

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. )

NO. 03-2932-MI /P )

NICOLAS CARRANZA, )

Defendant. )  
-----

TRIAL PROCEEDINGS  
BEFORE THE HONORABLE JON PHIPPS MCCALLA, JUDGE  
NOVEMBER 9, 2005  
VOLUME VIII

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1 WEDNESDAY MORNING AND AFTERNOON

2 NOVEMBER 9, 2005

3 The jury trial in this case resumed on this  
4 date, Wednesday, November 9, 2005, at 9:35 o'clock a.m.,  
5 when and where evidence was introduced and proceedings  
6 were had as follows:

7

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10 THE COURT: Is everybody ready? Okay. We can  
11 bring the panel in.

12 (Jury in at 9:35 a.m.)

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

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

3 JOSE ARAUJO,  
4 was thereupon called as a witness on behalf of the  
5 Defendant, and having been first duly sworn, was  
6 examined and testified as follows:

7 DIRECT EXAMINATION (CONTINUED)

8 BY MR. BROOKE:

9 Q. Good morning, sir.

10 A. Good morning.

11 Q. Who was the last military dictator of El Salvador?

12 A. Gerald Carlos Humberto Romero.

13 Q. And -- after -- how did Romero lose power or authority?

14 A. Well, there existed a group of young officers, young  
15 military officers who wished to change the context of the  
16 national policy of the Republic of El Salvador with the  
17 purpose of establishing defined democratic institutions that  
18 would respond to good social economic policies, and as well as  
19 to the physical human improvement of the country. Because  
20 these were demands that El Salvador had received through the  
21 country as a country incorporated to the community of the  
22 united nations, and it was their purpose that El Salvador  
23 would be a country that would undergo changes, and this  
24 allowed that El Salvador will find itself in higher positions  
25 of treaties and conventions as acquired. Nevertheless,

1 General Carlos Humberto Romero, he wished to continue in his  
2 position governing the country of El Salvador, and this  
3 revolutionary government junta, which is a not a civilian  
4 junta, but is a revolutionary junta in 1979 that took power,  
5 this allowed that these young military officers and other  
6 civilians to become incorporated into the government of the  
7 country. This, therefore, allows, in turn, for the event that  
8 General Romero, that on the 15th of October at 10 o'clock --  
9 10:30 in the morning, General Romero was being advised that he  
10 should leave the position of president of the republic because  
11 the events that had taken place prior to that time had not  
12 been, shall we say, favorable. Now, the conditions I'm  
13 speaking of are the living conditions of the society of El  
14 Salvador. I'm referring mostly to the life conditions, the  
15 economic progress of El Salvador, because people have their  
16 wish or their desire to move forward in their professions and  
17 their jobs, in their way of living, along with each one of  
18 their family members. So this allowed these group of young  
19 military officers who were incorporated into this -- this new  
20 thought process, this new ideology that allowed them to  
21 incorporate a government junta, which was a government junta  
22 that was incorporated in 1979 comprised of two military  
23 officers and three civilians who steered the country towards  
24 the state in which he should be steered to comply with the  
25 needs, the needs that were the demands of El Salvador. So

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1 these needs were very important. This was a government that  
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2 was installed initially, and as it was, it didn't have good  
3 agreement internally, it didn't have a good -- they didn't get  
4 along very well concerning the management and the steering at  
5 the time; and at the end, it was necessary for the three  
6 civilians to resign from the first government junta, so the  
7 three other civilians could be defined and move on through the  
8 phase of this change. This allowed the three civilians to be  
9 incorporated because they had a different vision of how to  
10 steer the country in the way that it could be conducted for  
11 the improvement of the life conditions.

12 Q. Prior to October 15th, 1979, can you tell the jury the  
13 historical ten-year background of the civil war in El  
14 Salvador?

15 MR. ESQUIVEL: Objection, beyond the witness'  
16 area of expertise, Your Honor.

17 THE COURT: It appears to be correct.  
18 Objection sustained.

19 MR. BROOKE: May we approach, Your Honor?

20 THE COURT: You may.

21 (The following proceedings had at side-bar  
22 bench.)

23 MR. BROOKE: Your Honor, this witness has  
24 prepared previously a report.

25 THE COURT: I just need to see it. Okay, he's

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DIRECT - JOSE ARAUJO

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1 47, is that correct, 47 years old?

2 MR. BROOKE: Yeah, he was 18 in 1980.  
3 MR. EISENBRANDT: Your Honor I believe --  
4 THE COURT: I think you're right, he is 43.  
5 MR. BROOKE: And he is, we submit, both a fact  
6 witness, because he lived through it as well as he has  
7 taught the historical background at these various courses  
8 and schools that he has been part of, and this report has  
9 been submitted for months, there has never been any motion  
10 in limine or anything ever filed.  
11 THE COURT: Right.  
12 MR. ESQUIVEL: Well, Your Honor, he's not  
13 qualified as an expert in history. He's a graduate of  
14 something called a military university of El Salvador.  
15 THE COURT: Right.  
16 MR. ESQUIVEL: And apparently taught one year  
17 as a professor there, and then became an administrator.  
18 THE COURT: Right.  
19 MR. ESQUIVEL: And in his deposition, he  
20 purported to be an expert on a number of different areas,  
21 and in attempting to clarify that during the course of the  
22 deposition, counsel for Colonel Carranza said that we are  
23 offering him as an expert in this area of the case and  
24 this area of the organic law and the duties, and he may be  
25 familiar with other things, but we're using him as an

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1 expert in those laws and those rules in that area  
2 basically.

3 THE COURT: I understood that is what he was  
4 going to be doing.

5 MR. ESQUIVEL: And this testimony about the  
6 historical background of things that took place when he  
7 was between 7 and 17 years old is not proper for his  
8 testimony. He's not an expert in those areas.

9 THE COURT: He has not demonstrated it by any  
10 discussion of either study or experience.

11 MR. BROOKE: Well, Your Honor, I submit that it  
12 is the same issue that Your Honor recognized with  
13 Professor Karl in that --

14 THE COURT: She is an expert.

15 MR. BROOKE: -- as to military observations  
16 that her testimony would go to the weight, whatever the  
17 jury wanted to give to that, and this man lived through  
18 this, he --

19 THE COURT: I don't know that he lived through  
20 it. He doesn't say that he lived through it. He was a --  
21 the fact that you're a certain age and lived at a certain  
22 place doesn't mean that you're aware of what is going on.

23 MR. BROOKE: He delivered newspapers for six  
24 years, I think he admitted.

25 THE COURT: Right, well, he did. But I mean

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1 I'm not sure being a newspaper courier completely  
2 qualifies you. I don't think the newspaper carrier for

3 the Wall Street Journal reads it.

4 MR. BROOKE: Is that a point of judicial  
5 notice?

6 THE COURT: No, I'm just saying that that  
7 really wouldn't be a successful argument. If he studied  
8 it, if he studied it --

9 MR. BROOKE: I'll go into that and see if I get  
10 the correct answers. I submit that it goes purely to the  
11 weight. He has been a student at the university, he has  
12 gone through over seven years of post-high school study.  
13 He has taught military students as well as regular  
14 students.

15 THE COURT: I'm just looking at the conclusion  
16 in the report which -- that Colonel Carranza served  
17 locally to the armed forces complying with the duties  
18 written in Article 26 of the organic law of the armed  
19 forces. He was a good soldier, good citizen and  
20 specifically grantor of the guarantees and human rights in  
21 El Salvador.

