

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ANA PATRICIA CHAVEZ, CECILIA)
SANTOS, JOSE FRANCISCO)
CALDERON, ERLINDA FRANCO, AND)
DANIEL ALVARADO,)
Plaintiffs,)
VS.)
NICOLAS CARRANZA,)
Defendant.)

NO. 03-2932-MI /P

TRIAL PROCEEDINGS
BEFORE THE HONORABLE JON PHIPPS MCCALLA, JUDGE
NOVEMBER 2, 2005
VOLUME III

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1 WEDNESDAY MORNING & AFTERNOON

2 NOVEMBER 2, 2005

3 The jury trial in this case resumed on this
4 date, Wednesday, November 2, 2005, at 9:00 o'clock a.m.,
5 when and where evidence was introduced and proceedings
6 were had as follows:

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10 THE COURT: All right. Our juror number two
11 had asked to see us, and that's Ms. Fields, so we will
12 have Ms. Fields come in and we will see what she needs to
13 talk to us about. If it is possible, we will just have
14 her have a seat in seat one and do it from there. Counsel
15 may want to get to your table just so that you're in
16 position. We will -- as soon as your client gets here, we
17 will take care of that matter.

18 MR. FARGARSON: Thank you, Your Honor.

19 THE COURT: Yes, if Ms. Fields would come in.

20 (Juror Fields came into the courtroom.)

21 BY THE COURT:

22 Q. How are you doing this morning?

23 A. I'm great. How are you?

24 Q. Okay. You said you needed to tell me, and I assumed it
25 was something we could say in front of everybody, maybe it is

1 not. Do you want to speak to me privately at side bar?
2 A. Yes.
3 Q. The lawyers will have to come up.
4 A. That's okay.
5 THE COURT: Let's come around to side bar.
6 (The following proceedings had at side-bar
7 bench.)
8 BY THE COURT:
9 Q. Yes, ma'am.
10 A. What it was, was this morning I called -- well, I have
11 a co-worker that works with me, and I was -- he was working on
12 a problem with me for a printer at work, so I was calling him
13 to let him know that I would be out for three weeks because I
14 was on jury duty and I wouldn't be able to work to get the
15 printer. And so he said, oh, three weeks, he said you're on
16 the trial, and I said I can't talk about it. And then he
17 said -- he proceeded to say, well, Nicolas Carranza and my
18 family are good friends, and I said I can't talk about it.
19 Now, we are not close co-workers. He works in one building, I
20 work in another building. I don't see him on a daily basis.
21 Q. Okay. That's important.
22 A. We have never --
23 Q. Would that tend to --
24 A. Not at all.
25 Q. -- affect you at all?

1 A. Not at all.

2 Q. I think you answered the main question was were you
3 real close friends, and the answer he's more of an
4 acquaintance?

5 A. He's more of an acquaintance more than a co-worker.

6 Q. You wouldn't feel like you were under some obligation
7 to try to satisfy him?

8 A. No, not at all.

9 THE COURT: Let me see if there are -- but you
10 did exactly the right thing to tell us, that's exactly the
11 right thing to do. Any questions from plaintiffs'
12 counsel?

13 MS. BLUM: No.

14 MR. ESQUIVEL: No, Your Honor.

15 THE COURT: Or defense counsel?

16 MR. FARGARSON: No.

17 BY THE COURT:

18 Q. I don't think that's a problem. Just remember don't
19 advise your fellow jurors of what your co-worker said, that
20 would be a problem.

21 A. I haven't discussed it with anyone.

22 Q. And you can't even consider it at all.

23 A. I understand, but that's why I --

24 Q. You did exactly the right thing. Thank you so much, we
25 will let you go back. We will call y'all in hopefully in just

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1 a few minutes.

2 A. Okay. Thank you.
3 (Juror Fields went back into the jury room.)
4 MR. FARGARSON: Judge, I brought my hearing aid
5 and put it in this ear.
6 THE COURT: Good.
7 MR. FARGARSON: Because this is a big
8 courtroom, I can hear all right, it's --
9 THE COURT: It is a little hard, I think it
10 echoes.
11 MR. FARGARSON: It does, and it is -- when
12 people are over in that corner and you all are way over
13 here, it is kind of hard.
14 THE COURT: It is very hard, and you don't even
15 have to have a hearing aid for that to be a problem.
16 MR. FARGARSON: What I want you to know if it
17 starts buzzing, then let me know.
18 MS. BLUM: It could be me, I buzz too. I have
19 got a hearing aid.
20 MR. FARGARSON: Because I was in Tipton County
21 one time and everybody was looking around and they were
22 all hearing this high pitch ring, and I couldn't even hear
23 it and, you know, I'm looking at everybody and all of a
24 sudden they start looking at me, and I finally figured out
25 it was this.

1 THE COURT: It will ring sometimes. My mom has

2 them and my wife deals with hearing aids all the time and
3 so everybody should -- we should be -- for both of you, if
4 there is an issue, we will let you know tactfully, because
5 I think it is important to have the hearing aid, I don't
6 have any problem with that, and I agree with you, it is
7 sometimes hard to hear. And in this room, we know it is
8 kind of barney, open, and the other thing is I have so
9 much electrical equipment around me that it is -- that's
10 one reason I have everybody wear their mics, I'm hearing
11 lots of other noises, and that's so important for you to
12 wear the mics. So good, that's good.

13 Yes, sir.

14 MR. BROOKE: I wanted to go ahead and present
15 for identification Exhibit A, which we would submit would
16 come under the same provision that Your Honor has referred
17 for the Truth Commission as a public record in court.
18 It's a congressional report of their activity involving
19 the hearings of Robert White for consideration as
20 appointment and his nomination.

21 THE COURT: I think these are somewhat
22 different, but I might be wrong. I mean --

23 MR. ESQUIVEL: They are not reports under
24 803(8), Your Honor, they're not pursuant to an
25 investigation.

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1 THE COURT: That's what I have understood.

2 MR. BROOKE: Well, It was an investigation as
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3 to his merit to be appointed, I submit.

4 THE COURT: Well --

5 MR. ESQUIVEL: But --

6 THE COURT: It's a different process that
7 initiates the report, I think that's fundamentally a
8 problem; is that right?

9 MR. ESQUIVEL: I believe that's right, Your
10 Honor. And procedurally, it is not a document that is
11 listed on potential exhibits in the pretrial order.

12 THE COURT: That's also true, but it could be
13 used in cross, and that wouldn't necessarily have to have
14 been listed, so I think counsel -- Mr. Brooke is right in
15 that regard, but we agree that we would mark it as an A so
16 that we won't have a sequential question. It always comes
17 up with the panel, and sometimes we have some ID only
18 exhibits, but if we can avoid that confusion, it's a
19 little better.

20 On the question of the 802 -- 803(2) question
21 as to the statements of a co-worker, I'm going to let you
22 go into the questions if you wish to a little bit more.
23 The Sixth Circuit decided in United States versus Joseph
24 Arnold with a dissent by Judge Sutton, which I referred to
25 the other day, some of the questions relative to the

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1 application of that rule, and I assume that you have
2 looked at this opinion.

3 MR. EISENBRANDT: We saw that last night, Your
4 Honor.

5 THE COURT: Right. There is a -- and of
6 course, we have to follow the law as established in the
7 Sixth Circuit. I was trying to determine if this was
8 going to an en banc, and I was at one point under the
9 impression it might, just because I thought it might,
10 because there's a strong dissent and sometimes people
11 petition. I thought a petition had been filed, but I'm
12 checking on that this morning. I don't think it has been
13 vacated at this point, so that means that it is still the
14 applicable law in the Sixth Circuit. The first circuit
15 has already filed, submitted a case distinguishing and/or
16 criticizing this opinion. That really doesn't help us
17 very much in the context of the application of the rule.
18 Well, you have seen the opinion. You know that it is
19 rather difficult to -- you have got to show some specific
20 things, so that's where we are on that.

21 MR. ESQUIVEL: I think Mr. Eisenbrandt has read
22 it.

23 THE COURT: I keep looking to your senior
24 counsel.

25 MR. EISENBRANDT: That's all right, I don't

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1 mi nd.

2 THE COURT: You have read this and you will see
3 what you need to do?

4 MR. EISENBRANDT: Yes, Your Honor, as long as
5 you're amenable, we will follow up on the testimony on
6 that and see if we have enough for admissibility.

7 THE COURT: See how it comes out. I think
8 that's -- do we have everybody now?

9 THE CLERK: She just walked in.

10 THE COURT: I am very pleased with Ms. Fields,
11 she did exactly the right thing. So any questions about
12 the juror's responses to an inappropriate statement, but
13 the person maybe didn't know that. Okay.

14 MR. BROOKE: Your Honor, will we have about
15 five minutes before we start?

16 THE COURT: You should have about five minutes.

17 (The court took up another matter unrelated to
18 this case.)

19 THE COURT: All right. We can have the witness
20 come back around.

21 We have -- we have done some experimenting.
22 What we're going to try to do in the next day or two is
23 have them simply remove some of the lights above the
24 screen. It really does affect the screen a lot, but if it
25 is a terrible problem, let us know. And we may -- if

1 we're not going to be using the screen, we can just turn
2 all the lights on. There's a lot more light actually in
3 the room than people physically need, but sometimes they

4 feel better if it is brighter, so we will try to handle it
5 that way. But we did several checks on it and the screen
6 is -- the large screen is much harder to see without
7 the -- with the additional light. If the jury wants the
8 light on, we will turn it on anyway. I think we're set.
9 We're ready to go. Bring the jury in. Have everybody
10 stand.

11 (Jury in at 9:17 a.m.)

12 THE COURT: All right. You may be seated.
13 Counsel may proceed.

14 MR. EISENBRANDT: Thank you, Your Honor.

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DIRECT - LUIS RAMIREZ

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1 (Miguel Angel Urrutia previously sworn to
2 interpret from English into Spanish and Spanish into
3 English.)

4 LUIS RAMIREZ,
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5 was thereupon called as a witness on behalf of the
6 Plaintiffs, and having been first duly sworn, was
7 examined and testified as follows:

8 DIRECT EXAMINATION (CONTINUED)

9 BY MR. EISENBRANDT:

10 Q. Good morning, Mr. Rameriz.

11 A. Good morning to all.

12 Q. Yesterday, you testified to some of the things that you
13 saw at the San Jose School, is that correct?

14 A. Yes.

15 Q. And when we left off yesterday -- and when we left off
16 yesterday, you testified that you had gone into hiding after
17 seeing several armed men in a pickup truck, is that correct?

18 A. Totally true.

19 Q. At the moment that you saw the men being loaded into
20 the pickup truck, how did you feel?

21 A. I felt very afraid and I thought that this could also
22 happen to those of us who were too close.

23 Q. So then where was it that you went next?

24 A. I walked quickly to the place where I was inside, the
25 San Jose School, and I stayed with the priest that I mentioned

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DIRECT - LUIS RAMIREZ

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1 yesterday for two hours.

2 Q. Can you describe for us what that place was like where
3 you went?

4 A. Yes, there might have been some 25 meters between the

5 place where I saw the men getting the victims on the vehicle,
6 and I went towards a carpentry shop, and there is where I
7 stayed for that length of time.

8 Q. While you were in the carpentry shop, how were you
9 feeling during that time?

10 A. I felt very afraid and with a lot of terror, but I was
11 in the company of the priest at all times, and that helped me
12 very much in order to overcome.

13 Q. And you testified you were there about two hours and 15
14 minutes or two hours and 30 minutes, is that correct?

15 A. Yes, that is correct.

16 Q. How was it that you decided after that amount of time
17 to leave the carpenter shop?

18 A. I was there with that same concern and I was thinking
19 that my colleagues, male and female attorneys were also there
20 and that they might have been also subject of the same
21 circumstances, meaning at that time, I did not know what had
22 happened, but I was very afraid; and in the end, everything
23 seemed so lonely that I simply gave in to the point at which I
24 thought that those facts were already over.

25 Q. How did you exit the carpentry shop?

♀

DIRECT - LUIS RAMIREZ

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1 A. I left walking in the company of the priest who later
2 went to a different place, some other place, and I walked
3 quickly to find out what had happened.

4 Q. Where did you walk to?

5 A. I went inside the building where allegedly there were

6 people who were meeting, people from the FDR and our office
7 which was next door to that.

8 Q. How long did it take you to get from the carpentry shop
9 to the offices?

10 A. Perhaps two or three minutes.

11 Q. So what did you see when you got there?

12 A. I met only with a female colleague named Rosa Pena who
13 told me of the facts and also told me that she had been beaten
14 by heavily armed men in civilian clothes.

15 Q. What was her -- in what physical state was she when she
16 was telling you this?

17 A. The woman was pale, she felt very afraid, and she was
18 shivering, her body was trembling, she was totally impressed
19 by the facts.

20 Q. Was she crying?

21 A. Yes.

22 Q. Tell us exactly what it was that she told you.

23 THE COURT: Well, the objection was raised
24 under 802 -- 803(2) and in light of United States versus
25 Arnold, there's an insufficient basis to allow the

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DIRECT - LUIS RAMIREZ

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1 statement.

2 BY MR. EISENBRANDT:

3 Q. Mr. Ramirez, where did you go next?

4 A. The offices were closed afterwards and the people
5 disappeared, and I also went to my house without speaking, nor

6 without telling anybody anything.

7 Q. And why didn't you say anything to anybody?

8 A. The moment did not lend itself for such a conversation.
9 I, who had lived through direct testimony from victims of
10 tortures and violations to their human rights, I was not going
11 to be the person to speak to others so as to perhaps bring on
12 something similar upon me.

13 MR. EISENBRANDT: Thank you, Your Honor. I
14 pass the witness.

15 THE COURT: Certainly. Cross examination?

16 MR. FARGARSON: Yes, Your Honor.

17 CROSS EXAMINATION

18 BY MR. FARGARSON:

19 Q. I only have a few questions, but if I ask something you
20 don't understand, you let me know and I will repeat the
21 question.

22 A. Okay.

23 Q. How old were you when the event you testified about
24 happened?

25 THE INTERPRETER: Please, sir, come again.

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CROSS - LUIS RAMIREZ

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1 BY MR. FARGARSON:

2 Q. How old was he in 1980 when these events took place
3 that he's testifying about.

4 A. I don't know exactly what you mean.

5 Q. Your age, your -- how old you were, how long you had
6 lived by 1980 when these events you're testifying about

- 7 happened? Now do you understand?
- 8 A. Yes. I would have been 22 or 23 years of age.
- 9 Q. All right. And if I understood what you said, you were
10 going to work that day?
- 11 A. Yes.
- 12 Q. And on your way at approximately 9:00 o'clock in the
13 morning, you saw a military vehicle?
- 14 A. Yes, I saw it.
- 15 Q. And was it a large vehicle to carry military people in
16 or was it some type of armored vehicle?
- 17 A. I believe it was a truck belonging to the Salvadoran
18 armed forces. Impossible to mistake it because we saw them
19 every once in awhile, practically every day.
- 20 Q. Was it one truck or more than one truck?
- 21 A. It was one single truck.
- 22 Q. And did I understand you correctly that you said there
23 were approximately 30 men?
- 24 A. Between 20 and 30 men.
- 25 Q. All right. Were they in the truck or out of the truck?

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CROSS - LUIS RAMIREZ

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- 1 A. Some were inside the truck, others were outside.
- 2 Q. How many were outside the truck?
- 3 A. I do not recall. Maybe 10 or 12 men.
- 4 Q. The ones that were outside the truck, what were they
5 doing?
- 6 A. They were standing looking all over kind of in

- 7 expectation of what might happen.
- 8 Q. I'm sorry, I didn't understand that last part that you
- 9 said, that you translated.
- 10 A. They were standing and they were looking all around in
- 11 expectation of what might happen.
- 12 Q. Okay. Did I understand you correctly to say that as
- 13 you kept walking, you were about 15 meters from the military
- 14 men?
- 15 A. Yes, that is correct.
- 16 Q. And so we can get an idea of what 15 meters would be,
- 17 would that be as far as where you are to where I am or
- 18 thereabout?
- 19 A. A bit further back.
- 20 Q. Is that approximately?
- 21 THE INTERPRETER: He said a bit further back.
- 22 BY MR. FARGARSON:
- 23 Q. Okay. As far as I am from Mr. Icaza, this far?
- 24 A. Perhaps the first person outside.
- 25 Q. Okay. As you walked near the military men, did anyone

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CROSS - LUIS RAMIREZ

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- 1 of them say anything to you or try to stop you or prevent you
- 2 from going on?
- 3 A. No, I simply kept walking quickly.
- 4 Q. Did any of them threaten you in any way?
- 5 A. No.
- 6 Q. Or say anything at all to you?
- 7 A. Not really, no.

8 Q. Now, the men that you saw that were military men, did I
9 understand you to say that they were in some type of green
10 uniforms?

11 A. Yes, they were wearing olive green uniforms.

12 Q. And do you know if there was one particular branch of
13 the military that wore olive green uniforms?

14 A. No, I was not able to tell, but they were members of
15 the army.

16 Q. Okay. But as to which branch, you don't know?

17 A. No, I do not know, but in reality one of the garrisons
18 is perhaps one kilometer and a half from the place where these
19 events took place. It is the first brigade of infantry known
20 as the San Carlos Garrison which also had a background. We
21 had testimony in our office in the sense that this garrison
22 had captured persons on several occasions.

23 Q. Well, were these -- were these men in this truck from
24 that place that you just identified?

25 A. I would not be sure. I am not sure.

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CROSS - LUIS RAMIREZ

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1 Q. Okay. Were you aware that different branches of the
2 military wore different colored uniforms?

3 A. There were no big differences in them. It was only the
4 public security force that had a different uniform. They were
5 brown, and the rest of them were all green with some slight
6 differences.

7 Q. Now, when you got to the school, you saw a pickup

8 truck?
9 A. Yes.
10 Q. And you saw four men?
11 A. Four men, but there was one more who was pushing a
12 person inside the vehicle.
13 Q. Okay. The first four that you saw, two of them were in
14 the pickup and two of them were on the outside?
15 A. They were on the pickup -- on top of the pickup, and
16 the other two were down on the floor.
17 Q. All right. And then you saw another man, a fifth man
18 dragging someone to the pickup?
19 A. Trying to get him on the pickup by force.
20 Q. Did any of the five men that were around the pickup in
21 the pickup have on military uniforms?
22 A. No, no. There was one only who was wearing a T-shirt
23 which was similar to the T-shirts worn by the army.
24 Q. Wearing a what?
25 THE INTERPRETER: A T-shirt.

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CROSS - LUIS RAMIREZ

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1 Q. Okay. Did they have -- did they all have on civilian
2 clothes?
3 A. Yes.
4 Q. Did they all have masks?
5 A. No, not that I recall.
6 Q. Did any of them have masks?
7 A. No. Only the person who was detained was blindfolded.
8 Q. Did any of them have head coverings, hats or anything

9 on their head?
10 A. Yes, there was -- yes, there was one of them with a hat
11 made of cloth.
12 Q. Was there only one that on a hat or head covering?
13 A. Yes.
14 Q. Did you see the pickup truck leave the school?
15 A. No.
16 Q. Did you see the military truck and the people that you
17 say were military men leave the area where you saw them?
18 A. No.
19 Q. Now, after this was over with and you talked to
20 Ms. Pena, you said you went home and you didn't tell anybody
21 about this?
22 A. No.
23 Q. When did you tell somebody about it?
24 A. I spoke -- after I identified one of the persons -- I
25 identified the person on television, I didn't really talk to

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CROSS - LUIS RAMIREZ

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1 anyone either.
2 Q. Okay. When you say you identified the person on
3 television, do you mean you knew who the person was and told
4 somebody about it?
5 A. The person I identified was known publicly, but I did
6 not tell anyone about it either at that time.
7 Q. Who was the person?
8 A. He was a labor leader called Juan Chacon.

- 9 Q. What type of leader?
- 10 A. Unionist, union leader.
- 11 Q. All right. At that time, were you working in the area
- 12 of human rights? Was that the period of time you were working
- 13 in human rights making reports and things of that nature?
- 14 A. Yes, I helped draft the reports.
- 15 Q. Help what?
- 16 A. Draft reports.
- 17 Q. Okay. Did you draft a report about this incident or
- 18 event at that time in the course of your normal work with your
- 19 organization?
- 20 A. No.
- 21 Q. Did you know Nicolas Carranza in 1980?
- 22 A. Sometime in the papers.
- 23 Q. Sometimes in the paper?
- 24 A. Yes.
- 25 Q. And what was he, what position did he hold?

