

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 4, 2005
VOLUME V

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FRI DAY MORNING & AFTERNOON

NOVEMBER 4, 2005

The jury trial in this case resumed on this date, Friday, November 4, 2005, at 9:05 o'clock a.m., when and where evidence was introduced and proceedings were had as follows:

THE COURT: We can bring the jury back in, we can have our first witness ready to come in as soon as the jury is here.

(Jury in at 9:07 a.m.)

THE COURT: All right. You may be seated. Counsel, who will our next witness be?

MR. EISENBRANDT: Your Honor, we call Ana Patricia Chavez.

THE CLERK: Ma'am, if you will raise your right hand to be sworn. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE CLERK: You may take the witness stand.

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1 (Francis Icaza previously sworn to interpret
2 English into Spanish and Spanish into English.)

3 ANA PATRICIA CHAVEZ

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. Good morning, Ms. Chavez.

10 A. Good morning.

11 Q. Where do you live?

12 A. In Los Angeles.

13 Q. Where do you work?

14 A. At an orthopedic clinic, housekeeping.

15 Q. Are you married?

16 A. Yes.

17 Q. How long have you been married?

18 A. Seventeen years.

19 Q. Were you ever married before that?

20 A. Yes.

21 Q. What is your current husband's name?

22 A. Ricardo Antonio Portillo.

23 Q. And does he live in Los Angeles as well?

24 A. Yes.

25 Q. And what was your previous husband's name?

♀

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1 A. Carlos Omar Reyes Portillo.

2 Q. Do you have any children?

3 A. Yes.

4 Q. What are their names?

5 A. Carla Linnette, Bryan Ricardo, Luis Alberto and Diana

6 Elizabeth.

7 Q. Do you have any brothers and sisters?

8 A. Yes.

9 Q. What are their names?

10 A. Do I have to say my name?

11 Q. No, just your brothers and sisters.

12 A. Alma America, Ai dee Del Carmen and Oscar Jose.

13 Q. Where does Alma live?

14 A. In El Salvador.

15 Q. And where do Ai dee and Oscar live?

16 A. In Los Angeles.

17 Q. What is your immigration status in the United States?

18 A. I'm a resident.

19 Q. Tell us where you were born.

20 A. In Ahuachapan.

21 Q. Is that in El Salvador?

22 A. Yes.

23 Q. Is that where you grew up as well?

24 A. Yes.

25 Q. When did you come to the United States?

♀

DIRECT - ANA PATRICIA CHAVEZ

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1 A. In December of 1982.

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2 Q. What kind of education have you had?
3 A. Well, I got as far as 12th.
4 Q. Would that be like high school then?
5 A. Yes. Secretary school.
6 Q. Tell us a little bit what Ahuachapan is like where you
7 grew up.
8 A. Well, in those days, it was a very calm town where one
9 could move about peacefully. And then after that, there was
10 kind of like coup d'etat, and they were killing the teachers.
11 They killed a lot of people.
12 Q. Prior to that time when you were a child, tell us a
13 little bit about your life growing up, tell us a little bit
14 about your family growing up.
15 A. Well, I would go to school. The little school, it was
16 a school run by nuns, and my parents worked as teachers so
17 that we never wanted for anything. We were happy.
18 Q. Did you live with your parents and your brothers and
19 sisters at that time?
20 A. Yes.
21 MR. EISENBRANDT: Your Honor, may I approach
22 the witness?
23 THE COURT: You may.
24 BY MR. EISENBRANDT:
25 Q. Ms. Chavez, can you tell me who is in that picture that

♀

DIRECT - ANA PATRICIA CHAVEZ

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1 I just handed you?

2 A. It's my little sister, my mother, my dad and my cousin.
3 MR. EISENBRANDT: Your Honor, I would like to
4 move to introduce this as Exhibit 14.
5 THE COURT: So received.
6 (Exhibit Number 14 was marked. Description:
7 Photograph.)
8 BY MR. EISENBRANDT:
9 Q. Ms. Chavez, can you tell the jury who your mother and
10 father are in this picture?
11 A. The lady on the right who is holding the white sweater,
12 in red.
13 Q. That's your mother?
14 A. Yes.
15 Q. And who is your father?
16 A. The one wearing the blue jacket.
17 Q. What was your mother's name?
18 A. Ana Guillermina Penate de Chavez.
19 Q. What was your father's name?
20 A. Oscar Humberto Chavez.
21 Q. And you said both of your parents were teachers?
22 A. Yes.
23 Q. They were teachers in Ahuachapan?
24 A. Yes.
25 Q. Do you know the name of the school where your mother

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1 taught?

2 A. Yes.

- 3 Q. What was it called?
- 4 A. Carlota Deon, the Widow Trigueros. It was close to the
5 house.
- 6 Q. Do you remember how long she was a teacher?
- 7 A. Ever since she graduated. She was young.
- 8 Q. Do you know what subjects she taught?
- 9 A. Yes.
- 10 Q. Tell us those.
- 11 A. She taught mathematics, social studies, natural
12 studies, arts and crafts. Well, those are the ones I
13 remember.
- 14 Q. Do you know what grades she taught?
- 15 A. Yes, third and fourth.
- 16 Q. Did she teach any other classes outside of the regular
17 school?
- 18 A. Well, at that school, she was the vice-principal at the
19 same school, and then at night when she got out of school, she
20 would go and teach at the Espino, and she would be teaching
21 parents.
- 22 Q. What did she teach to these parents?
- 23 A. She taught them to write. She used to teach them so
24 they could -- see, they were parents who couldn't write, they
25 couldn't read, and they would start as if they were in first

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1 grade.

2 Q. Did your father teach at the same school?

- 3 A. No, it was different.
- 4 Q. Do you remember the name of that school?
- 5 A. It seems to me it was called El Uano Del Espino.
- 6 Q. Do you know how long he was a teacher?
- 7 A. Ever since he graduated, him too.
- 8 Q. Did he teach similar classes?
- 9 A. What is similar?
- 10 Q. Well, do you remember what classes he taught?
- 11 A. The same as my mother.
- 12 Q. What was your parents' reputation in the community in
- 13 Ahuachapan?
- 14 A. They were well-known by all of the people, they were
- 15 loved very much.
- 16 Q. Were your parents members of any organizations?
- 17 A. Yes.
- 18 Q. Which one?
- 19 A. ANDES 21 June, and my mother also belonged to the fish,
- 20 to duarte.
- 21 Q. What was ANDES?
- 22 A. It was a teacher's group that was trying to improve the
- 23 salaries for them and also for their children so their
- 24 children could live better.
- 25 Q. What were your parents' roles in ANDES?

♀

DIRECT - ANA PATRICIA CHAVEZ

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- 1 A. They belonged to that teachers group.
- 2 Q. Okay. You said your mother also belonged to the -- to
- 3 Duarte and the fish, is that a political party?

4 A. Yes.

5 Q. And when you say the fish, was that -- some sort of
6 symbol?

7 A. Yes.

8 Q. What memory do you have of your parents from growi ng
9 up?

10 A. My father was a volunteer at night with the Red Cross.
11 Now, the Red Cross in my town was a group, they would -- you
12 know, they would go and get -- help people who were hurt, to
13 take them to the hospital. Pregnant women, you know, just
14 help people who needed help. I call them very good parents
15 because, thank God, we never lacked anything.

16 Q. Ms. Chavez, I want to talk to you about the year 1980.

17 A. Okay.

18 Q. In 1980, were you working or were you in school?

19 A. I was studying in San Salvador.

20 Q. And what were you studyi ng?

21 A. Secretary school .

22 Q. Does that mean you were training to become a secretary?

23 A. Yes.

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

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DIRECT - ANA PATRICIA CHAVEZ

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1 THE COURT: You may.

2 BY MR. EISENBRANDT:

3 Q. Ms. Chavez, can you identify who is in the picture that

4 I just handed you?
5 A. It's me.
6 Q. Is that about how you looked in 1980?
7 A. Yes.
8 MR. EISENBRANDT: Your Honor, I would ask to
9 move this into evidence as Exhibit 15.
10 THE COURT: So received.
11 (Exhibit Number 15 was marked. Description:
12 Photograph.)
13 BY MR. EISENBRANDT:
14 Q. Were you married at the time?
15 A. Yes.
16 Q. And was that with Omar who you mentioned earlier?
17 A. Yes.
18 Q. And what kind of work did he do?
19 A. Well, he was studying as well in San Salvador. Well, I
20 don't know what you call people who make iron doors, things
21 out of iron, wrought iron, I suppose kind of like an engineer,
22 I don't remember what you call them.
23 Q. So where did you and Omar live?
24 A. Well, we each lived in our own house because when I got
25 married, I was studying and he was studying, so my mom spoke

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1 to, well, you could say it was my father-in-law, and they --
2 so we could finish the last year each in their own house, and
3 they came to the agreement that when I had the baby, my
4 mother-in-law lived in San Salvador and my father lived in

- 5 Ahuachapan, then I would travel, so I would travel back to my
6 house every weekend back to Ahuachapan with my husband, and I
7 would go usually ahead with the baby, and he would follow me
8 the following day whenever he could, or we would go together
9 on Fridays or maybe together on Saturdays.
- 10 Q. So you had a baby at the time?
- 11 A. Yes.
- 12 Q. So when you went to Ahuachapan on the weekends, how did
13 you spend the weekends?
- 14 A. Well, with my parents.
- 15 Q. And how would you spend the time, talking --
- 16 A. Well, just like a family would, happy, happy family.
17 The way happy families do when they get together on the
18 weekends, and we would talk and we would make floral
19 arrangements, we would have lunch, dinner, you know, just an
20 everyday family.
- 21 Q. Did you go to Ahuachapan on the weekend of July 26th,
22 1980?
- 23 A. Yes, I was with them.
- 24 Q. Do you remember when you got there that weekend?
- 25 A. Well, it seems to me that I must have gotten there, I

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- 1 must have left on Friday, because generally I would leave on
2 Friday as soon as I got out of school and I would -- and would
3 go with the baby, my little girl, and then my husband would
4 follow me the next day or whenever he could.

- 5 Q. Who was at the house when you got there?
- 6 A. My brothers and sisters, the little ones, the ones that
7 come after me.
- 8 Q. Is that Ai dee and Oscar?
- 9 A. Yes.
- 10 Q. Did anything out of the ordinary happen that night?
- 11 A. Yes.
- 12 Q. What happened?
- 13 A. Well, it was my mother's birthday on the 25th. Well,
14 my family had prepared a celebration. My cousins, my aunts
15 and I, they prepared a luncheon for her. Then in the
16 afternoon, everyone left, and only those who lived there
17 remained, my mom and my dad, my brothers and sisters and me
18 and my husband and my little girl.
- 19 Q. And what happened after the celebration?
- 20 A. Well, everyone went back to their houses and we just --
21 the rest of us remained until it was time for us to get ready
22 to go to bed, which would be about 10:00 or 11:00 o'clock,
23 11:00 o'clock at night.
- 24 Q. And what happened then?
- 25 A. Well, what happened was -- well, we all decided it was

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- 1 time to go to bed, and then all of a sudden, we started
2 hearing some whistles, whistles from one side to the other,
3 and my dad says, I wonder what that is, and my mom said that's
4 very strange, we have never heard those whistles. And then we
5 started to look out the window, and we all were looking out

6 the window, and we turned out the lights and we could hear, it
7 was kind of like someone was communicating using whistles from
8 one side to the other.
9 Q. And so what did you do?
10 A. Well, since we didn't see anything, we went to bed.
11 Q. Well, what time did you get up the next morning?
12 A. Well, we had to travel back to San Salvador, so it
13 would have been maybe between 5:00 and 6:00 in the morning, we
14 got up.
15 Q. Did everybody get up at that time?
16 A. Yes.
17 Q. And what did you do after you got up?
18 A. Well, my brother and sister, they went to school
19 because my brother, my younger brother had a field trip, and
20 my sister had to go to school, to the other school where she
21 went. I think that day, she had physical education that day,
22 and my father and Omar, they went to get an iron gate to put
23 it -- in the house at the garage, and I got up because I had
24 to travel back to San Salvador, and I had a lot of dirty
25 clothes, so I had to wash since my husband was off with my dad

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1 and the baby was asleep.
2 Q. So with your husband and your dad gone and your brother
3 and sister gone, who was left in the house?
4 A. Just me, my mom and the baby.
5 Q. So while you were doing laundry, what was your mom

- 6 doing?
- 7 A. She went into the bathroom to take a shower.
- 8 Q. And then what happened?
- 9 A. Well, it was about 6:30 or 7:00 maybe, the lady who
- 10 sells bread, the bread lady, and she rang the bell, and then I
- 11 went out to get the bread because my mother was taking a
- 12 shower. And then I got the bread and I started going back to
- 13 where I was doing the washing, and then halfway there -- I was
- 14 almost there at the halfway back, I saw a man who was coming
- 15 down the corridor in my house.
- 16 Q. Did you know the man?
- 17 A. No.
- 18 Q. How was he dressed?
- 19 A. In civilian clothes.
- 20 Q. Was he armed?
- 21 A. Yes. He had a rifle like the ones used by the guard.
- 22 Q. When you say the guard, do you know the full name of
- 23 the guard?
- 24 A. No, I don't remember.
- 25 Q. What did you do when you saw the man?

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DIRECT - ANA PATRICIA CHAVEZ

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- 1 A. Well, I asked him what he wanted, and he didn't answer
- 2 me, and I kept on asking him what do you want. He just kept
- 3 on walking and looking all over the place, and I kept on
- 4 saying, you know, what are you looking for, what do you want.
- 5 Well, he walked around the living room, and then he went into
- 6 the living room, and I was following him, and I was following

7 him, and he didn't answer me; and then that's when my mom was
8 coming out of the bathroom, and he grabbed her and he dragged
9 her, and he threw her on the bed. And then -- then I saw
10 there were a whole bunch of men in the room, in her room, and
11 they threw her on the bed and they threw me on the bed, and
12 then there was -- they were masked, they wore masks, and then
13 they took off their masks. And then I began to pray and to
14 pray and to pray so that nothing would happen to us. And they
15 would beat her and beat her, beat my mother, and they were
16 demanding the propaganda and the money. And my mother would
17 say I don't have anything, what do you want, I don't have
18 anything.

19 Q. And how were these men dressed?

20 A. In civilian clothes.

21 Q. Were they armed?

22 A. Yes.

23 Q. Do you know what they meant by propaganda?

24 A. Well, the truth of the matter is no, I don't, but I
25 think that because my mother belonged to the Duarte people,

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DIRECT - ANA PATRICIA CHAVEZ

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1 the political party, that's what they call it.

2 Q. While they were beating your mother, where were you?

3 A. Next to her.

4 Q. And then what happened?

5 A. Well, see, they threw me on the bed too, and then --
6 and they threw something over me kind of like a towel or

7 something, and I was trying to lift it up a little bit to see
8 what they were doing. And when they saw me, that I was
9 lifting the towel to see, they decided to take me out of the
10 room, and so they began to lift me up, but all I could hear
11 was that they were beating my mother. As they were lifting me
12 up, I could hear them beating her, beating my mom. And my mom
13 was complaining, and she was and saying I don't have anything,
14 and they continued to beat her. And they kept on searching
15 through the whole room, and then they got me out, and I began
16 to pray, to pray so that they wouldn't do anything to us. The
17 baby was asleep.

18 Q. And were you still in the room with your mother at that
19 time?

20 A. Yes, but since they saw me, that I was looking, they
21 took me out of there and they took me to my room.

22 Q. And when you were in your room, what were you thinking?

23 A. Well, they grabbed me and they pulled me out, and I was
24 very scared. I was thinking they're going to rape me, they're
25 going to kill my little girl, and I just prayed and prayed,

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1 prayed so that nothing would happen to us. And then they
2 threw me on my bed, and they closed the door, and I kept on
3 praying and praying so that nothing would happen to us, that
4 they wouldn't kill us. And then I thought suddenly that the
5 sink was filling up with the clothes, and then they turned on
6 the radio very loud, it was -- you could hear a blaring radio,
7 and they left me there, locked in there by myself and I could

8 think only of my mom. After that, I couldn't hear anything,
9 and I said what happened, what happened. Just the radio
10 blaring, that's all you could hear, and you couldn't hear them
11 talking about anything. Then I heard some very loud gunshots,
12 and I said they killed my mother, and I began to cry and to
13 cry, and then I didn't hear anything. I was there in the room
14 terrified.

15 Q. How long did you wait in the room, do you remember?

16 A. Maybe a half an hour, maybe an hour, I don't remember.

17 Q. And then what did you do?

18 A. Well, after I heard the gunshots, I stayed there. Like
19 I told you, I was there praying with the door closed. And
20 then after awhile, after awhile I didn't -- after I didn't
21 hear anything, I opened the door very carefully, and I looked
22 all around to see what I could see, and then after that, I
23 heard nothing, and then I went to my mom and dad's room, and
24 then I saw my mother there dead, sprawled on the bed bleeding.

25 Q. And then what did you do?

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1 A. Well, I walked out through the living room, and I was
2 screaming for help. And people were looking at me, and I was
3 saying, help me, my mom is dead. And then the two guys, the
4 two men who were working in the house, they were doing some
5 building in the house, and I told them, I said, my mom is
6 dead, haven't you seen my dad and Omar. No, they said. So I
7 kept on asking for help, for people to help me. Then people

8 begin to gather around, and then a young girl who lives close
9 to the school down -- a little bit down the street from my
10 house, she lives -- well, in between the school and my house
11 in some little tiny rooms that they had there, and she said to
12 me, there's a young man down there, he's dead, I don't know if
13 it is your husband. I said take me, take me there to see if
14 it is him. And when I went to see, he was there, he was
15 sprawled in the ground with his head as if he had hit it
16 against a rock, and they had shot him through the forehead.

17 Q. And then what happened?

18 A. Well, since he was sprawled there and I turned around
19 and I was going back to the house, and I was asking the people
20 what had happened to my dad, and they would say, I don't know,
21 I haven't seen him. So while I was walking, I saw all of the
22 people gathering around in the street, around the house,
23 around my house, and I walked in through the yard, gate, that
24 was the gate that they were going to install, and I walked,
25 and when I got to the corridor, I saw my dad there on the

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1 floor covered in blood, his head was covered in blood, and
2 somebody had placed something kind of like a kerchief over his
3 head so you couldn't see what they had done to him.

4 Q. Do you remember anything after that?

5 A. Well, I remember that my -- I asked them to go and find
6 my brother and sister, and I was screaming for the judge, the
7 lawyer who had to come and identify the bodies. And the judge
8 came and identified them, and I don't want to remember

9 anything else.
10 Q. Did you attend the funeral for your parents and for
11 your husband?
12 A. Yes.
13 MR. EISENBRANDT: Your Honor, may I approach
14 the witness?
15 THE COURT: You may.
16 BY MR. EISENBRANDT:
17 Q. Can you tell us what that is a picture?
18 A. My mom and my dad and my husband.
19 MR. EISENBRANDT: Your Honor, we would move to
20 enter this as Exhibit 16.
21 THE COURT: Exhibit 16, so received.
22 (Exhibit Number 16 was marked. Description:
23 Photograph.)
24 BY MR. EISENBRANDT:
25 Q. After your mother and father and husband were killed,

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DIRECT - ANA PATRICIA CHAVEZ

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1 where did you live?
2 A. In that same house.
3 Q. In Ahuachapan?
4 A. Yes.
5 Q. Was it safe to live there?
6 A. We had nowhere else to go.
7 Q. Who did you live with?
8 A. My grandmom stayed with us.

9 Q. How long did your brother stay with you there? I'm
10 sorry, how long did your brother stay with you there?
11 A. Well, I was scared because my brother was feeling -- he
12 was the last, he was the smallest, he felt hate because they
13 killed my mom and my dad, and he felt great resentment, why
14 had they done that, he was going to get revenge.
15 Q. I'm sorry, go ahead.
16 A. Well, I was very scared for him, and so I talked to an
17 aunt that we have here to tell her that we were going to send
18 him here, and then we would follow him after that because,
19 well, they had taken my baby. Well, we sent him over here,
20 and I lost my baby because my mother-in-law took her from me
21 because her son was killed, and she was -- she took the baby,
22 and then I was all by myself, I felt very lonely, I had no
23 support from anyone, I had no support neither financially or
24 of any type, and then I tried to get in touch with my baby,
25 but -- and I couldn't and I lost communication with her for a

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DIRECT - ANA PATRICIA CHAVEZ

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1 long time until I was able to communicate with her last year.