22 MR. BROOKE: Right now the only thing I have  
23 got into is attempting to get the background of the  
24 revolution for the ten years prior to Romero being sent  
25 out.

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1 THE COURT: That's an area where I haven't had  
2 any indication that he's got the ability to provide  
3 information. Being a preteen or teenager during that

4 period of time just wouldn't qualify. Now, he could tell  
5 me that he has conducted a study, although I don't think  
6 he says that in his materials, but if he had --

7 MR. BROOKE: I'll go into what he has reviewed  
8 to prepare for the case. Because we have got here  
9 Professor Karl, everything she did was studied after 1981  
10 or whatever. This man has been through it all.

11 THE COURT: Right, but she has read every --  
12 whether we accept her or not, she was able to testify that  
13 she has read about every book about El Salvador through  
14 2001, and she was pretty persuasive that she probably did.  
15 So she has an extraordinary -- well, what is the harm in  
16 letting him do this? I mean he's --

17 MR. ESQUIVEL: The harm is that he's offering  
18 opinions about things that he's not an expert in, and as a  
19 fact witness, if he observed certain things personally, if  
20 he has personal knowledge, he's entitled to do that, but  
21 the prejudice to the plaintiffs is to allow someone to  
22 take the witness stand and give his own views of  
23 Salvadoran history and politics when he's not qualified to  
24 offer any opinions on that subject.

25 MR. BROOKE: I ask to be allowed to go ahead

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1 and expand the foundation just like they did with --

2 THE COURT: Sure, we need to do that. Let me  
3 look at this. What I'm concerned about is that I don't

4 know that anybody should -- is in a position to testify  
5 that extrajudicial killing and torture is okay.

6 MR. BROOKE: He won't testify to that.

7 THE COURT: Well, I mean he says such  
8 provocation made the national armed forces react at the  
9 political leaders performing this Constitution admission,  
10 so forth, rejecting the -- and affording -- there's some  
11 interesting way he has worded things. Progress of  
12 economic disgrace should advance -- I'm just not -- could  
13 advance as well as the possibility of disgrace could  
14 change to a system like the one up to now. Some countries  
15 such as Cuba and -- it is awkwardly worded, I mean, but  
16 that's okay. I mean this is --

17 MR. BROOKE: He's not going to in any way  
18 condone any of the violence that has been discussed in  
19 this lawsuit, Your Honor.

20 THE COURT: Let's see if we can flesh out his  
21 background a little better. The objection is that usually  
22 in a report you have conclusions, it is sort of like  
23 points, bullet points that are to be made, however you  
24 want to say it, and the person is in the position because  
25 of their study and experience and so forth to testify

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1 regarding, and it seemed to emphasize that he would be  
2 talking about the law and that he's a lawyer who is going  
3 to give some opinions in that regard, so this is a little  
4 confusing. Why don't we go ahead and see what he would

5 say in terms of what he knows from personal experience or  
6 study.

7 (The following proceedings were had in open  
8 court.)

9 MR. BROOKE: May I proceed, Your Honor?

10 THE COURT: You may.

11 BY MR. BROOKE:

12 Q. Sir, during your studies at the university and your  
13 courses that you have taught, have you taught the history of  
14 El Salvador and the civil war background of your country?

15 A. The history concerning the facts or the courses that  
16 can be known of in El Salvador are stories or history that  
17 were taught to the students at the university as a result of  
18 the armed conflict, because of the conflicts that took place  
19 in such a small country. Every one at the university knew of  
20 the conflicts, of the conflict that was happening, and we, as  
21 deans, as directors, as teachers, as instructors, we had the  
22 duty to order to advise these students concerning those acts  
23 that were taking place, and also about the history of the  
24 armed conflict in El Salvador. This thus allowed the  
25 university students or my students could have a deeper

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1 knowledge of the history. This, in turn, allowed that the  
2 students themselves could thus strengthen their knowledge or  
3 the roots of a country, of the conflicts that had taken place  
4 of the conflicts that were happening up until the year 1990.

5 The time for students, the time for the youth was very  
6 difficult, and they needed to know -- they wanted to know the  
7 positions that the guerillas had taken and the position that  
8 the army had taken. It was very important to define in the  
9 students -- of course, not tell them what road to take, of  
10 course, teach them how order should be maintained in the  
11 Republic of El Salvador. And as a professor, it was my duty  
12 to capture all of the information, all of the necessary  
13 information, to collect the necessary information, to provide  
14 this to the students' information because we had universities  
15 where the youth was -- were being trained to become  
16 professionals, but this was also an important area, and this  
17 was an area that had to be made known as history, the history  
18 of their own country, and this has allowed that El Salvador  
19 has been able to involve up until now through this history,  
20 and partly it is through that history, I have taken that  
21 history, it is partly where I have taken the history of my own  
22 experience, and through the media, the written press has  
23 informed us daily -- every day they would inform us concerning  
24 the events that were taking place.

25 Q. Sir, have you prepared a statement as to the historical

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DIRECT - JOSE ARAUJO

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1 frame of the civil war in El Salvador?

2 A. Yes, I have prepared a statement on that frame --  
3 timeframe or framework of the insurgence of the insurgent  
4 incidents that took place in El Salvador. It is necessary to  
5 establish within this history concerning these facts -- ah, I

6 would like to speak on this portion.

7 MR. ESQUIVEL: Objection, Your Honor, this  
8 witness is not qualified to give those opinions.

9 THE COURT: Let's talk about it briefly.

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

12 THE COURT: It is a difficult situation because  
13 I'm inclined to allow someone to speak in this area.

14 Certainly, I would like to be able to allow someone to  
15 speak in this area, but it has to be demonstrated that  
16 they do have a particular specialized knowledge acquired  
17 in some method which would allow him to do that.

18 Obviously, the court has a role in precluding individuals  
19 who simply wish to express their own personal opinion or  
20 an opinion that is not an educated opinion, but simply a  
21 point of view that they have acquired, not through an  
22 appropriate process, otherwise, it simply allows  
23 individuals to express their own personal biases, and this  
24 doesn't assist the jury. I haven't heard anything yet  
25 that allows him to testify on this particular point. It

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1 is a little confusing to me exactly what he's about to  
2 say, so I don't know what he's going to say. But if it is  
3 in this period of time which I haven't heard anything  
4 which shows that he has by study or personal experience  
5 from his own testimony, able to provide us with

6 information that would be helpful to the jury, I should  
7 not allow it to occur, so that's my problem.

8 MR. BROOKE: Your Honor, I thought he had  
9 testified that he had studied as well as taught the  
10 historical background.