♀

CROSS - LUIS RAMIREZ

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- 1 A. I don't know whether he was vice-minister of public
- 2 security or whether he was in the government junta because we
- 3 had just had a coup d'etat.
- 4 Q. Other than the one individual that you identified on
- 5 television, did you ever identify any other individuals as
- 6 being a part of what you saw and have testified about?
- 7 A. You mean the victims?
- 8 Q. No, no, not the victims, I thought he was talking about
- 9 someone that he thought that he saw and was responsible, that

10 he identified some of the men that were there at the scene;
11 did I misinterpret that?

12 A. No.

13 MR. FARGARSON: Your Honor, excuse me just a
14 moment.

15 THE COURT: Certainly.

16 BY MR. FARGARSON:

17 Q. Senor Ramirez, do you know what color uniforms the
18 military advisors wore in El Salvador?

19 A. I suppose it was green.

20 MR. FARGARSON: I believe that's all.

21 THE COURT: Redirect?

22 REDIRECT EXAMINATION

23 BY MR. EISENBRANDT:

24 Q. Mr. Ramirez, what nationality were the men you saw in
25 military uniforms?

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REDIRECT - LUIS RAMIREZ

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1 A. It was unmistakable, they were Salvadoran.

2 Q. Tell us why you didn't tell anybody about what you saw
3 on November 27th.

4 A. I believe it is important that it be known that at that
5 time the fear was so great that one could not even speak of
6 such a deed.

7 Q. Thank you.

8 A. Or of the worst violations that may have been committed
9 at that time.

10 MR. EISENBRANDT: Thank you. I have no further
11 questions.

12 THE COURT: All right. Thank you very much.
13 We will let you step down.

14 THE WITNESS: And Thank you, everyone.
15 (Witness excused.)

16 THE COURT: Who will our next witness be?

17 MR. ESQUIVEL: Your Honor, we call the
18 plaintiff, Erlinda Franco.

19 THE COURT: Just to remind counsel, everybody
20 that is sworn in should be sworn in at the podium so we
21 can hear them at the microphone.

22 THE CLERK: Ma'am, if you will raise your right
23 hand to be sworn, please. Do you solemnly swear the
24 testimony you are about to give the court and jury in this
25 matter to be the truth, the whole truth and nothing but

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1 the truth, so help you God?

2 THE WITNESS: I swear.

3 THE CLERK: Thank you. You may take the
4 witness stand.

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DIRECT - ERLINDA FRANCO

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1 (Francis Icaza previously sworn to interpret
2 English into Spanish and Spanish into English.)
3 ERLINDA FRANCO,
4 was thereupon called as a witness on behalf of the
5 Plaintiffs, and having been first duly sworn, was
6 examined and testified as follows:
7 DIRECT EXAMINATION
8 BY MR. ESQUIVEL:
9 Q. Good Morning, Ms. Franco.
10 A. Good morning.

- 11 Q. Ms. Franco, where do you live?
- 12 A. In the Republic of El Salvador in Central America.
- 13 Q. Have you lived in El Salvador all your life?
- 14 A. Yes.
- 15 Q. And what do you do in El Salvador?
- 16 A. I am a teacher in the rural zone.
- 17 Q. What ages do you teach?
- 18 A. Children at the age of 12.
- 19 Q. What subjects do you teach?
- 20 A. I am teaching students in the fourth grade, and I teach
- 21 the fourth fundamental subjects.
- 22 Q. What are those subjects?
- 23 A. Mathematics, languages, natural science and social
- 24 science, as well as physical education and art education.
- 25 Q. How long have you been a teacher?

♀

DIRECT - ERLINDA FRANCO

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- 1 A. Nine years.
- 2 Q. Do you like being a teacher?
- 3 A. Oh, yes.
- 4 Q. What do you like about it?
- 5 A. The children.
- 6 Q. Do you have brothers and sisters?
- 7 A. Yes.
- 8 Q. And how many?
- 9 A. Six.
- 10 Q. Where do you fall in the order of brothers and sisters?
- 11 A. I'm number seven.

12 Q. Did your brothers and sisters, older brothers and
13 sisters treat you well?

14 A. Could be yes, could be no.

15 Q. What did your father do?

16 THE INTERPRETER: The Interpreter requests
17 permission to consult with the witness on the use of an
18 expression.

19 THE COURT: Certainly.

20 (The interpreter spoke with the witness in
21 Spanish.)

22 THE INTERPRETER: The interpreter has consulted
23 and has clarification from the witness.

24 THE COURT: Certainly.

25 A. My dad worked for the office of the comptroller.

♀

DIRECT - ERLINDA FRANCO

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1 BY MR. ESQUIVEL:

2 Q. And what did he do in that job?

3 A. He typed.

4 Q. How long did he do that job?

5 A. It seems to me that for 38 years.

6 Q. What did your mother do?

7 A. She took care of the household chores. She would take
8 care of us.

9 Q. Ms. Franco, how far did you go in school?

10 A. In school, I did my entire elementary school, and then
11 I went on to get a high school diploma. After that, I entered

12 the National University of El Salvador where I graduated from
13 as a teacher.

14 Q. Did you study anything else at the university?

15 A. Yes.

16 Q. What else did you study?

17 A. I -- I started my studies in law, but I did not finish
18 them.

19 Q. Why didn't you finish your legal studies?

20 A. Because I had to work and take care of my children, and
21 it was very difficult for me to continue in such a difficult
22 course of studies.

23 Q. Ms. Franco, are you married?

24 A. I'm a widow.

25 Q. What was the name of your husband?

♀

DIRECT - ERLINDA FRANCO

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1 A. Manuel DeJesus Franco Ramirez.

2 Q. How did you meet your husband?

3 A. My parents, they had a house, a rather large house and
4 they would let out rooms. And my husband was coming in from
5 the interior of the country, from a department that was pretty
6 far away, coming to the university. And God placed him in my
7 house to protect, and there we met and there we fell in love
8 and we got married.

9 MR. ESQUIVEL: Your Honor, may I have
10 permission to approach the witness, please?

11 THE COURT: You may.

12 BY MR. ESQUIVEL:

13 Q. Ms. Franco, I have handed you a photograph, is this a
14 photograph of your husband?

15 A. Yes.

16 MR. ESQUIVEL: Your Honor, the plaintiffs move
17 this photograph as Exhibit 8 into evidence.

18 THE COURT: So received.

19 (Exhibit Number 8 was marked. Description:
20 Photograph.)

21 BY MR. ESQUIVEL:

22 Q. Now, you say that your husband came to San Salvador to
23 study, what did he study?

24 A. He was studying -- well, I'm sorry, when I met him, he
25 was studying law at the National University of El Salvador.

♀

DIRECT - ERLINDA FRANCO

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1 Q. Did he finish his studies in law?

2 A. Yes.

3 Q. Did he get any other degrees or do any other university
4 study?

5 A. Correct. He graduated from the course of studies for
6 international relations.

7 Q. And where did he get that degree from?

8 A. He was not given that degree because they killed him.

9 Q. Let me go back and ask you when you all got married.

10 A. March the 11th of 1970.

11 Q. And did you all have any children?

12 A. Yes. Yes, three. And a boy that my husband already

13 had with him, so that made it four children for me.
14 Q. What are the names of your children?
15 A. Francisco, Dax Manuel, Omar and Julio Manuel.
16 Q. Ms. Franco, what was your husband like?
17 A. Oh, he was a very good man, very responsible. He
18 always took care of us. We never lacked food, shelter, health
19 or education, and such was his love for his family that he
20 kept me, his wife, in anonymity, and that way he protected us.
21 Yes, that's how he protected us. And his political life -- I
22 knew of his life in politics, I knew it through the newspapers
23 and from one thing here, one thing there that was told to me.
24 Q. Now, Ms. Franco, you said that he protected your
25 anonymity, why was that necessary?

♀

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1 A. Because he felt he was -- his life was threatened and
2 he didn't want death to come to me as well. This is something
3 I thank him for, but at the same time, I don't thank him for.
4 Q. What do you mean by that?
5 A. Well, on the one hand, anonymity, that anonymity --
6 well, thanks to that anonymity I am still alive and so are my
7 children, but on the other hand, I don't thank him for having
8 left me alive because of all of the suffering I have endured.
9 Q. Was your husband involved in political organizations?
10 A. According to the newspapers, yes.
11 Q. Was that something that you all talked about in your
12 house?
13 A. No.

- 14 Q. Is that another way that he protected your anonymity?
15 A. Correct.
16 Q. What kind of a father was your husband?
17 A. Very protective, an extreme provider. He was a great
18 father.
19 Q. What did your husband do for a living?
20 A. Since he had his university studies, he would teach
21 school in high schools. After that job, he was also a teacher
22 at the National University of El Salvador. He worked at the
23 economics faculty, economic science faculty.
24 Q. Now, Ms. Franco, I want to talk to you about what
25 happened to your husband in November of 1980.

♀

DIRECT - ERLINDA FRANCO

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- 1 A. Very well.
2 Q. In November of 1980, do you know whether your husband
3 was involved with any particular political party?
4 A. Yes, it was through the newspapers that I realized that
5 he was involved with a particular organization.
6 Q. Do you know what the name of that organization was?
7 A. FDR, that translates into the Revolutionary Democratic
8 Front.
9 Q. What was your husband's role in the FDR?
10 A. I believe that he was one of the leaders because he was
11 the one who would come out and share all those photographs
12 with the other leaders, and since he had studied international
13 relations, he was in charge of the international relations.

14 Q. On November the 27th, 1980, Ms. Franco, tell me what
15 happened that morning.

16 A. In the morning, we got up, I prepared breakfast and we
17 had an appointment with an eye doctor. We were going to take
18 one of our children to the doctor. We had previously agreed
19 to do so, but he told me to change the time of the appointment
20 to another time because he told me he had to give a speech at
21 the school, at the external San Jose and well, then, we
22 couldn't take the child to the doctor.

23 Q. And then did your husband go to the meeting at the San
24 Jose School?

25 A. I don't know. I stayed at home with my children.

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DIRECT - ERLINDA FRANCO

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1 Q. What was the next thing that you heard about your
2 husband?

3 MR. FARGARSON: Excuse me, please, David, is
4 that is going to be hearsay?

5 THE COURT: I'm sorry. Let's talk about it
6 briefly at side bar.

7 (The following proceedings had at side-bar
8 bench.)

9 THE COURT: Certainly, Mr. Fargarson is right
10 that the question elicits hearsay, I think. I'm not sure
11 what she is going to tell us, so I'm not sure what the
12 response is anticipated to be.

13 MR. ESQUIVEL: Well, I think she is going to
14 say, you know, that she heard a radio broadcast that said

15 that the leaders of the FDR had been taken, and it is not
16 being offered for the truth of the fact that they had been
17 taken, but for her response and what she did afterwards.

18 THE COURT: Okay, I have to explain to the jury
19 that.

20 MR. FARGARSON: I think she could say that she
21 heard on the radio that he was dead, but I don't think she
22 can testify about a lot of other facts that was given on
23 the radio, about what someone said about the death and
24 things like that, but I think, David, it is all right for
25 her to be able to say that she heard on the radio that her

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1 husband was dead.

2 MR. ESQUIVEL: She doesn't have any personal
3 knowledge about it.

4 MR. FARGARSON: I know that.

5 MR. ESQUIVEL: About who was there. So it is
6 fine if she just limits it to she heard the announcement
7 and that caused her then to do something else.

8 THE COURT: Did she hear he had been killed or
9 that he had been taken?

10 MR. ESQUIVEL: Not in that first broadcast, she
11 didn't know he had been killed.

12 MR. BROOKE: She had indicated that the
13 national army --

14 THE COURT: Well, let me explain to the jury

15 that sometimes information is received not for the truth
16 of the matter, but because we need to know what they did
17 next.

18 MR. FARGARSON: Just so she didn't get into all
19 that other stuff.

20 (The following proceedings were had in open
21 court.)

22 THE COURT: The -- sometimes information is
23 received to tell us why somebody did the next thing that
24 they did. It is not received for the truth of the matter
25 contained therein. And an example of that is if the fire

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1 department received a call which said there's a fire at
2 the Orpheum Theater, and they went to the Orpheum Theater
3 and they get there and there's no fire, but they observed
4 something, they see something or they do something. They
5 could say I got a call that said there was a fire at the
6 Orpheum Theater, it doesn't mean there was a fire at the
7 Orpheum Theater, it means they got a call and said there
8 was a fire at the Orpheum Theater. This is the same thing
9 where if you hear something on the radio and, therefore,
10 you then take a particular action or you do something,
11 this is received for that purpose at this point in time,
12 so you may ask what she heard and hear what she heard
13 because we need to know that she got notice and she then
14 took another step, but it is not received again for the
15 truth. And always listen carefully for information that

16 is received. Sometimes the key thing is this is what I
17 was told, not that this is the truth, it might not be
18 accurate, it might be accurate, but I did something in
19 response to that. This is received not for the truth of
20 matter contained therein, but you may ask the question.

21 MR. ESQUIVEL: Thank you, Your Honor.

22 BY MR. ESQUIVEL:

23 Q. Ms. Franco, did you hear something later that morning
24 or that day about your husband and the other FDR leaders?

25 A. Yes.

♀

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1 Q. Where did you hear that?

2 A. At right about 1:00 midday, an acquaintance came to
3 tell me that she heard about the capture on the radio.

4 Q. And after she came to tell you that, what did you do?

5 A. I grabbed my four children, and I went directly to the
6 law school at the National University to look for anyone that
7 I knew to help me, because I was all by myself.

8 Q. Did you find someone at the university?

9 A. No one, they had all vanished.

10 Q. And what were you feeling at that particular moment?

11 A. Oh, I felt I could die.

12 Q. What did you do at that point?

13 A. I returned with my children once again to my house to
14 await news over the radio.

15 Q. What was the next thing that you heard about your

16 husband and the other FDR leaders?

17 MR. FARGARSON: Excuse me just a moment.

18 THE COURT: I think this is the same situation,
19 I think we're down to that point that counsel is inquiring
20 about, so I think we discussed this at side bar, am I
21 correct?

22 MR. ESQUIVEL: That's correct, Your Honor.

23 THE COURT: I think then this is that point we
24 arrived at, I think we can proceed.

25 BY MR. ESQUIVEL:

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1 Q. What was the next thing that you heard about your
2 husband, Ms. Franco?

3 A. Well, when I went home, I grabbed some things, I went
4 over to my parents' house, which was really close by, and
5 there with my parents and my sisters, we heard over the radio
6 that some bodies had been found on the road to Asino. Asino
7 is a location within the municipality of Ilopango, which is in
8 the department of El Salvador.

9 Q. Ms. Franco, did the report say whether your husband was
10 among the bodies that had been found?

11 A. No.

12 Q. Did you find out later whether -- what had happened to
13 your husband?

14 A. Correct.

15 Q. How did you find out about that?

16 A. On the radio, they said that the bodies were at that

17 place and that it was presumed that they were the leaders of
18 the FDR. They also said that we could go to the San Antonio
19 Funeral Home to identify the bodies. That was about three
20 blocks -- no, no, sorry, about some five blocks from the San
21 Jacinto neighborhood, which is the neighborhood where we
22 lived.

23 Q. And did you go to the funeral home to identify your
24 husband?

25 A. Yes.

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1 Q. When did you do that?

2 A. On the very same night of November the 27th.

3 Q. Who else was there?

4 A. At the funeral home or with me?

5 Q. Who was with you?

6 A. My mother.

7 Q. And who was at the funeral home?

8 A. At the funeral home, well, there were the bodies on the
9 ground, on the floor, and there was some men, men I have never
10 seen before, but I presume that they were policemen dressed in
11 civilian clothes, they were all around the funeral home and
12 also inside. And then when I saw those men that were staring
13 at us, well, it was just my mother and I. And then I deduced,
14 because on the radio they said men in civilian clothes --

15 MR. FARGARSON: Excuse me, Your Honor, I want
16 to object. This is hearsay.

17 THE COURT: Objecti on sustai ned.

18 BY MR. ESQUIVEL:

19 Q. Wi thout saying what you heard on the radio, Ms. Franco,
20 would you conti nue to describe for the jury the men in
21 civi lian clothes that you saw at the funeral home?

22 A. Well, I saw them, I looked at them, and they had these
23 scowls on their faces, and I began to scream at them, I cursed
24 them. And then my mother told me to calm down, so then I had
25 to calm down, and then, well, after that, I didn't stare at

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1 them anymore, well, because my mom was there, and she is a
2 very elderly woman at the time, and I didn't want to put her
3 in a compromi sing posi ti on.

4 Q. Why did you scream and curse at them?

5 A. Because I i magi ned that they had killed hi m.

6 Q. Di d you see your husband's body in the funeral home,
7 Ms. Franco?

8 A. Yes.

9 MR. ESQUIVEL: Your Honor, may I have
10 permi ssi on to approach the wi tness, please?

11 THE COURT: Yes.

12 MR. FARGARSON: David, is that --

13 MR. ESQUIVEL: That's the photograph from the
14 funeral home.

15 MR. FARGARSON: Your Honor, coul d we approach?

16 THE COURT: You may.

17 Why don' t you go ahead and take a restroom

18 break at this time? Why don't we make this a 15-minute
19 restroom break? We will come back in 15 minutes. Don't
20 discuss the case among yourselves, don't let anybody talk
21 with you. We will see you in 15 minutes. Thank you.

22 (Jury out at 10:25 a.m.)

23 (The following proceedings had at side-bar
24 bench.)

25 MR. ESQUIVEL: Your Honor, we want to introduce

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1 a photograph of Mr. Franco's body in order to demonstrate
2 what she will describe as the burn mark around his neck.

3 THE COURT: She saw his body?

4 MR. ESQUIVEL: She saw his body.

5 THE COURT: Sure. Any question?

6 MR. FARGARSON: Well, your Honor, I object. I
7 think -- I mean there has been statements -- there has
8 been testimony about it. That's highly, to me,
9 inflammatory.

10 THE COURT: I have gotten where I see so many
11 bad things -- I agree it is unpleasant, but I don't think
12 it is such a -- it is not so grotesque as to be
13 inflammatory.

14 MR. BROOKE: The probative value, Your Honor, I
15 don't know what it helps the trier of fact to --

16 THE COURT: It corroborates their theory that
17 there were marks around his neck because it shows it.

18 They want to show that he was killed in a particular way.

19 MR. ESQUIVEL: That's correct, Your Honor.

20 MR. FARGARSON: I just don't like it. Isn't
21 that a good objection?

22 THE COURT: I think that's a very good point,
23 but I think we probably have to let it come in.

24 MR. FARGARSON: I think Patty gets -- wonders
25 about some of my legal objections. She looks at me kind

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1 of astounded. I don't think she knows whether to take me
2 seriously or not.

3 MS. BLUM: Good point.

4 THE COURT: Well, there's a sound legal basis,
5 and -- but unfortunately I have to overrule the objection.

6 MR. FARGARSON: Anyway, we except.

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

8 MR. FARGARSON: 15 minutes?

9 THE COURT: Yes.

10 THE CLERK: All rise. This honorable court
11 stands in recess for 15 minutes.

12 (Recess taken at 10:26 until 10:45 a.m.)

13 (Jury in at 10:45 a.m.)

14 THE COURT: All right. You may be seated, and
15 counsel may proceed.

16 MR. ESQUIVEL: Your Honor, may I have
17 permission to approach the witness, please?

18 THE COURT: You may.
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19 BY MR. ESQUIVEL:

20 Q. Ms. Franco, I've handed you a picture, is this a
21 picture of what your husband looked like at the funeral home
22 when you saw him there?

23 A. Yes.

24 MR. ESQUIVEL: Your Honor, the plaintiffs move
25 this photograph into evidence as Exhibit 9.

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1 THE COURT: So received.

2 (Exhibit Number 9 was marked. Description:
3 Photograph.)

4 BY MR. ESQUIVEL:

5 Q. Now, Ms. Franco, the jury will have this exhibit and
6 all the exhibits to take back with them in their deliberations
7 and they will be able to look at it there, but would you
8 describe for them now, please, how your husband's body looked
9 when you saw him in the funeral home? And I'm sorry,
10 Ms. Franco, please take whatever time you need.

11 A. He was on the floor. He was lying north to south. He
12 was shoeless, and they had searched his clothes because his
13 pockets had been turned out. They had taken his shirt and
14 drawn it up to here. I could see four gunshot wounds, and I
15 saw -- on his neck, I saw he had signs of torture here.

16 Q. Ms. Franco, is that in the photograph, is that the line
17 that you are talking about you can see on his neck, is that
18 the mark that you're referring to?