2 Q. Ms. Chavez, why did you file this case?

3 A. Well, because I got the opportunity.

4 MR. EISENBRANDT: Thank you, Your Honor. I
5 pass the witness.

6 THE COURT: Cross examination?

7 MR. FARGARSON: Your Honor, would you excuse me
8 a minute to ask counsel a question?

9 THE COURT: Certainly, that's fine.
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10 MR. FARGARSON: Can we approach for just a
11 moment?

12 THE COURT: You may.

13 (The following proceedings had at side-bar
14 bench.)

15 MR. FARGARSON: Well, what this is, in her
16 deposition, she said that she was not married, that, you
17 know, this -- she called him a husband, but she wasn't
18 married. In court today, she said she is married. And I
19 had told David, you know, I didn't want to unnecessarily
20 embarrass her, but that's an inconsistent statement.

21 THE COURT: Sure.

22 MR. FARGARSON: And all I said is if we can
23 reach some stipulation in the presence of the jury that
24 she wasn't married, then that will get rid of that issue.

25 MR. EISENBRANDT: Your Honor, this was -- this

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1 was a common law marriage in El Salvador. Many, many
2 people were married without having the official stamp of
3 approval of a marriage certificate, it is a very common
4 thing in El Salvador. I understand the technical
5 inconsistency.

6 THE COURT: Which is ceremony, but no official
7 ceremony?

8 MR. EISENBRANDT: They may not have even had a
9 ceremony, it may have been a matter of spending their life

10 together, and it is very common. I just think that this
11 is not something that needs to go in front of the jury.
12 It seems overly embarrassing and prejudicial to her.

13 THE COURT: It is the kind of question that if
14 counsel wishes to ask it, he may.

15 MR. FARGARSON: Well, here is what it was, I
16 said when you and Omar married, that was the question, I
17 didn't get married, I lived with him. Now, that's the
18 inconsistency.

19 THE COURT: You can certainly ask that if you
20 want to.

21 MR. ESQUIVEL: Your Honor, may we confer a
22 moment for a potential stipulation?

23 THE COURT: If you have a stipulation, that's
24 fine, we will take a 10-minute break and let you talk
25 about it, but otherwise, we will just proceed.

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1 MR. FARGARSON: Like I say, my point is I don't
2 want to cause her any undue embarrassment, but by the same
3 token, I don't want to leave that impression that --

4 THE COURT: There is nothing wrong with the
5 inquiry.

6 MR. FARGARSON: So if you can reach a
7 stipulation, just tell that to the jury, I won't have to
8 get into that, that's all I'm saying. And I have got to
9 ask it otherwise.

10 MS. BLUM: We will take the opportunity to
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11 confer amongst ourselves and see what we can come up with.

12 THE COURT: I will let you talk about it.

13 Otherwise, we just need to go ahead. Sure.

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

16 THE COURT: The parties would like 10 minutes,
17 and then we will come back. We will take a 10-minute
18 break. Don't discuss the case among yourselves, don't let
19 anybody talk with you.

20 THE CLERK: All rise. This honorable court
21 stands in recess for 10 minutes.

22 (Recess taken at 10:10 until 10:20 a.m.)

23 THE COURT: Are we ready?

24 MR. EISENBRANDT: Your Honor, should we
25 approach before the jury comes in?

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1 THE COURT: Sure, if you have an announcement.
2 If there is not one, we don't need to. Is there an
3 agreement?

4 MR. EISENBRANDT: We have a possible
5 stipulation.

6 THE COURT: Sure, why don't you come around,
7 you can tell me. We will let y'all be seated and we will
8 find out the situation. Yes, sir.

9 (The following proceedings had at side-bar
10 bench.)

11 MR. EISENBRANDT: Your Honor, we have
12 stipulated to a statement similar to this if the court
13 would just simply read that for the jury.
14 MR. FARGARSON: Well, but it needs to say she
15 isn't married.
16 MR. EISENBRANDT: Okay.
17 MR. FARGARSON: It needs to say that, and that
18 there was the other understanding that I had understood
19 David to say that there was no claim being made. See,
20 that's the problem. The jury thinks there's a marriage.
21 MR. EISENBRANDT: Well, okay, we can certainly
22 stipulate to that, that she is not bringing a claim for
23 Omar. We can use the name rather than saying husband or
24 partner.
25 MR. FARGARSON: So even if they weren't

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1 married, officially married, which they weren't, and she
2 is making --
3 MR. EISENBRANDT: That's fine, I can add that
4 that on there.
5 MR. FARGARSON: Okay.
6 MR. EISENBRANDT: I would say which they were
7 not.
8 MR. FARGARSON: Which they were not. You
9 probably can't read my writing, you write a lot better.
10 MR. EISENBRANDT: That's fine, I would be happy
11 to finish it, if you want.

12 MR. FARGARSON: Which they were not.
13 Judge, thank you for your patience in dealing
14 with this, and that will eliminate that issue. And this
15 isn't going to take me long.
16 MR. EISENBRANDT: Would Your Honor read that?
17 THE COURT: Normally, the stipulation is read
18 by the parties. I mean I can read it if you want me.
19 MR. FARGARSON: I would prefer the court do it.
20 MR. EISENBRANDT: I would too.
21 MR. FARGARSON: I would prefer that, I think
22 that gives it more --
23 MR. BROOKE: I don't want to read it myself.
24 MR. FARGARSON: I think it gives it a little
25 more dignity.

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1 THE COURT: That's fine, I will read it. Make
2 sure I can read it okay.
3 MR. EISENBRANDT: Yes, you can check and see if
4 you can read my writing.
5 MR. FARGARSON: Make sure you can read my
6 writing.
7 MR. EISENBRANDT: I would have to check his
8 last name.
9 MR. BROOKE: The man Omar.
10 THE COURT: What was Omar's last name?
11 MR. EISENBRANDT: Carlos Omar Reyes Portillo,

12 but I would think Omar Reyes is sufficient for the jury.

13 THE COURT: This is fine, I will read that.

14 MR. EISENBRANDT: Okay. Thank you, Your Honor.

15 MR. FARGARSON: Thank you, Your Honor.

16 THE COURT: Okay.

17 (The following proceedings were had in open
18 court.)

19 THE COURT: This is an agreed upon statement,
20 but she needs to hear it from the translator, because if
21 it is stipulated, certainly need to be comfortable that
22 the plaintiff agrees to it, is that okay?

23 MR. EISENBRANDT: Yes, sir.

24 THE COURT: Would you mind translating that?
25 We have used Omar Reyes, which I hope is sufficient to

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1 identify him.

2 (The interpreter conferred with the witness.)

3 THE INTERPRETER: Okay. The witness did make
4 an explanation to me if it is of any use to Your Honor.

5 THE COURT: Let me have one at side so we --
6 just come up for a second.

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

9 THE COURT: I think you should tell us what she
10 said.

11 THE INTERPRETER: Yes. I'm unsure of the
12 relevance of it, and it is not mine to determine. She

13 explains that he was Carlos Omar Portillo, which is his
14 mother's surname, that he had used Reyes because it was
15 his stepfather's surname, but not customarily. She said
16 she doesn't know why, but when the judge came to do the
17 identification of the body, in the documents, they
18 included the Reyes.

19 THE COURT: I see what you're saying. I don't
20 know that it will matter.

21 MR. EISENBRANDT: I don't think it will matter
22 to the jury.

23 THE COURT: Okay. Thank you very much.

24 THE INTERPRETER: Certainly, sir. At your
25 service.

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1 MR. FARGARSON: She identified him in the
2 deposition by the name that we have used.

3 THE COURT: Okay.

4 (The following proceedings were had in open
5 court.)

6 THE COURT: Okay. We can bring the jury in.
7 (Jury in at 10:25 a.m.)

8 THE COURT: You may be seated. When the
9 parties agree on a fact or facts, they may enter into what
10 is called a stipulation. We referred to that earlier, and
11 I read to you a number of stipulations at the beginning of
12 the case. The parties have agreed to an additional

13 stipulation and asked me to read it to you at this time.
14 It will also be reduced to print and placed in the list of
15 stipulations that you have. The stipulation reads as
16 follows: When the witness refers to her husband and to
17 being married in El Salvador, she is referring to a common
18 law marriage, which was common in El Salvador at the time.
19 It was customary for a person to refer to her husband even
20 if they had not been officially married, which they were
21 not. Ms. Chavez is not bringing a claim for the death of
22 Omar Reyes. This stipulation, of course, will be included
23 so you will have it in the list of stipulations in the
24 case.

25 And Mr. Warren, we will mark it also as 17 so

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1 that -- if that is all right, so that it is clear where it
2 is in the record.

3 MR. FARGARSON: That will be fine. Thank you,
4 Your Honor.

5 THE COURT: Thank you.

6 (Exhibit Number 17 was marked. Description:
7 Stipulation.)

8 CROSS EXAMINATION

9 BY MR. FARGARSON:

10 Q. Ms. Chavez, you have -- are you ready?

11 THE INTERPRETER: Yes, sir.

12 BY MR. FARGARSON:

13 Q. You stated that the evening before these events there

14 was a celebration for your mother's birthday?
15 A. Yes.
16 Q. At that time, Ms. Chavez, was there a curfew in
17 Ahuachapan?
18 A. I think so. The truth is I don't remember.
19 Q. Okay. But anyway, I understood you to say that the
20 people left the celebration at around 10 o'clock or something
21 like that?
22 A. No, they left early. We were the ones who remained, I
23 just didn't know how to explain it.
24 Q. Okay. Thank her for clearing that up. I misunderstood
25 it.

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1 A. Okay.
2 Q. Now, when the lady selling the bread came to your
3 house, was that early the next morning?
4 A. Yes.
5 Q. And after you bought the bread, was that when the men
6 showed up at the -- at your parents' home?
7 A. Well, after I received the bread, the lady, she told
8 me -- well, she explained it to me later on that she had seen
9 men around the house, they had threatened her so that she
10 wouldn't say anything.
11 Q. Was it daylight at that time?
12 A. Yes, it was in the morning.
13 Q. And the men that you saw were all of them in civilian

14 clothes?

15 A. Yes.

16 Q. Did any of them have on any type of military clothes
17 that you could recognize?

18 A. No.

19 Q. Did all of them have on some type of a face mask or
20 face covering that you saw?

21 A. Yes, masks like those that cover the face and the mouth
22 up to the eyes, but the man that I was following, he wasn't
23 wearing anything.

24 Q. Do I understand the man that was in the hallway didn't
25 have on a mask?

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CROSS - ANA PATRICIA CHAVEZ

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1 A. No.

2 Q. Did he have on a hat or a helmet of some type?

3 A. All I remember is that he was carrying a very big
4 rifle.

5 Q. Did you ever see any vehicles around the house that
6 these men were riding in?

7 A. No.

8 Q. Did you move to the United States in 1982?

9 A. Yes.

10 Q. And have you been in the United States ever since 1982?

11 A. Yes.

12 Q. And when did you learn that you could file a lawsuit
13 such as the one you've filed in this case?

14 A. In December of '92.

15 Q. In December when?
16 A. '92.
17 Q. 1992?
18 A. I'm sorry, 2003.
19 Q. Okay.
20 A. December of 2003, that was the date.
21 Q. Have you ever seen Mr. Carranza before this lawsuit?
22 A. As far as I recall, no, but you did hear his name
23 mentioned a lot over there.
24 Q. Do you know what Mr. Carranza was? In other words,
25 what official post he held in 1980?

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CROSS - ANA PATRICIA CHAVEZ

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1 A. Yes.
2 Q. What was that?
3 A. Well, from -- yes, for me, he was the -- he was the man
4 who had all of the command over all of the police, all of the
5 guard, all of them, he had a lot of command.
6 Q. Who was the minister of defense?
7 A. The truth is I don't remember that.
8 MR. FARGARSON: Okay. I believe that may be
9 all, Ms. Chavez. Hold on.
10 Your Honor, I believe that's all, thank you.
11 THE COURT: Redirect?
12 MR. EISENBRANDT: No redirect, Your Honor.
13 THE COURT: Thank you very much.
14 (Witness excused.)

carranza05.txt
15 THE COURT: You may call your next witness.
16 MR. ESQUIVEL: Your Honor, we call the
17 plaintiff, Daniel Alvarado.
18 THE CLERK: Sir, if you will raise your right
19 hand to be sworn. Do you solemnly swear the testimony you
20 are about to give the court and jury in this matter to be
21 the truth, the whole truth and nothing but the truth, so
22 help you God?
23 THE WITNESS: I swear.
24 THE COURT: You may take the witness stand.
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1 (Miguel Angel Urrutia previously sworn to
2 interpret English into Spanish and Spanish into English.)
3 DANIEL ALVARADO,
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, Mr. Alvarado.
10 A. Good morning.
11 Q. Mr. Alvarado, where do you live?
12 A. In Sweden.
13 Q. How old are you, sir?
14 A. Forty-six years of age.
15 Q. Are you married?

- 16 A. Yes.
- 17 Q. How long have you been married?
- 18 A. Oh, I have lived with my wife 23, 24 years, but we have
19 been married since 1998.
- 20 Q. Do you have children?
- 21 A. I have three children.
- 22 Q. Boys or girls?
- 23 A. Two males, one female.
- 24 Q. How old are they?
- 25 A. The girl is 14 and the boys are 16 and 22.

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- 1 Q. Do they all live at home?
- 2 A. They all live at home.
- 3 Q. Where do you work, Mr. Alvarado?
- 4 A. At the time I am unemployed, but upon my return to
5 Sweden, I will have a job awaiting me. I still don't know
6 anything about the job itself, but I will have a job.
- 7 Q. And what did you do before you became unemployed?
- 8 A. I worked at a company as a process operator.
- 9 Q. And what happened to your job?
- 10 A. The company had a large contract with another company
11 here in the United States, but that contract was suspended so
12 that they did not need so many employees when that contract
13 was terminated.
- 14 Q. Mr. Alvarado, why do you live in Sweden?
- 15 A. Because of the problems I had with the treasury police.

- 16 Q. And when did you move to Sweden?
- 17 A. I arrived in Sweden on April the 4th, 1986.
- 18 Q. Have you lived in Sweden continuously since that time?
- 19 A. All the time.
- 20 Q. Where were you born, Mr. Alvarado?
- 21 A. In San Salvador.
- 22 Q. Is that where you grew up?
- 23 A. I grew up in San Marcos, which is five kilometers from
- 24 the center of San Salvador.
- 25 Q. And did you live in San Salvador until you moved to

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- 1 Sweden?
- 2 A. Yes.
- 3 Q. Tell the jury about your family growing up as a child.
- 4 A. We were a family composed of four brothers and my
- 5 parents. I was the eldest of my brothers, and we were two
- 6 males and two females.
- 7 Q. What did your father do?
- 8 A. My father worked for a company as section chief, and it
- 9 was for 24 years. I believe after that, he worked at a taxi
- 10 cab cooperative union, and later on, he became the chairman of
- 11 that cooperative, but later on the title was changed from
- 12 president to manager, and he was retired as manager.
- 13 Q. And what did your mother do?
- 14 A. She was a -- my mother was a housewife.
- 15 Q. Did you attend school?
- 16 A. Yes.

- 17 Q. What schools did you go to?
18 A. Well, I -- well, I studied until first year in control
19 engineering, that was university school.
20 Q. Where did you attend high school?
21 A. I studied at the Externado in San Jose.
22 Q. Is that the same school that has been mentioned before
23 in this trial in connection with the leaders of the FDR?
24 A. Exactly.
25 Q. Were you -- did you attend school during the time that

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- 1 the leaders of the FDR were taken from the school?
2 A. No, I graduated in '78.
3 Q. In 1978, you graduated from high school?
4 A. Yes.
5 Q. And what did you do after you graduated from high
6 school?
7 A. Well, I started studying at Central America
8 Technological Institute known as ITCA in 1980.
9 Q. What subjects did you study there?
10 A. I was studying technology and control engineering.
11 Q. Did you graduate from the ITCA?
12 A. No.
13 Q. Why not?
14 A. I was unable to complete my studies, it was a
15 complicated year for -- well, not only for -- well, for all
16 the people in general, but teachers and students, we did not

17 have a good time that year. Throughout the year, we might
18 find the army or perhaps the police at the doors of the school
19 or the college, and they would obviously be searching the
20 students. And particularly women would have a worse time even
21 because the policemen or the soldiers would take advantage of
22 the opportunity to feel them up. And when we had the least
23 trouble, it was that they would just beat on some of the
24 students.

25 Q. Did you personally witness any times when members of

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1 the military would beat or otherwise be violent with students?

2 A. No, but some of my classmates had seen this.

3 Q. And did this interfere with your ability to finish your
4 degree?

5 A. Well, yes, it did, but -- well, the thing is that
6 because of all these things, all these things went on, there
7 was one thing that actually topped it off, and it was that
8 they fired against a vehicle belonging to the school, and one
9 of our classmates received a bullet in the backbone, spinal
10 column, and he was never able to walk again. Well, the thing
11 is that this cause us to react, and as students we got
12 organized and we founded the students council of the
13 institute, and well, we started saying that they should leave
14 us in peace to study, and at the same time, the government
15 that year, you see the budget of the education ministry had
16 been reduced in order to use those monies for military
17 affairs, and we demanded that the machinery and the material

18 for us to study, and we wanted it all to be repaired and for
19 them to purchase more materials.

20 Q. Mr. Alvarado, when did you found that student council?

21 A. Approximately at the end of -- well, September, October
22 of 1980.

23 Q. And what role did you have in forming that group?

24 A. Well, I was part of the negotiating party between the
25 school and the students, and I participated in those things by

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1 name. Specifically, the names were left written as part of
2 the negotiation. And a few days after that -- well, you see,
3 one of the colleagues, a female colleague was part of the
4 negotiating group was assassinated. She was captured by men
5 in civilian clothes, and she turned up the next day dead, her
6 corpse turned up with signs of torture, and this caused me to
7 be afraid of going back to school.

8 Q. What kind of things did the student council do?

9 A. At that time, it was just indications, things that we
10 needed, school authorities to actually comply with. And
11 mainly what we demanded was our safety while we were in
12 school.

13 Q. How did you do that, what did you do to demand your
14 safety?

15 A. We negotiated a lot, we held many discussions between
16 them and us so as to see in which manner we could solve this
17 jointly.

- 18 Q. And what was your own personal role in the student
19 council?
20 A. When that female colleague of ours was assassinated, it
21 was my time to replace her.
22 Q. Well, how did you feel about replacing your colleague
23 who had just been killed?
24 A. Very afraid, but still there was a job to be done.
25 Q. And why is it that you volunteered to do that job?

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- 1 A. Well, in a way, I felt morally compelled to do so
2 because -- well, somebody had to do something, we could not
3 continue to allow things to happen without our -- without our
4 saying nothing, we had to say something.
5 Q. And when you refer to the things that were happening,
6 what is it that you're referring to?
7 A. Well, as I said earlier, searches upon entering the
8 school and searches on the school and students being beaten,
9 well, as I said before, their shooting on students, that was
10 the last thing, it was the most serious thing. But many
11 things were going on, students were tortured and captured
12 continuously over that year.
13 Q. And what was your understanding as to why that was
14 happening?
15 A. Well, young people were continuously seen as -- well,
16 as possible guerrillas all the time, and so that is why they
17 captured them and, well, sometimes they killed them without
18 even asking or finding out whether they had some real link to

19 the guerillas. And sometimes even us, we just had a students
20 council, and just because of our own work, just because what
21 we were doing, we were seen as guerillas without having any
22 real links to the guerillas.

23 Q. And you mentioned the term guerillas a couple of times,
24 what were the guerillas?

25 A. In El Salvador, there was an armed movement at that

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1 time which was fighting the regime at that time.

2 Q. Was your student council part of the armed movement?

3 A. No. We were fighting rather for the needs that we had
4 in the school. We did not have any other demands than those.

5 Q. Aside from the student council, did you belong to any
6 other groups?

7 A. As university student, I was also part of AGEUS, the
8 General Organization of University Students of El Salvador.

9 Q. Now, the jury has already heard a little about AGEUS,
10 but could you tell us generally what AGEUS did?

11 A. Yes, it was -- well, in general, it was a students
12 association which also had -- well, they carried on a struggle
13 for students' rights. Yes, because of the problem of the war
14 and the political problems in El Salvador, we had some other
15 problems, other things to do upon us. We generally had dead
16 people, we had prisoners, we had students who were in jail, so
17 this was one of the things that we needed to demand, freedom
18 for our classmates.

19 Q. And how did AGEUS go about doing that?
20 A. In many diverse matters, sometimes it was just
21 distributing flyers in which we included some communi cade,
22 depending on the moment, let's say. Sometimes we also paid
23 for space on newspapers demanding freedom for our classmates.
24 And some of the times, we held small rallies or demonstrations
25 demanding, well, depending on what was going on.