11 THE COURT: He's not telling me what he did.  
12 It is like saying I went to school. You could say I went  
13 to the University of Tennessee and I took some political  
14 science courses, that wouldn't qualify you to give an  
15 opinion. You have to show that you are someone who has  
16 acquired expertise that will be useful to the jury. If a  
17 person came in and said, you know, I visited the medical  
18 school, I wouldn't let them give a medical opinion. Or  
19 even I attended the medical school, but I didn't study  
20 medicine. He has not told me that he studied, that he  
21 engaged in some course of study that would --

22 MR. BROOKE: I think it's a communication  
23 problem. I will just draw it out some more, if I can.

24 THE COURT: He did study the law, and he can  
25 tell us about the law, and he -- I have no question, no

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DIRECT - JOSE ARAUJO

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1 doubt that he can tell us about the organic law of El  
2 Salvador, and he can tell us how it works and he -- I  
3 think he can probably tell us its history, those things,  
4 he can do those things. To express an opinion on history  
5 is a cross discipline. I'm having trouble --

6 MR. BROOKE: If I may ask a few more questions,  
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7 I think it is a lack of communication.  
8 THE COURT: Am I missing --  
9 MR. ESQUIVEL: No, you're not missing it, Your  
10 Honor, and --  
11 THE COURT: I tried to listen carefully because  
12 my preference is always allow someone to testify if it can  
13 be demonstrated that they have an appropriate basis from  
14 which to testify and there is not some fundamental problem  
15 with their methodology. You have to make sure that there  
16 is a reasonable and sound methodology in place. I have  
17 not heard that at this point in time. We can talk about  
18 all the things we consider in experts, but that's --  
19 MR. ESQUIVEL: And if Mr. Brooke is going to  
20 elicit more qualifications, the witness is very confusing  
21 on these points, may I have the opportunity to voir dire  
22 the witness as to his qualifications --  
23 THE COURT: You're allowed to.  
24 MR. ESQUIVEL: -- because I think some of these  
25 things could be clarified in voir dire.

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DIRECT - JOSE ARAUJO

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1 THE COURT: Well, let's do that. Let's allow  
2 you a little more time to develop some qualifications,  
3 because you really want him to go through this historic  
4 background?  
5 MR. BROOKE: It's a communication problem.  
6 MR. EISENBRANDT: It certainly isn't a matter

7 of communication, the interpretation is perfectly fine.  
8 His answers in Spanish are just as confusing as they are  
9 in English.

10 THE COURT: Well, also, I have one of my clerks  
11 who speaks Spanish in the back and she has been listening  
12 in, and she has been commenting that the translation seems  
13 very capable --

14 MR. BROOKE: I'm not saying the translation, I  
15 am saying the confusion between me and him.

16 THE COURT: I feel you should be given an  
17 opportunity to show an adequate background.

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

20 THE COURT: Ladies and gentlemen, one of the  
21 questions in determining expert testimony whether an  
22 individual can or cannot provide expert testimony is  
23 showing an adequate basis in methodology, study,  
24 background, education and so forth that would allow a  
25 person to give an opinion as an expert, and it is clear

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DIRECT - JOSE ARAUJO

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1 that this witness has been able to demonstrate expertise  
2 in the area of the law, and the organic law of El  
3 Salvador, but these questions relate to history, and  
4 that's why we're having this discussion because until that  
5 can be demonstrated it is not possible for the court under  
6 the rules to allow that particular testimony. So  
7 Mr. Brooke did want an additional opportunity because it

8 is an appropriate area for inquiry, and then Mr. Esquivel  
9 may have some voir dire questions. We're going to follow  
10 that process, which is what we often do, which is allowing  
11 both sides to make inquiry as to qualifications in a  
12 particular area, and that's what they're doing right now.

13 BY MR. BROOKE:

14 Q. Sir, have you studied history, the history of your  
15 country?

16 A. We have studied the history of our country. We have  
17 analyzed the history and the events that have taken place  
18 since 1970. We have covered part of this history in each one  
19 of the stages of our life. While gathering this history, we  
20 have documented ourselves in order to establish the  
21 appropriate knowledge regarding our roots in order to define  
22 what it was that was happening and really understand which was  
23 the meeting point of that history. The knowledge of this  
24 history of our country regarding these events has allowed us  
25 to be here so that we can clarify those facts, those facts

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DIRECT - JOSE ARAUJO

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1 that did involve and affect many persons. That is why I must  
2 consider that my person has indeed gathered this information  
3 in order to communicate it to this jury.

4 Q. What did you study in your university courses or what  
5 did you study in the courses that you have taught relating to  
6 the history of your country?

7 A. We have studied on the instructions of the military

8 code, the military structure. We studied the Constitution of  
9 the Republic, which also establishes that in accordance with  
10 Article 202 of the Constitution of the Republic has the duty  
11 of protecting the sovereignty of El Salvador. Protection of  
12 sovereignty is bestowed, the responsibility is bestowed upon  
13 the armed forces of El Salvador. We have also studied the San  
14 Jose Pact which allows the treaties and the rights and the  
15 agreements in such cases would be respectable, would be  
16 extended and conveyed as a country to each one of the persons,  
17 that those violations would not continue, that these histories  
18 and these treaties have been incorporated as teachings in the  
19 Universities of El Salvador so that the student may  
20 understand, so that history may be a witness to those facts  
21 which they lived through even though they were young in age.  
22 We have gathered information from newspapers as well. The  
23 media has reported a lot regarding the facts, regarding the  
24 armed conflicts in El Salvador. By the same token, the  
25 written press, the televised press, radio have also reported

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1 on these facts that have taken place in El Salvador. This  
2 brought me with great interest to document myself or to inform  
3 myself, not as a formal writer, but perhaps as an expert in  
4 knowledge only, but this has introduced us to defining the  
5 situation which the country had during the war and how the  
6 country today is involved in a democratic evolution, an  
7 evolution in which economic development, social development,  
8 legal development, which is the important basis of the country

9 has been continued. There are many friendly countries that  
10 have also extended their hands to El Salvador so that  
11 international relations and the relations between friendly  
12 countries have continued to help El Salvador's development.  
13 The United States is a friend of El Salvador, so much so that  
14 up to this date, it has not left El Salvador by itself. It  
15 has always helped in its policies, has supported their  
16 military policies, economic policies, legal reform, agrarian  
17 reform or land reform. The United States has been a right  
18 hand for El Salvador. And why? Because the changes that took  
19 place back then in 1972 -- 1982 in the peace treaties have  
20 strengthened the position of the country of El Salvador.

21 Q. When you use the term we informed ourselves, do you  
22 include yourself as I?

23 A. That is so.

24 Q. Have you studied and reviewed all of those items that  
25 you have just referred to yourself?

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DIRECT - JOSE ARAUJO

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1 A. That is so.

2 Q. Have you taught these materials to students?

3 A. We have taught these courses to students. We have  
4 taught this information to the students so that they will  
5 understand and so that the ideas are clear as to history. We  
6 have spoken about peace treaties signed in Mexico. We saw how  
7 these treaties were organized in 1992. They were signed by  
8 Felix Cristiani who was in power since '89 in El Salvador.

9 Very important deeds during which the position of the  
10 president of the republic, Cristiani was very important. As  
11 to that group of persons that were headed by Commander Chafic  
12 Handal, Commander Villalobos, Mr. -- Leonel -- I can't recall  
13 his name. At this point, we can understand that the gentlemen  
14 like Chafic Handal who was the main leader of the FMLN, the  
15 Farabundo Marti National Liberation Front, with very -- well,  
16 not so clearly understood thoughts, he had -- well, he wanted  
17 power, and he was in charge of those forces from the Farabundo  
18 Marti National Liberation Front, the FMLN, and he came to  
19 Mexico and they sat -- they explained their points because the  
20 United Nations said they should sit down, define and reach an  
21 agreement. This has also allowed that the peace treaties for  
22 the peace agreements were brought to the students' tables or  
23 desks just as the persons who were working on these peace  
24 agreements, Onusal or Acnur, had offices installed in El  
25 Salvador to verify the complaints and the damages that were

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1 being caused in each one of the municipalities or towns in El  
2 Salvador, and this drives us to understand or makes me  
3 understand as well as to the students that there was an  
4 organization that was very busy with trying to solve that  
5 armed conflict in the country. Also, under side in El  
6 Salvador to the Geneva Conventions in which the treaties  
7 dictate that all guarantees to life, to health, to nutrition,  
8 for medication which are all human rights must be respected,  
9 and all Salvadorans -- all Salvadoran citizens should enjoy.