- 19 A. Correct.
- 20 Q. What did it look like?
- 21 A. That scar appeared -- looked like -- appeared to be a
22 burn as if a metal strap had been placed here. Their faces
23 were very swollen, and here you could see two metal hooks like
24 the ones they use to make barbed wire.
- 25 Q. Ms. Franco, did you see the bodies of any of the other

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DIRECT - ERLINDA FRANCO

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- 1 Leaders of the FDR at the funeral home?
- 2 A. Yes.
- 3 Q. What did they look like?
- 4 A. They all had the same mark. They all had the wire
5 here. There was one -- there was one that they had sewn, they
6 had sewn here, and they had left the nylon behind. There was
7 another who they had cut off his genitalia in a concave manner
8 like this, and I saw his wife was there and I saw her placing
9 talcum powder here in this area, this part, and I saw her
10 covering him with newspaper.
- 11 Q. Did you see any other wounds on the bodies of the other
12 leaders?
- 13 A. Yes.
- 14 Q. What were they?
- 15 A. Gunshots. My husband had four gunshot wounds, and I
16 looked closely at one gunshot wound that he had in his mouth
17 here.
- 18 Q. Ms. Franco, how old were your children at the time of
19 your husband's murder?

20 A. The oldest boy was 12, the next boy was 10, the next
21 five, and then my little baby, four and a half months old.
22 Q. How did you explain this to your children, what did you
23 tell them?
24 A. I couldn't, I didn't tell them anything. They would
25 ask after their father. I never took them to the wake, nor

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1 any of that, until they got used to the idea that they would
2 never see him again.
3 Q. Were you ever able to explain to them what happened to
4 him?
5 A. Yes, when they were older.
6 Q. How were you able to make ends meet as a widow with
7 four children?
8 A. At the beginning, I had the help of my parents, but
9 once there was -- but there was one time when my mother told
10 me to leave the house. They were very scared, they were
11 scared that they would be killed too. And they were right, I
12 had to leave my house with my children. Then I was at home,
13 in another house with my children. So I searched for work and
14 thank God, the dean of the school of economic science, at that
15 time, he gave me his support, he gave me a job. And thanks to
16 him, I started working from that day onward at the University
17 of El Salvador. I have not stopped working for one single
18 day.
19 Q. Can you describe what effect this murder had on you and

20 your children?

21 A. The effect it had on me, well, I fell into -- I'm
22 sorry.

23 MR. ESQUIVEL: Your Honor, may we take a break?

24 THE COURT: I think we should take about a
25 10-minute break. We will be back in 10 minutes. We will

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1 Iet y'all be excused for 10 minutes.

2 THE CLERK: All rise. This Honorable Court
3 stands in recess.

4 (Recess taken at 11:00 until 11:15 a.m.)

5 THE COURT: Are you feeling okay?

6 THE WITNESS: Yes, yes.

7 THE COURT: We don't mind taking a break. I
8 waited a little longer so everybody could rest a little
9 bit.

10 THE WITNESS: We can continue.

11 THE COURT: We will bring the jury in.

12 (Jury in at 11:15 a.m.)

13 THE COURT: All right. You may be seated.

14 THE INTERPRETER: If it please the court, the
15 interpreter has some remarks from the witness' last
16 remarks pending interpretation.

17 THE COURT: Absolutely.

18 A. I fell into a state of depression, something that even
19 all the way to today's date, I have yet to be able to
20 overcome. I live with it right here.

21 BY MR. ESQUIVEL:

22 Q. Ms. Franco, I asked you a question and I want to give
23 you the opportunity to answer it, but only if you want to
24 answer the question. Would you like an opportunity to answer
25 that question?

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DIRECT - ERLINDA FRANCO

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1 A. Yes.

2 Q. What effect did your husband's murder have on you and
3 your family?

4 A. Our lives were completely ruined because we became
5 totally unprotected with no one's help, absolutely no one.
6 And as a consequence, you can understand the needs of a widow
7 with four children.

8 Q. Ms. Franco, why did you bring this lawsuit?

9 A. I brought this lawsuit because 23 years have passed
10 without the opportunity for justice, justice being done in the
11 case of my husband and in the case of the other gentlemen. I
12 got the opportunity for a lawsuit through a law firm, and I
13 have accepted with great pleasure.

14 MR. ESQUIVEL: I pass the witness, Your Honor.

15 THE COURT: Cross examination?

16 CROSS EXAMINATION

17 BY MR. FARGARSON:

18 Q. Ms. Franco, if I ask you any question that you don't
19 understand, I will be glad to stop and repeat the question,
20 okay?

carranza03.txt
21 A. Agreed, Mr. Attorney.
22 Q. And I don't have many, but I do have a few questions to
23 ask you about your situation, okay?
24 A. That's okay.
25 Q. You mentioned bringing this lawsuit.

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CROSS - ERLINDA FRANCO

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1 A. I don't understand.
2 Q. Okay. You were asked about why you brought the
3 lawsuit.
4 A. No.
5 Q. You weren't -- okay. Let me try to make it clear.
6 When did you first learn that you could bring a lawsuit in the
7 United States against anyone?
8 A. It was in December of the year 2003.
9 Q. So before the year 2003, you did not know that you
10 could bring a lawsuit in the United States?
11 A. No, I didn't know.
12 Q. Okay. Thank you. You found out that you could bring
13 the lawsuit because some law firm contacted you?
14 A. Correct.
15 Q. And is the individual or the person who contacted you
16 here in the courtroom today?
17 A. That is so.
18 Q. And who is that person that contacted you in 2003 about
19 a lawsuit in the United States?
20 A. The young lady, Attorney Almunena Bernabeu.
21 Q. Would you identify her in the courtroom, is that her?

- 22 A. Yes, that's her.
23 Q. But to make it clear, before she called you, you did
24 not know you could bring a lawsuit in the United States?
25 A. Correct.

†

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- 1 Q. All right. Thank you.
2 Now, I want to ask you when you went to the funeral
3 home and you saw the men that were there at the funeral home.
4 A. Yes.
5 Q. Were all of the men in civilian clothes?
6 A. Yes.
7 Q. Did any of them have any masks on their face or
8 coverings on their face?
9 A. No.
10 Q. Did any of them have on any sombreros or hats?
11 A. No, because, well, that's a funeral home, and it was
12 very late at night. I don't know, maybe if there was someone
13 with one who could be in the surrounding area, but it was very
14 dark there in that area called Barrio Candelaria.
15 Q. Were there any funeral directors or funeral personnel
16 there with you that evening?
17 A. No.
18 Q. Did any of the men at the funeral home that were there
19 when you got there have on any type of military uniform or
20 military equipment?
21 A. No.

22 Q. Now, do you remember when I took your deposition
23 previously in this case?
24 A. Yes, yes, I remember that we were, yes.
25 Q. Okay. And what was Nicolas Carranza's position in El

♀

CROSS - ERLINDA FRANCO

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1 Salvador at the time of your husband's death?
2 A. I believe -- well, since I wasn't interested in
3 politics, I think he was the head of -- I think he was the
4 head of the national guard or the vice-minister of defense,
5 something like that.
6 Q. Do you remember telling me in your deposition you
7 thought he was the head of the national guard?
8 A. Yes.
9 Q. Okay. Do you have any information that the national
10 guard was responsible for your husband's death?
11 A. No.
12 Q. Did you express an interest or -- let me take that
13 back. Did you say that you were not interested in prosecuting
14 the people that killed your husband, you were only interested
15 in the one that gave the orders?
16 A. No, I don't recall.
17 Q. Just a moment. Let me ask you if you remember this and
18 if you remember these questions and these answers.
19 MR. ESQUIVEL: Your Honor, I object to the
20 reading of deposition testimony. The witness hasn't said
21 anything inconsistent.
22 THE COURT: I simply need to look at it and see

23 if it is appropriate for use. Come around and I will take
24 a look. It could be handed up, but I think I better look
25 at it briefly at side bar.

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CROSS - ERLINDA FRANCO

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1 (The following proceedings had at side-bar
2 bench.)

3 THE COURT: I took the objection to be that the
4 question was not -- that the response was not an
5 impeaching response.

6 MR. ESQUIVEL: That's correct.

7 THE COURT: I just need to read it so I can
8 see, if somebody can show it to me.

9 MR. ESQUIVEL: To clarify the objection, there
10 hasn't been any evidence of inconsistent testimony.

11 THE COURT: That's what I mean. In other
12 words, you can't use the deposition just to read it, and
13 it has to be an impeaching statement, that's correct. You
14 have it, and I don't. It is hard on me.

15 Which question are we talking about? I will
16 let them identify it.

17 MR. FARGARSON: I may not have the right one
18 right there.

19 THE COURT: Was there a page reference earlier?
20 Page and line?

21 MR. ESQUIVEL: Not yet, Your Honor.

22 THE COURT: When you do that, there needs to be

23 a page and line reference so we're all on the same page
24 and line.

25 MR. FARGARSON: Well, this is what she said,

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1 that she wasn't interested in suing the individuals that
2 committed the murder, she was interested in only the one
3 that gave the order, if you read this on down. And I
4 thought I asked her that question.

5 THE COURT: Page 20.

6 MR. FARGARSON: I thought I asked her that
7 question, and she said no. Did I not ask that?

8 MR. BROOKE: You did.

9 THE COURT: Let's see. I'm trying to match it
10 up. I'm not sure what this means, that's what I don't
11 know.

12 MR. FARGARSON: Well --

13 THE COURT: Maybe I better let you tell me
14 which line it is, because I'm having -- I'm like you, it
15 is a little hard to make this match up.

16 MR. FARGARSON: Well, what I had asked her is
17 if she had -- I didn't ask this on the witness stand, I
18 just asked her in this question if she knew the people who
19 killed her husband, and she said yes, she did. I asked
20 her if she was interested in suing them if they were in.

21 THE COURT: The United States. Right. And
22 none of them are in the United States. I don't know. All
23 right. And if they were, with the intention to sue them.

24 If they were in El Salvador -- it says if they were in El
25 Salvador? No, if they were in the states. No. Why not?

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1 Because they merely received orders. Okay. Who did they
2 receive orders from?

3 MR. FARGARSON: From the intellectual author.

4 THE COURT: And I have a feeling that there's
5 an interpretation question going on there. Can you tell
6 me what you understand the election order is?

7 MR. FARGARSON: And then she said the author.

8 THE COURT: I think it is the author of the
9 order.

10 MR. FARGARSON: I think so.

11 THE COURT: The person who authorized the
12 killing. The one who gives the orders, tell me what your
13 understanding -- if there's a question --

14 MR. FARGARSON: Here is the point: I believe
15 what I asked her is if she was interested in suing the
16 people that killed her husband, and she said no.

17 THE COURT: Right. She said no, no. Why not?
18 Because they merely received orders, and that's -- I mean
19 you're entitled to show that she said no. I think she
20 said no already.

21 MR. ESQUIVEL: I don't think it is inconsistent
22 with her testimony. She has not said anything
23 inconsistent with what is in the deposition.

24 THE COURT: It is the same answer, so it is not
25 proper impeachment testimony. I have to sustain the

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1 objection. It was a little confusing for both of us to
2 read through this because of the translation. Okay. I
3 think we have sorted it out.

4 MR. FARGARSON: Then maybe I was a little
5 premature, I should have said why not, and get this --

6 THE COURT: Exactly, and see what she says.

7 MR. FARGARSON: And then that may plot
8 something out.

9 THE COURT: Exactly, if it differs.

10 (The following proceedings were had in open
11 court.)

12 THE COURT: Counsel may proceed.

13 BY MR. FARGARSON:

14 Q. Ms. Franco, I had asked you if you were interested in
15 suing the individuals who had actually killed your husband.

16 A. Of course.

17 Q. Well, I thought you just told me no.

18 A. I'll tell you something, Mr. Attorney, I believe you're
19 asking questions in order to confuse me. I apologize, but I
20 wish you would be a little bit more explicit when you ask me
21 these questions, because at this time, my -- I'm not in the
22 best -- I'm not in optimum state.

23 Q. Okay. Well, ma'am, I'm sorry, I'm not at all trying to
24 confuse. I thought it was a relatively simple question, and I

25 thought I had asked you were you interested in suing the

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1 individuals who had killed your husband and you had said no?

2 A. From the moment I am in this country it is because,
3 yes, I want to sue those persons.

4 Q. Okay. And do you know who they are?

5 A. I have no visual proof, I haven't seen anything, but
6 the investigations produce names.

7 Q. Now, in your deposition on page 30, I asked you a
8 question like that, and I asked you on page 20:

9 All right. If they were -- if they were -- and we're
10 talking about the individuals that killed your husband -- if
11 they were, would it be your intention to sue them as well?

12 Your answer was:

13 If they were in El Salvador?

14 And I said:

15 No, if they were in the United States.

16 Do you remember that?

17 A. No.

18 Q. You don't remember it?

19 A. I don't recall it.

20 Q. Well, do you deny that that is what you said?

21 A. I don't deny it.

22 Q. You don't deny it?

23 A. I don't deny it. I simply say that I do not recall the
24 question.

25 Q. All right. carranza03.txt
And then I asked you a question:

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1 Well, why not?

2 And what did you tell me your answer was to the why
3 not, you weren't interested in suing those individuals?

4 MR. ESQUIVEL: Objection, Your Honor. It's not
5 being used for impeachment.

6 THE COURT: Objection sustained.

7 BY MR. FARGARSON:

8 Q. Well, have you brought a lawsuit against anybody else
9 in the United States?

10 A. No.

11 Q. Only Mr. Carranza?

12 A. Yes.

13 Q. And is the reason you sued Mr. Carranza is because you
14 think he killed your husband?

15 A. Yes.

16 Q. Okay. And what evidence or proof do you have of that,
17 that he killed your husband?

18 A. I trusted the investigations that have been performed,
19 and from there, they show that there is information that he
20 was the intellectual author.

21 Q. Okay. Now, when you use the phrase intellectual
22 author, what do you mean?

23 A. That it was he who gave the order to kill.

24 Q. Okay. So you believe that Mr. Carranza, the defendant
25 in this case, is the one that ordered the death of your

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- 1 husband and the other five members of the FDR?
- 2 A. Yes, I believe that.
- 3 Q. Now, your husband was a member of the FDR?
- 4 A. Yes, Mr. Attorney.
- 5 Q. And was your husband a member of any other
- 6 organizations besides the FDR that you're aware of?
- 7 A. Yes, I knew of it and I knew of it through the
- 8 newspapers because that's where it was published.
- 9 Q. What other organizations was he a member of?
- 10 A. I also saw him in the paper in the picture where he was
- 11 a member of the General Association of Salvadoran University
- 12 students, the AGEUS was its acronym. I also saw him in
- 13 another photo of an organization called the DRU. I also saw
- 14 him in another photo founding an organization called the
- 15 Revolutionary Coordinator of the Masses. And from there, I
- 16 saw in the newspaper that they had founded the FDR.
- 17 Q. Was your husband sympathetic to the communist cause?
- 18 A. He was sympathetic for a change to take place in his
- 19 people, for his people and with his people.
- 20 Q. I believe my question was, was he sympathetic to the
- 21 communists.
- 22 A. I would imagine so. He never confessed it to me.
- 23 MR. FARGARSON: Hold on just a moment.
- 24 Your Honor, that's all the questions I have of
- 25 Ms. Franco.

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CROSS - ERLINDA FRANCO

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1 THE COURT: Certainl y. Redi rect?

2 MR. ESQUIVEL: Your Honor, I have no redi rect
3 questi ons.

4 THE COURT: Thank you very much. We will let
5 you step down.

6 (Wi tness excused.)

7 THE COURT: Who will our next wi tness be?

8 MS. BLUM: Your Honor, it is Cecilia Santos.

9 THE CLERK: Do you solemnly swear that the
10 testimony you are about to give the court and jury in this
11 matter to be the truth, the whole truth and nothing but
12 the truth so help you God?

13 THE WITNESS: I swear.

14 THE COURT: You may take the wi tness stand.

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DIRECT - CECILIA SANTOS

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1 CECILIA SANTOS,
2 was thereupon called as a witness on behalf of the
3 Plaintiffs, and having been first duly sworn, was
4 examined and testified as follows:
5 DIRECT EXAMINATION
6 BY MS. BLUM:
7 Q. Hi, Ms. Santos. Where is your current residence?
8 A. It's in Genoa, New York.
9 Q. And how long have you lived in the United States?
10 A. Twenty-two years.
11 Q. Where do you currently work? Where do you currently
12 work?
13 A. I work in an organization that is called, its name is
14 Centro Salvadoreno.
15 Q. And what does that organization do?
16 A. We provide information to the people about the right
17 they have in the United States. I'm talking about the
18 immigrant for Latin America, and we also do process through
19 the classes with the immigration, fill the forms.
20 Q. So what would your day-to-day activities in that
21 organization be like?
22 A. Well, it could be a little different from day-to-day.
23 Some day, you can see many people trying to know how they can
24 get any of the authorization to work in the United States, how
25 they can do any process to be legally here.

♀

DIRECT - CECILIA SANTOS

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- 1 Some other day, I had to accompany them to the
2 immigration office, and on weekends, we have meetings with the
3 community, where we give them the information and how they can
4 come in to work with the system, with the democratic system
5 because it's a difference than we know in El Salvador.
- 6 Q. And are you married?
- 7 A. Yes.
- 8 Q. And what is your husband's name?
- 9 A. Sifredo Santos. I can spell, it is S-I-F-R-E-D-O,
10 Santos.
- 11 Q. And what does your husband do?
- 12 A. He works with a landscaping company. He's a gardener.
- 13 Q. And how long have you two been married?
- 14 A. Seven years in January. More than seven years.
- 15 Q. And do you have any children?
- 16 A. Yes, I have a boy who is ten years old.
- 17 Q. So what grade is he in in school?
- 18 A. The fifth grade.
- 19 Q. And what is your immigration status here in the United
20 States?
- 21 A. I am a United States citizen at this moment.
- 22 Q. When did you become a U. S. citizen?
- 23 A. September, 1998.
- 24 Q. What was your date of birth?
- 25 A. June 3, 1953.

- 1 Q. So how old does that make you now?
- 2 A. Excuse me?
- 3 Q. How old are you now?
- 4 A. Fifty-two.
- 5 Q. Okay. And what country are you from?
- 6 A. From El Salvador.
- 7 Q. How many brothers and sisters were in your family
- 8 growing up?
- 9 A. We were a total of 11. I had six brothers and four
- 10 sisters.
- 11 Q. And where were you in the birth order?
- 12 A. The third one.
- 13 Q. You were the third child.
- 14 Could you tell us a little bit about the community that
- 15 you grew up in in El Salvador?
- 16 A. The name was Santa Lucia neighborhood. That's a worker
- 17 family neighborhood. I mean many of the people there work
- 18 with the government, some of it has different kind of jobs,
- 19 but it -- if they cannot afford it to help the basic thing at
- 20 that point.
- 21 Q. And could you tell us a little more about your family,
- 22 was your father employed?
- 23 A. He was employed with the government. He perform his
- 24 job as a mechanic. I think the name of the department is
- 25 public works in English. They take care of the roads and the

1 highways in El Salvador.

2 Q. And what kind of man was your father, how would you
3 describe him?

4 A. My father is a Catholic person, that raise us in
5 Catholic belief, very important principles, to have respect
6 for everybody, to be honest, to develop integrity and to be
7 always a good human being person.

8 Q. Can you give us an example of anything that you
9 witnessed as a child that exemplified these qualities in your
10 father?