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1 Q. And what was your role in the AGEUS group?
2 A. Well, there were always diversi tive things to be done,
3 but, basi cally, I dealt with recrui ting for the membership of
4 AGEUS and some type of propa ganda work.
5 Q. When you say propa ganda work, what do you mean?
6 THE INTERPRETER: The i nterpreter would like to
7 request of the wi tness as to one term.
8 THE COURT: Certain ly.
9 (The i nterpreter conferred wi th the wi tness.)
10 A. Usually it would be the di stri buti on of flyers and
11 perhaps a banner of some sort, so diverse forms of propa ganda.
12 BY MR. ESQUIVEL:
13 Q. And Gi ve me an exampl e of what one of those flyers
14 would say.
15 A. Very well. Let's say that a classmate had been
16 captured, we would i ssue a communi cade demandi ng thei r
17 freedom.
18 Q. Now, aside from the student counci l and AGEUS, did you
19 belong to or parti cipate in any other groups during that time?

- 20 A. No.
- 21 Q. And was AGEUS part of any sort of larger organization?
- 22 A. AGEUS was a member of the revolutionary popular block,
- 23 bloque popular revolucionario.
- 24 Q. And what was that organization?
- 25 A. It was a group belonging to -- rather, it was a group

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- 1 formed by different sectors of society which were all seeking
- 2 their own vindications or rights. We had FECAS, UTC, and
- 3 Father Rutilio Grande had a lot of work closely with them and
- 4 he was killed because of that too.
- 5 Q. Now, you mentioned FECAS and UTC, are those also groups
- 6 that formed part of this organization?
- 7 A. Yes. Also, ANDES June 21st de Junio was part of the
- 8 block, yes.
- 9 Q. And you mentioned in particular Father Rutilio Grande,
- 10 who was Rutilio Grande?
- 11 A. Father Rutilio Grande was a Jesuit priest. He was a
- 12 great person who had in mind the intent of working for helping
- 13 the poor people, and -- well, he was killed because of that,
- 14 because of his help to poor people, and he worked very closely
- 15 with Monsenor Romero also.
- 16 Q. Who was the leader of the Popular Revolutionary Block
- 17 that you mentioned?
- 18 A. Juan Chacon.
- 19 Q. What happened to Juan Chacon?

- 20 A. He was savagely murdered by, pardon me, elements in
21 November of 1980.
- 22 Q. Do you know whether this group was also part of the
23 FDR?
- 24 A. He was also part of FDR.
- 25 Q. And was Juan Chacon one of the leaders of the FDR that

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- 1 was assassinated in 1980?
- 2 A. He was also one of the top leaders.
- 3 Q. Did you ever meet any of the leaders of the FDR?
- 4 A. No.
- 5 Q. Now, Mr. Alvarado, when you were in El Salvador, did
6 you ever hear of a group called the FPL?
- 7 A. Yes, but I did not form part of that group. That was a
8 clandestine group.
- 9 Q. To your knowledge, what did that group do?
- 10 A. It was an armed group which fought for installing a
11 democratic government.
- 12 Q. Now, did you ever fight in an armed opposition to the
13 government in El Salvador?
- 14 A. No.
- 15 Q. Were you ever a combatant in a civil war in El
16 Salvador?
- 17 A. No.
- 18 Q. Did you ever receive any military training by an armed
19 group?
- 20 A. No.

- 21 Q. Did you ever take part in any violence in El Salvador?
22 A. No.
23 Q. Did you ever carry a gun?
24 A. Not either.
25 Q. Now, up this point, Mr. Alvarado, the jury has heard

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- 1 mostly about the year 1980 in El Salvador. Could you tell the
2 members of the jury how El Salvador was different in 1983 than
3 it was in 1980?
4 A. In 1980, we began having the deepening of the
5 repression. Then in 1983, we had declared war, we had
6 declared war with two very defined groups.
7 Q. Was there a declared war in El Salvador in 1980?
8 A. No, no, there was not.
9 Q. And when you say it was a time of repression, what do
10 you mean by that?
11 A. After the year '30-'32 El Salvador was subjected all
12 the time to a repression. We always had a military
13 dictatorship. But then in the year '80, well, the teachers,
14 the students -- well, in general, the people in general
15 suffered the greatest repression up to that time and, well,
16 there were many dead. And in this -- in that year, 1980,
17 well, you see, among the dead on that year, we also have the
18 leaders of the FDR, the Arch Bishop and all of this -- all of
19 this reaction from the right wing or, should we say, the group
20 in power, the government, it brought on a desperation upon

21 organizations, and then they launched an offensive in 1981.

22 Q. And when you say they launched an offensive, who is
23 they?

24 A. The guerilla, I would mean those who were armed.

25 Q. And so by 1983, were the guerrillas and the army still

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1 fighting?

2 A. Well, by then, they were kind of midway through it
3 because the war had already gone on for 12 years.

4 Q. Mr. Alvarado, in 1983, were you aware whether the
5 United States had sent military advisors to El Salvador?

6 A. Yes, there were advisors, and the newspapers published
7 it, because there was debate at the Senate as to how many to
8 send and whether to send them. There was a demand from the
9 Senate, I believe, as to conditioning military aid to El
10 Salvador. And I was making reference to the United States
11 Senate.

12 Q. And was that debate in the United States Senate
13 something that people in El Salvador were aware of?

14 A. The newspapers would publish some things.

15 Q. Mr. Alvarado, have you ever heard of a U. S. military
16 advisor who is named Lieutenant Commander Albert
17 Schaufelberger?

18 A. Yes, I did receive some help so that I would never in
19 my life forget, and that help I got at the finance police, at
20 the treasury police.

21 Q. And we certainly will be talking about that in your

22 testimony soon.

23 At some point in May of 1983, did you hear about the
24 assassination of Lieutenant Commander Schaufelberger?

25 A. Yes, the newspapers published that in the news.

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1 Q. Is that how you found out about it in the newspaper?

2 A. Yes.

3 Q. Do you know any of the people who may have been
4 involved in the assassination of Lieutenant Commander
5 Schaufelberger?

6 A. No.

7 Q. Did you have anything to do with the assassination of
8 Lieutenant Commander Schaufelberger?

9 A. No.

10 Q. Do you have any knowledge whatsoever about Lieutenant
11 Commander Schaufelberger's murder?

12 A. No.

13 Q. When you heard news about his assassination, what did
14 you think?

15 A. Well, when I read about it, it was just news, and the
16 only thing that I could think of was that, well, that it was
17 perhaps the guerilla had gotten to do something and, well,
18 that was it, I had no further thoughts on it.

19 Q. Mr. Alvarado, I want to talk to you about what happened
20 on August 25, 1983. Could you please tell the jury what you
21 did that morning.

- 22 A. The truth is I don't recall very well, but I guess I
23 was at my parents' home, and then I went out in the afternoon.
24 Q. Did you live at home at that time?
25 A. Yes.

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- 1 Q. And what did you do in the afternoon?
2 A. I went to a football field.
3 Q. What were you doing there?
4 A. I was watching a football game.
5 THE INTERPRETER: Meaning soccer.
6 BY MR. EISENBRANDT:
7 Q. By football, do you mean soccer?
8 A. Yes, football.
9 Q. Okay. I think I have got it. And what happened at the
10 soccer game?
11 A. I was sitting there watching the game, and suddenly two
12 men dressed in civilian clothes came up to me, grabbed me and
13 threw me into a car.
14 Q. Did they say why they were doing that?
15 A. No, they just grabbed me and threw me, and they tied me
16 up, they threw me in the floor of the car, and they sat on me.
17 Q. How were they dressed?
18 A. Civilian clothes. But when inside, they identified
19 themselves as freedom commandos.
20 Q. Did that name mean anything to you, freedom commandos?
21 A. For me, it meant nothing. I thought that it could be
22 death squads, but nothing else.

23 Q. Is that what you thought at the time that they were
24 members of death squads?

25 A. Yes.

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1 Q. What made you think that?

2 A. Well, the fact that they were dressed in civilian
3 clothes and they were heavily armed, that was a characteristic
4 of the death squads, being heavily armed and wearing civilian
5 clothes.

6 Q. Were these men that got you at the soccer game, were
7 they heavily armed?

8 A. Well, they were perhaps carrying weapons, but maybe
9 they didn't have them at that moment, because they just
10 grabbed me one from each arm. I was not able to look.

11 Q. Okay. So what happened when they put you in the car?

12 A. They blindfolded me and then they drove around in
13 Salvador.

14 THE INTERPRETER: The interpreter would like to
15 correct himself.

16 A. They drove around in San Salvador. And perhaps it was
17 for an hour and a half that we drove around in San Salvador.
18 And surely they did that so that I would not know where they
19 were taking me.

20 Q. Did they say anything to you in the car?

21 A. No, they were just sitting and that they would talk
22 with me later.

- 23 Q. And where did they take you, Mr. Alvarado?
24 A. At that time, I didn't know where they took me, but --
25 well, it was to the treasury police.

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- 1 Q. When did you find out that this was the treasury police
2 where you were taken?
3 A. When Mr. Carranza called on a press conference to
4 introduce me.
5 Q. But on the day that you arrived, you had been
6 blindfolded and driven around, is that right?
7 A. That is so.
8 Q. Now, when they took you to the treasury police
9 headquarters, where exactly did they take you?
10 A. Well, I couldn't really tell, but when we came in, we
11 could hear the noises, and it sounded like it was the kitchen
12 because they were making tortillas and they were cooking.
13 Q. Was there anything else that you could tell about where
14 you were or what you were near?
15 A. At that time, I really had no idea except for the fact
16 that I knew that I was near a kitchen.
17 Q. Later, were you able to find out more specifically
18 where you were?
19 A. Yes, during the press conference, I found out.
20 Q. All right. Well, we will talk about that a little bit
21 later. What happened next?
22 A. First, they took off my clothes, and they went through
23 all of my clothes.

- 24 Q. Now, where you were, were there any other people?
25 A. At that time, I believe another person was there only.

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- 1 Q. Were you still blindfolded?
2 A. All of the time with the blindfold and my hands tied.
3 Q. Could you tell what sort of room you were in or
4 anything about the room where you were?
5 A. It was difficult, I could only see the floor and I
6 could see that it was cement and I could see nothing else.
7 Q. Could you tell whether there was any furniture or
8 equipment or anything else in the room?
9 A. I think that there was no furniture. I think there was
10 nothing in there, I believe.
11 Q. So they came and gave you a new set of clothes, and
12 then what happened?
13 A. They gave me a pair of pants that were too small for
14 me, they were short on me, and I had no socks and no shirt.
15 At first, they talked to me and they told me that I needed to
16 collaborate. And I said, okay, that was no problem, and they
17 started asking me questions as to what people I knew and where
18 there were weapons and that kind of question, about people and
19 weapons.
20 Q. And what did you tell them?
21 A. I told them that I knew nothing. Then they said that
22 since I was not going to collaborate, well, that if I was not
23 going to do it the nice way, I would go the hard way. And

24 then they tied a wire on my toes, wires connected to an
25 electric machine, and they put on me some sort of a mask so

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1 that I could not breathe, and they started torturing me on the
2 floor, and they said that they were going to do the little
3 airplane with a pilot, and then they sat on my back and with a
4 mask, they would pull back. They would pull the mask and my
5 hands backwards while one of them was sitting on me. Among
6 other things, they would kick me with their boots, they would
7 beat on me all over my body, and they would connect a third
8 line to different places around my body besides the two lines
9 that I already had connected on me, they would just touch that
10 on different parts of my body. And they started asking
11 questions about persons and weapons and asking me questions
12 about whether I had killed the American advisor, and I always
13 answered no, because I knew nothing anyway. But then Major
14 Ricardo Pozo came in to talk to me.

15 Q. Now, before we talk about Major Pozo, could you tell
16 how many men were torturing during this time?

17 A. I believe there were four or five or there may have
18 been a sergeant in charge of the group anyway.

19 Q. How did you know that there was a sergeant or someone
20 in charge of the group?

21 A. He was giving the orders.

22 Q. Did they ever explain why it was they were doing this
23 to you?

24 A. No, except that allegedly they knew that I was a

25 guerilla. That's what they said.

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- 1 Q. And what did you say?
- 2 A. I said no, that I was not a guerilla.
- 3 Q. Mr. Alvarado, how were you able to endure this torture?
- 4 A. I did not endure it. Well, you see, the things that --
- 5 they were torturing me for awhile, and then at approximately
- 6 1:00 in the morning, they stopped torturing me, but throughout
- 7 all the while that I had the electricity attached to me and
- 8 with this mask and the lack of air, well, you see the lack of
- 9 air made me pass out from time to time, so I really had no
- 10 idea of time, I would awake -- I would regain
- 11 consciousness every once in awhile and I had no idea as to
- 12 how much time had elapsed. And at about 1:00 in the morning,
- 13 they had stopped torturing me and I gained consciousness,
- 14 and then apparently they wanted to go to my parents' house.
- 15 Q. They wanted to go to your parents' house?
- 16 A. Yes.
- 17 Q. Did they go to your parents' house?
- 18 A. Yes. When they captured me, they asked me where I
- 19 lived, and I gave them the address to my house.
- 20 Q. And did you go with them?
- 21 A. They took me, yes.
- 22 Q. Well, explain to the jury what happened when they took
- 23 you to your parents' house?
- 24 A. Well, they put me in a car and we drove ahead of the

25 car, there was a military truck, and they were wearing combat

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1 uniforms in the military truck, and they had interrupted power
2 in the whole area where my family lived.

3 Q. Now, Mr. Alvarado, you were in a car driving to your
4 parents' house?

5 A. Yes.

6 Q. Who was in the car with you?

7 A. The persons who had captured me. It was a station
8 wagon, and they had placed me in the back part of the station
9 wagon. And they removed my blindfold when we arrived at the
10 house, and that's when I saw the truck.

11 Q. Did the men in the station wagon say anything to you
12 while you were on your way there?

13 A. No, just that they were going to conduct a search,
14 because they were looking for weapons or things, because I was
15 supposed to have weapons, according to them, right.

16 Q. What happened when you got to the house?

17 A. They entered my family's home and they started
18 searching around, and they moved everything around the house.

19 Q. Did they take you inside the house?

20 A. No, my family did not know that I was outside.

21 Q. Were you able to see your parents or anyone in your
22 family from the station wagon?

23 A. No.

24 Q. Did the men who searched the house find anything?

25 A. No. Well, they found two weapons, one belonging to my
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1 father and the other one to my brother. My father was a
2 member of the council -- well, the municipal council, the
3 mayor's office of San Marcos, and he had a gun-bearing permit,
4 and my brother worked for the mayor's office, and he also had
5 a permit to bear arms.

6 Q. Did the men who searched the house say anything to you
7 when they got back in the station wagon?

8 A. Yes, they were angry because they had found nothing.

9 Q. And did they say anything else?

10 A. No. They just took me back.

11 Q. Where did they take you back to?

12 A. To the same place. Again, they blindfolded me again
13 when they thought appropriate -- well, when we were leaving.

14 Q. And what happened when you got back?

15 A. No, that day -- well, at that time, nothing else
16 happened. Rather, at noon, I think it was that they drove me
17 around San Salvador, because they said that they had to
18 deliver some people, and if I was to see somebody on the
19 street, I had to tell them who they were, members of the
20 guerillas.

21 Q. So did they take your blindfold off for this?

22 A. Yes, but they would take me out with the blindfold on,
23 and afterwards, they would take the blindfold off.

24 Q. How long did that take, how long did that go on?

25 A. I don't know, it was just at certain hours that they

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1 had to actually go out. But then at 5:30 or perhaps 6:00 in
2 the afternoon, they started torturing me again.
3 Q. Could you tell whether you were in the same place that
4 you were the first day that you had arrived?
5 A. Yes, it was the same place.
6 Q. Could you tell whether there were any other people that
7 were there in the cell with you?
8 A. There was at least one person or perhaps two there, but
9 I don't really recall properly, but it sounded like there were
10 two.
11 Q. Were those people also being tortured?
12 A. Well, I was the first one to be tortured in any case,
13 and then they tied me up again, and they tied my hands behind
14 my back, and they hung my hands from the roof and they
15 connected the electricity again. And they also put on me that
16 mask so that I could not breathe. And they continued to ask
17 the same questions they had asked previously. I had to tell
18 them about persons and tell them about weapons and as to
19 whether I had killed that American advisor. This time since I
20 was hanging from the roof, they could not kick me anymore, but
21 they were beating on me with their hands and perhaps with
22 other things. And just as the case with the previous day, I
23 could not say really how long I was hanging there. The same
24 thing happened as the previous day, I don't really know how
25 long I was hanging there. I would pass out and I would awake,

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1 and I could not say the amount of hours or days. And when
2 they took me down, I could not really raise my arms, I could
3 not raise my hands, my arms would simply fall. And this form
4 of torture is the one they called the little plane, but
5 without pilot.

6 Q. And how was it that you were hung from the ceiling, was
7 there a chain or how did they do that?

8 A. I don't know, I was hand tied, and from the hands, they
9 would hang me in such a manner that I felt like my arms were
10 being torn off. And even to this date, my shoulder hurts all
11 the time.

12 Q. What did you tell them when they would ask you these
13 questions about guerillas or about the assassination of the
14 advisor?

15 A. That I knew nothing, truthfully, I knew nothing.

16 Q. Were you given any food or water while you were in this
17 cell?

18 A. On the third day, they gave me a plate with beans and
19 bread, but they were bad already, they had fungus on them, and
20 I did not eat.

21 Q. And what -- when you weren't being tortured, where were
22 you and what was happening?

23 A. Right there, I was strewn on the floor all the time.
24 The following day, perhaps 10:00 or 11:00 in the morning, they
25 started torturing me. On this occasion, they tied me by the

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1 feet and they hung me from the ceiling, and exactly as the
2 previous times always with two toes tied with wires to
3 electricity and with a mask that would not allow me to
4 breathe, and just the same, they beat me on my back and on the
5 chest, and they would swing me, and on one occasion, they hit
6 me with a brick on my back.

7 Q. And did they continue to interrogate you while they did
8 this?

9 A. The questions were coming all the time. After some
10 time, I don't know how long, but they stopped the torture and
11 they actually took me down from the ceiling, and they stood me
12 and I -- when they stood me, I could not stand, I fell. I
13 could not walk, I could not stand.

14 Q. When they hung you by your feet, did they have a name
15 for that torture?

16 A. No, no, I do not recall that they mentioned any name
17 for that.

18 Q. Now, earlier, Mr. Alvarado, you mentioned that a Major
19 Ricardo Pozo came to your cell, could you tell the jury about
20 the first time that you saw Major Pozo?

21 A. It was on the first day, he came and he told me that I
22 had to cooperate, I had to help him and that I had to accept
23 that I had killed the advisor, that the case of the advisor
24 was very interesting to him because there was a reward, and he
25 said if you help me, I will help you later. Later on, I found

1 out that there was a reward of 15 million dollars for
2 capturing the assassin.

3 Q. Was Major Pozo there during the time that you were
4 tortured, one of the times that you were tortured?

5 A. No, but when he finished talking to me, since I said
6 that I knew nothing, he said, well, continue with him, and he
7 left.

8 Q. Who did he say that to?

9 A. He told that to the men who were there with him. He
10 was dressed in civilian clothes at that time. And I did not
11 know that he was Major Ricardo Pozo, but I did believe that he
12 was an officer with the higher rank than the others.

13 Q. Why did you believe that at the time?

14 A. And because the other men who were there were obeying
15 his orders, and also when he was not there, but I could see
16 that he was dressed in finer clothes as the other men, as the
17 torturers.

18 Q. Did you later find out his identity, that he was
19 Ricardo Pozo?

20 A. Yes.

21 Q. And how did that happen?

22 A. Yes, it happened a long time later. You see, when --
23 later on, they transferred me to the common cells where they
24 held the prisoners of the police, that's what I found out.

25 Q. And how did you find out?

- 1 A. Well, we were in the cell, and in the next cell, they
2 had some policemen who were punished for -- well, for
3 something, for anything, I don't know why they were punished,
4 they were there and they were talking amongst themselves and,
5 well, we were able to hear what they were saying.
- 6 Q. And is that how you found out this man's identity?
- 7 A. Yes, they would mention names of a colonel or major
8 or -- well, their chiefs.
- 9 Q. And what was Major Pozo's role at the treasury police?
- 10 A. He was chief of section two, and the only chief he had
11 was Colonel Carranza.
- 12 Q. You said section two, what does section two mean?
- 13 A. Well, in military terms, I don't know what it means,
14 but for the people, section two would be those in civilian
15 clothes, and those who would persecute people for political
16 reasons.
- 17 Q. How many times while you were being tortured at the
18 treasury police headquarters did you see Major Pozo?
- 19 A. Well, I would not be able to tell. He came over
20 several times and -- well, in the end when I could stand it no
21 more, I said that yes that I would sign the paper, and I did
22 sign the paper.
- 23 Q. And the times that he appeared in the cell where you
24 were being tortured, did he always wear civilian clothes?
- 25 A. Yes.