10 All of these pieces of knowledge have been brought to the  
11 universities where I have been a professor in the history of  
12 El Salvador.

13 Q. Have you taught the history of the civil war of El  
14 Salvador that occurred between 1970 to 1992?

15 A. That is so. We have indeed taught.

16 MR. BROOKE: Tender the witness.

17 THE COURT: Voir dire?

18 VOIR DIRE EXAMINATION

19 BY MR. ESQUIVEL:

20 Q. Mr. Araujo, you have studied agronomy engineering, is  
21 that correct?

22 A. That is so.

23 Q. And you have studied theology and you have had other  
24 religious courses of study?

25 A. I have a professor in theological sciences in El

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VOIR DIRE - JOSE ARAUJO

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1 Salvador, which I got over a term of three years, in biblical  
2 studies of the Assemblies of God, which are an organization  
3 recognized in El Salvador.

4 Q. And in 1998, you received a law degree, is that  
5 correct?

6 A. I got a degree in legal sciences, and then in 1999, we  
7 went to the Supreme Court of Justice to be sworn in and,  
8 therefore, authorized to be an attorney in the republic and  
9 deal with the law, with the laws that are established in our

10 nation.

11 Q. And your degree is from an institution that is called  
12 the Military University of El Salvador, is that right?

13 A. Correct.

14 Q. You do not have a degree in history, do you, sir?

15 A. No.

16 Q. And the only year that you served as a professor is  
17 1999, the year after your graduation from the military  
18 university, isn't that right?

19 A. It is correct only about Military University of El  
20 Salvador. However, you may obtain my curriculum vitae or my  
21 vitae indicating that I have also taught at the University of  
22 the Assemblies of God, and later at the Evangelical University  
23 of El Salvador. There are two other universities. First, the  
24 University of the Assemblies of God and, secondly, in response  
25 to these questions, the Evangelical University of El Salvador.

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VOIR DIRE - JOSE ARAUJO

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1 Q. Now, your courses at the Assembly of God University and  
2 at the Evangelical University are primarily religious  
3 instruction, is that right?

4 A. That is not correct. The courses we taught at the  
5 Evangelical Universities are courses for legal degrees. These  
6 are the courses we were teaching at the end of the curriculum,  
7 and in my curriculum vitae, you should see the courses I was  
8 teaching. It's forensic speech, legal speech, penal law,  
9 penal process of law, legal librarian processes, which is also  
10 a very important course for the students. There has not been

11 an opportunity to have that theological training for the  
12 students. However, in 1991, in my curriculum vitae, you can  
13 find that I was working at the Christian school, in which I  
14 taught Christian courses. At that one, I did.

15 Q. And according to your resume at that school, you taught  
16 Christian courses for two years from kindergarten to ninth  
17 grade, is that correct?

18 A. That is correct.

19 Q. And the courses that you just referred to at the  
20 Assemblies of God and the Evangelical University, those were  
21 law related courses, they were not history courses?

22 A. That is correct.

23 Q. Now, Mr. Araujo, so the one year that you taught at the  
24 Military University, what was the name of the course that you  
25 taught or the courses that you taught that year?

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VOIR DIRE - JOSE ARAUJO

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1 A. Would you allow me to help myself?

2 Q. Absolutely.

3 A. Well, when we started with these students, our  
4 teachings, they were civilian and military. We taught them or  
5 instructed them regarding the teachings of the army, the  
6 regulations of the army, which was the main basis of the  
7 doctrine. We know that on that important basis for military  
8 students as well as the civilian ones, doctrine was due to  
9 obedience, and obedience to the laws and the regulations and  
10 the norms established by the organic law itself. We also

11 taught them about the military code. We taught these students  
12 to respect the human being. We taught them to behave in the  
13 proper manner because upon committing a criminal action, they  
14 would incur punishable deeds, and the punishable deeds as  
15 established by the procedures in the military code are the  
16 procedures of courts as were penalties of a top degree, as  
17 well as there were some other penalties, accessory penalties  
18 and other military penalties. In accordance to the army's  
19 regulations, it could be established in Article -- or excuse  
20 me, in the military code, we could see it under Article 8. We  
21 will tell students that the penalties were important. There  
22 was death penalty, there was reclusion, and there was  
23 detention or imprisonment. Under the accessory ones found in  
24 the same code, we have military destitution, suspension of job  
25 or removal from the job and suspension of command. All of

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VOIR DIRE - JOSE ARAUJO

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1 these things, all of these articles were important for the  
2 instruction of the military students in the university. Of  
3 course, such instructions, they already had from their  
4 training in military school. University, which was a superior  
5 level of study, they came to acquire a different condition to  
6 the rank that they may have gotten at the military school.  
7 The university was for them to seek a profession, a better  
8 standard of living, and among those better standards of  
9 living, the students would be prepared in legal sciences.  
10 This could not remove from us the responsibility of teaching  
11 them things that they might have already been taught at the

12 school. We still have to teach them about these things. It  
13 could not leave us outside because it was our responsibility  
14 as a university, which was attempting to train all these  
15 professionals, we have to comply with it. Even being academic  
16 administrator, I would verify each one of the files of the  
17 students so that they would meet the necessary requirements  
18 for vocational courses that they would complete and that they  
19 would actually study for them to have access to a superior  
20 level. These teachings have served to prepare today those  
21 military young men that serve the Salvadoran government.

22 Q. Mr. Araujo, please, let me try again, and let me ask  
23 you, please, to focus on my question. During the one year  
24 that you served as a professor at the military university,  
25 what was the name of the course that you taught?

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VOIR DIRE - JOSE ARAUJO

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1 A. Well, we taught during that year penal procedural law  
2 and military procedures. That way, they would be prepared to  
3 qualify for a degree in political sciences --

4 THE INTERPRETER: I'm sorry, in legal sciences,  
5 the interpreter corrects himself.

6 A. They were here seeking training so that they could opt  
7 for a profession after they went out or after they had served  
8 the armed forces. They had an option for a professional  
9 career, so they had that pensum of courses in order to prepare  
10 themselves. And I repeat, the course that we were preparing  
11 these students for is penal procedural law.

12 MR. ESQUIVEL: Your Honor, I have no further  
13 voir dire questions.

14 THE COURT: Let me ask a question of counsel at  
15 side bar. Is there any other voir dire at this time?

16 MR. BROOKE: No, Your Honor.

17 THE COURT: If you will bring me a copy of the  
18 resume. Do you have an English translation?

19 MR. ESQUIVEL: I think I was only provided a  
20 Spanish version.

21 THE COURT: I was looking through all my  
22 materials and my computer material to see if I could find  
23 more information on the witness because I don't want to  
24 fail to look at something that I should look at. I know  
25 his resume was not tendered for his review --

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1 Why don't you -- obviously, we need to have at  
2 least 10 minutes, so why don't you take a 15-minute recess  
3 room? We will see you in 15 minutes. Thanks so much for  
4 letting me know.