11 A. Well, always we had to respect the older person. We
12 had to help anybody that we could, and the important thing is
13 to sustain your principle. If you see something is wrong,
14 something is not good, you had to do some things. And one
15 day, I was maybe nine or ten, when we saw a group of people
16 coming through the backyard of our house in the road, and
17 there was a lot of noises there, and we saw there were three
18 men tied with his fingers in the front of their bodies, and a
19 guard pushing them and beating them. And then my father --
20 everybody was crying say stop that, don't do that. But my
21 father told one of the guys there, stop that, you don't have
22 the right to beat these men, they're already tied. It he's
23 already detained, take it. And then the guy came and put the
24 rifle in the chest of my father. We ran to him, to his leg
25 and started to cry for him, and some of the people there say,

1 it is stupid like to do that, and then we finally said okay.
2 That's what I told you, I had to practice in my daily life.
3 Q. What did your mother do?
4 A. Take care of the children, the homemaker.
5 Q. Did you have -- what was your schooling?
6 A. My schooling, well, I -- at the last point, I was --
7 almost finishing my career in mathematics, I attend the
8 National University of El Salvador.
9 Q. Before you entered the National University, what other
10 schools did you attend?
11 A. Attend elementary, then go to the high school, and then
12 after that, you can apply to be at the university.
13 Q. What high school did you attend?
14 A. San National Institute is the name, the public
15 education in San Salvador, and it is close to the campus of
16 the university also.
17 Q. Were you a good student?
18 A. Well, I think so.
19 Q. And what year did you intend to enter the National
20 University?
21 A. Well, in one way to progress, to be somebody and to
22 help my family, to be a professional; and the only way to do
23 that is to study and to take a degree from the university, and
24 then the other point is it is not possible to do anything else
25 in that environment without receive a diploma, that's why I

- 1 decide to go to the university.
- 2 Q. What year were you supposed to enter the university?
- 3 A. 1972.
- 4 Q. And were you able to enter the university at that time?
- 5 A. Not then. The university was closed for the government
- 6 and then for the president at that time.
- 7 Q. And the president at that time was whom, do you
- 8 remember?
- 9 A. Colonel Arturo Molina.
- 10 Q. Do you know why the university was closed?
- 11 A. I think in those years was the first times you could
- 12 hear, you could read in the newspaper that the land reform is
- 13 going to happen in El Salvador, and then there was -- there
- 14 was a group of peasants having meetings at the campus of the
- 15 National University, and the government argue that that was a
- 16 focus for these subversal groups to go in there, to use in the
- 17 campus for that. And then they closed the university, and we
- 18 had to wait like a year to -- the door be open, and when the
- 19 university opened, then we got the surprise that we have
- 20 security in the campus, and every time you go inside to the
- 21 university, they had to -- they had a check point to search
- 22 your body, your bags, everything on your body.
- 23 Q. What year was it that you could return to the
- 24 university?
- 25 A. I could have returned in '73.

- 1 Q. And what did you say your department of study was?
- 2 A. Was mathematic, but it is the faculty of art and
3 humani ties.
- 4 Q. And were you also working at this time?
- 5 A. Yes. I started to work in that year, in '73 for a few
6 months, but I really got the full -- the full-time employment
7 in -- at the end of '74.
- 8 Q. And what organization were you working for?
- 9 A. With the ministry of education, is government offices.
- 10 Q. And what was your job there?
- 11 A. I had to work with figures of the education. My
12 department was the one to collect the information about the
13 students, about the school. Everything in the area of
14 education, I did it. Different level, we had that in El
15 Salvador. It is called department of statistics studies. I
16 have a little problem pronouncing that.
- 17 Q. So could you give the jury a sense of what your daily
18 life was like while you were studying -- studying and working?
- 19 A. Oh, yes. I had to get up early, around 5:00 in the
20 morning because I need to take the bus before 6:00 and to
21 travel for almost an hour. My job started at 7:30 and finish
22 at 3:30. And after that, I had to run to the university where
23 I started my classes in the afternoon through the evening, and
24 I came back to my home every day almost around 10:30 to 11:00,
25 then you had to go do your homework, the laboratories, you had

1 to do. It is almost everyday I could rest for four and a half
2 hours, and it ended there.

3 Q. What year did you -- how many years were you at the
4 university? You said you returned in -- you started in 1973,
5 how many years did you continue at the university?

6 A. Well, in 1980, I was still in the university, I could
7 not finish my career.

8 Q. How come you were still there in 1980 when you had
9 begun in 1973?

10 A. It is because one time I had to ask for time at the
11 university because I won a scholarship with the United Nation,
12 I think it is called United Nation in Education and Cultural
13 Organization, and I went to Chile, Santiago, Chile in South
14 America to study, take some studies about the census and how
15 to work with the figures to do prediction for the education in
16 El Salvador. That took me like a year, and by then, I had to
17 cut like at the University of Paraguay at the other year, and
18 in 1980, I was almost at the end, I was working already in my
19 thesis, but June of that year, 1980, the university was
20 invaded by the army, the Salvadoran army, guns, soldiers, it
21 was something heavy, helicopters around the campus invade the
22 facilities of the campus, and that was the end of my studies,
23 and many others, because at that time my career in mathematics
24 was only in the National University of El Salvador.

25 Q. During the time that you were a student, were you

1 involved in any organizations?
2 A. When I was in the university, yes, I was a member with
3 the group called the Association for Salvadoran University
4 Students.
5 Q. That was the same organization that was just mentioned
6 a moment ago?
7 A. Yes.
8 Q. Okay.
9 A. That the other lady mentioned. But the -- the specific
10 category was called the faculty -- the faculty directory, I
11 was member of the faculty directory of mathematic because we
12 were having many different kind of problems with our studies
13 and with the tests that the teachers were passing to us, and
14 in that way, what you can discuss -- discuss, excuse me, how
15 to deal with those kind of problems. The mathematical part of
16 the art in humanities faculty by the university authorities
17 want to pass that department and the department of physics and
18 chemistry to another faculties. Physics and mathematic, they
19 want to include to the engineering faculty.
20 Q. And what were the implications of that for you as a
21 student?
22 A. We were losing all the credits we already gained at
23 that time until this time and to lose part of your career.
24 You had to take new credits there. And I was like many
25 others, a student there, poor, that was important to get your

1 diploma. You don't have all your life to be at the
2 university.

3 Q. How did the organization organize itself or manifest
4 its concerns that you just expressed?

5 A. We had meetings to discuss what we need to do, what
6 kind of complaints we have. And in first step, we go to the
7 chief of the department of mathematic. If he does anything
8 there, then we can go and discuss with the dean of the
9 faculty. Since nothing happened there, one time we decided to
10 march from the department of mathematic to the offices to
11 where is the dean of the faculty. I think we were at that
12 time like maybe 40 -- around 40, 50 students that were in
13 mathematic four that were having problems and we took our then
14 complaint to him. Meanwhile, while we were marching, some of
15 the students in the back of the line were attacked by some of
16 those guys I mentioned before that was inside of the
17 university. They jumped down from one place with machetes,
18 this big knife, machetes, and they wounded some of them. And
19 they say there is -- that we have any right to do any kind of
20 demonstration there.

21 Q. Were you involved in any other organizations besides
22 the student organization?

23 A. In my job.

24 Q. And what was that?

25 A. At the end of 1979, we had a new ministry of education.

1 He was member of the new junta, the military and democratic, I
2 think the name is GEOTA, and we never have -- the workers at
3 the ministry never have health insurance. We have any kind of
4 coverage in health. We also did not receive payment when we
5 work overtime, and many times we had to do it because we had
6 to go to the schools and take their reports and spend the
7 whole day or maybe the night when you go to the site, but we
8 did not receive back the money that we had to spend there, and
9 then we were asking for that, but we had no compensation
10 there. We were told that we had not the right to have any
11 kind of organization because we were public employees. But
12 when this ministry came, he said, well, you can try to do what
13 you need to do. We founded then the Association of Employees
14 of the ministry of education.

15 Q. Did you ever attend any demonstrations?

16 A. With this organization?

17 Q. No, in general.

18 A. Yes, I attend some.

19 Q. How many would you say you attended?

20 A. I remember more or less exactly it had to be like
21 three. A big one once was when after many people was killed
22 in front of the step of the Cathedral, the Metropolitan
23 Cathedral in San Salvador, and we went to the bodies of those
24 people there. That was one.

25 Q. That was one. And can you remember the others?

1 A. Another one, I think it was something that was big, the
2 biggest thing. I think that was generally in 1980 when
3 everybody was calling, we like a member of that association,
4 waiting by to participate in that.

5 Q. Would the organizations that you worked with, did they
6 support groups that used violence?

7 A. You mean the Association of the Employees?

8 Q. Uh-huh.

9 A. No. In one, we were for the academic thing, and in the
10 other one, the -- trying to get better benefits for us
11 employees.

12 Q. Did you personally support the use of violence?

13 A. No, I don't.

14 Q. Were you aware at this time, this is the middle of 1980
15 who Nicolas Carranza was?

16 A. He was the vice-ministry of defense.

17 Q. Okay. And would you say -- could you tell the jury a
18 little bit about what your personal goals for yourself were at
19 this time, at the time the National University closed?

20 A. Well, at that point, I could continue working in the
21 ministry of education, but I also was planning to teach some
22 classes. I really wanted to finish my career because I also
23 need to help my family. It was few months before that my
24 father was also suffering some problems with the -- I
25 understand with his ear, but he lose the balance, and as a

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DIRECT - CECILIA SANTOS

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1 mechanic he was -- he had to make the decision to not continue
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2 working for a little while because the doctor prescribe him
3 that, but he did not receive any kind of compensation, then he
4 asked me and my older -- two older brothers that trying to
5 help the family, financially support the family.
6 Q. I would like to direct your attention to the events on
7 September 5th, 1980, do you remember how old you were on that
8 date, September 25th, 1980.
9 A. I was already 27-year old.
10 Q. Okay. And what did you do that afternoon?
11 A. After I finish my job -- then we have different
12 schedule, we were working from 8:00 to 4:00, and because the
13 university was closed, I had more time for me and for my
14 family, I decided to attend the birthday of one of my
15 classmates, and then I decided to go to a place that was
16 called Todos where -- I think that's where the -- Metro Centro
17 was the name of the mall, it is in the north part of San
18 Salvador, it was out to downtown, I work in downtown San
19 Salvador, and I had to take the bus to the other side to go to
20 that mall and to get something for -- for this child. I --
21 Q. When you say mall, what do you mean?
22 A. Well, because this was like a six or eight different
23 stores there altogether. It was the first place of that kind
24 at that time in the suburbs.
25 Q. Was it all open air?

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DIRECT - CECILIA SANTOS

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1 A. Yes, it was.

- 2 Q. And then about what time of day was this?
- 3 A. It could be before 5:00 because it was after I finish
4 with my job and I take the bus and go to the other side of the
5 city.
- 6 Q. Were you by yourself?
- 7 A. Yes.
- 8 Q. And what did you do when you got to the mall?
- 9 A. Well, I was walking, doing window, but almost
10 immediately, I had a pain. The doctor said beside -- before
11 that it was something related with gastritis, but I carry
12 pain, and then I need to take antacid, something, I decided to
13 stop at the cafeteria at the mall and ask for a cup of tea,
14 hot tea and sit there and wait. Meanwhile I was there, I went
15 to the bathroom of the cafeteria. I remember I went to the
16 last bathroom, toilet there because the other door was closed
17 meaning somebody was there.
- 18 Q. And what happened in the bathroom?
- 19 A. Well, when I was already at the sink trying to comb my
20 hair, because I always have long hair, have longer than this,
21 then I heard a sound.
- 22 Q. And what was the sound like?
- 23 A. It sounded like something is blow. Well, you can hear
24 boom. And if you were in those days in El Salvador, it was
25 that it was something common to happen anywhere, you can hear

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DIRECT - CECILIA SANTOS

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- 1 that kind of noise, you say, oh, there is something. But you
2 cannot -- I can't -- even though it happened, I cannot say

3 exactly where. The difference with this, the sound of a tire
4 when it blow up or something else.

5 Q. Did the sound -- did it seem like it was inside the
6 bathroom or outside the bathroom?

7 A. Really, I'm trying to remember. Since that day until
8 now, I cannot say exactly, just up, up something, up there.

9 Q. And then what happened?

10 A. Almost immediately, one man push the door, and the
11 other one in back of him. And the first one said what
12 happened here, are you planning to put the bomb, and I saw him
13 and I was, no, no, I don't. And just the other one that was
14 in the back of him said she is planning to do it. Almost
15 immediately when they open the door, people outside was also
16 around the door.

17 Q. What people are you referring to?

18 A. I mean the people that were -- the shoppers that were
19 around.

20 Q. Were the men dressed in any particular way?

21 A. Yes, he had the uniform the people use in that mall.
22 It was -- I think they use blue like pant and light blue
23 shirt.

24 Q. What people are you referring to?

25 A. The security guards of the mall.

♀

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1 Q. And did you notice whether they were carrying any
2 weapons?

- 3 A. No, I don't remember.
- 4 Q. Okay. Then what happened?
- 5 A. And then they almost immediately says, you know, come
6 with us because we have to take you to the administrative
7 office. The people around this said this is crazy, they act
8 crazy, it is nothing. That happens somewhere else, not the
9 sounds. But they took me to the ground level. This was the
10 administrative office of that mall.
- 11 Q. Did you know anything about a bomb? Did you have any
12 information about a bomb in the mall?
- 13 A. No.
- 14 Q. Who else was present when they took you down to the
15 offices in the mall?
- 16 A. In that office, it was a man, the back side of a big
17 desk, and the two men that took me, one of those two men told
18 him we bring this woman here because we had the suspicious
19 that she is planning to put a bomb in the mall. And then the
20 guy there say uh-huh, okay, let me hold. He went to the
21 corner of the room and take the telephone, and he did a call.
22 I don't know who he called. He was not close to me.
- 23 Q. And what happened next?
- 24 A. And then he talk to the other two men to leave me there
25 in his room because he is going to take care of me. Then one

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- 1 of the guys put something in the desk and say I leave this
2 with you, this belong to her.
- 3 Q. And what was that, could you tell?

4 A. It was a box of cigarettes, the package.
5 Q. Did you smoke?
6 A. No, I don't.
7 Q. Uh-huh.
8 A. And he left that there. The other one said okay. We
9 wait there, I cannot tell you exactly how long, because since
10 the moment the guy say you are this and because you are trying
11 to do something subversive, I could feel more than scared, you
12 know, I didn't know at that point what is going to happen to
13 me.
14 Q. Uh-huh.
15 A. The man there was telling some kind of thing like,
16 okay, lady, who paid you to do that, what do you really do,
17 what are you doing here. Meanwhile, we were waiting for
18 somebody.
19 Q. So then what happened, who arrived?
20 A. And a minute after that, two men came.
21 Q. And how were they dressed?
22 A. With those civilian clothes. None of them has any kind
23 of uniform, and one of them say we came from the corporation.
24 Oh, that's right, say this is that lady and took this, that's
25 the guards gave me.

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1 Q. And then what did they do with it?
2 A. And immediately we left the office and went to the
3 street, and those men stop a taxi cab, and we went into the

4 taxi .
5 Q. How were you seated inside the taxi cab?
6 A. There are three guys, two men and myself sit in the
7 back of the taxi cab. I was in the middle and one was here
8 and the other to the other side.
9 Q. And where did you drive?
10 A. They drive to a narrow in that road close to there, and
11 one of the men on this side, I think he ask me how many
12 brothers and sisters do you have. I say I have 10. Oh,
13 nobody will miss you, it's one less.
14 Q. And what were you feeling at that point?
15 A. And we went down that road, and I only could think this
16 is the end, and I could see that face of the guy of the taxi
17 driver, he put his face down and saw me with a lot of sadness.
18 I don't know what kind of face I had at that moment, but he
19 saw me in that way. And this guy was watching the shoulder,
20 and then at one point, this guy make a sign to the taxi driver
21 to continue, because at one point he was saying we can take
22 you out, you can -- we can leave your body here or anywhere.
23 After that, we continued down the road and we went to the
24 downtown San Salvador, and we were at the corner of the
25 national police headquarters.

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1 Q. How did you know it was the national police
2 headquarters?
3 A. I had to pass by there by bus everyday. Every day my
4 bus going to my home had to go through that way where it was

5 the national police, it is big and it has the name -- the name
6 of that.

7 MS. BLUM: Excuse me, Your Honor, this is kind
8 of a natural stopping point before we get into this phase.

9 THE COURT: That's a good idea. I think that's
10 a good idea. We probably could use a longer break for
11 lunch. The lawyers are working and the staff, so we're
12 going to take a break until 2:00. It does wear out
13 everybody, particularly our staff, we need to give them a
14 little rest. We ask you to come back at 2:00. You have a
15 fairly long break. Don't let anybody talk with you. We
16 will see everybody at 2:00 this afternoon, and we will
17 stay a little late again like we did yesterday.

18 THE CLERK: All rise. This honorable court
19 stands in recess until 2:00 o'clock.

20 (Recess taken at 12:25 until 2:00 p.m.)

21 THE COURT: Do we have everybody?

22 COURT SECURITY OFFICER: Yes, sir, we're ready
23 to go.

24 THE COURT: Are you ready to proceed? All
25 right. We can bring the panel in.

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1 COURT SECURITY OFFICER: Yes, Your Honor.

2 (Jury in at 2:00 p.m.)

3 THE COURT: All right. You may be seated and
4 counsel may proceed.

5 BY MS. BLUM:

6 Q. Ms. Santos, at the time we took the break for lunch,
7 you had told the jury that you had just arrived at the
8 national police headquarters, is that correct?

9 A. Yes.

10 Q. And you had been driven there in a taxi with two plain
11 clothes gentlemen, is that correct?

12 A. Yes.

13 Q. When you arrived -- how were you feeling at that point
14 when you pulled up to the national police headquarters?

15 A. I was scared, and also I feel anguish because I didn't
16 know what is going to happen then.

17 Q. What did happen when you arrived at the national police
18 headquarters?

19 A. One of the men left from the car, I don't know where.
20 And only one man took me to the car to the main entrance of
21 national police headquarters.

22 Q. So you walked into the national police headquarters
23 with one of the men, is that correct?

24 A. Yes.

25 Q. And when you got inside the building, what did you see?

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1 A. When we went there, it was a soldier standing up at the
2 door, and back him was front desk with another man with
3 uniform.

4 Q. What type of -- excuse me, what type of uniform was
5 that gentleman wearing?

6 A. A green one that the soldier use, it is green, and the
7 man that was with me told to the man at the desk that he
8 brought me there because the other person thought that I was
9 planning to put a bomb, that's what he says. And the guy at
10 the desk says it doesn't look like. That's what I was told
11 says the other man. Says I don't need to take her, and for a
12 little while, he was thinking and says go to the second floor.

13 Q. So the man who was behind the desk in the uniform
14 directed the man who brought you into the national police
15 headquarters to take you up to the second floor, is that
16 correct?

17 A. Yes.

18 Q. And where were you taken on the second floor of the
19 national police headquarters?

20 A. Okay. We went to the second floor, and it is like half
21 a moon, and we went to this side, to the left side, and we
22 went up the step, went to one office there, the same man with
23 me told to the other one again that I was -- I had to be
24 arrested or I was arrested, something like that, because he
25 kept saying she was planning to put a bomb, and the other guy

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1 saying no, you are crazy, no, I don't. And then he says, oh,
2 maybe you can take her to the Caines.

3 Q. So after you came up to the stairs on to the second
4 floor of the national police headquarters, you stopped in an
5 office, and then you were directed to an office called Caines,

6 is that correct?
7 A. Yes, that's the word, I think it is spelling like
8 C-A-I-N-E-S.
9 Q. Did you know what that meant at that point?
10 A. No, I don't.
11 Q. Did you have any idea what that meant?
12 A. No.
13 Q. Did the man who took you to the -- did the man then
14 take you down to the Caines office?
15 A. We walked around the half moon to the other side, and
16 we went to another office there, and he says sit there outside
17 the office, and he went inside where there was several desks,
18 and you could hear different voices. He went in and went to
19 talk with somebody.
20 Q. When you were walking from one end of the half moon to
21 the other end of the half moon, did you see any other men in
22 the hallway?
23 A. Oh, yes, there were walking many, one with the uniform
24 also, they were green, and the other with the uniform of the
25 national police that was dark brown pants and brown shirt,

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1 they were walking around.
2 Q. And at the office that you knew as Caines, how were the
3 men dressed?
4 A. With civil clothes, nobody has uniform there.
5 Q. So you were waiting outside the door of the Caines, is
6 that correct?

7 A. Yes, in a chair. I was sitting in a chair.
8 Q. And during that time that you were waiting, what were
9 you feeling?
10 A. I can say the same, so anguish, and it was growing like
11 panic, that feeling that -- because all of them, the men there
12 didn't have uniform, and the guy that came to me left and said
13 they will take care of you.
14 Q. So you were left at this Caines office at that point?
15 A. Yes.
16 Q. Where were you taken next?
17 A. A man -- young man came from inside that office, around
18 the desk, and he was like in his early 20s, he has blue
19 T-shirt and jeans, blue jeans. And he says, first of all, we
20 need to go to the next office. The guy in it was here, we
21 went to the next office. There, they took my purse and asked
22 me for other belongings like my watch, and I took out
23 everything I have in my purse, and they make a list of the
24 things there, and I gave them back. They said you will leave
25 these in deposit in that office. Then we went back to the

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1 office of the Caines, and the guy told me to wait a little bit
2 there, and he went inside. When he came back, he brought a
3 piece of something like a bandanna and he tie me, blindfold,
4 and he say, okay, now, you take my arm and we are going to
5 walk.
6 Q. So the young man in the blue shirt and blue jeans tied

7 a blindfold around you, and then he directed you that he was
8 going to take you to another location, is that correct?
9 A. Yes.
10 Q. And could you describe to the jury exactly how you
11 moved to another location with this young man?
12 A. Yes. We walk from that office a distance more than the
13 other office I left my purse, we walking, and then we went a
14 step down like the first floor, we walked down to another
15 level after the first floor. And in a little while he say,
16 okay, you need to jump to here, and he take my hand, a good
17 size how high it was we have to jump.
18 Q. So you had to jump over like a little wall to get to
19 another side?
20 A. Yes.
21 Q. Okay.
22 A. And I said I can't. Okay, he say let me help you.
23 Then he took me from my waist and helped me to jump there, and
24 he say sit there, wait for me. He jumped also there, and he
25 say, okay, we are going to walk, take me from my belt here,

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1 but we had to walk incline. You cannot stand up because you
2 can hit your head.
3 Q. So, Ms. Santos, so at that point, he had directed you
4 to climb over a wall and then he went to the other side, took
5 you over the wall, and then directed you to hold on to his
6 belt and stoop over to walk forward, is that correct?
7 MR. FARGARSON: Your Honor, excuse me,

8 Ms. Blum, I don't mind some leading, but I would
9 appreciate it --

10 THE COURT: Okay, that's not appropriate. We
11 will talk about it at side bar. Can't have that -- they
12 can never talk to each other directly in front of you, you
13 never know what they might say at some other occasion, so
14 we don't let that happen.