1 Q. Did you ever see him with his uniform on?
2 A. Yes, I saw him on one occasion with a uniform.
3 Q. When was it that you saw him with a uniform?
4 A. Well, it must have been on a later occasion, perhaps it
5 was in November, approximately. On that occasion, the
6 minister of defense sent somebody to talk to me, a colonel, I
7 do not recall his name, and he wanted to know what had
8 happened to me. And, well, I told him what had happened to
9 me, and suddenly Ricardo Pozo turned up wearing his uniform
10 and, well -- this person said, well, he's Major Ricardo Pozo,
11 he's giving the orders, and he just smiled a bit, and he said,
12 well, I didn't think this would be so silly, and I wrote to
13 the secretary that he knows the chief of section two, and I
14 wrote down his name.
15 Q. So the colonel who you were talking to, you identified
16 to him Ricardo Pozo as the person responsible for your
17 torture?
18 A. Yes. He was -- as that he was giving the orders as to
19 torturing me.
20 MR. ESQUIVEL: Your Honor, at this point, I
21 would go into another section, should I continue or would
22 you like to take the lunch break?
23 THE COURT: Well, let's go -- until about 15
24 after.
25 MR. ESQUIVEL: All right. Thank you, Your

1 Honor.

2 THE COURT: Sure.

3 BY MR. ESQUIVEL:

4 Q. Now, you've described, Mr. Alvarado, three instances of
5 torture. After those torture sessions, then what happened?

6 A. Well, after, after that occasion when I said that I
7 would sign, well, they still tortured me a bit, and then they
8 stopped and they threw me on the floor and they left me there
9 on the floor, but I had already said that I was going to sign.

10 Q. And did you at some point sign a piece of paper?

11 A. Yes, but I do not -- I do not recall it. Well, the
12 thing is that on August the 31st, they presented me before the
13 press, and it was the previous day that I had signed the
14 paper.

15 Q. And what did the paper say?

16 A. In the paper, it said that I had assassinated the
17 American advisor, and that I had also participated in the
18 murder of a deputy of Irena.

19 Q. Had you written that statement out yourself?

20 A. No, they had typewritten it, and they had been
21 extracting information from the newspapers because they had
22 the newspapers in hand when they were writing.

23 Q. You said they had the newspapers in their hand?

24 A. Yes, at hand.

25 Q. At hand?

- 1 A. At hand. Near them.
- 2 Q. Were they using the newspapers to write out this
3 confessi on?
- 4 A. Yes.
- 5 Q. And then you signed it?
- 6 A. When it was ready, I just signed it.
- 7 Q. Why did you sign it, Mr. Alvarado?
- 8 A. Because I could no longer endure this torture. Yes,
9 among other things -- well, you see, Ricardo Pozo came in and
10 he said that, well, they worked in shifts and that they would
11 continue to torture me until I would accept that, and -- well,
12 and that they were not going to killing me, but that probably
13 the body would not withstand it and that I would simply die,
14 and so certainly after several days of torture, I could no
15 longer endure it and I didn't want any more, and, well, that's
16 why I signed.
- 17 Q. Did they make any threats against you or anyone in your
18 fami ly?
- 19 A. At that time, no, but later on, they did make threats
20 agai nst my fami ly.
- 21 Q. Mr. Alvarado, after you signed this paper, did you
22 also -- did you also do something with a video camera?
- 23 A. Yes. Later on, they filmed a video with me. They told
24 me what I had to say in that video. It took me approxi mately
25 three days to do this, and when I did not say the things they

1 wanted me to say, they would beat me on the head and they
2 would pull on my hair until they forced me to say things in
3 the manner in which they wanted me to.

4 Q. Now, at some point, Mr. Alvarado, after you signed this
5 paper and made the statement on the video, were you taken to a
6 press conference?

7 A. Yes, I was -- I was captured on a Thursday, August the
8 25th, and the following week, on a Thursday, they presented me
9 to this press conference, and then they picked me up in a car,
10 and always inside the finest police, the treasury police, they
11 moved the car just a couple of meters, and they had me with my
12 head down and with a blindfold and handcuffs and they told me
13 before opening the door, they said remember that we already
14 know where your family lives and that you have to say the same
15 thing that the paper says, don't say anything about the
16 torture because we already know where your family lives. Yes.
17 At that point, they removed my blindfold and the handcuffs,
18 and they opened the door and they pushed me out, and the
19 journalists were all there, and I could not see properly
20 because the lights were blinding me, the light was bothering
21 my eyes. And when they pushed me, they pushed me all the way
22 to come in front of the journalists, and the journalists asked
23 me about three questions; and after that they threw me back in
24 the car.

25 Q. Mr. Alvarado, let me go back a little bit, the men who

1 took you to the press conference, where did they take you
2 from?
3 A. From a room where they had us thrown there. By then,
4 there were four of us there.
5 Q. Was this the cell where you were tortured?
6 A. It was not the same. They had already transferred me.
7 You see, after I said that yes, I would sign that, they took
8 me to a different room.
9 Q. And who were the men that took you from the room and
10 put you in the car?
11 A. They were the same ones that had captured me.
12 Q. Were they still wearing civilian clothes?
13 A. Yes.
14 Q. Were they armed?
15 A. Yes.
16 Q. And did they -- did they ride in the car with you those
17 few meters to the press conference?
18 A. Yes.
19 Q. And when you arrived at the press conference, besides
20 you and the journalists, who else was there?
21 A. There were, I think, three other people with me. They
22 presented us as aguerrilla cell, and they named me as the
23 chief.
24 Q. Had you ever met any of those three people before?
25 A. No.

1 Q. Were there any members of the treasury police at the
2 press conference?

3 A. Yes, Mr. Carranza was there present giving statements.

4 Q. What was Colonel Carranza saying?

5 A. No, I did not hear, because it was just a short while.
6 I really could not say how long, but I was just there so they
7 would ask a couple of questions, and then they took me quickly
8 back to the place.

9 Q. Do you know what position Colonel Carranza held in the
10 treasury police at that time?

11 A. Yes, I knew he was the director of the treasury police.

12 Q. Could you tell -- well, were there any other members of
13 the treasury police who were there?

14 A. Yes, there were several other persons in uniform and
15 officers, I guess. Well, I was not able to see well.

16 Q. Could you tell which of the members of the treasury
17 police were leading the press conference?

18 A. No.

19 Q. What were the questions that the journalists asked you?

20 A. I do not recall properly, but one of the questions was
21 whether I had killed the American advisor, and another
22 question was how come I had not gone back to the hills if I
23 had killed him, why had I stayed in San Salvador. I do not
24 recall any other questions, but there were a few of them in
25 any case.

1 Q. Mr. Alvarado, what did you say in response to those
2 questions?

3 A. Well, they had told me that I had to say that I killed
4 the advisor and -- well, they had told me to say that, and I
5 said that, yes, I had killed him, because of the threat
6 against my family.

7 Q. Now, Mr. Alvarado, it has been suggested at this trial,
8 that you should have said something at the press conference
9 about your torture, did you feel free at the press conference
10 to say that you had been tortured in treasury police
11 headquarters?

12 A. No, I did not feel free to say anything because I was
13 afraid of what might happen to my family.

14 THE COURT: We can take our lunch now, it is
15 probably a good time. We're going to have a long lunch,
16 come back at 2:00, and I think as I understand it, we're
17 making good progress, so we will have a longer lunch
18 period, see you at 2:00. We will stay a little late
19 today, of course, and get as far as we can.

20 Don't talk about the case among yourselves,
21 don't let anyone talk with you.

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

24 (Recess taken at 12:22 until 2:14 p.m.)

25 THE COURT: All right. We're going to change

1 just a few things. With COGIC coming up, we're going to
2 change a few of the security issues so that everybody will
3 have the benefit of it. We're probably going to start a
4 little earlier. I'm going to ask the panel what they
5 think. It just gets very hard for an hour or two to even
6 move on the streets, as both of you know well, and we
7 might just be better off starting early. I'm going to see
8 what our panel thinks, see if we can't start a little
9 early.

10 (Jury in at 2:15 p.m.)

11 THE COURT: All right. You may be seated. We
12 have been trying to figure out a couple of things. With
13 the Church of God in Christ Convention starting next week,
14 it will be much harder to get around, and we were trying
15 to remember and Joe -- Mr. Warren is trying to check
16 exactly when the traffic problems really start. And
17 because you have so many people who are not as familiar
18 with downtown Memphis, because we have people from all
19 over the country, it tends to get stuck, what I'm going to
20 suggest if you think it is okay, is that let's plan on
21 starting -- at least Monday, let's start really early and
22 see what we need to do. Is there any trouble in coming on
23 in about 8:00, 8:15? That's early. The reason to come on
24 is that if we start later, it won't do you any good
25 because you won't be able -- you will be coming in early

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1 or not getting here, that will be your two choices. Let's
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2 try it on Monday, and that way we can get a sense of what
3 we need to do. If you will come on in around 8:00 or a
4 little bit after, we will start in here at 8:30. That is
5 still sort of the same schedule. It gives us a little
6 longer day, and we're going to bring lunch in for you,
7 because with that many people downtown, going out to lunch
8 gets a lot more complicated, and I think we can afford to
9 pay for your lunch for a week, at least, so we will do
10 that. We will get some menus, and probably you will
11 probably want to get out of that room, so we will probably
12 let you -- probably set up lunch upstairs on the 11th
13 floor in the jury assembly room or if worse comes to worse
14 or best comes to best, it depends on how you look at it,
15 in the judge's conference, which is pretty nice, but you
16 probably -- it's a little more formal, we will see how
17 that works out.

18 Also, because of the increased number of people
19 around, the marshals will be a little more attentive so
20 they will know who you are with that many folks around the
21 building. They will probably walk you to your cars in the
22 evening and pick you up as you come in just so we don't
23 have any -- you feel completely comfortable. I mean
24 they're great people coming down here, but there are a lot
25 of folks, and when you put 22,000 people downtown, that's

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1 a lot of people, it's a lot of folks. When you put that

2 many people in a small area, it gets very congested. And
3 we want to give you a special deal so you won't have to go
4 out and fight the crowd to try to eat. One reason we're
5 asking you to come in early, frankly, is you won't be able
6 to get a parking space in Mud Island parking lot if you
7 don't come in about that time. Mr. Ruby has been telling
8 me that, and I think he's right about that. So we will do
9 what we can to help you out. Hopefully, it works the
10 first day. If it doesn't, we will have to figure out the
11 next plan.

12 All right, I think that should be of some
13 assistance. The lawyers, it will be a little tough on the
14 first day, we will see how it goes, but maybe we can
15 lighten up once we figure out the exact schedule. That
16 should work pretty well. That will give us a nice long
17 day.

18 Okay. I think we have covered that, and I
19 think we're ready to proceed, so counsel.

20 MR. ESQUIVEL: Thank you, Your Honor.

21 BY MR. ESQUIVEL:

22 Q. Mr. Alvarado, before lunch, we were talking about the
23 press conference where you appeared, and you had also
24 mentioned the confession you were forced to sign for the
25 murder of Lieutenant Commander Schaufelberger and the death of

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1 an Irena deputy?

2 A. That is so.

3 Q. Would you please explain to the jury what Irena is?

4 THE INTERPRETER: The interpreter consults
5 permission to consult with the witness on the use of an
6 expression.

7 THE COURT: Certainly.

8 (The interpreter conferred with the witness.)

9 THE INTERPRETER: The interpreter has consulted
10 and is now clear on the use of the expression.

11 A. Irena is the extreme right wing party, and the most
12 important member of it was Mr. Roberto D'Abuissou. At the
13 treasury police, they always showed great admiration for Mr.
14 D'Abuissou. Roberto D'Abuissou was also one of the leaders of
15 the death squads.

16 BY MR. ESQUIVEL:

17 Q. And who was the Irena deputy that had been killed?

18 A. His name was -- well his surname was Barrios Amaya.

19 Q. Did you know anything about the death of Mr. Barrios
20 Amaya?

21 A. No.

22 Q. Did you have anything to do with his death?

23 A. No.

24 Q. Now, Mr. Alvarado, after the press conference, what
25 happened to you?

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1 A. They took me back to the same room again, and that day
2 nothing happened. The following day, which was Friday in the

3 afternoon, they tortured me again. They once again connected
4 the electricity, and they placed the mask on my head again.
5 They kept on asking me the names of persons or people and
6 where arms or weapons were. But after maybe half an hour, my
7 body didn't -- couldn't stand the torture anymore, and then I
8 began to have a severe trembling in my body.

9 THE INTERPRETER: The interpreter requests
10 permission to consult with the witness on the use of an
11 expression.

12 THE COURT: Certainly.

13 (The interpreter conferred with the witness.)

14 A. So they started to torture again, and then one of them
15 said, well, that's enough, you're going to drive him crazy and
16 they stopped the torture. Immediately after that, they
17 brought me coffee and two pills, kind of like sedatives for
18 the nerves, and that was the last time that they tortured me.

19 Q. Could you tell how many men were involved in that last
20 time you were tortured?

21 A. I think it was five again, but one was the sergeant and
22 the other were the four torturers, but I don't know who they
23 were.

24 Q. Where were you taken after you were tortured that time?

25 A. Well, I was tortured in the very same room.

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1 Q. And after you were tortured, where did they take you?

2 A. They left me there, I remained in that room all of the
3 time.

- 4 Q. When you were in that room, was anyone else with you?
- 5 A. That day, there was already -- other than the three
6 that have been presented to the press with me, there was an
7 additional person.
- 8 Q. Did you know who that person was?
- 9 A. While we were there, I didn't know him, but then later
10 on at the jail, we had a chance to talk.
- 11 Q. Were any of the other people who were there in that
12 cell with you tortured while you were there?
- 13 A. No, not at that time.
- 14 Q. Was there another time where you were in a cell and
15 other people were tortured?
- 16 A. No, no. At the beginning when they had just taken me
17 during the first three or four days, there was always other
18 people there who were tortured.
- 19 Q. How did you know there were other people being
20 tortured?
- 21 A. It's probable that those three people that were -- they
22 were there at the same place at the beginning as of the second
23 or third day, the same three that were presented with me.
- 24 Q. And then what happened after your last day of torture?
- 25 A. Well, after that, nothing happened, that was a Friday,

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- 1 and there was Saturday, Sunday, nothing happened. But then on
2 the Monday, they came and they took all four of us out and
3 they took us to another room where there was nothing in there,

4 but they had brought in a typewriter, a table and there were
5 two persons there who was supposedly military judges. Then I
6 was still blindfolded, and my hands were tied together and the
7 judge asked them to take the blindfold off and to untie my
8 hands, but the men in the civilian clothes who had taken me
9 there, they didn't want to do it. After that, the judge
10 personally untied me, and he began to ask me questions about
11 the case. He asked me a lot of questions, how I had killed
12 him, how the body looked after I was done, you know, details
13 that -- of the case that I didn't know the answer to and,
14 therefore, I felt that I was in great difficulty to answer
15 these questions, I didn't know how it had been written down on
16 the piece of paper. So I was afraid, I was afraid of making a
17 mistake, because since the guys who took me there, they
18 repeated to me, they repeated, they said that I had -- I had
19 to admit to that death, so I told the judge, I said, listen, I
20 told him he had the extrajudicial confession in his hand and
21 all he had to do was transcribe it on his papers, and when he
22 was ready, I would sign it. So then he accepted, and all he
23 did was really he told the secretary to make a remark on the
24 document that this was the result of a request from me. I
25 believe that the judge was very impressed with the way I

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1 looked, but he didn't say anything to me. In addition, it
2 wasn't normal for a judge to come in and take a statement in a
3 clandestine jail. Normally, one was transferred over to the
4 criminal center, and then from the criminal center, the judge

5 would then have one brought in. But it seems someone to have
6 been in a bit of a hurry to get me to sign, to sign my
7 statement admitting the murders.

8 THE INTERPRETER: The assassinations. The
9 interpreter corrects himself.

10 A. And after that, after I signed the statement, nothing
11 happened, I remained in the same room for a few more days, and
12 I was transferred approximately one week later to the cells
13 where the treasury police would admit that they had captured
14 you.

15 Q. Mr. Alvarado, let me take you back to the room where
16 you were with the judge. When you were there with the judge,
17 did you say anything about your torture?

18 A. No, they had already warned me that I had nothing to
19 say about the torture, nor say anything other than to admit
20 that I had killed the persons, the people.

21 Q. And who was it that told you that?

22 A. The men in civilian clothes, the torturers.

23 Q. And what did you know about the judge who had come to
24 take your statement?

25 A. At that time, nothing.

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1 Q. Was he a member of the military?

2 A. He was a colonel in the army.

3 Q. Was he wearing a uniform?

4 A. No, he was in civilian clothes.

- 5 Q. And how were the men dressed who took you to see the
6 judge?
- 7 A. In civilian clothes as well.
- 8 Q. Where were they while you were talking to the judge?
- 9 A. They were right there in front of me.
- 10 Q. So from there, you were transferred to a different
11 location within the treasury police, is that correct?
- 12 A. That is correct.
- 13 Q. At some point while you were in the treasury police,
14 were you ever in prison with somebody named Marta Angelica
15 Martinez?
- 16 THE INTERPRETER: The interpreter requests
17 permission to consult with the witness.
- 18 THE COURT: Certainly.
- 19 (The interpreter conferred with the witness.)
- 20 A. During the first few days, I don't recall that
21 happening, but on the second or third day, I asked them to
22 take me to bathroom and they did. And when we got there,
23 there were all these people lying around on the floor, and
24 that woman was there lying on the floor blindfolded.
- 25 Q. All of the people were lying on the floor in the

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- 1 bathroom or on the way to the bathroom?
- 2 A. No, in the bathroom, within the bathroom area.
- 3 Q. About how many people were in that room?
- 4 A. I really wouldn't know to tell you, it could have been
5 between 10, maybe 20, I don't know.

- 6 Q. And who was Marta Angelica Martinez, did you know her?
7 A. No, only by sight, but I knew that she was a professor,
8 a member of ANDES June 21 who had been disappeared -- who had
9 disappeared, disappeared for several months.
10 Q. And how had you known her?
11 A. At some teachers' professors' conference of some sort
12 that I must have attended or that I attended. Once I must
13 have been close, I think, and then I saw her there one time.
14 Q. And did you see her there in the bathroom?
15 A. That is so, she was there.
16 Q. What did she look like?
17 A. She was dark skinned, approximately 150, 155 meters
18 high, black hair.
19 Q. Did you mean to say 155 meters high?
20 A. 1.50, 1.55 meters high.
21 Q. Oh, thank you. When you said she had disappeared, what
22 did you mean?
23 A. Somebody had captured her, but none of the security
24 forces admitted to having done it.
25 Q. Was that common in El Salvador at the time?

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- 1 A. That is so. In my own case when my family members
2 asked after me at the different security forces, even at the
3 treasury police, they said that they had not captured me.
4 Q. What was it like in the bathroom in that room with all
5 those people?

6 A. Well, I couldn't see, probably I was wearing the
7 blindfold, but there were people in there, and I could see a
8 little bit downwards through my nose, and then I had to walk
9 very carefully because of the people, but it wasn't one of
10 those normal toilets, it was one of those -- it was just a
11 hole.

12 Q. Could you tell why those people were there, what they
13 were doing there?

14 A. No, they were just there, just like they had me in
15 another room, you know, thrown there on the floor, they had --
16 that's why they were there.

17 Q. Now, Mr. Alvarado, after you spoke to the judge and you
18 were transferred to a different area, what area were you
19 transferred to?

20 A. To the treasury police cells.

21 Q. Were you transferred with others?

22 A. That is so, with four other persons.

23 Q. And who took you to the new cells?

24 A. The same people who had arrested me just in civilian
25 clothes, they put me in a car. They left the treasury police.

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1 There was about -- well, there was a well-known street, I knew
2 that zone rather well, and there was a downgrade, they went
3 down there, they went around the back, and they came -- they
4 went right back into the treasury police again. They would do
5 this according to them so that you wouldn't know where you had
6 been, but I already knew. Well, when they took us on that

7 little spin, they told us that they were going to kill us to
8 scare us, but they had already told me prior that they were
9 going to transfer us over to the cells.

10 Q. And what happened when you got to the cells?

11 A. Well, nothing happened there. They only just recorded
12 our names in the prisoner book, and I stayed there quite
13 awhile.