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

7 THE COURT: I want to make sure we have got  
8 everything. There is a preference in the law to allow a  
9 person to testify. At the same time, Daubert applies  
10 equally to non-scientific experts as other experts, and I  
11 have already said he can testify in the area of law  
12 questions. He can testify about the organic law of the

13 State of El Salvador, and there may be some other things  
14 he needs to talk about in that regard.

15 Now, nobody submitted the resume at this point,  
16 so should I mark it or do something with it? I can look  
17 at it briefly, I'm not sure what it --

18 MR. BROOKE: I don't know what it can tell you,  
19 Your Honor.

20 THE COURT: Well, I took some years of Spanish,  
21 but I'm not going to pretend that I know it all.

22 MR. EISENBRANDT: Your Honor, if there is  
23 anything in there, I will be happy to tell you or Mr.  
24 Esquivel.

25 THE COURT: I will either have you or

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1 Ms. Polansky to run through it, but -- well, no one has  
2 offered an English language translation or an agreed upon  
3 translation. Obviously, he has been to a number of  
4 activities, he has been to meetings and that sort of  
5 thing.

6 MR. ESQUIVEL: Your Honor, I believe that his  
7 resume is consistent with the testimony he gave, which is  
8 that the courses he has given at the Military University  
9 and at the Assembly of God University and the Evangelical  
10 University are legal courses, they're based on criminal  
11 process, criminal codes. He has testified about the  
12 military ordinances, the Constitution of the national

13 defense law. He has not taught history, he's not a  
14 historian, he doesn't even have a degree in history, so  
15 he's not qualified to render opinions about history. We  
16 do not object to his offering opinions about the national  
17 defense law or the military --

18 THE COURT: He described several things, the  
19 Constitution and so forth. Let's mark as Exhibit A -- I  
20 don't know if we have an A.

21 THE CLERK: We do.

22 THE COURT: Joe, we're going to make his  
23 resume, which is in Spanish, but I think it is of some  
24 help of anybody looking through as B in the case. It  
25 won't be -- it is just received so -- it was not offered

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1 by anybody else, but I think it is probably useful in  
2 terms of at least completing the record.

3 Now, does somebody want to submit the report as  
4 C in the case, because, remember, these documents are  
5 not --

6 MR. BROOKE: Yes, Your Honor.

7 THE COURT: I mean we don't have to, but I  
8 don't have a complete record.

9 MR. EISENBRANDT: Are you referring to  
10 admitting it as evidence, Your Honor?

11 THE COURT: No, no, it's a C, these are just to  
12 complete the record, they're not for the jury, but I think  
13 we are talking about it, and I feel uncomfortable not

14 having it in the record. It may be important to all of  
15 you at a later point.

16 MR. BROOKE: So that portion of Exhibit C for  
17 identification which references the historical frame of  
18 the civil war of El Salvador, we would tender as an offer  
19 of proof for the record.

20 (Exhibit Number B was marked. Description:  
21 CV of Jose Araujo.)

22 (Exhibit Number C was marked. Description:  
23 Report.)

24

25 THE COURT: Right. I mean we -- and I think it

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1 has been referred to, and we need to get it in the case,  
2 and you need to get your copy back, so let's make a copy  
3 of this in the matter.

4 I have listened carefully, I made a lot of  
5 notes, and I simply haven't heard anything in which he  
6 indicates that he has what we would recognize as an  
7 expertise in this historic area. He clearly has a lot --  
8 if he was coming in here to talk about most legal subjects  
9 in El Salvador, he has had some pretty interesting  
10 experience, it sounds like, and he has had some experience  
11 with agriculture, it sounds like, he hasn't talked about  
12 that a lot, but he has got some background on that. He  
13 has a background clearly in the law and he can testify on

14 all those subjects he talked about. He went through and  
15 listed things that he had taught, he listed things that he  
16 had -- and, you know, I've studied military code, military  
17 structure, Constitution of the republic, the section that  
18 he referred to, the San Jose Pact, and he went through  
19 some specific things. Really, in this area, the only  
20 thing that he's telling me that he has in this broader  
21 subject area, it seemed to me, to be the newspaper, which  
22 he did refer to several times in his testimony, media  
23 reports, radio and television reports. That's usually not  
24 the basis for expert testimony. It is usually study,  
25 interviews, detailed papers that have been written. I did

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1 not notice in his resume, and it may be there, we need to  
2 look at it a little more, he's not written in the area at  
3 all, as far as I can tell. He didn't say that he had  
4 written in the area at all. So the things that we usually  
5 look to to determine when somebody can offer expert  
6 testimony are unclear in this record.

7 MR. BROOKE: Your Honor, he is going to testify  
8 about eyewitness events, things that he has seen also.

9 THE COURT: He can do that based on personal  
10 knowledge.

11 MR. BROOKE: When I said there is a  
12 communication problem, I think when counsel asked him what  
13 courses have you taught, to you and I as a simple  
14 question, straightforward, he, apparently, it seems like,

15 is talking about the scope of a course versus a class.

16 THE COURT: That's probably right.

17 MR. BROOKE: And I'm seeing -- and so I would  
18 like to just talk to him a second with somebody to try to  
19 get him to see if, in fact, we're missing something.

20 THE COURT: Right, I mean has he taught a  
21 course on the history of El Salvador for the period --

22 MR. BROOKE: That's what I was trying to ask.

23 THE COURT: We have sort of had a couple of  
24 shots at it.

25 MR. EISENBRANDT: And his responses have been

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1293

1 we, rather than I.

2 MR. BROOKE: And that is why I kept responding  
3 when you say are you referring to I, yourself.

4 THE COURT: I think you have been as thorough  
5 as you can be.

6 Other statements from the plaintiffs' side?

7 MR. ESQUIVEL: I don't think so.

8 MS. BLUM: I just want to clarify one thing  
9 that you were saying, Mr. Brooke, are you suggesting that  
10 you want to consult with your witness during the break?

11 MR. BROOKE: Yeah, And I have no objection to  
12 counsel --

13 THE COURT: I think he probably can ask him, am  
14 I misunderstanding you, I just -- but I agree with you, it

15 is a difficult thing, because the rule has been called  
16 for, and usually we're very careful in that regard. I  
17 think the concern is that he has misperceived. Clearly,  
18 he's not answering the questions that you're asking him,  
19 and we do have excellent interpreters, I don't really feel  
20 like that it is at all the interpreter. Actually, there's  
21 some immigration law cases and district court cases about  
22 interpreter problems, but we just don't have one here.

23 MR. EISENBRANDT: We certainly don't.

24 MS. BLUM: I just would like to state that this  
25 is the third opportunity that the defendant's counsel has

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1 had to work with this witness. They had an expert report  
2 prepared, they had him here for a deposition. He has been  
3 here for several days for testimony preparation and, you  
4 know, they have had ample opportunity to work with this  
5 witness to clarify the scope of his testimony. So, you  
6 know, if you want to go have -- I think either Mr.  
7 Esquivel or Eisenbrandt to accompany you to have a very  
8 brief conversation with your witness, but I think it is  
9 clear that they have had a lot of opportunity to work with  
10 their witness to help him testify in a way that would  
11 eliminate the issues for the jury.