15 (The following proceedings had at side-bar
16 bench.)

17 MR. FARGARSON: I apologize.

18 THE COURT: I think the objection was just to
19 leading, and all you have to do is say leading. I would
20 have sustained your objection.

21 MR. FARGARSON: I'm --

22 THE COURT: I would have sustained your
23 objection.

24 MS. BLUM: Yes, I'm sorry, at that point, I did
25 rephrase what she was saying at that point.

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1 MR. FARGARSON: But you're repeating everything
2 she is saying, and that ends up just being repetition.

3 THE COURT: And also it can constitute leading,
4 so I agree with you, we just can't have a --

5 MR. ESQUIVEL: I'm trying to be sensitive to
6 actually just repeating what she is saying and not leading
7 her simply because of the English accent.

8 THE COURT: If on occasion there is a
9 misunderstanding and she needs to explain to the
10 interpreter in Spanish so he can interpret, that is an
11 appropriate procedure, so we can do that, but I sustain
12 Mr. Fargarson's objection to simply rephrasing and leading
13 because it is not her words, and we don't know that it is
14 her words. I think we -- does that help any?

15 MS. BLUM: Absolutely. I understand.

16 THE COURT: You might tell her on occasion if
17 it is hard to express it in English or if she is unsure,
18 she may ask the interpreter.

19 MS. BLUM: Would you like me to suggest that to
20 her now or would Your Honor like to suggest it to her
21 because I think that there are some times when I think she
22 is grasping for a word, it is not --

23 THE COURT: I agree.

24 MS. BLUM: -- that the word comes naturally to
25 her.

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1 THE COURT: I agree completely, and I think you
2 can direct her, that is a clear thing. I would let either
3 side direct her, and you can direct her to the
4 interpreter, that's okay. I will tell the jury that -- I
5 will tell the jury that you or Mr. Fargarson may, if there
6 appears to be a question about communication, to direct
7 the interpreter to make sure we have a clear
8 understanding.

9 MS. BLUM: That's fine.
10 MR. FARGARSON: I don't mind a short
11 clarification like did you say this, but --
12 THE COURT: Oh, no, no, I sustain your
13 objection, I agree with you.
14 MR. BROOKE: You attempted to summarize it a
15 little bit, and that's all.
16 MR. FARGARSON: I know you didn't mean
17 anything, that's okay. Some of them help me understand
18 what she was saying too.
19 (The following proceedings were had in open
20 court.)
21 THE COURT: I think we agreed on a procedure
22 that may help us all in this process. I did sustain the
23 objection because you cannot lead or rephrase and then ask
24 for an acquiescence, because that is leading, but I think
25 that what we were all trying to get to is where there may

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1 be a misunderstanding between the English and the Spanish.
2 Of course, I know our witness is speaking in English, but
3 your first language is Spanish. I will allow the
4 attorneys for both sides when they are examining to allow
5 you to ask the interpreter for a clarification. So if
6 you're unsure of what they have said -- and is this
7 satisfactory to our interpreters?

8 THE INTERPRETER: Qui te.

9 THE COURT: If you are unsure of what has been
10 said or the meaning in English -- and I know you speak
11 English well, but that will allow you to get a
12 clarification, and if Ms. Blum or Mr. Fargarson is unsure
13 about your understanding of it in English, they can ask
14 the interpreter to also interpret it in Spanish so that we
15 have a clear understanding of the question. Is that a
16 satisfactory procedure?

17 MS. BLUM: Yes, of course, Your Honor.

18 THE COURT: We will do that, and that may help
19 us all a little bit. Thank you very much.

20 BY MS. BLUM:

21 Q. Ms. Santos, I think we left off at the point that the
22 young man in the blue shirt had -- was taking you forward,
23 could you continue with where you were taken?

24 A. Yes. He told me to take him from the belt. I was
25 behind him, and we walking through, it sounds like it was a

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1 tunnel because the voice has echo. We walk in that for a
2 little while. At the end, he say be careful with your step
3 because there are some people here and follow my step. And
4 then we walk through the -- like bodies there, people laid
5 down on the floor, and we walk through that. It was a large
6 room, and you could hear crying, men crying; and we walk to
7 the end of that, then we went up few -- a step-up, and at the
8 end of that we went to a room where they asked me to sit in
9 something that was a small desk, like a desk we use at the

10 school, a small one.

11 Q. Ms. Santos, what did the sounds sound like that you
12 said you heard?

13 A. Crying, maybe -- sinetos (spelled phonetically).

14 THE INTERPRETER: Sinetos?

15 THE WITNESS: Yes. You are saying something
16 like ah, ah, ah.

17 THE INTERPRETER: Groans, complaints.

18 BY MS. BLUM:

19 Q. Now, you said at this point, you were in a room with a
20 small desk, is that correct?

21 A. Yes, after that, we were there.

22 Q. And where did you sit?

23 A. There, I sit in the desk, and the other -- the guy with
24 the blue shirt sit in the other, and almost immediately I hear
25 more voices.

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1 Q. Excuse me one second, you said that the man with the
2 blue shirt sat in another, was there another piece of
3 furniture in the room?

4 A. Yes, it was another desk.

5 Q. And how did you know there was another desk there since
6 you were blindfolded?

7 A. Well, I knew it at the end, I didn't know at that
8 moment. I knew it when they took the blindfold off. The only
9 thing I could heard was a typewriter there in that -- in front

10 of me with him.

11 Q. And you sensed that there were other people in the room
12 or you heard other voices in the room at this point, is that
13 correct?

14 A. Yes. When the men with the blue shirts say, okay,
15 we -- I am going to ask you different question and, please,
16 answer me the same way he did the question. Then I could feel
17 one hand here, and then I feel the other hand, and on this
18 side, and they say be good, you can tell him. He ask a
19 question about my name, where I live, then they want my
20 father, how many brothers and sisters I have, what do I do,
21 where I work, what I am studying, the names of my co-workers,
22 the names of my classmate. And the men -- both men say, okay,
23 collaborate with us. I was telling them that I was working at
24 the ministry of education, also I was a student at the
25 university. Then one of them says you are subversive because

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1 you are teacher, but also you go to the university. And they
2 are -- it is full of subversive at the university.

3 Q. Were there just three men in the room at this point?

4 A. No. There was four boys that one of them started to
5 say they licenciado is asking you to cooperate, and then the
6 men that was naming like licenciado, that's -- licenciado is a
7 title in El Salvador that you get at the university, but it is
8 also an expression used many times, like that you want to give
9 some kind of deliver to the person and you don't want to say
10 sell, but it is something else. It has some kind of hierarchy

11 sometimes, that it refers in that way to another man there.
12 And then this man what they called the licenciado says, yes,
13 you have to be sure, you have to be cool and everything is
14 going fine.
15 Q. Were any of the men touching you at this point?
16 A. They had started -- first of all, yes, one. Each of
17 them, the hands like they was sobbing me, going, you see, help
18 us, you have to cooperate, and when they putting their hands
19 down on my body, I said please don't touch me, don't do that.
20 And then they just started to ask me for names of the people
21 that had -- that could be leaders, they always say subversive,
22 give the person of the bosses, give the names of the leaders.
23 And when I answered I don't know, I don't know anybody, and
24 then they were touching me more, they were spreading my legs,
25 they were pressing my buttocks at the legs, the breasts also.

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1 And for a little while, I was almost crying, and they stop.
2 At one point, they just stopped the questions.
3 Q. Did they leave the room at this point?
4 A. Everybody leave the room. I was alone in the room.
5 Few minutes after, they came back again and then they say,
6 okay, you don't want to cooperate with us, and -- but here we
7 make the men to tell us the truth. We have the ways to get
8 this. I could hear their cries, a loud cry by a man that was
9 in another place, I don't know if he was close to my room or
10 far away, but I could hear the hi in a high voice, I really

11 felt scared when I heard that. And in front of my desk, they
12 put something, put something, and I couldn't see, but the guy
13 in front of me pulled up a little bit of the blindfold and put
14 something inside my nose, and they say that hurt. I can feel
15 the pain in the head. That's acid, he says, and I felt like
16 they drop something in the hand. When I felt my hand was
17 burning, then I shake it. It was like the liquid went through
18 my fingers, and the guy say yes, that's the acid -- subversive
19 juice to prepare the bones.

20 Q. Were they asking you any questions at this point?

21 A. It was the thing going altogether, one man say that,
22 the other on this side give the names of your bosses or your
23 friends and it's going to be easy, and then, okay, let us
24 check with this, because this is something that we will know
25 if you are telling us the truth.

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1 Q. What did that mean?

2 A. And then I felt like the man from this side put my hand
3 in something, I feel like wires to here, metal, and another
4 man take this and put a stethoscope here, and they put a
5 little bit -- pull it up a little bit there, the blindfold,
6 and said look at that picture, do you know them.

7 Q. So your -- one arm was on some sort of metal wire and
8 the other arm had a stethoscope at the same time you were
9 looking at pictures, is that correct?

10 A. Yeah, they asked me to do that, and I started to feel
11 electricity in this, and I started to cry to say that the

12 wires was heavy, the electricity, and the guy here says no,
13 it's not. I am checking you, you are okay. And they put like
14 three more -- I don't remember if it was four or six different
15 pictures they show me on the table.

16 Q. What were the pictures of?

17 A. It was a group of people like students. One or two of
18 them like picture taken at demonstration in a march, and the
19 other people, six, many people, six, seven faces, all of them
20 young in those pictures, but I didn't know any of them.

21 Q. You didn't recognize anyone in any of the pictures?

22 A. No.

23 Q. What happened next?

24 A. Well, that thing with the electricity, then the same
25 way is they were ready, broke my blouse and I could feel the

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1 hands in my breast. At one point they put in -- in my nipple
2 that thing with the electricity.

3 Q. The electricity shock to your nipple, is that correct?

4 A. Yes. And also one of them pulling up my lip and put
5 one of those things in my gum. And at that moment, I don't
6 remember what they do then at that point, I couldn't speak. I
7 just was crying, and I don't know how long it take, but it is
8 at one point I could feel the hands pressing my breasts,
9 sticking my leg, and my skirt was already open and up, and
10 they just started -- I say don't do that, don't do that, they
11 started to make jokes, they started to laugh about me, that I

12 didn't have enough body, they could not -- I would prefer to
13 say this in Spanish. They started to say (speaking in
14 Spanish.)

15 THE INTERPRETER: That's when they said that
16 woman doesn't even have an ass to be able to fuck her.

17 A. In the middle of all of that, I feel like they pull
18 down to the desk, and I felt that something went inside of my
19 vagina, something that hurt me like a stick, metal stick, and
20 they were laughing, just -- that's nothing, that's -- they --
21 they stop again and they left the room.

22 BY MS. BLUM:

23 Q. So they inserted something into your vagina, is that
24 correct?

25 A. Yes.

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1 Q. And then -- it felt like what type of object?

2 A. I feel like a piece of metal stick, a small thing
3 because I could hear it when they threw it, the sounds like
4 metal was dropped. And only one man stay in the room, the guy
5 with the blue shirt, and I told him to please give me
6 something for the pain and take me to the bathroom. Okay, he
7 say I'm going to do that, but you have to help us, you have to
8 help us. Then he took me to the bathroom with blindfold, and
9 at the bathroom, then he take a handkerchief, that's the word,
10 and put my -- one side through the door, he put my hand with
11 it, you have to be in that way, I will stay here and you can
12 do what you need to do. And there also, I could see, then I

13 moved -- when I have these hands, I move a little bit more.
14 The thing here was already a little loose because after they
15 pull it up, and then I could see that they was -- all the mens
16 in the floor there. When I finish with the bathroom, we went
17 back to the room, and he went out and came back with a glass
18 of water with something, and I drink it.
19 Q. And he gave you some medicine, is that correct?
20 A. Yeah, he brought a pill and the water. Then -- okay, I
21 stayed there.
22 Q. On your way to and from the bathroom, did you see
23 anything or hear anything?
24 A. I saw the man that I said was laid down on the floor
25 and when I went back, I could see other men were walking

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1 around. They had wood, they had dark brown pants, and they
2 talk to each other like, hi, how is it going, something like
3 that with the other guy that they shared, but they walked this
4 close, and a few minutes after that, the man came back, came
5 back, and I -- they talk in between them a little, went again
6 back out.
7 Q. And at this point, you were alone in the room?
8 A. I was leave alone in the room, and I was laying on the
9 desk.
10 Q. You put your head on the desk?
11 A. Yes, I was laying a little bit. When I heard the
12 noise, the banging at the desk, and then this guy came and

13 took off my blindfold.
14 Q. And what did you see when he took off the blindfold?
15 A. When I opened the eyes, there were two men, the guy
16 with the blue shirt and another guy with a cover, with a mask,
17 I could see only the eyes of them.
18 Q. Are you talking about a ski mask, that type of mask?
19 A. They cover everything, your face, you only see the
20 eyes. And they asked me to go to the wall, and the guy with
21 the camera took the picture.
22 Q. Were both men wearing masks at this point?
23 A. Yes, they were both wearing masks.
24 Q. But the man you had seen from the very beginning in the
25 blue shirt who had been there throughout was wearing a mask at

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1 that point?
2 A. I saw his face, but that morning at that point, he has
3 a mask.
4 Q. All right. Go ahead, what happened after your
5 photograph was taken?
6 A. When the guy took the picture, then they tell me to sit
7 back and, again, he wrapped -- they blindfold me and they
8 left. I stayed, it is hard to figure out how long. Ten
9 minutes, you feel like that is the eternity there, but they
10 came back, and I could here three voices, the same three
11 voices that was in the hall through the night, and then they
12 told me that I need to sign my confession, and just you had --
13 they said to have the blindfold loose enough to see the paper

14 in my desk. I say I can't, physically. I couldn't, I had the
15 blister already growing in my hand, had all here, the blister.
16 And the guy -- the second guy I could see his arm, it was like
17 my color, and he say I can help you, don't worry about.

18 Q. Could you see the paper or had your blindfold been
19 adjusted?

20 A. Yes, it had been adjusted, and the thing was here, this
21 is under here, the paper was here, and he say he's going to
22 help me. Then he put the pen in this, because I didn't have a
23 blister here and he led me to --

24 Q. What was on the paper?

25 A. It was a blank piece of paper, nothing.

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1 Q. There was no writing on the paper at all?

2 A. Nothing. That's why, first of all, I say I cannot, but
3 I also say but it's nothing here. Okay. Remember where you
4 are. This is the national police headquarters, and we are the
5 power. If you don't want it, you already receive -- he said
6 it is something like a desk that I got, all the things that he
7 did. I say -- I was -- at that point I say okay, I am alive
8 already here, but I don't know what going on in the next -- I
9 don't know what's the next step.

10 Q. So what --

11 A. So I took the paper with the help of the guy, and I put
12 my name at the end of that piece of paper.

13 Q. So in the end, you did sign the paper that they had put

- 14 in front of you?
- 15 A. Yes, I did.
- 16 Q. So why would you sign a blank piece of paper?
- 17 A. Because I felt like I have no choice, because I want to
- 18 stay alive.
- 19 Q. Did they tell you you were being charged with a crime?
- 20 A. No. All the time, they only ask me about names of
- 21 people, and they would say because I work in the ministry, I
- 22 am a teacher and I am a student, if I am that, I have to be
- 23 subversive because those are the people who can think and he
- 24 can go in those kind of groups.
- 25 Q. After you signed the blank piece of paper, what

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- 1 happened next?
- 2 A. Then they left and I lay down on the desk, I was so
- 3 tired. Maybe it was already was early in the morning, but the
- 4 guy with the blue shirt came back and sit beside me and say,
- 5 you know, I understand this is hard, but it is also hard for
- 6 me because I'm going to the university too during the day, I
- 7 am a student, and I have to come back at the evening, do my
- 8 job here, I spend the nights here, and I am married, I have a
- 9 wife, and I don't know who is taking advance of me, maybe my
- 10 wife can find -- I know there are men there and I am here just
- 11 doing that because you know that way. He also started to make
- 12 some kind of jokes, and then he say but you can help me and
- 13 tell me the names, that is going to be easy for you, and it is
- 14 easy for me to understand you don't want to tell the name of

15 anybody, but maybe they tell your name.

16 Q. What was your perception of what he was trying to
17 accomplish in this conversation?

18 A. At one point, I feel like he was trying to -- well, he
19 gave me the pill, he took me to the bathroom, I say, well,
20 he's trying to help me because I am so -- so sad in my
21 anguish. But when he is starting another way to make those
22 questions, then he is in a friendly way, but he also want I
23 accept something, because I said I cannot accept anything
24 because I don't know. What I do every day, and I start to
25 repeating him all the time the problem I had to face every

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1 day. Okay. He say at one point, we have to go, and then we
2 went out to that room.

3 Q. You left -- excuse me, you left the room in the company
4 of the man in the blue shirt?

5 A. With him.

6 Q. Okay.

7 A. With the guy in the blue shirt, we went through the
8 opposite side which we came. And then we stepped down, and
9 when I went to something like a booth like a third floor, then
10 he took off the blindfold, and I could see he has a bunch of
11 papers and gave to the man that was in that booth.

12 MR. FARGARSON: Excuse me just a minute, can we
13 approach?

14 THE COURT: Sure, that's fine.

15 (The following proceedings had at side-bar
16 bench.)

17 MR. FARGARSON: There's one issue that may come
18 up shortly. When she goes to the individual and somebody
19 says she's in the deposit of the ministry of defense, and
20 I object to that on the grounds of hearsay.

21 MS. BLUM: Okay, it is actually not coming up
22 this second, but it is coming up probably within the next
23 five minutes. That phraseology is coming up in the next
24 five minutes.

25 THE COURT: The objection is hearsay.

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1 MS. BLUM: And I believe it comes clearly
2 within the 803(1) exception for, you know, it is the
3 circumstances that are going on at the time, and she --
4 somebody is telling her exactly what he's doing. He's
5 perceiving the event that is happening right then, which
6 is delivering her and stating, you know, the basis for his
7 delivery of her.

8 MR. FARGARSON: Yeah, but she is still right
9 there. I mean she is in the same place she has identified
10 as the national police headquarters, and now she is saying
11 somebody is saying you're now in the deposit of the
12 ministry of defense, I think that is why it is hearsay.

13 THE COURT: I'm not sure that it is an 803(1)
14 exception.

15 MS. BLUM: Well, the other exception I believe

16 it would fall under is the 803(3) exception for the state
17 of mind of the declarant because it expresses the intent
18 or motive or plan of the declarant regarding, you know,
19 his taking her in his possession and moving -- she is
20 moving at this point from the clandestine or interrogation
21 cell wing of the national police headquarters into the
22 public cell wing of the national police headquarters. So
23 at that point she is being declared more publicly as in
24 the quote, unquote, deposit of the ministry of defense.
25 Prior to that point, she is a clandestine prisoner. No

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1 one knows where she is. She is essentially a disappeared
2 person, and now at this point she is publicly being moved
3 as a prisoner, you know, as an official prisoner of the
4 ministry of defense. So I think either 803(1) or 803(3)
5 is applicable in the situation.

6 THE COURT: Well, I think there's sufficient
7 indicia of reliability to allow -- I'm not sure that those
8 two are the -- clearly applicable, but the court has to
9 make a determination as to whether it is in the general
10 exception and whether it has sufficient indicia of
11 reliability, and I think this is one of those
12 circumstances. I will allow it. I am not so certain
13 about it 803(1) or 3, but they may be sufficient, but I
14 mean --

15 MS. BLUM: I mean she is in a position to say

16 more about what the declarants -- whatever else the
17 declarant was bringing to the conversation.