14 Q. Did the people who recorded your names wear uniforms?

15 A. There were then people in uniform, but the men without
16 uniform would go in there regardless, they would enter and
17 exit.

18 Q. Did the people who wore civilian clothes who brought
19 you there and the men in uniform seem to know each other?

20 A. Yes.

21 Q. Now, Mr. Alvarado, you have discussed the first time
22 that you saw Colonel Carranza at the press conference, was
23 there another time when you were in the treasury police that
24 you personally saw Colonel Carranza?

25 A. That is so. I don't recall how many days after I got

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1 there, but several days, maybe a week after we had been
2 transferred, he sent for me to tell me that there was a
3 journalist who wanted to interview me, and we had the
4 interview with the journalist.

5 Q. Had you asked to speak to a journalist?

6 A. No.

- 7 Q. And what happened in the meeting when you were summoned
8 to Colonel Carranza's office to talk about the interview?
- 9 A. Well, the journalist had a lot of questions, and it
10 would seem that he didn't believe that I had killed the
11 advisor, nor that I had done anything. I don't know what the
12 article that he wrote was like, but I do know that he was
13 captured, beaten and kicked out of the country. He was an
14 American journalist. Apparently, they didn't like what he
15 wrote. And I don't recall the journalist's name. But this
16 has to have happened during September, during the last days of
17 September probably.
- 18 Q. What did you and the journalist talk about in the
19 interview?
- 20 A. I don't recall exactly, but regardless, the question of
21 whether I had killed the advisor, that certainly came up, and
22 I -- since I was still fearful, I had to keep on saying, yes,
23 that I had killed him.
- 24 Q. What was Colonel Carranza doing while you gave your
25 interview with the journalist?

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- 1 A. I don't recall very well, but he was there as well.
- 2 Q. Do you remember if he was in the same room?
- 3 A. Yes.
- 4 Q. Yes, he was?
- 5 A. Yes, he was.
- 6 Q. Was there another occasion when you had a personal
7 interaction with Colonel Carranza?

8 A. Well, there were two other occasions. The first
9 happened before this thing with the journalist. We had been
10 in the cells one or two days when he showed up, and he was
11 walking by, and he asked why we were there, and I answered
12 that we were political prisoners. He said, oh, yes, you're
13 Daniel. Well, you should thank God you're all alive, because
14 if you were guerrillas, we would have killed you. The next
15 occasion was in November, in mid November, approximately.

16 Q. Now, before we talk about that incident, Mr. Alvarado,
17 let me ask you whether you were ever taken from your cell at
18 the treasury police headquarters to another place?

19 A. Yes. During the first days of October, maybe between
20 the 2nd and the 5th of October, the men in civilian clothes
21 came to take me out of the cell, and they took me in a car and
22 it must have been to the -- what's that place, I'm not sure,
23 but I think it must have been in the neighborhood called -- I
24 don't remember the name, but it was close to the office of the
25 general staff.

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1 Q. Were these the same men who had captured you back in
2 August?

3 A. No. They were the judge's men.

4 Q. Did they tell you anything about where you were going
5 or where they were taking you?

6 A. No. Well, it was a house, normal house, very big, and
7 at the beginning, there was some people talking and they were

8 saying bring him, can he come in, can he not come in, and at
9 the end I did go in and it turned out that there were two men
10 there, one very tall, maybe 1.90 meters approximately, and the
11 other one very small, maybe like me, but the tall guy was
12 Latin American, and the other one was an American. While they
13 were debating and they weren't letting me go in, I got very
14 nervous. And then when I did go in and I saw the two men, I
15 got very scared, because I thought that some sort of torture
16 was about to happen, but the Latin American guy, he noticed
17 immediately that I got scared, and he said, no, no, no,
18 Daniel, there's not going to be any more torture here.

19 Q. Did the men identify who they were?

20 A. Yes, immediately after he said what he said to me with
21 what I just said, he identified himself as an agent, an FBI
22 agent, and his name was Agent Rivera.

23 THE INTERPRETER: The interpreter requests
24 permission to talk to the witness on the use of a phrase.

25 THE COURT: You may.

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1 (The interpreter conferred with the witness.)

2 A. And he introduced me to the other gentleman, and he
3 told me he was Mr. Triplett from the United States Navy, and
4 he introduced him as the best polygraph technician from the
5 United States.

6 Q. And what happened in your meeting with them,
7 Mr. Alvarado?

8 A. Well, I continued to be very worried because they were

9 asking me a lot of questions and a lot of details about the
10 case, and I was once again scared of saying things wrong
11 because I didn't know the correct answer, and they just
12 insisted with their questions.

13 Q. Were they asking you about the circumstances of the
14 murder of Lieutenant Commander Schaufelberger?

15 A. Yes. After so many questions, questions that I
16 couldn't answer, they told me, they asked me why I was lying
17 so much, and they also said that they had investigated me,
18 they investigated my family and they said that I had been well
19 educated by my family, I was well brought up and why wasn't I
20 using what my family had taught me, why wasn't I using it now,
21 and that I was just too much of a liar, and so I really didn't
22 know what else to say to them, so I just said, okay, let's
23 suppose that what you say is true, but, first, what I want to
24 know is to know -- I want you to tell me what guarantees you
25 can give me that nothing is going to happen to my family, and

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1 then they said the government of the United States guarantees
2 your life and the life of your family. So then I told them
3 that I had been tortured, and they said they had already
4 suspected that something like that had happened and that they
5 knew that I didn't -- I hadn't done anything; that in
6 addition, they said they had run into the problem that -- at
7 the treasury police, they didn't allow them to talk to me,
8 that they had to go to the judge to get me out of there. The

9 judge got me out, but the treasury police didn't know that I
10 was on my way to talk to the FBI.

11 Q. Was the judge at that meeting?

12 A. He was outside, but he didn't participate in the
13 meeting.

14 Q. What else happened at the meeting with the
15 representatives of the United States government?

16 A. Well, they -- they asked me to tell them everything
17 that had happened, which is more or less I have told you, I
18 had to tell them, that's what I had to do, and they took
19 pictures of my body because I was covered with very small
20 burns that you could still see, and I got them from the
21 electric shocks on my head. My whole body was covered, I had
22 small burns on my skin, and they took photographs of that.

23 Q. What were the burn marks from, Mr. Alvarado?

24 A. Those marks they had made them on me with the third
25 wire that they used to apply the electric shock, it was a very

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1 powerful electric current, and it burned.

2 Q. Did anything else happen at that meeting?

3 A. No, the only thing they did is they told me that they
4 were sure it wasn't me because the FBI was at the scene of the
5 assassination three minutes after it took place, and the
6 Salvadoran police showed up later after that. Well, you see,
7 what they said was that what was written on that piece of
8 paper that I signed that said that it had happened the way it
9 happened, they said it hadn't happened that way. They said

10 that they had given other information to the newspapers and
11 the Salvadoran police didn't know that that information wasn't
12 real information. So then they knew that I hadn't done it.

13 Q. Did they say anything to you about the torture that you
14 had suffered?

15 MR. FARGARSON: Excuse me, Your Honor, can we
16 approach?

17 THE COURT: You may.

18 (The following proceedings had at side-bar
19 bench.)

20 MR. FARGARSON: It is hard to stop all the
21 hearsay with all the little answers that are being given,
22 and I have refrained to try and get up and break the
23 story, but so much of what he is saying is hearsay
24 information that was given to him. And so certainly what
25 they said about the torture, I'm going to object as

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1 hearsay.

2 MR. BROOKE: Or the crime.

3 MR. ESQUIVEL: Well, a lot of him saying is
4 part of relating the story, so it is not necessary -- it
5 is not being offered for the truth of what is being said,
6 but --

7 THE COURT: I don't know if we can make that
8 distinction. I think a lot of what he said up to this
9 point, it is just that this particular question seems to

10 ask for a comment about what was said, so I have to
11 sustain that as to this question. I realize that some of
12 the things he said are, you know, this is what I saw, this
13 is what I observed, this is what happened. When you ask
14 what did somebody say, that's -- I'm going to sustain the
15 objection.

16 MR. BROOKE: Your Honor, the statements that
17 what the FBI or the other fellow had supposedly said about
18 that it had been purposely placed in the newspaper --

19 THE COURT: Yeah.

20 MR. BROOKE: I would --

21 THE COURT: The rouse or whatever it was.

22 MR. BROOKE: That seems to be hearsay, I
23 believe, also.

24 THE COURT: Well, let me think through that.

25 MR. FARGARSON: That's speculative, it is

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1 hearsay, it is a conclusion. I mean there is a lot of
2 them, but --

3 THE COURT: Part of it is -- what is the
4 difference? It does seem a little different. He's not
5 talking about an issue, it's at the point that is at issue
6 in the case.

7 MR. ESQUIVEL: Your Honor, I would say that it
8 is a tangential issue. I mean the issues in the case
9 don't involve the circumstances of the murder of
10 Lieutenant Commander Schaufelberger.

11 THE COURT: Not the circumstances, right.

12 MR. ESQUIVEL: And so whether -- the truth of
13 whether the FBI or the U. S. government had given
14 information to the Salvadoran newspaper and that formed
15 the basis of his confession is not really an issue in the
16 case.

17 THE COURT: It is the relaying of investigative
18 technique that was related to him. How does that make
19 it -- I don't think the harmful effect is much, it is more
20 explanatory, but I think it still may be --

21 MR. ESQUIVEL: It also can be a state of mind
22 of the agents and of the U. S. government in the sense
23 that it was their design or their plan. It is a statement
24 of plan or design that the government made in order to
25 conduct the investigation.

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1 THE COURT: No, there are plan or design
2 exceptions, but they tend to be things like --

3 MR. BROOKE: It is by a third party.

4 THE COURT: Right. Let me get my book here.

5 MR. ESQUIVEL: Your Honor, the specific
6 exception I'm thinking about is 803(3).

7 THE COURT: Let's take a look. I don't believe
8 that has application. On the other hand, I'm not certain
9 that it goes to any central issue in the case, and it
10 seems useful to the jury, and the court in understanding

11 the events that are asserted to have occurred. Balancing
12 everything, I'm going to allow that statement in, but I'm
13 going to sustain the objection to the question that was
14 before the court at the time because that would be
15 solicitation as to what did they say, and that's certainly
16 a direct solicitation of hearsay. I think that's --
17 that's what we need to do. Okay.

18 MR. ESQUIVEL: Your Honor, just to know, so
19 it's not to break up the examination, the next event that
20 happens is that Mr. Alvarado is brought back to the same
21 house the next day and is administered a polygraph
22 examination.

23 THE COURT: Sure. Is somebody else going to
24 talk about the polygraph?

25 MR. ESQUIVEL: Professor Karl may talk about

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1 the polygraph through the declassified documents.

2 THE COURT: Right.

3 MR. ESQUIVEL: So that's an alternative, but I
4 did intend to ask him about the circumstances of that.

5 THE COURT: You can ask how they took it and
6 the questions they asked of him, I don't think that's a
7 problem because the questions aren't being submitted for
8 the truth of the matter contained therein. It's just the
9 questions that are asked. You can always say what
10 questions did they ask, and then you can -- of course,
11 he's just giving testimony on cross examination, at least

12 that's what he said. It is always a hearsay within
13 hearsay question. It is always a little complicated, but
14 I think that's appropriate because he's here. He can be
15 examined about that.

16 MR. ESQUIVEL: And as to the results of the
17 polygraph examination, Your Honor, if I ask him a
18 question --

19 THE COURT: He's not an expert, he doesn't know
20 the results, so he can't really tell us, but I assume that
21 the declassified documents tell us. You indicated as much
22 in the past.

23 MR. ESQUIVEL: Yes.

24 THE COURT: I think we have to rely on the
25 declassified documents. But he can describe the exam, I

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DIRECT - DANIEL ALVARADO

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1 mean that's just like saying I went to the doctor and he
2 took my blood pressure and he asked me how I felt and I
3 said I felt good, bad or whatever. He can tell us about
4 those things. Those are his personal observations.

5 MR. FARGARSON: Just make sure he doesn't give
6 the results.

7 THE COURT: Exactly.

8 MR. FARGARSON: Just make sure he doesn't give
9 the result, they don't start talking up there and all of a
10 sudden give the result.

11 THE COURT: You can just caution him that he

12 should not tell us what they told him as to the result,
13 but he can tell us what happened afterwards, because I
14 think there was some steps that were eventually taken in
15 connection with that, is that correct?

16 MS. BLUM: I mean it is an inference which has
17 to be drawn from the results, obviously. The events that
18 follow thereafter.

19 THE COURT: Right, right.

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

22 THE COURT: Sure. Why don't you all take at
23 least a five-minute break, and we will be ready at that
24 time. So why don't you take a five-minute break and don't
25 talk about the case, don't let anybody talk with you.

♀

DIRECT - DANIEL ALVARADO

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

3 MR. BROOKE: Judge, on the court's ruling about
4 the first part of the hearsay issue of that the comment
5 about what the interrogators said as to how they tried to
6 rouse the --

7 THE COURT: Right, it just --

8 MR. BROOKE: I just wanted to for the record
9 put in there that that casts the treasury police in a
10 further bad light which has a probative value for the jury
11 that is unfair since we can't in any way try to contradict
12 that.

13 THE COURT: Well, I don't -- I hear what you're
14 saying, I kept trying to figure the whole thing out
15 without a lot of warning. It seems that it is certainly
16 not a core point in the case. It is fairly collateral,
17 and it goes to investigative technique, i.e., how did they
18 tell you they decided to call you over here. It is sort
19 of why are you here. It is almost as though someone said
20 there was a fire down the street, and you went and there
21 was no fire, but you got there. He doesn't know what
22 really happened, and I think that's truly not received --
23 and I can tell the jury that's not received for the truth
24 of the matter, but it is to explain why he was there,
25 because they did their own investigation.

♀

DIRECT - DANIEL ALVARADO

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1 MS. BLUM: Your Honor, the newspaper account
2 that he's referring to was issued by the FBI, U. S.
3 government way prior to the time that our client was
4 captured, so it wasn't directed towards the treasury
5 police, it was directed toward the Salvadoran police
6 forces in general. I mean the -- you know, Schaufelberger
7 was killed in May --

8 THE COURT: The account as to what they
9 released as to what --

10 MS. BLUM: Exactly. So it wasn't --

11 THE COURT: It's the old thing of planting
12 false data so you can find out if it comes back to you.

13 MS. BLUM: Exactly. So I agree with you.

14 THE COURT: I just think --

15 MS. BLUM: It just sort of sets up a sequence
16 of events.

17 THE COURT: -- it is much more of a nonhearsay
18 situation. It is not perfect, but it certainly doesn't
19 seem to have any real harmful -- it's balanced out. But
20 the question about what somebody would say, I sustain that
21 one. I think it is an interesting question, obviously, we
22 all do, but we have probably talked about it as much as we
23 can beneficially talk about it. Why don't you take a
24 short break, couple of minutes, and when everybody is
25 ready, let Joe know. I will take a short break.

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1 (Recess taken at 3:20 until 3:25 p.m.)

2 THE COURT: We can bring the panel in.

3 (Jury in at 3:25 p.m.)

4 THE COURT: All right. You may be seated.
5 Counsel may proceed.

6 BY MR. ESQUIVEL:

7 Q. Mr. Alvarado, after this meeting with the U. S.
8 government representatives, where were you taken?

9 A. Well, yes, before we finished that meeting, they told
10 me that --

11 THE COURT: This was at the point where there
12 was an objection as to hearsay in this context, and the
13 court did sustain that objection. I believe this is the

14 one where we were.

15 MR. ESQUIVEL: Yes, Your Honor.

16 THE COURT: So listen carefully to the question
17 that counsel asks, and we will ask him to redirect the
18 question.

19 BY MR. ESQUIVEL:

20 Q. Without saying what the representatives from the U. S.
21 government told you, tell the jury what happened after that
22 meeting.

23 A. Well, they took me back to the treasury police again,
24 and on the following day, the judge once again transferred me
25 to the second meeting with them.

♀

DIRECT - DANIEL ALVARADO

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1 Q. And, again, without telling me what they said to you
2 during that meeting, what is it that happened?

3 A. The second meeting was for the polygraph test. The
4 test itself took approximately half an hour, but the meeting
5 itself took approximately eight hours in total.

6 Q. And again without telling me what they said, what was
7 the subject matter of your discussions during that day?

8 A. That day, everything was about the polygraph test. It
9 was explained to me what type of polygraph was going to be
10 used, what components were involved.

11 Q. And did you, in fact, take a polygraph test that day?

12 A. That is so.

13 Q. After the polygraph exam, where did you go?

14 A. I was taken back to the treasury police.
15 Q. And earlier, Mr. Alvarado, you said that you had
16 another meeting with Colonel Carranza, did that meeting occur
17 after you took the polygraph exam?
18 A. That is so.
19 Q. And what happened during that meeting?
20 A. Well, he arrived, and he was very mad and he said that
21 I was a problem for him, that he was going to have me
22 transferred to the jail and why that hadn't I told him that I
23 had been tortured.
24 THE INTERPRETER: If it please the court one
25 moment, counsel.

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DIRECT - DANIEL ALVARADO

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1 A. And then he left, and he didn't let me say anything.
2 Q. Did he ask you who had tortured you?
3 A. No.
4 Q. Did Colonel Carranza ask you anything about the
5 circumstances of your torture?
6 A. No.
7 Q. Was that the last time that you personally saw Colonel
8 Carranza?
9 A. Yes.
10 Q. After that meeting, did you ever see Major Pozo again?
11 A. Yes. After Mr. Carranza came, an hour later or maybe
12 half an hour later, the chief of the men who had tortured me
13 came. He just didn't say anything to me, he just leaned
14 against the door with his head on his arm and he just looked

15 at me, and then suddenly he said the gringos think we don't
16 know anything, that we can't -- that they're the only ones who
17 know, that on this, I also had a course, I had taken a course
18 and I know it doesn't work, referring to the polygraph. He
19 was standing there, and after a long while, he just stood
20 there for that while. And after a good while, he took me out
21 of the cell and he took me to Ricardo Pozo. And then Mr. Pozo
22 said -- he says tomorrow we're going to have an interview with
23 journalists that we trust, and you tell them that you killed
24 him. And then if it was something that you thought of, you
25 can tell them, you know, you can ask why does the United

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DIRECT - DANIEL ALVARADO

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1 States get involved in things concerning El Salvador that
2 we -- that they have no business here. And then they took me
3 back to the cell, and on the way, I saw Mr. Pozo going over to
4 Mr. Carranza.

5 Q. Mr. Alvarado, how long did you stay in the treasury
6 police headquarters cells?

7 A. I was in the treasury police cells until the 31st of
8 January of 1984.

9 Q. And what happened on the 31st of January, 1984?

10 A. And then they transferred me to the jail, to Marióna
11 Penal Center.

12 Q. Was that a jail that was under the authority of the
13 treasury police.

14 A. Well, I believe that the penal centers fell under the

15 treasury police, but it was another type of guard with a
16 different uniform.

17 Q. And what was -- what was that prison like?

18 A. Well, it was an everyday jail, common, but the
19 political prisoners -- well, there was a section for political
20 prisoners, a section for military people and a section for
21 common criminals.

22 Q. And which section were you in?

23 A. In the political prisoner section, we were
24 approximately -- well, when we -- the highest number there, we
25 were slightly over 1000.

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DIRECT - DANIEL ALVARADO

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1 Q. And how did your treatment at that prison compare to
2 your treatment at the treasury police headquarters?

3 A. Well, it was totally different because the political
4 prisoners in our section, we had, well, relative freedom for
5 daily cohabitation.

6 Q. And did you -- were you organized in the political
7 prisoner section, organized itself in any way?

8 A. That is so. When I got there, there was political
9 prisoners committee that had more or less organized day life
10 with some degree of discipline, you know, rules of conduct.
11 It was -- in fact, that jail was very different in that way.

12 Q. Mr. Alvarado, were you ever tried in a court for the
13 murder of Lieutenant Commander Schaufelberger?

14 A. As far as I know, no. When I was set free, there
15 wasn't even a piece of paper that said whether I had done my

16 time or not, they just went there and got me out, to get me
17 out and I had to leave the country.

18 Q. Did you ever receive a trial for the murder of the
19 Irena deputy?

20 A. No, the same as with the other case, I don't know
21 anything.

22 Q. How was it that you were able to leave the jail?

23 A. Well, a Christian democratic attorney came, a lawyer
24 came, and he told me that I needed an attorney to help me in
25 order to be able to get out and I said -- I told him that no

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DIRECT - DANIEL ALVARADO

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1 attorney wanted to take my case on, and then he said I can
2 take your case, I'm going to take your case. I told him I
3 don't have any money, I told him I didn't have any money to
4 pay him, and he said it doesn't matter, I'm going to help you,
5 I'm going to help you not to help you, but to help the judge.
6 Then he said that he was a friend of the judge's, and the
7 judge didn't want any trouble because the previous judge had
8 been killed for having allowed the FBI to contact me.