12 MR. BROOKE: Well, the -- there was no motion  
13 in limine or anything to give us a heads up that there was  
14 going to be any problem. This, I thought, the historical  
15 issue was the simplest issue, there's no --

16 MR. EISENBRANDT: The burden is certainly not  
17 on the plaintiffs.

18 MR. ESQUIVEL: The pretrial order does say that  
19 we intended to object to any expert testimony beyond the  
20 national defense law.

21 THE COURT: And I understood it to be that --

22 MR. BROOKE: Okay.

23 THE COURT: -- situation. So I don't think it  
24 is a -- I don't think that's the issue. I think it is not  
25 unfair to -- if the two of you, if you want to just say do

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1 we have a miscommunication here, and you know, is there a  
2 course that you taught on history during this timeframe  
3 or -- you know, you speak Spanish too.

4 MR. EISENBRANDT: Yes, sir.

5 THE COURT: I think it will give everybody --  
6 fairness is very, very important.

7 MR. BROOKE: We're trying to get to the truth.

8 THE COURT: There is a preference -- I'm going  
9 to say this for the eighth time, there's a preference, and  
10 in most situations individuals end up being qualified as  
11 experts, and then the jury makes credibility  
12 determinations, so I'm not -- thus far, we haven't gotten  
13 over that hill, we haven't made it.

14 MR. EISENBRANDT: Your Honor, what I would  
15 request is if we can also have one of the interpreters

16 join us just as a third part to translate.

17 THE COURT: Oh, sure. When we come back -- if  
18 there is nothing else, we're going to take our break, and  
19 we need -- I think we are losing a little scheduled time  
20 today, so we will try to get back on schedule.

21 MR. FARGARSON: Just so we don't keep coming up  
22 here, he can testify about facts within his personal  
23 knowledge?

24 THE COURT: If it is relevant. I mean if it  
25 is --

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1296

1 MR. FARGARSON: Okay.

2 THE COURT: If it is about the amnesty law,  
3 which he's not said he going to testify about, that would  
4 be an issue --

5 MR. FARGARSON: No, no, we understand even --  
6 the court has ruled the amnesty law and the fact that it's  
7 a fact --

8 THE COURT: Right, right, okay. I think we  
9 have covered it very well.

10 MS. BLUM: Thank you very much.

11 THE COURT: We're going to take 10 minutes.

12 MR. EISENBRANDT: Ten minutes, thank you, sir.

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

15 THE COURT: We're going to take ten minutes,  
16 Mr. Ruby. They do have one more thing to wrap up, so

17 somebody tell the jury that they're still working and we  
18 will have at least ten minutes.

19 THE COURT SECURITY OFFICER: Yes, sir.

20 (Recess taken.)

21 THE COURT: Has our position changed at all? I  
22 need to ask one question about the Chavez claims, has that  
23 now been modified by the plaintiffs?

24 MR. EISENBRANDT: Yes, the claims of Ms. Chavez  
25 will be only the extrajudicial killing claim.

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1297

1 THE COURT: That's a change, obviously.

2 MR. EISENBRANDT: Yes, Your Honor, we were  
3 prepared to discuss that with Your Honor in terms of the  
4 jury instructions.

5 THE COURT: Okay. Well, we will -- obviously,  
6 you have chosen to now not assert the two other claims.

7 MR. EISENBRANDT: That's correct.

8 THE COURT: And only pursue the extrajudicial  
9 killing.

10 MR. EISENBRANDT: That's correct.

11 THE COURT: And that eliminates the -- some of  
12 the instructions then because --

13 MR. ESQUIVEL: Because there's no torture claim  
14 left in the case, Your Honor, that's right.

15 THE COURT: That's what I understand. Okay.  
16 Well, we need to make that clear, because I wasn't sure.

17 Did you discuss that with opposing counsel?

18 MR. EISENBRANDT: Your Honor, this was a  
19 decision arrived at this morning, and we haven't had a  
20 chance to --

21 THE COURT: I thought Mr. Brooke probably  
22 wanted to know about it, and Mr. Fargarson, because it  
23 would take a little bit of reading to be comfortable that  
24 you -- that is what you were saying, and that's what we  
25 need to -- that is certainly appropriate. If the party

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1298

1 wishes to not pursue a particular claim, that party may do  
2 so in the case. And in this case, Ms. Chavez's claim will  
3 be restricted to extrajudicial killing and the other two  
4 claims will be withdrawn. Now, it has to be somewhat by  
5 agreement under Rule 41, but I take it that the defense  
6 has no objection to the withdrawing of those two claims  
7 by Ms. Chavez, or at least we have to recognize that it is  
8 being done. Any objection from the defense to the  
9 withdrawing of the human rights abuse --

10 MR. EISENBRANDT: I'm sorry, Your Honor, the  
11 crimes against humanity and the torture.

12 THE COURT: The crimes against humanity and  
13 torture claims of Ms. Chavez, I'm sorry.

14 MR. FARGARSON: No.

15 THE COURT: We needed to clear that up. We  
16 have been trying to figure things out. We have another  
17 set of proposed instructions, and we noticed that. Well,

18 that takes care of that.

19 There's no other submittal as to the expert  
20 credentials. The witness, of course, will be accepted as  
21 an expert on the legal subjects that he was previously  
22 accepted as an expert on. And on the question of history  
23 questions, he will not be accepted as an expert in that  
24 regard for all the reasons that we have discussed. Thanks  
25 very much.

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1299

1 MR. BROOKE: Thank you, Your Honor.

2 All right. We're ready to bring the panel in.

3 (Jury in.)

4 THE COURT: All right. You may be seated, and  
5 we have been able to resolve those matters, and the  
6 witness is excepted as an expert on those legal subjects  
7 that we were previously discussed, which includes a number  
8 of things including the legal code of El Salvador, the  
9 Constitution during that period of time, the organic law  
10 of El Salvador, those items.

11 On the question of history, we have gone  
12 through those credentials carefully, of course, and that  
13 was the issue that we were discussing, and that is an area  
14 in which I have ruled in favor of plaintiffs and will not  
15 be receiving expert testimony on the history questions in  
16 the matter. Anything else? I think we're ready to  
17 proceed.

18 MR. BROOKE: Ready, Your Honor.

19 DIRECT EXAMINATION (CONTINUED)

20 BY MR. BROOKE:

21 Q. Sir, when the first junta was put in on October the  
22 15th, 1979, who were the two military members of the junta?

23 A. Colonel Majano and Mr. Abdul Guiterrez.

24 Q. And you said there were three civilian members of the  
25 junta, and beneath the junta was --

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DIRECT - JOSE ANTONIO ARAUJO

1300

1 THE INTERPRETER: Can counsel await the  
2 response interpreted by the interpreter? Thank you, sir.

3 A. I do have them before me, and they formed part of this  
4 junta. Mr. Ramon Mayorga Quiros, Guilleromo Manuel Ungo and  
5 Mario Andino, they were the members of the revolutionary  
6 government junta.

7 Q. And by December or early January, December of 1979,  
8 early January, 1980, did the junta change membership?

9 A. This junta continued with the first members that  
10 comprised it, they continued working with the difficulties of  
11 the country, and they were able to establish many  
12 arrangements, many orders in the country, many things changed  
13 in the government institutions, they changed their ideology  
14 and they had a new mentality and new administration with the  
15 purpose of managing the resources generated by El Salvador  
16 could be for the benefit of El Salvador. This allowed for the  
17 command relationship that existed or the communication  
18 relationship inside the junta between the military people and

19 the civilians would not -- it didn't stop having or showing  
20 friction, it didn't stop having divisions as concerns -- as  
21 pertains to the criteria concerning the steering of the  
22 country, and this allowed for friction amongst themselves.  
23 This allowed for difficulties amongst them, and this allowed  
24 this junta to have a counter coup, if we can say it that way,  
25 and then there was a new junta at the time.