18 THE COURT: Right, right.

19 MS. BLUM: I mean she can only -- you know, you
20 have heard her story, so she can only tell you as much as
21 she knows. At some point, she is told that she is, quote,
22 unquote, in the deposit of the ministry of defense.

23 THE COURT: Right, and I'm going to allow it.

24 MR. BROOKE: Your Honor, there is absolutely no
25 way we can cross-examine or challenge that.

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1 THE COURT: You can challenge her recollection.

2 MR. BROOKE: It is just a third party.

3 THE COURT: Well, you can challenge her
4 recollection of time, accuracy of memory, a number of
5 things that can be challenged, but -- otherwise in these
6 types of circumstances, it would be virtually impossible
7 for an individual to provide any information about their
8 locality if they're blindfolded. I think she seems to be
9 an accurate recorder and has sufficient memory for the
10 court to allow it. The jury will simply have to determine
11 who they believe and do not believe, I can't make
12 those determinations. There is certainly arguments for
13 both sides.

14 MR. FARGARSON: The issue is, it is still
15 hearsay, it may be an exception to the hearsay rule.
16 Would the court instruct the jury that it is not offered

17 for the truth of the matter stated in it?

18 THE COURT: I think this one actually is.
19 That's their point is they want to show that -- and it is
20 certainly some evidence that the jury can consider. They
21 also could determine that they didn't find it to be
22 something they should believe, but I think that is an
23 argument for the jury in these circumstances, so we will
24 allow the testimony, and I will continue to look at the
25 question, but I think we should allow it. I'm going to

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1 look at this 803(1) a little more, I'm interested in the
2 argument.

3 MS. BLUM: Okay. Thank you very much. Was
4 there anything else that you are concerned about before
5 that -- I think that's the only thing --

6 MR. FARGARSON: I don't recall anything else.
7 I think that was the only one, and I didn't want you to
8 get done --

9 MS. BLUM: Actually, I should make one
10 clarification for the record, Mr. Fargarson, which is
11 that, I think at the deposition, I'm not quite sure the
12 sequence of events, but actually how she will testify, I
13 believe, now, she -- if the statement you are in the
14 deposit of the ministry of defense occurs when she is
15 transferred to the women's prison at El Pungo.

16 MR. FARGARSON: No, it is when she leaves here.

17 Here it is --

18 MS. BLUM: Let's get the clarification on the
19 record.

20 MR. BROOKE: Is she saying -- her testimony
21 might be clarified now to be that it was at the prison.

22 MR. FARGARSON: Okay. Is that what you're
23 saying?

24 THE COURT: It does appear that she is able to
25 identify people who are attempting to speak officially as

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1 to her location.

2 MR. FARGARSON: I'm sorry, I may have
3 misunderstood you.

4 MS. BLUM: Okay.

5 MR. FARGARSON: In that context, that's a
6 different situation.

7 MS. BLUM: Okay.

8 MR. FARGARSON: I had understood her to be
9 saying while she was there in that building.

10 MS. BLUM: Okay. Well, let's get that
11 clarified. We will get that clarified on the record at
12 this point.

13 THE COURT: Okay.

14 (The following proceedings were had in open
15 court.)

16 THE COURT: Counsel may proceed.

17 BY MS. BLUM:

18 Q. Ms. Santos, you had just stated that you were delivered
19 by the man in the blue shirt and the blue pants to a booth,
20 and then what happened at the booth?

21 A. There he took off the blindfold, and I saw he has some
22 papers and tell to the guy in the booth -- this guy has a
23 uniform, a green uniform also, and he give a little piece of
24 paper, then the man with the uniform put in a black, a ball, a
25 black ball in the wall and took the keys that I think it was

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1 the number six and left that piece of paper there.

2 Q. So the gentleman in the uniform took the keys to the
3 number six cell?

4 A. Yes, he did that, and I could see that it was -- the
5 other has names, the pen with the keys has names there, but
6 that piece of paper, the man with the blue shirt, I couldn't
7 see nothing there, it was a blank there, and then the other
8 guy with the uniform took me to the cell. We walk -- it was
9 like in one corner of the booth, then we walk like in an open
10 space, and then we went through the cells.

11 Q. And what happened at the cell?

12 A. As part of the -- they have the half moon and the first
13 floor, the cells, we walked through that, and then he opened
14 the first door of my cell and the second. When we were inside
15 after the second door, then he say, okay, I have to search
16 you, open up the arms like this, and he start touching, like I
17 was saying what -- he's looking for something. Then he said

18 take off the skirt, I say why. I came from there, I came from
19 inside this building. Why? No, it's the rule. Maybe you can
20 hide a razor blade, a razor blade that will cut and -- but
21 immediately he say that, he was pulling -- pulling my skirt
22 and putting his hands in me. I say wait a minute, and then it
23 was a sound like somebody was coming. He say, okay, that's
24 okay, I felt like that was enough, and this guy was already
25 trying to do something. It was not correct because when he

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1 heard that another people was coming, then he stopped doing
2 it. And they lock both door, say, okay, you can stay there,
3 and he left me there.

4 Q. Do you have any sense of what time of day it was at
5 this point?

6 A. Like early in the morning, already 3:00, 4:00 in the
7 morning.

8 Q. And you had arrived at the national police headquarters
9 about what time would you estimate the day before?

10 A. Around 7:00.

11 Q. How long did you remain in this cell number six?

12 A. Since that day that I think it was Friday, the 25th.

13 Q. Of what month?

14 A. September the 25th, and the night I think it was Friday
15 until the next week, it was October the 3rd.

16 Q. October the --

17 A. At the mid time.

18 Q. And could you just tell the jury what the cell was like

19 that you were in?

20 A. It was like four meters long, two wide; and at the end
21 of the cell, it was something like a shower and a toilet
22 there, and it has those kind of three poles with three
23 mattresses, and that's it.

24 Q. Did you have any fresh water in the cell?

25 A. There was water in the tank of the toilet and in the

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1 bowl, and the water came -- sometimes we have early in the
2 morning, and there was some days that we have no water, but in
3 any of the cases I had to save that water there in the tank to
4 drink from there.

5 Q. Did you receive any medical treatment during this time?

6 A. After the representative from the International Red
7 Cross came to visit me at the cell, he did like an examination
8 of my hand, and I have already infected, then I was took to
9 that same booth I said before, and there a guy with a white
10 gown like a doctor put some kind of ointment on the hand and
11 gave me a pill to drink.

12 Q. You stated that you were there until October the 3rd,
13 is that correct?

14 A. October 3rd.

15 Q. And what happened on October the 3rd?

16 A. That day at noon when men came with uniform, and he
17 gave me a bag, and he said here is your clothes, you have to
18 change because you are going to leave this place today. I

19 have the -- my skirt open and bra and blouse and my hair was
20 like this, I have infection where I was miserable, and I could
21 do the best and change, and I knew that clothes was from my
22 home. I asked him who brought the clothes, and he answered me
23 that I think it was your father, and then I understood that my
24 father already knew where I was.

25 Q. To that point, you had no idea whether your family knew

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1 where you were?

2 A. No. I told the representative of the International Red
3 Cross to please give the news to my father.

4 Q. Did you find out later that your father had been
5 informed by the Red Cross where you were?

6 A. Yes. I knew it when my father came to visit me at the
7 women's prison in Ilopango.

8 Q. So could you describe to the jury your transfer from
9 the national police headquarters to the women's prison, how
10 did you get there?

11 A. Okay, they took me from the cell, and we went outside
12 through the hall, and we went to the back door like a wide
13 back door that was going to the parking lot. There were many
14 people there, people waiting to see a priest, people in the
15 prison, there was a lot of soldiers, was national police, it
16 was people running there. We went -- two men was -- had like
17 a escort, one here, another was a man like in his 40s in front
18 of me. We went through --

19 Q. How were these men dressed?

- 20 A. Everybody has uniforms, but they have machine guns.
21 They -- the older man has a big one, those large machine guns,
22 machine guns, and the others had a small one. They carry each
23 one here. They go, okay, sit there.
24 Q. Where did they tell you to sit?
25 A. I had to sit, they took me that they took me. I was in

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- 1 the back seat, the older guy sit in the front with the driver,
2 and the other two sit with me in the back. Each of them was
3 to my side, and I was in the middle, and then they take out a
4 pistol, each of them, and move it something and put it in my
5 rib, each one to one side, and I said why. Just in case you
6 want to escape.
7 Q. And then where did they take you?
8 A. And then we went out of the parking lot and went
9 through the street. I see when we cross one of the main roads
10 and it's a big like a truck that we call reloj flores, the
11 clock of the flowers because it has all with flowers, and then
12 I knew where we were at that point. And they went to the
13 side, that I know that's the road going to a place called
14 Soyapango, and they continue. I think we were at the door of
15 the women's prison that is in Ilopango, it is exactly at the
16 entrance of the neighborhood I live.
17 Q. Okay. So you had seen the women's prison before?
18 A. Yes.
19 Q. How many women were in the prison when you arrived?

- 20 A. It was only four more.
- 21 Q. And by the end of the year, by the end of 1980, how
- 22 many women prisoners were there?
- 23 A. 1980, that year, the end?
- 24 Q. Yes.
- 25 A. Between seven or nine. It is because some of them just

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- 1 came for three days, and they were released or they were moved
- 2 to somewhere else, because it was keeping coming, like I say
- 3 seven or nine, I'm not sure.
- 4 Q. And did you stay in a dormitory style room or did you
- 5 stay in individual cells there?
- 6 A. The women's prison have -- by then had three buildings.
- 7 One was for the youth where the common crimes they call. The
- 8 second for the older, and we were put in a third building that
- 9 they used with women that have childrens there because when
- 10 they arrive pregnant or they need to have their children, we
- 11 were in the third floor of that building in a large room with
- 12 I believe it was 10 beds in the same room.
- 13 Q. How -- did you have any health or medical problems as a
- 14 result of your experiences in the national police headquarters
- 15 while you were in prison?
- 16 A. Yes. First of all, I -- just to the burn with the
- 17 hand, it took me years that I could really do anything with
- 18 that, because the infection got worse, and these two fingers,
- 19 they stick together; and then when they open again, I got the
- 20 one that -- but also in the cell, any kind, the bugs, I mean I

21 got bugs everywhere, I have -- how do I say pi o j o s?

22 THE INTERPRETER: Lice.

23 A. Pubic lice. There were two different kinds of bugs,
24 some that you get in the hair and the other you can get in
25 your body, and I need to take different kind of medicine that

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1 my father had to buy it, and also then the -- the problem with
2 the gastritis was worse because at one point, I was -- I had
3 bleeding from my stomach, and I also had few wounds after
4 that. It was in the middle of the 1981, I had a stroke. One
5 day I started with the pain, the pain started from the gums,
6 and it would go through my face and a big headache, and at the
7 prison was a doctor -- I mean two doctors came, one came on
8 Tuesdays and the other came on Thursday to check us, and the
9 doctor was called, and he says that what I had was a stroke
10 because I was throwing up that way, I got red, this part in
11 the body, I had bloody eyes, and the pain, he put some
12 injection, but it took me like three days to go over with the
13 pain.

14 Q. Could you describe to the jury what the pain was like?

15 A. It was like this muscle is trying to paralyze and I
16 couldn't move anymore the face like. And then it is the pain
17 and the headache, like a big pain, because any kind of noise
18 feel inside me like a big thing, and I couldn't stand by in
19 any way with nothing.

20 Q. Did you have any psychological problems while you were

21 in the women's prison?

22 A. Nightmares almost every night for years. Just to hear
23 the noise of the keys that that guy, the guy of the cell when
24 he walked, just to hear that kind of noise immediately I wake
25 up because when I was in the cell, every time I hear that

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1 noise, I knew that they come to open the cell and take
2 somebody for interrogation or sometimes maybe that person
3 was -- I don't know, sometimes the guy who was in the cell
4 number five never came back once, but you could hear in the
5 night when they came and did that, and that's in my mind for
6 many, many years.

7 Q. How long did you end up being in the women's prison?

8 A. Since October the 3rd until June the 2nd in 1983. That
9 almost three years, but it is exactly 32 months.

10 Q. Did you ever get charged with a crime?

11 A. Yes, a month or month and a half after I arrived to the
12 women's prison, I was called from the director of the prison
13 that somebody had -- need to talk to me. She say it is the
14 secretary of your judge, the men was there with a paper and
15 then he say, okay, I read today to you your confession and you
16 had to certify, and you need to sign this, and then he gave me
17 like four more pages, and I started to read it, and I read
18 that they said that I was accused of -- to plan and to try and
19 to develop a subversive act, and it was also a list of things,
20 name of men that were witnesses of my declaration who I feel
21 that there was other names that feel that they knew me that I

22 participate in demonstrations and giving propaganda and also
23 say other kind of subversive act, and then that man explain me
24 that I am going to have a marshal court and I have to be
25 defended by a military judge because I was under the civility

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1 of the ministry of defense for something they call juez de
2 instruccin militar. It is a military instruction judge. I
3 think that's the right translation.

4 Q. Did you ever end up going to court?

5 A. No. First of all, I did not sign that when I was
6 there, I did not sign that. And -- but nobody came back from
7 that, and I was never called to any court, to nothing.

8 Q. How did you get released then from the prison?

9 A. What I and the others that were released at that time
10 understood is that the government of El Salvador, I think was
11 the president, it was -- I'm not sure, but it was something
12 that had to be with the money the Salvadoran government
13 receive from United States, and they need to show a different
14 face, that they are improving the human rights, and then we
15 were almost one hundred women at the women prison, and 60 --
16 around 70 that were released. They say that they gave us
17 amnesty.

18 Q. Where did you go when you were released from prison?

19 A. Well, all the time that I was in prison, only my father
20 stay in the country. The rest of my family flew to Guatemala.
21 They were so afraid, they were afraid, and, unfortunately,

22 also, in April 29th, 1981, my older brother was killed
23 meanwhile while he was working with a group of journalists in
24 San Salvador and when I -- they knew I would be released, my
25 sister who was then living in New York took a plane and go to

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1 the prison, and she take me from the women prison to the
2 hotel. We didn't want to go to my father home, because the
3 first group of the political prisoners that were released at
4 that time were captured and bodies of some of them, three or
5 four appeared in a parking lot one morning, and they found a
6 paper that the Maximiliano Hernandez Martinez, death squad is
7 sentences that all those -- let's see, they say criminals
8 subversive were going to be released, we are going to kill
9 them.

10 Q. Where did you go to? You said you stayed in a hotel,
11 how many days did you stay in a hotel with your sister?

12 A. It was like a week because almost immediately I went to
13 the U. S. Embassy to ask for asylum. At that point, my sister
14 coming from the United States there already knew that there
15 was that kind of relief, and I went there. I have an
16 interrogation with a lady there, but at the end, they gave me
17 something they call parole, refugee parole.

18 Q. Could you he explain to the jury what asylum is?

19 A. Well, I understand for asylum you have to be physical
20 here, but outside, what you receive is refuge, that means you
21 can travel with a permit, permit, and you are legally in this
22 country, because under the criteria of the United States

23 government, you qualify to receive that kind of grant because
24 you really can prove that you will suffer another kind of
25 death threat; and a year after that, then you can apply to

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1 become a legal permanent resident of the United States.
2 Q. So you entered the United States on a legal visa from
3 the United States?
4 A. Yes.
5 Q. And then you did -- did you apply for permanent
6 residency a year after?
7 A. Yes, I did. I did that a few years after and I spent a
8 year for resident, and then I applied for the United States
9 citizen.
10 Q. Could you tell the jury if you had any ongoing
11 psychological problems or issues as a result of your
12 experiences in El Salvador once you came to the United States?
13 A. It could -- I could say I have less problems since then
14 the beginning because I have been working to like think this
15 is part of the past, and I need to go ahead with my life, but
16 even though that I have suffered migraine, with the migraines,
17 and at one point, I started to feeling the same kind of pain
18 in my body, and every time I go to see the doctor, they don't
19 find anything that is physical, they said what these had to be
20 with the problem and try to do this or that. When I -- a
21 month after I arrived to the United States or three months,
22 more, because I came in June, June the 11th, it was around the

23 celebration of Rosh Hashana when I start to feel the pain
24 again in my face like I described before in prison, but this
25 time, I got paralyzed, my face, I couldn't speak, and that

†

DIRECT - CECILIA SANTOS

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1 repeated every time that I see the news of El Salvador or I
2 hear about the event down there, the pain came again and I
3 couldn't move this.

4 Q. I just want to make sure that our jury knows what Rosh
5 Hashana is, what is that that you refer to?

6 A. It is the U. S. celebration in September. I remember
7 that day because I was to go to one place that was close, and
8 they explain me, no, it is the U. S. celebration and you
9 cannot find, you have to go to such hospital that they can
10 help you.

11 Q. And that was 1983, and you said that every time you
12 heard anything about El Salvador or talked about it, the pain
13 would come back, but at that point, were you hearing a lot
14 about El Salvador and talking about the situation there?

15 A. Since I came in 1983 until around '92 that I was going
16 sometimes to speak to the churches and to explain to the
17 people why we were asking that the military aid had to be
18 stopped sent to El Salvador, and the people always ask why,
19 because those are our tax dollars that we are giving to you to
20 help, and I say no, money is not helping us, the money is
21 going there to in some way to support this war, this civil
22 war, and the people ask me if I suffer something or if I did,
23 and then I explain in as short way as I could, because if I

24 again had to remember past, the pain came again and again, and
25 that will make me feel sick, different thing in my body.

♀

DIRECT - CECILIA SANTOS

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1 Q. What type of work did you do when you first came to the
2 United States?

3 A. Well, I do cleaning, I help my sister, I help out
4 different places, different families to go do the
5 housekeeping, and I help her, and I also work like a
6 baby-sitter.

7 Q. How would you say to the jury how the experience you
8 had changed your life plans?

9 A. It's completely to the other. It was to one thing,
10 then I had to move to the other because at this point, I could
11 not finish my career. I didn't get my degree at the
12 university, and I lose those -- all of those three years
13 there, that's part of my life, and many things happen in my
14 family, and I could not help them; and here, after I could go
15 to take some classes in English, and then I wanted to continue
16 with my studies, when I knew it, the most of the power of the
17 credit, I mean the point you gain were already lose, and I had
18 to start again, then I decided to take some kind of courses,
19 different courses in another thing in a way to get work and to
20 do something else.

21 Q. Ms. Santos, why did you file this lawsuit?

22 A. I -- I am looking for justice.

23 Q. What do you mean by that?

24 A. It is important for my life, I was -- here in this
25 country, you learn more how to live in a democratic system

♀

DIRECT - CECILIA SANTOS

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1 where you have juries, you have benefits. If I am a citizen
2 because I always comply with the law, I have the right to have
3 justice for something that happened to me that was not
4 correct.

5 MS. BLUM: Thank you very much. I pass the
6 witness.

7 THE COURT: Cross examination?

8 CROSS EXAMINATION

9 BY MR. FARGARSON:

10 Q. Ms. Santos, you speak very good English, but where I
11 was, I don't always hear exactly what you said, so if I say
12 something to you or question you in a way you don't
13 understand, please let me know, and I may ask you to repeat
14 something if I don't understand it, okay?

15 A. That's okay.

16 Q. Now, you were employed at the ministry of education at
17 the time this happened?

18 A. Could you repeat the question?

19 Q. Okay. Were you employed at the ministry of education
20 when these events happened that we're involved in here?

21 A. Yes, I was working there.

22 Q. And at -- would that mean that you were an employee of
23 the Salvadoran government?

24 A. Yes.

25 Q. And the minister of education, would he -- or ministry

♀

CROSS - CECILIA SANTOS

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1 director, would he be an employee of El Salvador?

2 A. The minister of education?

3 Q. Yes.

4 A. He Was the head of the whole body.

5 Q. Okay. So he was an employee too?

6 A. Yes.

7 Q. Okay. Now, on the day that this happened, do I
8 understand that you went to a mall?

9 A. Yes, that's correct.

10 Q. And what was it, was it called the Todos Mall?

11 A. The mall was called Metro Centro, and part of the
12 cafeteria and a supermarket was -- had the name Todos,
13 T-O-D-O-S.

14 Q. And had you gone -- I didn't understand exactly why you
15 went to the mall, did you go to buy a present or just to go
16 shop?