9 Q. Mr. Alvarado, why did you think that a lawyer would not
10 want to take your case?

11 A. Well, they were afraid. The majority of them knew that
12 the prior judge had been assassinated, and I think that the
13 fear was that -- fundamental thing, they didn't want to get
14 into trouble. Well, the -- the attorney was an ally to the
15 government, they were the Christian democrats that were in the

16 government at the time, and the government of the United
17 States had been pressuring somewhat the Salvadoran government,
18 which, as I said, is the Christian democrats, and pressuring
19 for them to set me free, but the military officers didn't want
20 to set me free, so that's why there was problems.

21 Q. And did that Christian democrat lawyer, was he able to
22 get you free from jail?

23 A. Well, yes, one day, the 14th of April, he showed up and
24 he said get ready, you're leaving in an hour.

25 MR. FARGARSON: Your Honor, I object to the

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DIRECT - DANIEL ALVARADO

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1 hearsay. He can say he let him out, but --

2 THE COURT: Well, the only statement is that he
3 got out that day. It is one of those things like there's
4 a fire at the Orpheum, it can't be received for the truth
5 of the matter contained therein. If somebody tells you
6 you're going to get out, it doesn't mean you're going to
7 get out, find out what happens, and that will be evidence
8 that we receive. So that is not going to be allowed to be
9 received for the truth, just what somebody said, and we
10 will see what happened next.

11 BY MS. BLUM:

12 Q. Were you released from prison, Mr. Alvarado?

13 A. April the 14th, 1986.

14 Q. That's the day that you were released from prison?

15 A. That is so.

16 Q. How long had you been either in prison or in the
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17 treasury police headquarters?

18 A. Five months at the treasury police, and in total, it
19 was two years and eight months that I was imprisoned.

20 Q. How did you get to Sweden?

21 A. The attorney had already arranged it with the Swedish
22 ambassador, and that is why he came to me and said get ready,
23 you're leaving in an hour.

24 Q. Mr. Alvarado, do you suffer from any permanent physical
25 problems as a result of your torture?

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DIRECT - DANIEL ALVARADO

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1 A. Pain here on this part of my arm, this part back here.

2 Q. And emotionally, how has the torture affected you?

3 A. I have had problems with sleep, and sometimes I dream
4 that I'm being chased or persecuted, that I'm being tortured
5 sometimes. It's a bit difficult, that type of problem,
6 because you don't rest normally. Even if you want to sleep,
7 something happens, you might have a nightmare or so.

8 Q. And how has that experience affected your relationship
9 with your family?

10 A. Well, I practically have never been able to visit El
11 Salvador since I left. Next year, it will be 20 years. In
12 April next year, it will be 20 years since I have been in El
13 Salvador. And I believe that it will still take a number of
14 years before I dare go to El Salvador, not because I don't
15 want to come visit, but because I don't feel I can.

16 Q. Do you still have family in El Salvador?

17 A. Yes, my parents are still in El Salvador.
18 Q. Mr. Alvarado, why have you brought this lawsuit?
19 A. Because -- well, back in El Salvador, they have -- they
20 still say -- well, rather in El Salvador, no one ever said
21 anything about my not having assassinated anyone. In El
22 Salvador, the government -- rather, the U. S. embassy had to
23 pay for space in a newspaper to say that I had not killed
24 anyone, but from the part of the Salvadoran authorities, I
25 have not received any information, nor have they ever said

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DIRECT - DANIEL ALVARADO

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1 that it was not me.
2 MR. ESQUIVEL: I pass the witness, Your Honor.
3 THE COURT: Cross examination?
4 CROSS EXAMINATION
5 BY MR. FARGARSON:
6 Q. Mr. Alvarado, if I ask you any questions you don't
7 understand, if you will stop me, I will repeat it, okay?
8 A. Okay.
9 Q. Now, I want to go back to the day that you were at the
10 football game and the two men came and put you in an
11 automobile and took you away from the football game. Did
12 those two men stay with you most of the time that you were in
13 custody in one cell or another?
14 A. I had this blindfold over my eyes, so it is difficult
15 to say who was there at what time, but what I can tell you is
16 that the men who captured me, tortured me.
17 Q. Well, whenever you left and went in an automobile

18 somewhere, like to your family's home, could you tell if those
19 two men were with you?

20 A. I am not very sure. Those who captured me were in the
21 car.

22 Q. Prior to those two men taking you into custody at the
23 football game, had they been following you around, had you
24 noticed them previously?

25 A. No, I did not -- I was not worried about anybody

♀

CROSS - DANIEL ALVARADO

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1 following me. They just grabbed me unexpectedly.

2 Q. So before that day at the football game, you had not
3 noticed any police or people following you to try to find out
4 what you were doing?

5 A. No.

6 Q. Do you know why they picked you out to take you into
7 custody?

8 A. No.

9 Q. You weren't a member of the FPL?

10 A. No.

11 Q. Never were during the entire time you were in El
12 Salvador?

13 A. No.

14 Q. Now, the men that took you into custody from the
15 football game, were they usually in the group of men that
16 tortured you?

17 A. As I said earlier, they told me that they worked in

18 shifts, and I don't know how long the shifts were. It might
19 have been three shifts of eight hours each or it might have
20 been six-hour shifts, I don't know. But in the shift -- well,
21 at some part of the day, they must have been resting. At some
22 other part of the day, they must have been working.
23 Q. Was the room or the place where you were tortured, was
24 that the room that you left from to go to the press
25 conference?

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CROSS - DANIEL ALVARADO

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1 A. No, I said that the first days, they tortured me in
2 that room, and later on, they took me to another room. And
3 from that other room, they took me to the press conference
4 from that other room.
5 Q. Where was the second room in relation to the first room
6 either distance-wise or location-wise as well as you can tell
7 us?
8 A. I could not tell, but it was indeed inside the same
9 garri son.
10 Q. When you were taken from the cell to the press
11 conference, were you taken outside that area, that building?
12 A. The room you said?
13 Q. Yes. Wherever you were taken from, did you go outside
14 to be put in a vehicle?
15 A. Yes, they -- from the room, they took me outside to a
16 vehicle. The vehicle was outside the room. Actually, we
17 walked a little bit, it was not far, and from there, we went
18 to the press conference.

- 19 Q. And then you got into the truck, and you said that you
20 went a few meters in the truck to the news conference?
21 A. Truck?
22 Q. Well, I -- was it a truck or a car or how did you get
23 to the news conference?
24 A. It was a car, I said.
25 Q. And were other men that had been in the cell with you,

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CROSS - DANIEL ALVARADO

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- 1 were they taken in the same car with you?
2 A. That is so, there were four of us.
3 Q. Did all of you go together?
4 A. That is so.
5 Q. Okay. And then is it so that the vehicle had to go
6 some distance to where the news conference was?
7 A. That is so, but only a few meters.
8 Q. Now, I'm not sure what you mean by a few meters, what
9 would a few meters be?
10 A. I am not sure either as to what distance we traveled.
11 It was just a few meters, it might have been 30 meters, maybe
12 40 meters.
13 Q. Well, did the car go as long as the courtroom?
14 A. No, that is too close, I think. Let's say that if the
15 car was here, it traveled a bit and it went across and it
16 stopped, and it was right there.
17 Q. It went across what?
18 A. There might have been a corner or something, more or

19 I ess.
20 Q. Mr. Alvarado, were you and the other men with you in
21 the vehicle blindfolded?
22 A. That is so, and that is why I cannot tell you exactly
23 the amount of distance --
24 Q. All right.
25 A. -- the amount of meters that it traveled.

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CROSS - DANIEL ALVARADO

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1 Q. Were all of you blindfolded?
2 A. That is so.
3 Q. But when you got to the place where the news conference
4 was, was it a different building?
5 A. I could not tell, because I was not able to see much.
6 As I said previously, I was with my head down, and they had
7 threatened me saying that if I did not take the blame, then
8 they -- well, they said they already knew where my family
9 lived, and they just opened the door and pushed me out, and
10 immediately the journalists were there and the lights and the
11 cameras, and it was hurting my eyesight because wearing the
12 blindfold for a long time, well, it gives you trouble.
13 Q. Well, when they pushed you out, were you pushed out of
14 the door of the car into a room or were you pushed out on
15 pavement or a sidewalk?
16 A. The floor was paved, really, and just immediately in
17 front of me were the reporters, and there was a lot of people,
18 and I can't really remember very well.
19 Q. Well, did you have to go through a door to get in the

20 room where the news conference was?
21 A. No.
22 Q. Were they all standing outside around the car?
23 A. I think that there was a roof there, but there were no
24 walls, and the people were standing right there.
25 Q. Let me put this here and --

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CROSS - DANIEL ALVARADO

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1 MR. FARGARSON: Is this right, Joe?
2 BY MR. FARGARSON:
3 Q. Do you recognize that, Mr. Alvarado, as a newspaper
4 picture or photograph of the day of the news conference that
5 we have been talking about?
6 A. That is so, but in the front, there was no wall.
7 Q. Okay. Did it have walls around each side except the
8 front?
9 A. I do not recall. I think there were no walls on the
10 sides either, but there was a roof.
11 Q. From that place, could you look and tell where the car
12 had brought you from?
13 A. No, because the journalists were standing in front, and
14 it was a very brief time that I was standing there.
15 Q. When -- which one of those gentlemen up there is your
16 picture? Which one are you?
17 THE COURT: You can touch the screen.
18 A. That's me.
19 BY MR. FARGARSON:

20 Q. When you left the news conference and went back to get
21 in the car, could you see the place where you had been brought
22 from in the car to the news conference?

23 A. No.

24 MR. FARGARSON: Your Honor, I would like to
25 offer this as the next exhibit.

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CROSS - DANIEL ALVARADO

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1 THE COURT: It will be 18, received.

2 (Exhibit Number 18 was marked. Description:
3 Photograph.)

4 BY MR. FARGARSON:

5 Q. That is another picture, Mr. Alvarado, from the same
6 news article, but on the next page, is that a picture of you?

7 A. Yes.

8 Q. You appear to be holding something in your hand, can
9 you tell us what that is or what you remember about that day?

10 A. Well, it's just that I had handcuffs on me.

11 Q. Oh.

12 A. And that I was hurt on my right hand, and when they
13 were hanging me, they had tied me up, and that wound had
14 become infected.

15 Q. Okay.

16 MR. FARGARSON: Mark that as the next exhibit,
17 if you will.

18 THE CLERK: Number 19.

19 THE COURT: So received.

20 (Exhibit Number 19 was marked. Description:
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21 Photograph.)
22 BY MR. FARGARSON:
23 Q. Mr. Alvarado, how long did the news conference last as
24 far as you can remember today?
25 A. It was a few minutes. It was not much.

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CROSS - DANIEL ALVARADO

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1 Q. Were you asked to make any statements by journalists?
2 Did you talk to the journalists?
3 A. I said earlier that when they took me to the car, they
4 threatened me, and they said that if I didn't -- well, if I
5 said anything about the torture and did not affirm that I had
6 killed the advisor, then they knew where my family lived.
7 Q. Did any of the newspaper people or the journalists or
8 the reporters ask you if you had been tortured?
9 A. I do not recall exactly the questions, but in any case,
10 if they did ask, I had to say that I had not been tortured.
11 Q. Do you remember today, Mr. Alvarado, if they did ask
12 you?
13 A. I do not recall the questions. As I said earlier, it
14 was a very short time that I was there, and I was in a very
15 poor mental state.
16 Q. Now, that was the first time you saw Mr. Carranza, is
17 that correct?
18 A. Yes.
19 Q. He was at the news conference?
20 A. Yes.

- 21 Q. But he didn't say anything to you?
- 22 A. No.
- 23 Q. And you didn't say anything to him?
- 24 A. No, I only stood in front of the journalists.
- 25 Q. Now, the other individuals that were in the automobile

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CROSS - DANIEL ALVARADO

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- 1 with you that went to the same news conference, did they make
2 any statements at the news conference?
- 3 A. No, they did not. The ones who captured me, who
4 tortured me, they did not.
- 5 Q. No, no, I'm sorry, I probably deserve that answer.
6 What I'm talking about is the other people that were taken to
7 the news conference, what about them, what did they say, what
8 did they do?
- 9 A. I don't know. I had several journalists asking me
10 questions, and I don't know what they were doing. They
11 weren't next to me.
- 12 Q. So were journalists asking all of the people that had
13 been brought over there different questions?
- 14 A. I -- well, I cannot say, because I cannot fix myself --
15 well, I have to concentrate on the question that was being
16 asked to me.
- 17 Q. Now, let me talk to you a few minutes about the other
18 times that you saw Mr. Carranza, and let me try to put them in
19 sequence as well as you can remember them. After the news
20 conference, when did you next see him?
- 21 A. When I was interviewed by another journalist.

22 Q. Are you sure about that?
23 A. Yes, I believe so.
24 Q. Well, when did he come by the cell and see you? Are
25 you saying it was after the second time that you saw a

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CROSS - DANIEL ALVARADO

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1 journalist?
2 A. Yes, I do have a bit of a problem with dates. Now, he
3 did come before the journalist to the cell, that is when he
4 told me that guerillas, they did kill.
5 Q. He came by the cell, but first he said what are you
6 doing here, didn't he?
7 A. Yes.
8 Q. Even though there had been a news conference and he had
9 been at the news conference and you had been there, he said
10 what are you doing here?
11 A. I said we're political prisoners, and he said, oh, yes,
12 you're Daniel.
13 Q. So then he recognized you after you made that statement
14 to him?
15 A. Yes.
16 Q. Now, then, that was the second time, and the third time
17 you saw him was your opportunity to see another journalist, is
18 that right?
19 A. That is so, a few days later.
20 Q. Now, let me ask you about this time. Isn't what
21 happened, someone came and told you that a journalist wanted

22 to see you?

23 A. Nobody came to tell me; they came over to the cell and
24 took me to him.

25 Q. And took you to Mr. Carranza?

♀

CROSS - DANIEL ALVARADO

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1 A. Yes.

2 Q. And he asked you if you wanted to talk to a journalist,
3 didn't he?

4 A. Yes.

5 Q. And you told him -- and you told him, well, is it
6 necessary?

7 A. Yes.

8 Q. And you said -- and he said no, it's not necessary, you
9 can, if you want to, isn't that right?

10 A. I do not recall his telling me that it was not
11 necessary. I do recall his telling me -- asking me if I
12 wanted to.

13 Q. Well, he didn't tell you that you had to talk to the
14 journalist, did he?

15 A. No, but he was not the one who had tortured me either.

16 Q. Okay. I understand that. Here is all I'm asking you,
17 Mr. Alvarado, he didn't make you talk to the journalist, did
18 he?

19 A. No, but because of the threat, I felt that I had to do
20 it because saying no would be like saying that I did not want
21 to do what they wanted.

22 Q. But he didn't threaten you in any way, did he?

23 A. No.
24 Q. And just to make it clear, he didn't say this is
25 something you have to do or I want you to do, isn't that true?

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CROSS - DANIEL ALVARADO

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1 A. He just said there's a journalist and he wants to talk
2 to you, do you want to talk to him.
3 Q. That's right. And you did talk to him, didn't you?
4 A. Yes, I spoke to a journalist, yes.
5 Q. Who was the journalist?
6 A. I do not recall his name.
7 Q. Okay. I can understand that, Mr. Alvarado, but do you
8 know what paper or press organization or magazine he
9 represented?
10 A. I do not recall. What I do recall is he published an
11 article which the treasury police did not like, and then he
12 was beaten and he was taken out of El Salvador, that's what I
13 recall.
14 Q. And when did that take place?
15 A. It must have been in the second half of September.
16 Q. Okay. And the news article was written when?
17 A. I don't know, because I did not have access to
18 newspapers.
19 Q. Did you ever see the news article?
20 A. No.
21 Q. So you don't actually know what the contents of the
22 article was, do you?

23 A. No, but if he was beaten and he was taken out of the
24 country, he was beaten by persons dressed in civilian clothes
25 and he was taken out of the country. The only reason could

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1 have been that they did not like the contents of the article.

2 Q. How did you find that out?

3 A. When I got to jail and there were -- well, I read the
4 newspapers reporting on my situation. And among those, there
5 was one newspaper that had printed the news on what had
6 happened to that journalist.

7 Q. But you don't remember the article he wrote about you?

8 A. The article, I never got to read.

9 Q. Now, I understood you to say during one period of time
10 you were in a cell with some people next to a cell with some
11 police, is that correct?

12 A. What point in time are you referring to?

13 Q. I'm asking you if that is true, that you were in a cell
14 in the jail next to a cell that police were in?

15 A. Yes, that is true. They were policemen who were
16 punished for something they had done, and they would put them
17 in that cell for some days.

18 Q. Did you find out in talking to them what it was that
19 they had done that they were being punished for?

20 A. I never talked to them.

21 Q. Was there a wall between your cell and their cell?

22 A. That is correct. It was a wall, but the roof only had
23 bars, so you could hear what they were talking about.

24 Q. Okay. And so you could tell in listening to them that
25 they were policemen?

♀

CROSS - DANIEL ALVARADO

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1 A. Yes.
2 Q. Now, let me ask you about the fourth and last time that
3 you talked to Mr. Carranza, this was the time that he came to
4 tell you you were a problem?
5 A. Yes.
6 Q. And you said he was very angry?
7 A. That is so.
8 Q. And then you said that he told you he was angry because
9 you didn't confess to being tortured?
10 A. I did not say that he told me that he was angry. The
11 anger, I could tell on his face.
12 Q. Okay. All right. And then did you say something about
13 he told you or said you were a problem because you didn't say
14 you were tortured?
15 A. No, it was not that way.
16 Q. Okay.
17 A. Why did you not tell me that you were tortured.
18 Q. Oh, okay. Well, I misunderstood you, and I apologize,
19 I certainly misunderstood you. He said why did not you tell
20 him that you had been tortured?
21 A. Yes.
22 Q. Okay. Then following that, within a short period of
23 time, you were transferred out of there to another jail

24 facility, were you not?

25 A. Well, a short while afterward, that's depends on what

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CROSS - DANIEL ALVARADO

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1 you think a short while is, because he came over on November
2 the 16th of '83, and I was transferred to the penitentiary
3 center on January 21st of '84 -- January the 31st of '84.

4 Q. I agree with that. Within a few months, you were
5 transferred.

6 Now, Mr. Alvarado, you were allowed to leave the jail
7 cells and go talk two times in private houses to
8 representatives of the United States government, weren't you?

9 A. It is not that I was allowed, rather it was the judge
10 who could, he had the authority, he had the power to take me
11 out. And I was serving a military judge.

12 THE INTERPRETER: I was under the orders -- the
13 interpreter corrects himself, I was under the orders of a
14 military judge.

15 BY MR. FARGARSON:

16 Q. But none of the treasury police or people in civilian
17 clothes went with you, did they?

18 A. That is correct.

19 Q. And none of them were watching the house while you were
20 in there?

21 A. They had their own security guards there.

22 Q. Who did?

23 A. The people from the house.

24 Q. Okay. Well, that's what I'm saying. The treasury

25 police and plain clothes men who were not security for the

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CROSS - DANIEL ALVARADO

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1 U. S. were not around when you were able to go into that house
2 and talk to the U. S. representatives?

3 A. How so? What about the security that was not U. S.?

4 Q. Well, let me try to make it real simple, Mr. Alvarado,
5 and maybe we can all understand it a lot better. Who -- who
6 was at the house when you were taken -- when you were taken to
7 the house two times?

8 A. Well, there were guards belonging to the house. And
9 inside the house, there were the representatives of-- well,
10 the guy from the FBI and the guy from the navy, besides the
11 two men serving the judge and the judge himself.

12 Q. Were the only Salvadorans there the judge and the two
13 men that were serving him, besides you?

14 A. No, the security guards outside were Salvadoran.

15 Q. What military unit or branch did they belong to?

16 A. They did not tell me.

17 MR. FARGARSON: Okay. I believe that may be
18 all. Hold on just a moment, Your Honor.

19 THE COURT: Certainly.

20 MR. FARGARSON: That's all, Your Honor.

21 THE COURT: Redirect?

22 REDIRECT EXAMINATION

23 BY MR. ESQUIVEL:

24 Q. Mr. Alvarado, when Colonel Carranza came to your cell

25 and said that you should thank God because we kill guerrillas,

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REDIRECT - DANIEL ALVARADO

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1 how did you interpret that?

