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PINOCHET REGIME

'Death squad' verdict upheld

An appellate panel upheld a crimes against humanity finding in the case of a former Chilean officer who served during Gen. Pinochet's regime.

BY CATHERINE WILSON
Associated Press

A federal appeals court in Miami has upheld a \$4 million verdict against a former Chilean army officer who was found liable for the killing of a political prisoner during that nation's bloody 1973 coup.

A jury awarded \$4 million in 2003 to the family of Winston Cabello, the first award by a U.S. jury for crimes against humanity. The decision Monday by a three-judge panel of the 11th U.S. Circuit Court of Appeals upheld the award as well as the jury's findings.

Armando Fernandez Larios, who served as a bodyguard to the general leading the death squad on the so-called Caravan of Death, was found liable for crimes against humanity, extrajudicial killing, cruelty and torture in massacres in five Chilean cities after Gen. Augusto Pinochet seized power in Chile. At least 75 people were killed in the days following the coup.

DENIED INVOLVEMENT

Fernandez denied any role in Cabello's killing, but witnesses testified the lieutenant wielded a short curved knife called a corvo. Cabello's exhumed body indicated his throat had been slashed. The Pinochet government initially blamed the deaths of Cabello and 12 other political prisoners on an escape attempt.

Fernandez, who argued that the lawsuit was filed too late and could not be pursued by individuals, repeated his claim that he was not involved and challenged rulings by U.S. District Judge Joan Lenard before and during the trial.

The unsigned 28-page opinion issued Monday by the Atlanta-based court rejected all of the claims.

The timing of the lawsuit was upheld based on the discovery of the prisoners' unmarked mass grave in 1990, evidence that the victims had been tortured before execution and a

prolonged official coverup. The court found that filing of the lawsuit in 1999 was within the 10-year statute of limitations under the Torture Victims Protection Act.

The 10-year rule applied by the same court last month resulted in the elimination of a \$54.6 million award against two retired Salvadoran generals accused of torture during a civil war in their home country two decades ago.

LEGAL PRECEDENT

"Not only does it finalize the victory that the family won in front of a jury in 2003, but it establishes an important legal precedent, namely, that the 10-year statute of limitations does not even begin to run until the the plaintiff is able to get access to crucial evidence, in this case, the body of Winston Cabello," said Sandra Coliver, executive director of the Center for Justice & Accountability. The San Francisco-based center represented the family.

Attorneys for Fernandez didn't respond to calls seeking comment Tuesday.

The court also found that the law extends beyond people who commit torture to those who order or assist in it, eliminating Fernandez's claim that he wasn't directly involved.

Fernandez, who went on to serve in the secret police, was 24 and teaching at Chile's military academy when he was assigned to Gen. Sergio Arellano, a trusted aide to Pinochet and the death squad leader. In his testimony, Fernandez denied seeing any prisoners or being aware of the killings as they happened.

He rose to the rank of major before leaving the Chilean military in 1987. He pleaded guilty in 1987 to being an accessory after the fact in the 1976 assassination of Chilean Ambassador Orlando Letelier, a prominent Pinochet foe, in Washington.