17 A. To buy a present for the child of my friend.

18 Q. Okay. Were you there long enough to buy the present?

19 A. Repeat, please.

20 Q. All right. Had you been at the mall and shopped and
21 bought the present?

22 A. Oh, no, I didn't. I almost arrived there when I went
23 first to the cafeteria. I just watched through the window of
24 a couple of stores, and then I went to the cafeteria, the

25 Todos Cafeteri a.

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CROSS - CECILIA SANTOS

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1 Q. Ms. Santos, is this mall an enclosed mall or is it an
2 open type mall where you have to walk inside and there are
3 stores all around?

4 A. Lots of stores, one close to the other, like in the
5 same area, but when I mean it is open because it has no fence,
6 anything around, was only first floor with different stores
7 there.

8 Q. I'm still not certain I understand, are there floors,
9 are there different floors to the mall? In other words, are
10 there more than one floors --

11 A. Only have the first floor and the ground floor.

12 Q. Okay. And so because you wanted something to drink,
13 you went to the cafeteria?

14 A. Because I wanted a hot tea, I went to the cafeteria,
15 yes.

16 Q. All right. And then do I understand that after you
17 went to the cafeteria, you went to the ladies' restroom?

18 A. Yes.

19 Q. And were you in the ladies' restroom when there was
20 some loud noise?

21 A. Yes.

22 Q. Now, what time were you there at the mall that day
23 approxi matel y?

24 A. Around 5:00, before 5:00 o'clock.

25 Q. Okay. And is that a time when there are other people

♀

CROSS - CECILIA SANTOS

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1 around shopping and going in the stores?

2 A. Yes. They close, I think, it was around 7:00 when they
3 close.

4 Q. Do you recall if there were a lot of people in the mall
5 that day?

6 A. I saw almost everybody on the tables in the cafeteria.
7 I don't remember exactly, it was many people around. Through
8 the windows, I could see some people walking around.

9 Q. When you went into the ladies' restroom, were there
10 other ladies in there or were you the only person in there?

11 A. There was two more in and the other two -- there was
12 three toilets. There was two others, and I went to the last
13 one.

14 Q. Now, when you heard this noise, did it sound like a
15 boom or an explosion?

16 A. When I was out already, I mean in the sink, when I was
17 combing my hair.

18 Q. Okay. And when you were combing your hair in the
19 ladies' restroom, is that when I heard this loud noise or this
20 boom?

21 A. Yes.

22 Q. Could you tell where it came from?

23 A. I cannot say exactly from where. I hear something that
24 was up, the sound came from up.

25 Q. Did it sound to you like it was a sound in the ladies'

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CROSS - CECILIA SANTOS

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- 1 restroom?
- 2 A. I don't know. I was there and I could consider it was
3 a boom, but it is not exactly you can describe. It is just
4 like there, it's the sound.
- 5 Q. Okay. How could you best describe the sound, did it
6 sound like an explosion or anything like that?
- 7 A. Yes, like that, like an explosion.
- 8 Q. Now, you were still in the restroom combing your hair
9 when two men came into the restroom, the ladies' restroom?
- 10 A. Yes. One pushed the door first, and immediately the
11 other was in his back.
- 12 Q. Were there other ladies in the restroom at that time
13 with you still?
- 14 A. No, they were not there at that time.
- 15 Q. Were you the only person then in the ladies' restroom?
- 16 A. Yes. I was the only one at that point.
- 17 Q. From the time that you heard the loud noise until the
18 time that the men came in the restroom, about how much time
19 passed?
- 20 A. A couple of minutes, maybe. It was almost immediately,
21 they were there.
- 22 Q. Okay. Did you go to the mall often?
- 23 A. Not really.
- 24 Q. Had you ever seen those men that came in there before?
- 25 A. Yes, I knew that they were the guards there, of that

- 1 mall.
- 2 Q. Okay. Now, you've described them as security guards,
3 but these men worked for the mall, didn't they?
- 4 A. Yes, they were the guards at the mall.
- 5 Q. They weren't connected to the military?
- 6 A. No, no, I don't think they are.
- 7 Q. Now, when they came into the ladies' restroom, what did
8 they say to you?
- 9 A. The first guy said that I was planning to put a bomb,
10 that was a bomb, that's what he says, and then the other guy
11 also repeat that, and I was more than surprised to hear that.
- 12 Q. Okay. Had they ever given you any trouble before when
13 you went to the mall?
- 14 A. No.
- 15 Q. Had they ever stopped you for any reason before?
- 16 A. No, never.
- 17 Q. Were there other people still in the mall at the time
18 they came in there and made this accusation against you?
- 19 A. They stand up around the door.
- 20 Q. Other people around the door?
- 21 A. Other people, yes, the other people that was there.
- 22 Q. Now, the other people that were standing around the
23 door, were they shoppers?
- 24 A. I think so.
- 25 Q. Okay. Well, can you think of any reason why those

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CROSS - CECILIA SANTOS

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- 1 security men in the mall picked you out of all the people
2 there and said you were setting off a bomb or something?
3 A. No, I don't know that reason.
4 Q. Okay. So after they made this accusation, they took
5 you to another office in the mall, is that right?
6 A. Yes.
7 Q. And you talked with another man in the mall?
8 A. In the office of the mall, it is something like the
9 administrative office of that mall.
10 Q. Now, this man, was he with mall security or do you
11 know?
12 A. No, he looked like an executive because he was the
13 other side of that big desk in a big office.
14 Q. I'm sorry, I didn't understand. He looked like what?
15 A. Executive.
16 Q. Okay. An executive of the mall?
17 A. Yes.
18 Q. Is that it? But he wasn't a military person either,
19 was he?
20 A. No.
21 Q. Okay. And so when you got in there, what did the
22 security men tell the executive?
23 A. One guy says we bring this woman because we think she
24 is planning to put a bomb, and then he put something on the
25 desk. It was the packs of the cigarettes, what looked like

- 1 cigarette packs.
- 2 Q. Where did it come from, where did that package come
3 from?
- 4 A. I don't know. That's the first time I saw it.
- 5 Q. Do you know why they would make some story up like that
6 about you?
- 7 A. I didn't know at that moment. I can think that anybody
8 can do whatever they wanted in that year at that moment in El
9 Salvador, you can be accused for anything, even to kill,
10 because that was the way they use it. We saw on the newspaper
11 there was number that says if you see something suspicious,
12 call to this number and denounce somebody, and somebody can do
13 it to you just because it is not agree with you or because it
14 is your neighbor that didn't like you.
- 15 Q. But nothing like this had ever happened to you before
16 in the mall?
- 17 A. Never, in any place.
- 18 Q. And you did not know the executive that you were taken
19 to, did you?
- 20 A. No, sir.
- 21 Q. Okay. And these, admittedly, were not military people,
22 they were civilians just like you?
- 23 A. Yes.
- 24 Q. And then after this executive was handed something and
25 told you were trying to plant a bomb, what did he do?

- 1 A. The two security guards left the room, but before that,
2 the other man make a phone call, they left, and I stayed with
3 the man in the office.
- 4 Q. You said the package looked like a cigarette package,
5 do you know if it had cigarettes in it or something else?
- 6 A. No, I couldn't see, just to stand there, and the guy
7 moved a little bit close to him, and I couldn't -- didn't know
8 what it was.
- 9 Q. But are you telling us that it looked like a package of
10 cigarettes?
- 11 A. Yes.
- 12 Q. All right. Okay. The man that made the telephone call
13 was the executive of the mall as far as you know?
- 14 A. Yes.
- 15 Q. And then did you stay there in the room with him until
16 something else happened?
- 17 A. Until two other men came, and one says I came from the
18 corporation.
- 19 Q. From the corporation?
- 20 A. Yes.
- 21 Q. Okay. Do you know what he -- what the corporation was
22 that he came from?
- 23 A. No, I didn't know.
- 24 Q. And then are the two men that took you to a taxi?
- 25 A. Yes, those are the two men.

- 1 Q. One of them said he was from the corporation, and did
2 the other man ever say anything about what he was?
- 3 A. No, because there's one introduced the two of them. He
4 said we came from the corporation.
- 5 Q. Okay. Now, the taxi that you rode around in, was it a
6 regular taxi, did it have a taxi sign on it?
- 7 A. Yes. It was a yellow taxi.
- 8 Q. It wasn't a military vehicle?
- 9 A. No.
- 10 Q. And was the driver of the -- well, let me back up. Was
11 there a taxi at the mall or did someone call a taxi?
- 12 A. We went out to the street and there they called a taxi.
- 13 Q. Okay. So the taxi just came up like any taxi would do,
14 and you were told to get in there with them?
- 15 A. Yes.
- 16 Q. And they drove you around in the taxi?
- 17 A. They drove to the national police headquarters.
- 18 Q. Before you went to the police at national police
19 headquarters, did they drive you around and talk with you?
- 20 A. Yes. When we went inside the taxi, the driver took a
21 narrow in that street, and at that point, the guys inside,
22 when -- when they asked me how many brothers and sisters I
23 have.
- 24 Q. Okay.
- 25 A. And when one of them says that nobody will miss one.

- 1 Q. But these were the men that said they were from the
2 corporation, is that right?
- 3 A. Those two mens, yes.
- 4 Q. And how long did they drive you around?
- 5 A. Excuse me, how? Did you say how?
- 6 Q. I don't know if you could tell me specifically, but
7 just how long did you ride around in the cab with these men?
- 8 A. I could say it could be like 30 minutes.
- 9 Q. Did they ask you to sign anything?
- 10 A. No.
- 11 Q. Did they talk with you about whether or not you were
12 trying to plant a bomb or something like that?
- 13 A. No, no, the only thing they did was the first question
14 was about the brother, and the other, it was a comment that
15 they did like they were trying to say like my body could
16 appear in the dumpster or over the street. That was a comment
17 one of them did.
- 18 Q. Did they have the package that the two security guards
19 had given to the executive that they said was a bomb?
- 20 A. I remember that the men in the office gave to one of
21 them.
- 22 Q. So one of them had that package, is that right?
- 23 A. One of them had to have the package, yes.
- 24 Q. After driving you around, they took you to the national
25 police headquarters?

- 1 A. Yes.
- 2 Q. Okay. And then did they take you there in a taxi?
- 3 A. The taxi stop at the corner of the building, and there
- 4 they asked me to go out, and one man left from there, and only
- 5 I walk with one to the main entrance of the police.
- 6 Q. And then that one took you inside, and did he leave?
- 7 A. He leave until we were at the office they called the
- 8 Caines office.
- 9 Q. Okay. But the man that took you there, of the two that
- 10 was in the cab, did he leave?
- 11 A. One leave and the other stayed with me.
- 12 Q. How long did he stay with you?
- 13 A. I say until he let me at the office of the Caines on
- 14 the second floor.
- 15 Q. Okay. And then he left? He left you there?
- 16 A. Yes.
- 17 Q. Did you ever see him again?
- 18 A. No.
- 19 Q. Did you ever see the other man that was in the cab with
- 20 you again?
- 21 A. No.
- 22 Q. Or ever hear their voices again?
- 23 A. No.
- 24 THE COURT: This is probably a good place for
- 25 us to take a break. This will be our afternoon break. We

1 will take a 15-minute break. When we come back, we will
2 stay until about 5:15 or so. We will see you in 15
3 minutes.

4 THE CLERK: All rise. This honorable court
5 stands in recess for 15 minutes.

6 (Recess taken at 3:40 until 4:00 p.m.)

7 THE COURT: You can bring the panel in.

8 (Jury in at 4:00 p.m.)

9 THE COURT: All right. You may be seated.
10 Counsel may proceed.

11 MR. FARGARSON: Thank you, Your Honor.

12 BY MR. FARGARSON:

13 Q. Ms. Santos, I only have a few more questions. Did I
14 understand you to say that your father was also employed by
15 the government of El Salvador?

16 A. What, could you repeat?

17 Q. Okay. Did I understand you to say earlier in speaking
18 with Ms. Blum that your father was employed by the government
19 in El Salvador?

20 A. Yes, my --

21 Q. Excuse me. What did he do, what was his employment
22 relationship?

23 A. He was a mechanic who works with something that is
24 called the Public Works, and he depend from the ministry of --
25 they work fixing the roads in El Salvador.

- 1 Q. Fixing the what?
- 2 A. Roads, highways.
- 3 Q. Okay. Now, did you come to the United States in 1983?
- 4 A. Yes.
- 5 Q. And have you been in the United States ever since 1983?
- 6 A. Yes.
- 7 Q. When did you first learn that you could file a lawsuit
- 8 like this in the United States?
- 9 A. I knew that -- I think it was around -- first around
- 10 2002 when I hear about a kind of act, and I have the complete
- 11 knowledge of that after the trial.
- 12 Q. 2002, you learned that you could file a lawsuit like
- 13 this in the United States for the first time?
- 14 A. The first time that I heard about the act.
- 15 MR. FARGARSON: Okay. That's all.
- 16 THE COURT: Redirect?
- 17 REDIRECT EXAMINATION
- 18 BY MS. BLUM:
- 19 Q. Just a couple of quick questions for clarification.
- 20 Ms. Santos, did you have anything to do with setting a bomb in
- 21 the shopping mall?
- 22 A. No, I don't.
- 23 Q. Did you know anything about the bomb?
- 24 A. No, I didn't.
- 25 Q. Did you ever find out what was meant by the word when

1 you were told the word corporation, did you ever find out what
2 that meant?

3 A. There in that cell, I knew it, that when they say the
4 corporation and when they say the Caines, they are talking
5 about the body that do the investigations of the national
6 guard police.

7 Q. So the corporation and the Caines was the same, is that
8 right?

9 MR. FARGARSON: Excuse me, Your Honor, that's a
10 leading question.

11 THE COURT: Objection sustained.

12 MS. BLUM: Okay.

13 BY MS. BLUM:

14 Q. You were told that the corporation was responsible for
15 investigations?

16 A. Yes, the Caines, but they only use the short expression
17 to say corporation sometimes.

18 Q. And your interrogation and the torture that you
19 described, that occurred in the national police headquarters?

20 A. Yes.

21 MS. BLUM: Okay. Thank you. No further
22 questions, Your Honor.

23 THE COURT: All right. Thanks very much. We
24 will let you step down.

25 (Witness excused.)

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1 THE COURT: Who will our next witness be?

2 MR. EISENBRANDT: Your Honor, we call Colonel

3 Jose Luis Garcia.

4 THE COURT: Certainly.

5 THE CLERK: Do you solemnly swear the testimony

6 you are about to give the court and jury in this matter to

7 be, the truth, the whole truth and nothing but the truth

8 so help you God?

9 THE WITNESS: I swear.

10 THE COURT: You may take the witness stand.

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DIRECT - JOSE LUIS GARCIA

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1 carranza03.txt
(Francis Icaza previously sworn to interpret
2 English into Spanish and Spanish into English.)
3 JOSE LUIS GARCIA,
4 was thereupon called as a witness on behalf of the
5 Plaintiffs, and having been first duly sworn, was
6 examined and testified as follows:
7 DIRECT EXAMINATION
8 BY MR. EISENBRANDT:
9 Q. Sir, can you please tell us your name?
10 A. Jose Luis Garcia.
11 Q. Just to make a clarification upfront, you aren't the
12 Jose Guillermo Garcia, the Salvadoran colonel that has been
13 referred to in this trial, are you?
14 A. No, I am from the Republic of Argentina, and I do not
15 go by that name. My name is called Jose Luis Garcia.
16 Q. And you aren't related in any way to that Colonel
17 Garcia from El Salvador?
18 A. No.
19 Q. Sir, would you mind just for the sake of ease in this
20 trial if I refer to you as Professor Garcia, would that be
21 okay?
22 A. I have been a professor for 14 years, so it would not
23 bother me at all.
24 Q. Very well.
25 Professor Garcia, are you currently employed or

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DIRECT - JOSE LUIS GARCIA

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1 retired?

2 A. I am retired from the army of the Republic of
3 Argentina.
4 Q. Where do you live, sir?
5 A. At the City of Buenos Aires.
6 Q. Is that the capitol of Argentina?
7 A. Yes.
8 Q. Tell me about your education, tell me -- give the jury
9 a description of your education.
10 A. Well, my civilian education was to do my entire
11 elementary school education and high school education at a
12 Catholic school by the meris priest. After that, I entered as
13 a cadet -- after that, I entered as a cadet to the Military
14 School of the Republic of Argentina where I graduated as a
15 second lieutenant in the calvary.
16 Q. What year was that, sir?
17 A. That happened in the year 1948.
18 Q. Did you have any further education beyond that?
19 A. Within the army, I did receive additional education.
20 When I had received my commission as a captain, I entered the
21 Superior War college where I graduated as an officer of the
22 General Staff.
23 Q. Sir, can you tell us what the National War school is?
24 A. The Superior War School is a school that prepares
25 officers for the degree of General Staff of the Republic of

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DIRECT - JOSE LUIS GARCIA

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1 Argentina. This is an important selection. As a piece of

2 information, I can advise you that 150 of us took the entry
3 exam, and three years later, 23 of us graduated. After that,
4 I was nominated to come to the United States to the Armor army
5 school. This is the school for armored, where I took a year
6 long course at Fort Knox, Kentucky.

7 Q. What sorts of things did you learn that year at Fort
8 Knox?

9 A. The management of armored units.

10 Q. Throughout your studies and education, did you study
11 topics related to military structures?

12 A. Of course, it is a very important and primary part of
13 the training of a military officer.

14 Q. What sorts of things were taught about the obligations
15 of commanders?

16 A. The obligation of -- the primary obligation of a
17 commander is maintenance of discipline which is the backbone
18 of any military organization. Discipline is the superior
19 complying with his obligation to issue orders and insure those
20 orders are complied with and for the subordinates to obey
21 legal orders as issued by the superior.

22 Q. Were these things that were taught to you during your
23 military education?

24 A. Yes, it is practically the first lesson given to a
25 cadet upon entering military school.

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DIRECT - JOSE LUIS GARCIA

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1 Q. Professor Garcia, you mentioned earlier that you had
2 been a professor for several years, what was your first job as

3 a professor?

4 A. My first job as a professor was when I had the rank of
5 captain of the calvary in my country, where I was appointed
6 course chief for the School of Calvary. And these are courses
7 that are taught to lieutenants, captains and even majors.

8 Q. When you say course chief, what does that job entail?

9 A. That I had the management of all of the courses. I was
10 the chief of all of the courses, and there was a varied amount
11 of courses. There were courses in the management of small
12 units, there were courses for engineers, for communications
13 and also working with the upper ranks of the units all the way
14 up to battalions included.

15 Q. How many military students were taught at that school?

16 A. The number per year of lieutenants, first lieutenants,
17 captains and majors would vary according to the year, but we
18 say per year we had between 200 and 300.

19 Q. How long did you teach at that school?

20 A. Five years.

21 Q. What was the next school that you taught at?

22 A. The next school where I taught was the Superior War
23 School, the school where I had graduated as an officer of the
24 General Staff.

25 Q. And am I correct that you testified earlier that that

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DIRECT - JOSE LUIS GARCIA

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1 was training for the General Staff?

2 A. Yes, I clarified earlier that I studied that precisely

3 when I attended there.

4 Q. So what types of classes then would be required at a
5 school like that for training for the General Staff?

6 A. In the Republic of Argentina, the most important thing
7 was to teach the chiefs and officers who were training at the
8 school as students, what their performance should be as chiefs
9 or commanders of the units that they were to lead in the
10 future; therefore, the way in each -- the way that each
11 commander should manage each student and should perform was
12 fundamentally important as well as how the chain of command
13 worked in our military organization, what were the laws and
14 regulations, both national and international that regulated
15 their performance. After that, the organization for all types
16 of units within an army, how the command lengths and the
17 dependent lengths were established, what were the duties of
18 each one of the General Staffs of each of the units that were
19 part of the order for battle, and the traditional -- in the
20 traditional branches of the G-1 personnel, G-2 intelligence,
21 G-3 operations, G-4 logistics, and G-5 civilian affairs.

22 Q. These were branches -- these G-1, 2, 3, these were
23 branches of the General Staff, is that right?

24 A. These are the branches of all of the General Staffs,
25 and they start with -- they all start with G, and then when it

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DIRECT - JOSE LUIS GARCIA

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1 comes to the other rights, the lower units, then they start
2 with S, S-1, S-2, S-3.

3 Q. So this was all taught at the Superior War School, is

4 that correct?

5 A. Along with other subjects. The principal one would be
6 the management of that type of unit, logistics and all areas,
7 military history, national or international military law, in
8 general all that comprises the highest level of knowledge when
9 it comes to the management of an army.

10 Q. Sir, I'm sorry, go ahead.

11 A. One may not achieve the rank of general without
12 attending this school.

13 Q. How long did you teach at the Superior War College?

14 A. I was there for two years as a professor, and then I
15 transferred over to the National Defense School as a
16 professor, the National War School in the United States.