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DIRECT - JOSE ANTONIO ARAUJO

1301

1 MR. ESQUIVEL: Your Honor, I'm sorry to  
2 interpret, the witness is continuing to testify beyond his  
3 area of expertise, and I move to strike this testimony in  
4 this regard.

5 THE COURT: I have to sustain the objection.  
6 Let's -- I hate to do this, but it is always very  
7 important that we be absolutely fair to everybody, and so  
8 rather than having -- let's talk about it again at side  
9 bar one more time.

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

12 MR. BROOKE: Your Honor, before asking my  
13 question, I asked counsel can I ask him who the  
14 composition of the junta was, and he said, oh, sure, it  
15 was common knowledge, and so that was my question to him.

16 THE COURT: The problem is the response, it is  
17 not your question. I mean your question is appropriate,  
18 but the response is commentaries.

19 MR. ESQUIVEL: And I would have no objection to  
20 matters of common knowledge like who are the members of  
21 the junta. It's like he's going on about the  
22 interrelationship between the members of the junta and  
23 what the different ideologies were, all of that is not  
24 within his personal knowledge or any area of expertise  
25 that he has.

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DIRECT - JOSE ANTONIO ARAUJO

1302

1 THE COURT: And he would have been very young  
2 at the time.

3 MR. ESQUIVEL: That's correct.

4 MR. BROOKE: He's referring to the ancient  
5 documents, he has got the newspapers in front of him  
6 there.

7 MR. EISENBRANDT: I think that just makes the  
8 point.

9 THE COURT: Right, and the difficulty is that  
10 to the degree that we have information about the media,  
11 internal media in the country at the time, it would not be  
12 a source of -- you would have to examine it, you would  
13 have to test it, you would have to -- if you were to  
14 testify on it, you would have to make some intellectual  
15 inquiry about its validity and so forth, and that's just  
16 not what has occurred here, and he's not ever said that  
17 that is what he did. So I'm going to sustain the  
18 objection. And let me try to -- I'm not sure if it will  
19 do any good, I can attempt to explain to the witness that

20 you're attempting to ask some very narrow questions which  
21 should require very short answers, factual answers, and  
22 you're not asking a broad question, and he should confine  
23 himself to the question -- of course, I'm sure you have  
24 told him that already. Perhaps my saying that will be of  
25 assistance.

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DIRECT - JOSE ANTONIO ARAUJO

1303

1 MS. BLUM: Can I just suggest that if the  
2 witness has some sort of document in front of him, that  
3 he's referring to that's --

4 THE COURT: It is required to be disclosed to  
5 the opposing side.

6 MS. BLUM: And that if the scope of his  
7 testimony is going to be restricted to the legal documents  
8 and he wants to have a copy of the organic law or counsel  
9 wants to consult with us to bring up a section of the  
10 organic law, that's one thing, but I believe he's looking  
11 through a whole analysis, a newspaper clipping or  
12 something, and essentially reading from that.

13 MR. BROOKE: He's not supposed to do that.

14 THE COURT: All right. Let's get back.

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

17 THE COURT: I did sustain the objection in  
18 light of -- and it may be useful to explain to the witness  
19 who is used to somewhat a different system, that counsel

20 is asking very narrow fact questions at this time and --  
21 which require very short answers, such as the  
22 identification of particular individuals, as opposed to a  
23 discussion of either history or political philosophy. And  
24 then if Mr. Brooke requires a more expansive answer, he  
25 will then so indicate. Is that a satisfactory way in

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DIRECT - JOSE ANTONIO ARAUJO

1304

1 which to proceed?  
2 THE WITNESS: Correct.  
3 THE COURT: Thank you very much.  
4 BY MR. BROOKE:  
5 Q. Did the membership of the junta change in December  
6 or -- of 1979 or January of 1980?  
7 A. In January of 1980.  
8 Q. And did Napoleon Duarte become a member of the junta?  
9 A. He was a member of that junta at that time.  
10 Q. Did Napoleon Duarte become president in 1985 through  
11 1989?  
12 A. That is so.  
13 Q. Did you have occasion to witness fighting or skirmishes  
14 with weapons between guerillas and the military?  
15 A. Please repeat the question.  
16 Q. Did you have occasion to personally witness fighting  
17 and skirmishes with weapons between the military and  
18 guerillas?  
19 A. Yes.  
20 Q. Where did you witness this?

- 21 A. At the City of San Salvador.  
22 Q. And what buildings were involved?  
23 A. The buildings were the University of El Salvador, the  
24 State University, the building for the Administration of Aqua  
25 Ducts and Sewer, ANDA, A-N-D-A, and between these buildings

♀

DIRECT - JOSE ANTONIO ARAUJO

1305

- 1 there is a road.  
2 Q. Did the guerillas have weapons?  
3 A. Yes.  
4 Q. Did you have occasion to see any skirmishes or fights  
5 between the guerrillas and the military?  
6 A. Yes.  
7 Q. Where was that location and which buildings were  
8 involved?  
9 A. As always, at the University of El Salvador.  
10 Q. And did you go in -- ever have occasion to go into the  
11 University Building at the University of El Salvador?  
12 A. Yes.  
13 Q. Were there weapons in the university -- on the premise  
14 of the property that you observed?  
15 A. There were weapons.  
16 Q. Were there tunnels from the university to the church?  
17 A. That is so.  
18 Q. In the organic law of El Salvador, can you tell the  
19 jury what the organic law is of El Salvador?  
20 A. The organic law is a structure that is presented by the

21 ministry of defense, and in that organic law, firstly or  
22 throughout the first line, if you will allow me -- or if you  
23 allow me the organizational chart on the screen, I can explain  
24 it.

25 Q. Can you explain to the jury -- well, first, let me ask,

♀

DIRECT - JOSE ANTONIO ARAUJO

1306

1 did the law come into -- the new law come into effect in 1961?

2 A. That is so.

3 Q. And if you would, in 1979, 1980, was there a

4 Comandancia General De La Fuerza Armada?

5 A. That is so.

6 Q. Was that the junta?

7 A. That is so.

8 Q. Then in the office of the ministry of defense, was  
9 there a minister of defense?

10 A. That is so.

11 Q. And was there within the office of the ministry of  
12 defense an undersecretary or subminister of defense?

13 THE INTERPRETER: The interpreter requests that  
14 you repeat the last part of your question, undersecretary  
15 or --

16 BY MR. BROOKE:

17 Q. Subsecretary or subminister of defense.

18 A. An undersecretary.

19 Q. Did Article 26 of the organic law of the armed forces  
20 provide the duties of the undersecretary?

21 A. It is not 6.

22 Q. 26, excuse me.  
23 A. That is so, 26.  
24 Q. Do you have a copy of Article 26 or do we need to show  
25 it on the board for you to be able to read the Spanish?