2 A. That he knew what had happened to me.

3 Q. And, Mr. Alvarado, you grew up in San Salvador, is that
4 right?

5 A. Yes.

6 Q. Did you know -- did you know where the headquarters of
7 the treasury police was?

8 A. That is so.

9 Q. How large an area is the headquarters of the treasury
10 police?

11 A. I do not know exactly, but it is a large installation
12 on which you can actually drive in a vehicle inside. I would
13 not be able to tell you exactly as to the size, but it is a
14 large institution.

15 Q. How many buildings would you say are in the treasury
16 police headquarters?

17 A. I cannot say exactly, but from the outside you can see
18 a very large building, and it might be one block in length.
19 And behind that some place, that's where they held me in those
20 clandestine jails. I would not able to say exactly where, but
21 there may have been some other type of construction site. In
22 fact, several construction sites, as a matter of fact.

23 Q. Now, Mr. Alvarado, were you ever interviewed by anybody
24 in the treasury police who was investigating your torture?

25 A. Well, on one occasion, I met with a colonel who had

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REDIRECT - DANIEL ALVARADO

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1 been sent by the defense minister, and that was the occasion
2 when I saw Ricardo Pozo wearing uniform, and he told me that
3 Vedes Casanova had sent him.

4 Q. To your knowledge, was anyone ever tried for your
5 torture?

6 A. No one has been tried.

7 Q. Mr. Alvarado, you were shown Exhibit 18. I would like
8 to show you that again, please. Now, I would like for you to
9 look at this photo that is on the bottom corner, do you see
10 that?

11 A. Yes.

12 Q. Do you know who this person is that I pointed to?

13 THE COURT: If you don't mind, we're going to
14 make it a little larger.

15 A. Yes, thank you, because I can't see.

16 BY MR. ESQUIVEL:

17 Q. Mr. Alvarado, do you see know who this person is that I
18 pointed to?

19 A. No.

20 Q. Do you know who this person is that I have pointed to?

21 A. I cannot see his face well, but it seems to be
22 Mr. Carranza.

23 MR. ESQUIVEL: Thank you. No further
24 questions.

25 THE COURT: All right. Thank you very much.

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REDIRECT - DANIEL ALVARADO

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1 We will let you step down.

2 (Witness excused.)

3 THE WITNESS: And thank you.

4 THE COURT: Let me see counsel, let's check on
5 our schedule and see how we're doing.

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

8 THE COURT: I want to make sure I know who our
9 next witness is, and it would be good to do 30 minutes, if
10 we could.

11 MR. ESQUIVEL: Your Honor, I think the schedule
12 would work well, we have 40 minutes of excerpts from
13 Mr. Carranza's deposition that we would like to play now.

14 THE COURT: No, that's fine. I really would
15 like to use the time, and are we doing okay, are we on --

16 MS. BLUM: We're ahead of schedule.

17 THE COURT: Are we going to wrap up on Monday
18 if we have a long day Monday?

19 MS. BLUM: It depends on --

20 MR. FARGARSON: Monday and Tuesday.

21 THE COURT: I would like to get as far as I can
22 while we have a pretty clear shot with the parking.

23 MR. ESQUIVEL: We just have one more witness.

24 THE COURT: So we will get -- is this your
25 expert?

1 MR. ESQUIVEL: Just the expert.

2 MS. BLUM: And, you know, we can't guarantee to
3 you that she will be finished on Monday.

4 THE COURT: Sure. Let's hear the excerpt.

5 MS. BLUM: So we can complete the whole except
6 today, the whole 40 minutes?

7 THE COURT: Absolutely.

8 MR. BROOKE: Then we're going to assume that we
9 should try to get our witnesses as many as we can starting
10 Tuesday?

11 THE COURT: It looks like we probably -- I know
12 we will get to you on Tuesday.

13 MR. FARGARSON: I hope we can get them in a
14 hotel room.

15 THE COURT: Well, if you don't have a hotel, it
16 would be almost impossible.

17 MR. FARGARSON: We have held up, because --

18 THE COURT: They're booked.

19 MR. FARGARSON: I'm in a hotel myself right now
20 because I live 65 miles away.

21 THE COURT: Then you may be giving them your
22 room.

23 MS. BLUM: Unless you want to share your room.
24 That's certainly an option.

25 THE COURT: Really, I mean usually every room

1 in the city is, and for miles around, is taken. And
2 you're secure in your rooms?

3 MR. EISENBRANDT: We're fine, but we certainly
4 confronted that.

5 (The following proceedings were had in open
6 court.)

7 THE COURT: We have one matter that we can
8 conclude today additionally. That will help us then on
9 our schedule, it will allow us to have a good day on
10 Monday and in all probability get to Mr. Carranza's proof
11 on Tuesday, so we're doing very well. I'm going to ask
12 counsel if they will go ahead, and who will our next
13 witness be?

14 MR. ESQUIVEL: Your Honor, the plaintiffs will
15 play designated portions of the deposition of Nicolas
16 Carranza.

17 THE COURT: All right. I will say one thing, a
18 deposition is sworn testimony, it is received just as
19 though it were here from a person sitting in the witness
20 stand, there's no difference. Of course, the witness is
21 sworn.

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DEPOSITION TESTIMONY OF NICOLAS CARRANZA

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1 Q. Tell me about your experience in the military academy
2 as a student.

3 A. Well, I was -- without false modesty, I was the best
4 officer in my class. It was hard for me to go to school after
5 being four years working -- I mean, a couple of years working
6 in the ministry of labor. It was hard, but I overpass all of
7 these problems, and I did it. I made a good record in the
8 school.

9 Q. You were first in your class?

10 A. Yes, sir.

11 Q. And you were first on the entrance exam to enter the
12 class?

13 A. Yes, sir, and the first in Mexico and the highest
14 military school.

15 Q. Clearly, you were a good student?

16 A. I was, sir.

17 Q. What were the general courses of study when you were a
18 student at the military academy?

19 A. At that time, we had some of general knowledge like
20 sciences, mathematics, language, military subject like map
21 study, weapons, tactics. It was a mixture of matters,
22 subjects.

23 Q. Did the subject matters include general military
24 structure, for example, the operation of the chain of command
25 within the military?

- 1 A. That's one of the main subjects to see about, you know,
2 the subordination and discipline.
- 3 Q. Okay. Tell me about your studies on that subject.
- 4 A. Well, we know that the main thing of that are the
5 subordination which is loyal -- the faithful of servants of
6 the -- subordination is respect and obedience that the
7 military men have to their superiors, and discipline is the
8 faithful of servants of the military laws and regulations.
- 9 Q. So in the area of subordination, would it be correct to
10 say that generally what was taught at the military academy is
11 that subordinates were under an obligation to follow the legal
12 orders of their commanders?
- 13 A. Yes, sir.
- 14 Q. And in the area of discipline, would it also be correct
15 to say that in general terms commanders were obligated to
16 enforce the legal orders that they gave to their subordinates?
- 17 A. Yes, sir.
- 18 Q. Okay. Tell me what you studied when you were at the
19 academy about the Geneva Conventions?
- 20 A. Well, we studied all of the references at different
21 conventions they had.
- 22 Q. And did you understand from your schooling at the
23 academy that your conduct as a person in the military would be
24 governed by the Geneva Conventions?
- 25 A. Yes, sir, of course.

- 1 Q. And did you study any other international treaties or
2 similar provisions that you understood would govern your
3 conduct in the military?
- 4 A. Yes, of course.
- 5 Q. What were some of those other provisions aside from the
6 Geneva Conventions?
- 7 A. I can't figure out what you say because everything is
8 in the book. We have to then classify them, feed them if they
9 don't have any kind of food, for example, give them
10 protection, cover if there is no houses, something like that.
- 11 Q. Okay. I'm asking now about the sources of your
12 obligation as a member of the military with respect to your
13 conduct in the area of human rights and treatment of the
14 civilian population. You mentioned that you studied the
15 Geneva Conventions?
- 16 A. Yes, sir.
- 17 Q. And that you understood that your conduct would be
18 governed by the Geneva Conventions as a member of the
19 military?
- 20 A. Yes, of course, El Salvador signifies -- is a
21 countersignee of the -- with this convention.
- 22 Q. After your training to teach at the general staff
23 school, did you then become a teacher at the school?
- 24 A. I became a teacher, yes, sir.
- 25 Q. Okay. What did you teach?

- 1 A. Tactics and operations.
- 2 Q. Okay. Did you teach any other subjects other than
- 3 tactics and operations?
- 4 A. No, sir, I don't think so.
- 5 Q. At some point, were you transferred from the artillery
- 6 regiment to another position?
- 7 A. To the military school. It was 1961.
- 8 Q. Okay. And what were your duties when you were
- 9 transferred to the military school?
- 10 A. Was cadet company platoon commander.
- 11 Q. What did you do as the cadet company platoon commander?
- 12 A. I was training the cadets once -- when the section --
- 13 the platoon, and generally physical training, giving also some
- 14 classes in the school.
- 15 Q. Okay. What classes did you give?
- 16 A. I usually gave them map lectures. I have -- I think
- 17 only that one, and also tactics. That was my main branch
- 18 about teaching always tactics in the army.
- 19 Q. After your training to teach at the general staff
- 20 school, did you then become a teacher at the school?
- 21 A. I became a teacher, yes, sir.
- 22 Q. Okay. What did you teach?
- 23 A. Tactics and operations.
- 24 Q. Okay. Did you teach any other subjects other than
- 25 tactics and operations?

- 1 A. No, sir, I don't think so.
- 2 Q. How long did you teach tactics and operations at the
3 general staff school?
- 4 A. Until December, 1975 when I was transferred to the
5 military school as executive officer, the second in command of
6 the school.
- 7 Q. Colonel Carranza, I'm handing you a document that's
8 been marked Exhibit Number 4.
- 9 A. Yes, sir.
- 10 Q. And I apologize, this is a document that you
11 produced --
- 12 A. Yes, sir.
- 13 Q. -- to us in this lawsuit.
- 14 A. Ley Organica de la Defensa Nacional.
- 15 Q. Would you look at Article 6 of that law, please?
- 16 A. Yes, sir.
- 17 Q. In Article 6 of the law we are looking at, does that
18 provision state, a part of that provision, that the general
19 mission of the armed forces in times of war is to accomplish
20 certain tasks by all of the methods that are authorized by
21 public international law?
- 22 A. Yes, sir.
- 23 Q. And did you understand that this law and that provision
24 governed your conduct as the subsecretary of defense when you
25 held that position?

- 1 A. Yes, sir.
- 2 Q. And did you have an understanding of the time -- at the
3 time of what was meant by public international law?
- 4 A. Yes, sir.
- 5 Q. What was that understanding?
- 6 A. I mean the international law regulate war, especially
7 the Geneva Conventions.
- 8 Q. Okay. You understand those laws to regulate not only
9 your conduct, but the conduct of all of the armed forces of El
10 Salvador at the time?
- 11 A. Yes, sir.
- 12 Q. Let me ask you now to go to Article 26, please. Does
13 Article 26 contain the duties that specifically apply to the
14 subsecretary of defense?
- 15 A. Yes, sir.
- 16 Q. Okay. And is the first duty listed in Article 26
17 generally to give technical assistance to the minister of
18 defense and the ministry itself?
- 19 A. Yes, sir.
- 20 Q. Okay. Is the second duty listed in the law for the
21 subsecretary of defense to coordinate the technical functions
22 of the general staff and its different branches?
- 23 A. Yes, sir.
- 24 Q. What was your understanding of that duty to coordinate
25 the technical functions?

- 1 A. I had to put in contact the members of the army with
2 other branches of the armed forces.
- 3 Q. Okay. Okay. Was there any other aspect of the
4 technical functions -- the coordination of technical functions
5 that you understood to be a part of your duties as the
6 subsecretary of defense?
- 7 A. I don't know what you mean by that, sir.
- 8 Q. I just -- you gave me some examples of what you
9 understood the technical function -- the coordination of
10 technical functions to entail, and I'm asking you whether in
11 addition to what you have already said there were other tasks
12 that you understood to be part of this duty?
- 13 A. I don't -- nothing comes to my mind at this moment.
- 14 Q. Let's look back at Article 65 of the national defense
15 law. Do you see that, sir?
- 16 A. Yes.
- 17 Q. Does the first paragraph of that article generally
18 provide that every person is subjected to his commander for
19 purposes of discipline and responds to that commander for the
20 orders he is given?
- 21 A. Yes, sir.
- 22 Q. Does that appear to be roughly what that provision
23 provides?
- 24 A. Yes, it is.
- 25 Q. How long did it take to convey by messenger the general

1 orders to every unit in El Salvador?

2 A. The order was given the same day they were -- they had
3 to be known by the units when the changes had to take effect.

4 Q. So were -- if the order was given and sent by
5 messenger, are you saying that it would reach all of the units
6 during that same day?

7 A. The order was read the day it was signed to all of the
8 units.

9 Q. It was read by the units the day it was signed?

10 A. By the units, yes, sir.

11 Q. That's -- all I'm trying to ask is how long it takes
12 for the order to be communicated to the units, and I think
13 you're telling me that it all takes place within a single day?

14 A. Yes, for example, when we have the order usually at the
15 end of month, this month, let's say, November. On the 30th of
16 November, all of the units in the country were reading the
17 order. They call it order general. And after that, they read
18 all of the order from the commander and then the order of the
19 unit specifying, in the first place, order given to the units
20 establishing the specific maybe procedure to do -- act in
21 certain times, maybe the designation of officer from one unit
22 to other.

23 After that came the order of the unit which was
24 establishing some specific order they gave to their people and
25 establishing the services of the unit itself.

1 After that, their small units gave another small order
2 referring to the services for that specific unit.
3 Q. Okay. Would those records generally be conveyed in
4 writing, the ones you're describing?
5 A. Yes, sir, every one was in writing.
6 Q. Okay. Were there other means by which orders were
7 communicated other than the general orders?
8 A. Well, that's the normal use, but sometimes maybe
9 something had to be known quickly. They may have called by
10 the phone or radio.
11 Q. Okay. Did the -- did you as secretary of defense
12 have phones and radios at your disposal to issue orders?
13 A. Yes, sir.
14 Q. And did those means of communication provide you with
15 access to the forces under your command in the different
16 departments of El Salvador?
17 A. No, I usually had contact with -- I mean I didn't need
18 to talk to them or to write them unless there was specific
19 orders and one had to come to San Salvador, but a meeting
20 either was the radio or telephone to call them so they can
21 come to the different meeting.
22 Q. Well, would you consider that an order that --
23 A. Yes, yes, of course.
24 Q. So when you wanted to give an order like that, you
25 could and you did use a radio and telephone to do that?

- 1 A. Correct. When there is an emergency, yes. Otherwise,
2 they had to be called by written messages.
- 3 Q. Okay. But messages like the general order at the end
4 of the month could be conveyed within a single day. Is that
5 right?
- 6 A. What you mean convey?
- 7 Q. I mean that if you wanted to deliver a written order to
8 someone in La Union when you were subsecretary of defense and
9 you are in San Salvador, could you convey -- could you write
10 out the order and give it to a messenger and have the
11 recipient read it the same day?
- 12 A. Yes, sir, all of the general records were read the same
13 day in all of the country.
- 14 Q. Okay. But if there was another order other than the
15 general order that you needed to convey, you could have used
16 the same means and gotten it to the person who needed to read
17 it just as quickly?
- 18 A. Yes, sir.
- 19 Q. Okay.
- 20 A. El Salvador is a small country. Within three hours,
21 you are in the farthest part of the country.
- 22 Q. Okay. Three hours by car?
- 23 A. Yes, sir.
- 24 Q. Okay. So there is no place within El Salvador that you
25 couldn't reach within three hours by car?

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DEPOSITION TESTIMONY OF NICOLAS CARRANZA

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- 1 A. When I'm talking about this, I'm talking about the

2 cities --
3 Q. Yes.
4 A. -- where we have the main units.
5 Q. Okay. Did you have helicopters at your disposal when
6 you were subsecretary of defense?
7 A. Yes, sir.
8 Q. Did you ever use helicopters to attend meetings or to
9 summon people to attend meetings --
10 A. Yes.
11 Q. -- or for any other purpose?
12 A. Yes, I went many times to visit -- they have some swear
13 of the flag.
14 Q. I'm sorry?
15 A. The swearing of the flag. For example, the day of the
16 soldier they made the 7th, and some of us had to be there.
17 Some of this -- when they had any course that were going to be
18 graduated, sometimes we use that.
19 Q. Okay. So if there were an emergency, you could also
20 use helicopters to convey messages or orders or to act?
21 A. Yes, of course.
22 Q. Let me ask you to take at what has been marked as
23 Exhibit 7. This is a document that is a second additional
24 protocol to the Geneva Conventions.
25 Have you had the chance to look at it?

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1 A. Yes, sir.

- 2 Q. Okay. And let me ask you to take a look at Article 4
3 of this protocol. Now, did you in 1980 understand that your
4 conduct and the conduct of your subordinates in the military
5 of El Salvador were governed by the provisions of this
6 protocol?
- 7 A. Yes, sir.
- 8 Q. And like the Geneva Convention itself, this provides
9 for the humane treatment of persons who do not take a direct
10 part or who have ceased to take part in hostilities. Is that
11 right?
- 12 A. Yes.
- 13 Q. And it provides that there can never be violence to the
14 life, health and physical or mental well-being of persons, in
15 particular murder, as well as cruel treatment such as torture,
16 mutilation or any form of corporal punishment. Do you see
17 that provision?
- 18 A. Yes.
- 19 Q. Okay. This is in Article 4 of the additional protocol?
- 20 A. Yes, sir.
- 21 Q. Okay. And you understood in 1980 that your conduct and
22 the conduct of your subordinates was governed by this
23 protocol?
- 24 A. Yes.
- 25 Q. Colonel Carranza, I'm handing you a document that is

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DEPOSITION TESTIMONY OF NICOLAS CARRANZA

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- 1 the Constitution of the Republic of El Salvador from 1962. Do
2 you know whether this was the Constitution that was in effect

3 at the time that you were the subsecretary of defense in 1980?
4 A. Yes, sir, it was in 1962.
5 Q. Let me ask you to look at Article 164.
6 A. Yes.
7 Q. Okay. Do you understand Article 164 to provide
8 generally that no person shall be deprived of their life,
9 their liberty or their property or possessions without first
10 being heard and tried in a court in accordance with the laws?
11 A. Yes, sir.
12 Q. And did that provision of the Salvadoran Constitution
13 govern your conduct and the conduct of your subordinates when
14 you served as subsecretary of defense?
15 A. That's correct.
16 Q. Colonel Carranza, I'm handing you a document that has
17 been marked as Exhibit 11, which is a document in Spanish
18 called the Ordenanza del Ejercito. Could you explain to me,
19 please, what this document is?
20 A. This document is a book that dictates the procedures of
21 the army.
22 Q. Are these regulations that govern the conduct of the
23 military in El Salvador?
24 A. The conduct of the military units in El Salvador, yes,
25 formalities, books that they have to study, rules that govern

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DEPOSITION TESTIMONY OF NICOLAS CARRANZA

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1 all of the attitudes, procedures of the army, military people.
2 Q. Okay. And did this document govern your conduct and

3 the conduct of your subordi nates when you served as
4 subsecretary of defense in 1980?
5 A. That's correct.
6 Q. Let me ask you to look at Article 9, please.
7 A. Yes.
8 Q. Are you -- could you describe for me, please, what
9 the -- read the first sentence of Article 9 and describe for
10 me what that provides.
11 A. This says that if a superior gives you any legal order,
12 you have to obey. If you don't like the order, you may claim
13 later about this order.
14 Q. Okay. And is that the way the -- is that the way that
15 the chain of command functioned in practice when you were the
16 subsecretary of defense in 1980?
17 A. Yeah, I think so, sir. The ordinance has always been
18 in -- ruling the procedures of the military people.
19 Q. All right. Would you also describe for me or tell me
20 generally what the last sentence of Article 9 provides?
21 A. The last sentence?
22 Q. Yes.
23 A. He will also be responsible. Whenever he is
24 subordinate, make any fault, anything wrong, he will be
25 responsible.

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DEPOSITION TESTIMONY OF NICOLAS CARRANZA

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1 Q. Okay. So that generally provides that a superior will
2 be responsible for the faults and the acts and the abuses of a
3 subordinate?