17 Q. Sir, can you briefly describe for us what that school
18 does that was different than the Superior War School?

19 A. The Superior War School trained officers for the
20 General Staff for the army. The National Defense School, the
21 National Defense School, in addition to training ranks such as
22 colonel, navy captain and commodores trained civil servants
23 from the Ministry of Defense and Public Administration who
24 will perform duties on the different tiers of national
25 defense.

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1 Q. How long did you teach at that school, sir?

2 A. For almost 14 years.

3 Q. In addition to your experience teaching, have you ever

- 4 been an active duty commander in the military?
- 5 A. Yes.
- 6 Q. When was that?
- 7 A. That was in the year 1967.
- 8 Q. And what was your position at that time?
- 9 A. I was the commander of a cavalry regiment which had
10 traditionally and historically been known as Blandengues in
11 the Republic of Argentina.
- 12 Q. Can you explain what a cavalry regiment is?
- 13 A. According to the military organization we have in my
14 country, a regiment is a troop unit of the highest hierarchy
15 within a military structure. A regiment can be comprised of
16 several battalions. Each battalion may be comprised of
17 several squadrons or companies as they are called here in the
18 United States.
- 19 Q. So when you were Chief of the Sixth Regiment, how many
20 troops were under your command?
- 21 A. Counting chiefs, officers, noncommissioned officers and
22 soldiers, there was around 2200.
- 23 Q. When you retired from the Argentine military, what was
24 your rank?
- 25 A. Colonel.

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- 1 Q. Have you done any work with any organizations after
2 your retirement?
- 3 A. Yes, but before I retired, the army sent me to the
4 School of Economic Science at the University, the University

5 of the City of Buenos Aires to take courses and training on
6 the subject of economic development. That was a year and a
7 half, and I was an active duty officer at the time.

8 Q. Sir, what is CEMIDA?

9 A. It's a story that's a little bit long and a little bit
10 sad, and if you like, I can tell it to you.

11 Q. Perhaps you can give us the abbreviated version.

12 A. Well, it starts when a group of my officers from my
13 country who hold my rank, colonel, said enough of military
14 dictatorships, the people should be able to express themselves
15 toward democracy through the vote. Then we attempted to
16 organize what the Constitution of my country orders is to be
17 created, which the -- and the Constitution says that every
18 citizen is obligated to rise up in arms in defense of the
19 Constitution and in defense of the authorities that fall under
20 it. And since military dictatorships were a daily event in my
21 country and the people were unable to express themselves, we
22 decided to say enough and to rebel, and we all ended up in
23 jail. It was only when democracy returned to my country,
24 because the constitutional government which takes power in the
25 year of 1983 returns us to our rank, I am sent to the National

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1 Defense School, as I said earlier, and others are sent
2 elsewhere, and then we decided to create an organization which
3 was called the Center for Military Officers for Argentine
4 Democracy, CEMIDA, of which I have been always the secretary

5 general. And it's fundamental objectives are: Never again a
6 military dictatorship in our country; and those -- all of
7 those who have violated human rights, abusing of their rank
8 and their profession must be taken before the courts so that
9 if they were to be guilty, shall pay in accordance with the
10 law. That is our organization, and those are the objectives
11 that we are complying with not only within our country but
12 also internationally.

13 Q. Sir, just to clarify a point, what did you mean when
14 you said the Constitution obligates you to rise up against a
15 military dictatorship?

16 A. It said expressly within the Constitution of Argentina,
17 not only military officers, all citizens are obligated.

18 Q. Have you ever been an expert witness before?

19 A. Yes.

20 Q. When was the first time?

21 A. When military dictatorships end in my country in the
22 year 1983, the constitutional government takes the three
23 military juntas which governed outside the law, from the year
24 1976 to the year 1983, takes them before justice so that they
25 can provide accountability for the crimes committed during

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1 their administration. I can tell you that there were 20,000
2 disappeared persons in my country as a result or as a
3 consequence of the dirty wars that these juntas established.
4 These militaries, all of the very highest rank, all lieutenant
5 generals, admirals or brigadiers, they were all tried, accused

6 of having committed crimes against humanity, and this was done
7 through a federal chamber which had the deference with me of
8 offering me the position of military expert witness at that
9 trial. That was my first job as an assistant to justice in
10 seven of the truly guilty parties of the crimes as alleged.

11 Q. Were there any other military experts during those
12 trials in Argentina?

13 A. No, I was the expert witness. At that time, I worked
14 as the head teacher of National Defense at the National
15 Defense School, and that is the primary subject taught at that
16 school.

17 Q. What was the next time that you served as an expert
18 witness?

19 A. The next time was in the year 1991 at which the
20 Provincial Chief of the Jesuits of Central America asked me to
21 work with them at the City of El Salvador in the Republic of
22 El Salvador as a military expert witness at a trial that they
23 were handling against military forces who have been accused of
24 having allegedly assassinated six Jesuit priests at the
25 Catholic University of El Salvador along with the servants of

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1 those Jesuit gentlemen.

2 Q. Sir, what did you do to prepare for that case?

3 A. In order to prepare for that case, I had to acquire all
4 of the regulations, all of the rules and laws, both civilian
5 and military, that governed the functioning of the justice

6 system in El Salvador. I took counsel from people whom I know
7 and who had held important positions within the military
8 organization of El Salvador about the fact -- how the facts
9 had taken place and what the causes of the facts were. The
10 Jesuit priest put me in contact with many people from many
11 walks of life, which allowed me to establish an idea in my
12 mind of how the situation that they lived in was, what was the
13 way the rules and regulations of the military organization in
14 Salvador were imposed upon the people and obligated them to
15 behave in a certain manner and what the international laws
16 were that regulated military behavior under situations such as
17 the one that they had in El Salvador where there were military
18 confrontations between insurgents and the military forces.

19 Q. Professor Garcia, have you studied any of those same
20 materials in preparation for this case?

21 A. Some yes; some no, because these took place in -- some
22 of them took place in 1991 and the ones that we're talking
23 about here took place between the year 1979 and the year
24 1981 -- '83, '83. The interpreter is corrected.

25 Q. Just very briefly, sir, have you ever served as an

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1 expert witness in any other countries?

2 A. Yes, as a consequence of this expert witness testimony
3 that was given at the City of San Salvador, under very
4 difficult circumstances because the Civil War was at its
5 height, the United Nations and the OAS proposed to appoint me
6 military expert for those two organizations with the purpose

7 of me moving to the Republic of Haiti to assist the government
8 of that republic which was going to investigate crimes
9 committed by the military dictatorship of General Cedras,
10 which was -- which is to say that I was born an expert witness
11 with an official title, and I'm no amateur. As a result of
12 that, I did go to the Republic of Haiti, and during more or
13 less a month and a half, I spent that time investigating what
14 had happened. I generated a report for the Secretary of
15 Justice of that country which was used as the foundation for
16 the tribunal which was to try those crimes. The following
17 year I returned to the Republic of Haiti now to perform my
18 role at the tribunal that was to try -- at a tribunal for an
19 oral trial against that dictatorship.

20 MR. EISENBRANDT: Your Honor, at this time, we
21 offer Professor Garcia as an expert witness on the
22 obligations of the military commander and on the El
23 Salvadoran military structure.

24 THE COURT: All right. Any voir dire?

25 MR. BROOKE: At this time, Your Honor.

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1 THE COURT: All right. Then he's accepted as
2 an expert on the Salvadoran military structure and the
3 obligations of a military commander.

4 MR. EISENBRANDT: Your Honor, may I approach
5 the witness?

6 THE COURT: You may.

7 BY MR. EISENBRANDT:
8 Q. Professor Garcia, is this the expert report that you
9 wrote in preparation for this case?
10 A. Yes.
11 MR. EISENBRANDT: Your Honor, we would ask to
12 move Professor Garcia as an expert witness into evidence
13 as Exhibit 10.
14 MR. BROOKE: Can we approach, Your Honor?
15 THE COURT: Objection sustained. It would be
16 hearsay under the rules. It cannot be received. I'm
17 sorry, unless there's some exception to be pointed to.
18 MR. EISENBRANDT: No, Your Honor, not at this
19 time.
20 THE COURT: All right.
21 BY MR. EISENBRANDT:
22 Q. Professor Garcia, as an expert witness, are you being
23 paid to testify in this case?
24 A. As is logical as in any job, I do receive a stipend for
25 this job -- for this work. The interpreter corrects himself.

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1 Q. How much have you received to testify as an expert?
2 A. It is stipulated, what I always stipulate is a rate of
3 \$50 an hour for a maximum of 100 hours, and anything beyond
4 100 hours is not charged. And in this trial, I have received
5 three-quarters of that stipend, that that is customary and
6 that is what the United Nations taught me that an expert
7 witness should charge, because prior to that, I had never

8 charged for anything.

9 Q. Professor Garcia, I would like to talk about chains of
10 command, please tell the jury what a captain of command is.

11 A. The chain of command establishes the different
12 connections that exists between the different levels of
13 command from the highest who has the superior power all the
14 way down to the rank soldier.

15 Q. What is the importance of a chain of command?

16 A. The importance of the chain of command is that it
17 establishes the basis of the disciplinary system, that that we
18 said at the beginning was the backbone of the military
19 organization. It establishes for each tier the attributions
20 that the law provides it to each of the ones that we have
21 named so far, and it also establishes the attributes that each
22 one of the persons has at each one of the levels.

23 Q. Why is a chain of command important for the functioning
24 of a military?

25 A. It's extremely important because it determines for

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1 superiors what their duties and attributions are as pertains
2 to their subordinates; and to the subordinates, it explains
3 why they must obey each one of the tiers above them and to
4 whom must they pay obedience. It is the basis of any military
5 structure. It is the basis for discipline.

6 Q. Generally speaking, what are the duties of a commander?

7 A. The duty of the commander is number one. Compliance

8 with everything that the law states that he may do, not to do
9 all that he may not do, to establish the different tiers or
10 levels where authority is established and to insure that the
11 orders at each one of those levels, which is the
12 establishment, the command, to insure that those orders are
13 complied with as is stipulated by law.

14 MR. EISENBRANDT: Your Honor, may I approach
15 the witness?

16 THE COURT: You may.

17 BY MR. EISENBRANDT:

18 Q. Professor Garcia, can you tell us what this document
19 is?

20 A. In Spanish, it reads Ordinance of the army, and this
21 ruled the functioning of the army at the time that the facts
22 that this court is investigating took place. It is the
23 edition of 1977 that you have given me.

24 Q. Is this the type of document that someone in your field
25 of expertise on military structure would rely upon?

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1 A. Yes.

2 MR. EISENBRANDT: Your Honor, we would move to
3 introduce this as Exhibit 10.

4 THE COURT: So received.

5 (Exhibit Number 10 was marked. Description:
6 Army Ordinance.)

7 Q. Professor Garcia, can I ask you to please look at
8 Article 9 of the ordinance?

- 9 A. Article 9, yes.
- 10 Q. Can you please read for the jury the second paragraph?
- 11 A. Military personnel may not elude responsibility.
- 12 Superiors shall be responsible for the orders they give;
- 13 nevertheless, when he (the superior) believes that the
- 14 execution of any order could cause harm to the executor, he
- 15 shall issue it signed and in writing.
- 16 Q. Sir, can you turn to Article 373 of the ordinance?
- 17 A. 373?
- 18 Q. Yes, sir.
- 19 A. Here it is. You want me to read it?
- 20 Q. Please read it, sir.
- 21 A. No officer may excuse himself for the omission or
- 22 inattention of his subordinates in matters which he can and
- 23 should oversee himself; following this concept, all superiors
- 24 shall deal with the violations he sees in his subordinate, who
- 25 must execute and enforce his (the superior's) orders; and were

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- 1 he to be found guilty, he (the superior) shall take the
- 2 corresponding measures, in the knowledge that, as a result of
- 3 the dissimulation, responsibility shall fall upon the
- 4 superior.
- 5 Q. What specific duties arise from this particular
- 6 article?
- 7 A. The specific duty that arises is that the superior
- 8 first, as the rule says, should only issue legal orders.

- 9 Q. When you say legal orders, what does that mean?
- 10 A. These are orders that do not violate laws of
- 11 regulations that rule military activity. That's what I'm
- 12 referring to.
- 13 Q. What are a commander's duties in terms of the laws of a
- 14 nation and the Constitution of a nation?
- 15 A. The duties of a commander relating to the Constitution
- 16 and all of the laws are, first, to follow the international
- 17 law that the country has signed which regulates the
- 18 development of military operations in such a form that allows
- 19 him to protect life of all of those who have ceased to fight,
- 20 of those that have been taken prisoner and that of the civil
- 21 population -- civilian population; the interpreter corrects
- 22 himself. He must also observe and comply with the laws that
- 23 regulate the functioning of his own military organization,
- 24 which in this case is not only stipulated to in the ordinance
- 25 that you have given to me, but also by the Organic Law for

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- 1 National Defense and in the Military Code of Justice.
- 2 Specifically, those are the three fundamental elements upon
- 3 which any military officer of any hierarchy will find the
- 4 basis upon which to regulate his behavior within the structure
- 5 of command, which implies responsibilities and obligations.
- 6 All military personnel have some superior who must be of aid.
- 7 Any military personnel with any certain degree of hierarchy
- 8 will have subordinates who would have to obey his orders; thus
- 9 command responsibility is a fundamental activity within

10 military life, because to us, the military, the country has
11 awarded us the privilege to walk around fully armed amongst
12 unarmed people. This implies tremendous responsibility, and
13 that responsibility obligates the commander to observe with
14 the greatest dedication the limitations of his actions with
15 the purpose of causing no harm, not only to his own structure
16 but also to the civilian population that has distinguished him
17 with its trust. In my opinion, that is the greatest
18 responsibility I have ever felt in the exercise of my duties.

19 Q. You mentioned earlier international laws that needed to
20 be followed, would that include international treaties?

21 A. Of course, it's obligatory because the countries have
22 adopted them, they have signed them. And its Constitution
23 state or stipulate international treaties are the supreme law
24 of the country.

25 Q. Is that true in El Salvador?

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1 A. El Salvador signed the international treaties that
2 rule over -- what I'm referring to is the four Geneva
3 Conventions. I'm referring to the two additional protocols to
4 those treaties, to Article 3 which establishes the procedure
5 to be followed during internal conflict, not an international
6 one. The Treaty of London signed unanimously by all countries
7 of the world that served to try the criminals of the Nazi
8 regime and the Treaty of Tokyo which likewise was used to try
9 all of the criminals of the Japanese regime, which establish

10 obligations, and it also stated what was considered crimes
11 against peace, war crimes and crimes against humani ty.

12 Q. What did the --

13 A. Amongst my papers, I have a document which shows the
14 date upon which the Republic of El Salvador signed these
15 documents and the date upon which legislative power
16 established -- the date that it established for its
17 enforcement.

18 Q. Sir, let me ask you, you mentioned the Geneva
19 Conventions and protocols, what generally do the Geneva
20 Conventions say about treatment of civilians?

21 A. Of prisoners?

22 Q. Of civilians.

23 A. It says that the civilian population has full right --
24 has the full right to be respected by either one of the
25 contenders, and that a military commander has the obligation

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1 to control that his subordinates observe with the greatest
2 care not to interfere with the lives of populations and
3 certainly not -- certainly not punish them, torture them and
4 that they deserve not only that respect, but the specific care
5 by the commander so that his subordinates dispense that
6 special treatment towards the civilian population.

7 Q. Are there other international treaties that discuss
8 torture?

9 A. Yes, yes, of course, at the United Nations, there is
10 the United Nations Convention for Respect on Human Rights, and

11 that the intra-American level, at the Organization of American
12 States which involves all of the countries in the hemisphere
13 all the way from the north, all the way to the south, there is
14 established all of the considerations upon which the rights of
15 all people should -- must be respected and that there is no
16 reason of any type that would allow a commander even in
17 consideration of the needs of his military operations, shall
18 he allow himself to violate the rights of people such as the
19 ones we've mentioned, and these are the basic human rights.

20 MR. EISENBRANDT: Your Honor, I don't how late
21 you're planning on going today.

22 THE COURT: This is probably a good time to
23 stop.

24 Ladies and gentlemen, we will attempt to resume
25 close to 9:00 o'clock tomorrow. It should be very close

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1 to 9:00 as it was today. You should come in at 8:30, and
2 we will start in here -- I do have a couple of matters,
3 but they should be quick. We will see you by 9:00. Do
4 not discuss the case among yourselves. Don't let anybody
5 talk with you about the case, and if you do have somebody
6 inadvertently talk about this case to you or
7 intentionally, let us know promptly and we will take
8 whatever appropriate action is necessary. Of course,
9 don't do any investigation. Don't make any inquiry.
10 Don't go on the computer, and certainly avoid anything you

11 might see in the media that might be about the case. Keep
12 an open mind. We will see all of you tomorrow at 8:30, we
13 will start in here very close to 9:00 o'clock. I will let
14 you be excused at this time. I will stay just for a
15 moment to see how we're doing on our schedule. We will
16 let you be excused.

17 (Jury out at 5:10 p.m.)

18 THE COURT: All right. We will see you
19 tomorrow a little before 9:00, so we will be ready to
20 proceed.

21 THE WITNESS: Thank you, sir.

22 THE COURT: Thank you.

23 I want to check on our schedule and I will let
24 you come to side bar briefly and have counsel advise me as
25 to how we're doing on our time.

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1 (The following proceedings had at side-bar
2 bench.)

3 THE COURT: I think we kind of got through the
4 preliminary matters and now you're beginning to start on
5 the other matters, and do you think an hour, hour and a
6 half?

7 MR. EISENBRANDT: Yes.

8 THE COURT: And who will our next witness will
9 be?

10 MS. BLUM: Irma Calderon and then Jose
11 Francisco Calderon.

12 THE COURT: That's fine. I think it is always
13 when we get to this stage very helpful to know who is
14 coming up, and I think it would be helpful to counsel.

15 MR. FARGARSON: I appreciate that. We have
16 talked, we have talked all through it about this, but, you
17 know, the critical question is when are they going to get
18 through because we have got, I think, five people coming
19 up.

20 THE COURT: How are we doing is the next
21 question I had, exactly, is how are we doing on the time?

22 MR. ESQUIVEL: We're going faster than we
23 anticipated.

24 THE COURT: I think we are too.

25 MR. ESQUIVEL: And we have the three witnesses

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1 that are coming up after Colonel Garcia will each be --

2 MR. FARGARSON: Well, Alvarado will.

3 MR. ESQUIVEL: Yes, but the next three, the
4 Calderons, Irma and Francisco Calderon will -- Irma
5 Calderon will be an hour at most.

6 MR. FARGARSON: Right. But Ana Patricia
7 Chavez, when she testifies, that will be some time.

8 MR. ESQUIVEL: It will be a couple of hours, it
9 will be like Ms. Franco this morning, but I think we will
10 get through at least two of those, if not all three of
11 those --

12 THE COURT: Are we likely to conclude all of
13 your evidence by which day now, what is your projection?

14 MR. ESQUIVEL: I would say by the end of the
15 day Tuesday next week.

16 THE COURT: And that's kind of what we need to
17 start thinking about.

18 MR. FARGARSON: Because we can get tickets and
19 everything and have them come in maybe, say, Monday, if
20 that is still their prediction.

21 THE COURT: Okay, I think it's useful to have
22 this -- hopefully, it is useful to this conversation.

23 MR. BROOKE: May I inquire about a personal
24 indulgence for next Tuesday?

25 THE COURT: Sure.

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1 MR. BROOKE: I'm the county attorney for the
2 Sports Authority, and we meet once every three months --

3 THE COURT: Good. You're going to pay off
4 whatever it is?

5 MR. FARGARSON: Pay off all the debt.

6 MR. BROOKE: I know the board members may be a
7 little bit nervous without an attorney, and the meeting is
8 usually at 11:45, and it is over by 1:00.

9 THE COURT: Let's do that. We will make
10 arrangements for that.

11 MR. BROOKE: I wanted to give you a heads up.

12 THE COURT: If we stop at --
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13 MR. BROOKE: It is out at Memphis State, I can
14 make it.

15 THE COURT: You can make it.

16 MR. BROOKE: Or if I can possibly step out.

17 THE COURT: That's always allowed, you can
18 always, if you need to. What we will do is we will take
19 an early lunch that day, just remind me, and we will take
20 an early lunch and come back at like 1:15.

21 MR. BROOKE: 1:10 would be fine. I wish I
22 could say I had tickets for everybody to go to the
23 basketball game tonight, but I don't have any either.

24 THE COURT: Well, that's good. I will see
25 y'all tomorrow.

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1 (Court adjourned at 5:20 p.m.)

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