victor Jara, it would seem to me, is
3 entitled to recover for the torture should the jury find
4 the defendant liable for the torture. It would be -- the
5 Estate would be entitled to recover those damages, not the
6 individual plaintiffs.

7 The individual plaintiffs, it would seem to me,
8 are entitled to recover for, if the jury were to find for
9 extrajudicial killing, that those damages would flow to the
10 individual plaintiffs.

11 The damages for the surviving spouse, it would
12 seem to me, are distinct from the damages of the surviving
13 children. You all have made no such -- you've not
14 discriminated between the plaintiffs at all. Perhaps
15 that's your wish in terms of how to proceed.

16 But I'd like to get some direction from you in the
17 morning so that I can prepare a verdict form because I'm
18 troubled that the verdict form that you all have submitted
19 is not an accurate reflection of the law as it relates to
20 the elements of damage of the individual defendants and the
21 estate.

22 So what is the estate entitled to recover under
23 the Torture Victim Protection Act?

24 What is the surviving spouse entitled to recover
25 under the Torture Victim Protection Act?

1 What are the surviving children entitled to
2 recover?

3 Should their damages be differentiated on the
4 verdict form? If so, give me some suggestion as to how to
5 do that.

6 If your collective decision is that that's not
7 necessary, let me know that as well.

8 MR. BECKETT: Very good, Judge. We will review
9 that.

10 THE COURT: I need you back here at 8:00 in the
11 morning. I have an 8:30 change of plea. We're going to do
12 the charge conference at 8:00. We'll get that done between
13 8:00 and 8:30. I'll do my change of plea from 8:30 to
14 9:00. And we'll get on with the testimony.

15 How much more evidence do you think we have?

16 MR. CALDERON: Your Honor, this is my last
17 witness.

18 THE COURT: How extensive do you think your
19 examination is going to be? How much time do you need with
20 this witness?

21 MR. CALDERON: Judge, maybe like -- I was almost
22 at the end. Maybe like five more minutes.

23 THE COURT: And how much cross-examination do you
24 think there will be, Mr. Beckett?

25 MR. BECKETT: I think we'll have questions about

1 the scope there. But a limited amount of
2 cross-examination. Keeping it to an hour, I hope, Judge,
3 if not less.

4 THE COURT: I'm certainly going to confine you to
5 the scope of direct examination.

6 You had an opportunity to call Mr. Barrientos. In
7 fact, you did call him by deposition. So you can expect a
8 fairly tight rein in the morning on --

9 MR. BECKETT: Very good, Judge.

10 THE COURT: So sounds like we need to be prepared
11 then to go into closing arguments probably by mid-morning.
12 So what I'll expect to do is get started whenever we're at
13 that point.

14 And I'll let the jury know when they arrive in the
15 morning that we're going to order lunch in for them. And
16 so we'll have lunch back there for them, and we'll figure
17 out a way to give them a working lunch.

18 MR. BECKETT: Very good, Judge.

19 THE COURT: All right. See you all in the morning
20 at 8:00.

21 (Proceedings adjourned at 5:03 p.m. until
22 Wednesday, June 22, 2016, at 8:00 a.m.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

s\Amie R. First, RDR, CRR, CRC, CPE

INDEX

DEFENDANT WITNESSES

DIRECT CROSS REDIRECT RECROSS

MARIA TERESA CASTRO BARRIENTOS		4	40
FRANCISCO DEL CARMEN QUIROZ	52	78	115
HECTOR MANUEL HINOJOSA	120	147	173
PEDRO PABLO BARRIENTOS NUNEZ	183		

EXHIBITS

ADMITTED MARKED

Plaintiff's Exhibit 10		105
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