4 A. Yes. In this case, you see el superior. He's talking
5 about the people who is directly in the command of these
6 people.
7 Q. Does it say directly in the law?
8 A. No, sir, but that's understood.
9 Q. It's understood that only the direct superior has the
10 obligation to be responsible for the acts?
11 A. I guess so.
12 Q. And the abuses of its subordinates?
13 A. I guess so, sir.
14 Q. And what if the superior fails to investigate or punish
15 the abuses of a subordinate? What is the responsibility of
16 the superior's superior?
17 A. I guess it will be the chain backward, and the other
18 will be responsible for the fault of the lack of supervision
19 by his subordinate.
20 Q. Okay. So at each stage and the way the chain of
21 command operated in theory and in practice, each higher level
22 of the chain of command was under a responsibility to ensure
23 that the direct subordinate was investigating and punishing
24 known abuses that would have violated the international
25 covenants and the constitutional provisions that we have been

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DEPOSITION TESTIMONY OF NICOLAS CARRANZA

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1 Looking at?
2 A. Yes, yes.
3 Q. Colonel Carranza, I'm handing you a document that's

4 been marked as Exhibit 12. It's a document written in Spanish
5 called theCodigo de Justicia Militar. Are you familiar with
6 this document?
7 A. Yes, sir, we call itCodigo Rojo.
8 Q. It was called theCodigo Rojo?
9 A. Codigo rojo, yes. The cover was red, and it had a lot
10 of death penalties under punishment.
11 Q. The cover was red?
12 A. Cover was red because of the cover.
13 Q. And it provides for penalties including death
14 penalties?
15 A. Yes, sir.
16 Q. Okay. These were the penalties -- well, this is a
17 military code of justice, is that right?
18 A. Yes, sir.
19 Q. And these were penalties provided by the -- provided
20 for certain faults or acts of people?
21 A. Criminal acts, fault from the members of the army.
22 Q. Okay. And did this code -- was this code applied in
23 practice as well as in theory in your experience in the
24 Salvadoran military?
25 A. I don't remember any of these things in -- I don't

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DEPOSITION TESTIMONY OF NICOLAS CARRANZA

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1 recall any application of this code.
2 Q. In your experience in the Salvadoran military, you
3 don't recall any application of the military code of justice?
4 A. Yes, sir.

- 5 Q. Okay. Why is that?
- 6 A. I can't say why because the fault here -- the fact is I
7 am not familiar because we don't -- we didn't use this too
8 much. I never remember to have listened something to this.
- 9 Q. Well, in your experience in the military, was there
10 ever someone who committed an act for which they needed to be
11 disciplined?
- 12 A. Yes, but they were minor faults.
- 13 Q. No one in the Salvadoran military in your experience
14 ever committed a major fault for which the application of the
15 code of military justice would be proper?
- 16 A. I don't remember, sir.
- 17 Q. You can't remember a single instance of that?
- 18 A. Really, I don't.
- 19 Q. Now, you said it was fairly common in the newspaper to
20 read about allegations of abuses committed by the Salvadoran
21 military?
- 22 A. Yes, sir.
- 23 Q. Did you personally read those newspaper accounts?
- 24 A. I used to read some of them.
- 25 Q. Okay. Was there any other way in which you received

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DEPOSITION TESTIMONY OF NICOLAS CARRANZA

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- 1 notice of allegations of abuses by the Salvadoran military?
- 2 A. TV or radio.
- 3 Q. Okay. Tell me about what you heard on the TV.
- 4 A. Reporters stating that in some place someone had been

5 abducted, were supposedly military men, supposedly members of
6 the army, supposedly member of the death squad which they said
7 were composed by either civilians or men -- uniformed men or
8 men in civilian clothes strongly armed. That was the
9 expression they said to mean that there was something from the
10 army or security forces.

11 Q. All right. Were there other reports by television that
12 you heard about abuses that were allegedly committed by the
13 military?

14 A. I don't remember. I'm sure there were, but I don't
15 remember specifically.

16 Q. Okay. How about by radio? Tell me about the notice
17 you received by radio of alleged violations of human rights
18 abuses.

19 A. In the radio, sometimes in the radio -- what they do is
20 to read the news in the newspapers. What they were doing is
21 repeating what they read during the day.

22 Usually the radio stations don't have reporters going
23 somewhere maybe, but the newspaper have them. They send them.
24 They receive a complaint. They receive news about something
25 that happened, and they put it in the newspaper. Then the

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1 other people just repeat them in the radio.

2 The TV sometimes -- also they have crews that go to the
3 place and take views of the area or the problems, a person
4 killed, something like that, and they put it on the TV.

5 Q. Okay. Before he was killed in March of 1980, did you

- 6 listen to any homilies of Monsignor Oscar Romero?
7 A. Yes, sir.
8 Q. Okay. Did you listen to any of those homilies while
9 you served as the subsecretary of defense?
10 A. Yes, it was that time.
11 Q. In any of those homilies, did Monsignor Romero make
12 allegations of violence committed by members of the military
13 against noncombatants?
14 A. Yes, I think, yes.
15 Q. Okay. You remember those?
16 A. Yes.
17 Q. Aside from Monsignor Romero's homilies, other radio
18 broadcasts, television, newspapers and perhaps, although you
19 don't remember, your meeting with Robert White, were there any
20 other sources of information from which you heard allegations
21 of abuses by the Salvadoran military?
22 A. No, sir, I don't recall any.
23 Q. Okay. Now, in 1980 in general, there was a very large
24 number of murders of civilians. Do you recall that?
25 A. Yes, sir, there was a lot of killings from the death

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DEPOSITION TESTIMONY OF NICOLAS CARRANZA

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- 1 squad, from just crime, normal crime, also killed by the
2 guerillas everywhere in the country.
3 Q. Okay. Well, do you know approximately how many
4 civilians were killed during that year in El Salvador?
5 A. No, sir. There are numbers, but the army didn't keep

6 an account of the things. It was reported by the arch bishop
7 offices from Amnesty International, but I don't recall the
8 number of people that have been killed.

9 I know there was a lot because when we traveled to a
10 small property I have in El Salvador in the eastern part of
11 the country, many times we saw people in the side, which was a
12 really horri fic view.

13 Q. What do you mean a horri fic vi ew?

14 A. You get repulsi on against these actions coming from
15 either side. You don't -- in isolate cases, you see one man
16 dead, killed, decomposing in the street. You feel a very
17 wrong sensation.

18 Q. Okay. Was that a fair ly common occurrence in El
19 Salvador in 1980 to see bodies on the side of the road
20 decomposi ng?

21 A. Yes, sir, unfortunately, it was.

22 Q. All right. I would like you to turn to a page marked
23 PL1278. This is a document that describes a meeting between
24 you and members of embassy personnel, Colonel Majano, Colonel
25 Garcia and Colonel Castillo, and there's a notati on here of a

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1 statement you made at this meeting which says that Colonel
2 Carranza also conceded excesses on part of the security
3 forces, but defended them for bearing the brunt of the
4 terrorist assaults and now harsh criticism of PDC partners
5 while maintaining good morale and avoiding desertions.

6 Do you recall making that statement in that meeting?

- 7 A. It's possible.
- 8 Q. Is it possible that you conceded that there were
9 excesses on the part of the security forces at that time?
- 10 A. There were many accusations. So that might have been
11 the possibility that there were really excesses.
- 12 Q. Okay. Did you understand at the time that there were,
13 in fact, excesses perpetrated by members of the security
14 forces?
- 15 A. As I told you, there were so many accusations,
16 something of true could have been among those accusations.
- 17 Q. Okay. How did -- what knowledge or what facts did you
18 have that led you to believe that because of the number of
19 accusations, those accusations could have been true?
- 20 A. Well, when there are many accusations of something,
21 some of that has to be true.
- 22 Q. So, basically, where there's smoke, there's fire. Do
23 you know that expression?
- 24 A. Yes, something like that, yes, sir.
- 25 Q. So if there are an overwhelming number of accusations,

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- 1 it's likely that the accusations may be true, but just because
2 there are so many of them, it becomes hard to refute. Would
3 you agree with that?
- 4 A. Yes, sir.
- 5 Q. Why did you leave your post as subsecretary of defense?
- 6 A. I was designated by the minister. I had to go to -- I

7 don't know whether he communicated any order from the junta or
8 what, but I was transferred to the ANTEL as president.
9 Q. Was it the minister who made that decision?
10 A. No, he told me. I don't know whether he did or not,
11 but he told me I had to be transferred to -- I was going to be
12 transferred to ANTEL.
13 Q. Okay. What were your duties and responsibilities when
14 you became the president of ANTEL?
15 A. To -- the presidency of ANTEL has a lot of other
16 responsibilities as stated in the organization chart of the
17 company, and I had to oversee everything that was happening in
18 ANTEL.
19 Q. Okay. To the best of your memory, tell me what those
20 responsibilities were.
21 A. Well, to see that the overall functioning of the
22 telecommunication systems, see the problems they had in order
23 to implement, to develop the extension of the telephone
24 systems, the way to modernize them to try to get it -- I mean
25 look at the problems we had for the -- for the best -- to get

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1 the best material for the telecommunication system in El
2 Salvador.

3 I had to assist the meetings of the COMTELCA, who was a
4 communication -- Comisi on Telefoni ca de Centroameri ca,
5 Telephonic Commi ssi on of Central Ameri ca, which was a Central
6 American organi zati on, to try to join or to put the same way
7 all of the system in Central Ameri ca so we could get easy

8 connection to any one of the countries, see the problem
9 personnel it has. I think's some of the main things.
10 Q. Yesterday, you testified that within the president's
11 duties, there was an intelligence gathering function?
12 A. Yes, sir.
13 Q. Okay. Was that in another responsibility of the
14 president of ANTEL?
15 A. That was performed by a group of people working in the
16 installations.
17 Q. Okay. Who comprised that group?
18 A. This is a small group of technicians and people working
19 with teletypes to record some of the conversations with
20 interesting people.
21 Q. Who did that group report to?
22 A. I think it was to the president of the republic.
23 Q. The president of the republic?
24 A. Yes, sir.
25 Q. And what role did the president of ANTEL have in that

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1 process?
2 A. Just to -- I had one list, and he had another list.
3 Q. What do you mean by a list?
4 A. I mean the report that was sent every day to me and to
5 the president of the republic.
6 Q. Okay. What were the reports that you received? Tell
7 me what was in the reports.

8 A. Reports of conversations.
9 Q. Okay. Who authorized the tapping of phones or the
10 recording of conversations?
11 A. I don't know. When I was -- when I went over there, it
12 was already installed. I continue -- I continued working with
13 it.
14 Q. Why were you provided a copy of that report?
15 A. In order to know what was happening.
16 Q. Okay. What did you do with the information that you
17 received in the report?
18 A. I didn't do anything with that because I was not
19 interested in gossip and conversations, sometimes rumors,
20 family problems, something like that.
21 Q. Okay. Was there any part of that information that
22 pertained to security matters?
23 A. Yes, I think there were some people who were taped
24 because they were members of a political party, something like
25 that.

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1 Q. Did you ever receive any written communication from any
2 representative of the United States about the torture of
3 Daniel Alvarado?
4 A. I don't recall ever receiving anything like that, sir.
5 Q. Do you recall having an in-person meeting with any
6 embassy official or any representative of the United States
7 government regarding the torture of Daniel Alvarado?
8 A. I don't remember, sir.

9 Q. You don't remember -- do you remember whether you met
10 with someone named undersecretary of defense Ikle regarding
11 the torture of Daniel Alvarado?
12 A. No, I don't remember, sir.
13 Q. Well, what do you remember happened with Daniel
14 Alvarado after that press conference?
15 A. I don't remember anything. I told you I didn't even
16 remember him.
17 Q. Well, you remember the press conference where he
18 supposedly admitted to killing Lieutenant Commander
19 Schaufelberger, you remember that?
20 A. I did not remember. I remembered that when I saw his
21 deposition.
22 Q. Okay. So until his deposition, you had not -- you had
23 not remembered anything about Daniel Alvarado's case?
24 A. No, sir, I don't remember any of the persons who were
25 captured.

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1 Q. Okay. And you don't remember any of the circumstances
2 that surrounded his release from custody?
3 A. No, sir, he was released -- released from where?
4 Q. Well, first he was released from the treasury police
5 headquarters. Do you remember his testimony on that issue?
6 A. Yes, I remember that.
7 Q. But do you personally have any memory of that?
8 A. No, sir.

9 Q. Do you personally have any memory of the circumstances
10 of his release from the jail?

11 A. Mari ona.

12 Q. Mari ona?

13 A. Mari ona.

14 Q. Mari ona?

15 A. No, until I read this, it was much later. It was 1986,
16 and by that time, I was in here in the United States.

17 Q. Okay. So I take it you never investigated the
18 circumstances of his -- of Daniel Alvarado's arrest and
19 torture?

20 A. I guess I investigated -- I took some care of the
21 investigation. I mean I was interested in the investigation
22 because it was a very important person who was killed, but I
23 didn't investigate anything about torture because by that time
24 I did not know anything until late, until now.

25 Q. Tell me about your role in the investigation of the

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1 Schaufelberger murder.

2 A. Well, role in the investigation, I don't -- I didn't
3 have any role.

4 Q. Okay. Who was in charge of that investigation?

5 A. Section 2 was the organization, the unit that was doing
6 the investigation.

7 Q. Major Pozo was in charge of the investigation?

8 A. Yes, sir.

9 Q. Did you and Major Pozo meet to discuss the progress of
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10 the investigation?

11 A. I don't recall anything, sir.

12 Q. Did Mr. -- do you recall Mr. Pozo ever reporting to you
13 at any time about -- with an update or the status of the
14 investigation of the Schaufelberger murder?

15 A. No, sir.

16 Q. While you were the director of the treasury police, was
17 any member of the police identified as having committed
18 torture and prosecuted?

19 A. No, sir, that I remember.

20 Q. If Daniel Alvarado -- well, let me ask you, do you
21 believe that Daniel Alvarado was tortured while in the custody
22 of the treasury police?

23 A. He might have been. He might have been tortured.

24 Q. Why do you say he might have been?

25 A. Because there was no sign. He says that and there was

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1 no sign of torture when he was presented to the authority.

2 Q. Well, you were at a deposition last week in which he
3 said under oath --

4 A. Yeah.

5 Q. -- that he had electric cables strapped to his feet.
6 Do you remember that?

7 A. Yes, sir.

8 Q. Do you remember his testimony that he had a hood placed
9 over his head?

- 10 A. Yes, sir.
- 11 Q. Do you remember his testimony that members of the
- 12 treasury police stood on his back and performed a torture
- 13 procedure on him which was called the little airplane with a
- 14 pilot?
- 15 A. Yes, sir.
- 16 Q. Do you also recall his testimony that another procedure
- 17 was performed on him in which he was suspended from the
- 18 ceiling in something called the little airplane without a
- 19 pilot?
- 20 A. Yes, sir.
- 21 Q. Do you remember that?
- 22 A. Yes, sir.
- 23 Q. Well, do you believe that he was truthful when he gave
- 24 that testimony?
- 25 A. If he had to have been tortured like you said and taken

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- 1 to the place where he was given his -- he was presented -- he
- 2 should have presented some kind of sign, pain, something like
- 3 that, but he was acting normal.
- 4 So I conclude that if he was tortured, he was tortured
- 5 before, long before the time that he was taken to the
- 6 newspapers -- to the media.
- 7 Q. So if he -- if he testified that he was tortured within
- 8 a day or two of being presented to the media, is it your
- 9 testimony that he would not be telling the truth?
- 10 A. He had confessed, and there was a confession. He

11 didn't say anything about being tortured at that time.
12 Q. Well, you heard his deposition testimony? Right?
13 A. Yes, sir. This is 20 years later.
14 Q. Well, what was it about the passage of 20 years that
15 you think would affect his testimony?
16 A. His testimony is against Nicolas Carranza.
17 Q. And how would that affect his testimony?
18 A. He could be lying about some things.
19 Q. Is that what you think?
20 A. What else? I don't think anything else.
21 MR. ESQUIVEL: Your Honor, that's the end of
22 the portions of the deposition of Nicolas Carranza.
23 THE COURT: All right. Ladies and gentlemen,
24 that concludes the evidence for this week. I need to go
25 over those seven things. I know you have heard them a

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1 number of times. When you go home, of course, you will
2 have a long weekend, and sometimes people do ask you about
3 what you have been doing, just remind them that I'm on a
4 civil case in United States District Court, and it is
5 going to be over -- you can say it is going to be over
6 next week, at least the evidence will be, and I can't tell
7 you anything else about it. And if they ask you what the
8 case is or try to ask you about it, you know what to tell
9 them, which is you can't talk about it, if they persist in
10 that.

11 Well, first of all, don't talk among yourselves
12 about the case. Secondly, don't let anybody talk with you
13 about the case. If somebody tries to talk with you about
14 the case, it is very, very important that you tell us
15 about it. It is probably not a problem, but you need to
16 let us know, because that's the only way that we can
17 proceed, so let us know if somebody does try to talk to
18 you. The third thing is, of course, don't speak at home
19 with anybody about the case. The fourth thing is don't
20 speak to the lawyers or the parties or anybody associated
21 with the parties. If anybody should try to talk to you
22 who is associated with the parties, you really must tell
23 me about it. I don't think anybody will, but if that did
24 happen, it will be very important to know. The fifth
25 thing is don't do any research. Now, you're going to have

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1 time on your hand where you can check your E-Mail and
2 don't go up there and click on Google and see what you can
3 find. Don't do that. That would be a big mistake. Also,
4 avoid things in the newspaper or radio or television about
5 this case or cases like it. Of course, we want you to
6 keep an open mind. Continue to keep an open mind until
7 you have heard everything.

8 Well, have a very pleasant weekend. As far as
9 I know, it should be a nice weekend. What time are you
10 coming in?

11 THE JURY: 8:00 o'clock.
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12 THE COURT: I want to make sure everybody
13 knows. Mr. Ruby will make sure everybody knows. He's
14 going to walk down with you. We stayed a little late
15 today, and make sure you take an extra badge or tag so you
16 will have one when you come in on Monday. We will start
17 in here with the trial at 8:30. That gives us a really
18 full day. I think we should get very, very far along with
19 the remaining evidence. Have a very pleasant weekend.
20 I'm going to stay here for just a moment.

21 (Jury out at 5:35 p.m.)

22 THE COURT: I will have counsel come to side
23 bar for just a minute.

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

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1 THE COURT: Do we really expect our last
2 witness to take the entire day? That's a long time, and
3 if we start at 8:30 -- of course, we will have breaks, we
4 will have a longer lunch break because people will be
5 tired, let people rest some during lunch, but that is a
6 very long day. Is it -- have you got an assessment of
7 this? Let me know what you think.

8 MR. ESQUIVEL: I think it will take most of the
9 day, Your Honor. I think it will take a full day.

10 THE COURT: You think it will take a full day.
11 Then we will be in a position to start on the following

12 day with the defense proof, and that will let them get
13 everything lined up. Obviously, we took some additional
14 steps, and we can take some more if you have any other
15 concerns. Just report any problems to me and we will see
16 what else we need to do. I want everybody to feel
17 comfortable about our situation.

18 Anything else?

19 MR. FARGARSON: Well, 8:30 to when? I have a
20 handicap daughter that I have to --

21 THE COURT: Okay.

22 MR. FARGARSON: My oldest daughter. Of course,
23 she works in a shelter workshop, and I have got people
24 looking after her, but...

25 THE COURT: We won't -- we're not going to

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1 stay -- you know, this is as late as we will ever stay, I
2 mean 5:30 or so. We stayed a little extra today just
3 because we could finish that one thing and I really wanted
4 to get as -- I thought by getting as far as we could this
5 week, we give ourselves a little breathing room next week.
6 I hope that is right. How long --

7 MR. BROOKE: Friday, we have got off next
8 week?

9 THE COURT: We should be able to get all the
10 way through the defense proof. You said you had three
11 days.

12 MR. FARGARSON: If I can get them all here, I

13 think maybe we can. I'm hoping.

14 THE COURT: Okay. It gives us a shot at it.

15 And that is what we want to have.

16 MR. FARGARSON: Well, at least, we ought to be
17 able to get the people from out of town, I mean because
18 Mr. Carranza and Mrs. Carranza and Gladys Griffin are all
19 here in town.

20 THE COURT: Sure.

21 MR. FARGARSON: So we can work that, and some
22 of them are going to be real long.

23 THE COURT: I think we're in good shape then.

24 MR. FARGARSON: I think so.

25 MS. BLUM: I think so.

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1 MR. FARGARSON: When I saw three weeks -- the
2 longest I ever tried a case was 11 days, and I thought if
3 I tried this case three weeks, it would kill me.

4 THE COURT: Well, I think this has been a very
5 good case by everybody. I think we have done really well.
6 Okay. We will see everybody.

7 MR. FARGARSON: I thought I was long winded. I
8 don't think I am.

9 THE COURT: All right.

10 THE CLERK: All rise. This honorable court
11 stands adjourned until Monday morning.

12 (Court adjourned at 5:40 p.m.)

carranza05. txt

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