†

DIRECT - JOSE ANTONIO ARAUJO

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1 A. Yes, I do believe I have a copy of Article 26.  
2 Q. Will you please tell the jury what the three  
3 responsibilities of the undersecretary of defense were?  
4 A. The Article 26 establishes the responsibilities of the  
5 undersecretary of defense of El Salvador. It is the  
6 responsibility of the undersecretary of defense:  
7 1. To provide technical advice to the minister of  
8 defense in all matters concerning the branch.  
9 2. To coordinate the technical function of the general  
10 staff of the armed force with each of its different branches.  
11 3. To propose to the minister of defense appointments,  
12 removals, assignments, resignation acceptances and awarding of  
13 leaves for functionaries and employees of the armed force.  
14 Q. Sir, do you have an opinion based upon your training,  
15 experience and studies as to whether or not the minister --  
16 the undersecretary of defense had any responsibility of  
17 effective troop command?  
18 A. The ministry of defense did not have a direct  
19 responsibility with a troop. And this is all because the  
20 relationship of the commander troops would mean operational  
21 acts, and the undersecretary of defense was in the

22 administrative section as the undersecretary as is stipulated  
23 by Article 26. He didn't have a command relationship with the  
24 troops. The relationship established between the  
25 undersecretary of defense was a link through the general

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DIRECT - JOSE ANTONIO ARAUJO

1308

1 staff, which is a directive corps and the minister of defense.  
2 So his was a relationship in which he would inform the  
3 minister concerning administrative matters or the needs that  
4 would emerge at each one of the branches of the general staff.  
5 So the secretary, the undersecretary was the person who  
6 carried these suggestions, these recommendations to the  
7 minister, but as to a troop responsibility as could be stated  
8 in this -- you cannot see that he had or that he had any  
9 responsibility of the troops as the question has been  
10 formulated.

11 Q. When Mr. Carranza was with ANTEL or SEL, which I  
12 believe was the electric company, ANTEL being the  
13 telecommunications company, would he have had any troop  
14 command responsibility?

15 A. Colonel Carranza did not have under him or he did not  
16 have troop responsibility when he was the president of ANTEL  
17 and when he was the president of SEL because these were  
18 government institutions that were -- and it was necessary to  
19 manage them with administrative personnel to manage them for  
20 the good functioning of electrical and telecommunication  
21 services in El Salvador. It was not allowed that any person  
22 in charge of these institutions were to have any relationships

23 with troops or to have troops under them or to have a command  
24 relationship with troops, and while they were in those  
25 positions, because these were important positions and they

♀

DIRECT - JOSE ANTONIO ARAUJO

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1 were public positions and, therefore, I must say that Colonel  
2 Carranza served as a president, as a general manager of these  
3 institutions that are the service of the state.

4 Q. When Colonel Carranza later became the general director  
5 or the chief of the treasury police, would he have had command  
6 responsibility of troops?

7 A. Colonel Carranza, as he was assigned to the treasury  
8 police, logically, he was the person in charge of that corps  
9 of the national police, so I must consider and say that by  
10 following the organizational chart of national defense, he had  
11 that command. You had the upper, and then other people  
12 were -- they were his subordinates, he had that command,  
13 correct.

14 Q. Do you know when Colonel Carranza had command of the  
15 treasury police the approximate number of members of that  
16 corps?

17 A. No.

18 Q. At any time during your life in El Salvador, have you  
19 observed a death squad?

20 A. No.

21 MR. BROOKE: If I may have one minute, Your  
22 Honor.

23 THE COURT: You may.  
24 MR. BROOKE: Pass the witness, Your Honor.  
25 THE COURT: Cross examination?

†

CROSS - JOSE ANTONIO ARAUJO

1310

1 CROSS EXAMINATION  
2 BY MR. ESQUIVEL:  
3 Q. Mr. Araujo, as I understand your testimony, you have  
4 said that Colonel Carranza as the director of the treasury  
5 police had command authority over all of the members of the  
6 treasury police, is that right?  
7 A. It is so.  
8 MR. ESQUIVEL: Mr. Gibson, could you put up the  
9 English version of that?  
10 BY MR. ESQUIVEL:  
11 Q. And what you're referring to is the box on the bottom  
12 right part of the military chain of command, is that correct,  
13 sir?  
14 A. Exactly.  
15 Q. And this chain of command chart is attached to the  
16 organic law of the national defense that you have been talking  
17 about?  
18 A. It is so.  
19 BY MR. ESQUIVEL:  
20 Q. In 1980, Colonel Nicolas Carranza was the vice-minister  
21 of defense, right?  
22 A. He was not the defense minister.  
23 Q. I'm sorry, I thought I said the vice-minister of

24 defense. Was he the vice-minister of defense?

25 THE INTERPRETER: My mistake, the interpreter

♀

CROSS - JOSE ANTONIO ARAUJO

1311

1 would like to correct himself.

2 THE COURT: Sure.

3 A. Correct.

4 BY MR. ESQUIVEL:

5 Q. And as vice-minister of defense, he occupied a position  
6 in the ministry of defense, is that right?

7 A. That is correct.

8 Q. And the ministry of defense, according to organic law,  
9 is just below the commander in chief of the armed forces, is  
10 that correct?

11 A. That is correct.

12 Q. Now, I thought I understood your testimony to be that  
13 the ministry of defense was an administrative office and not a  
14 part of the chain of command?

15 A. The ministry of defense, that is the second portion of  
16 that chain of command where you have the vice-minister or  
17 rather the undersecretary and the defense minister.

18 Q. So the members of the ministry of defense are within  
19 the chain of command in the Salvadoran military, aren't they?

20 A. That is correct.

21 Q. And that means that the members of the ministry of  
22 defense have command responsibilities, isn't that right?

23 THE INTERPRETER: Your Honor, I would like an

24 explanation as to a term.

25 THE COURT: Certainly.

♀

CROSS - JOSE ANTONIO ARAUJO

1312

1 A. The ministry of defense does have a command  
2 responsibility with regards to the defense ministry, but it  
3 also grants the undersecretary of defense in those days, and  
4 this merits an explanation, to explain regarding the points  
5 about administrative responsibility of the undersecretary. It  
6 is true that there is an established chain of command, but one  
7 executive portion where troops did not exist, nor was it held  
8 by Mr. Colonel Carranza.

9 BY MR. ESQUIVEL:

10 Q. Well, let's take a look at that, Mr. Araujo. Let's  
11 look at Article 26 of the organic law which provides the  
12 duties of the subsecretary of defense or the vice-minister of  
13 defense. The third responsibility or duty of the subsecretary  
14 of defense under this law is to propose appointments, is that  
15 one of the duties?

16 A. It is so.

17 Q. And the subsecretary of defense also had the duty to  
18 propose removal of members of the armed forces?

19 A. He makes recommendation.

20 Q. And the subsecretary of defense also proposes the  
21 assignments for the members of the armed forces?

22 A. No, not that.

23 Q. Are you saying that's not contained in the third  
24 portion of Article 26? Do you want to revise your answer,

25 Mr. Araujo?

♀

CROSS - JOSE ANTONIO ARAUJO

1313

1 A. Please, the question. Could you repeat the question?

2 Q. Does the vice-minister of defense have the duty to  
3 propose assignments for members of the armed forces?

4 MR. FARGARSON: Your Honor, excuse me for a  
5 second.

6 THE COURT: Let me let the interpreters consult  
7 for a second.

8 THE INTERPRETER: Yes, sir, that is what I  
9 would like.

10 THE COURT: We will take a moment and let them  
11 consult.

12 (The interpreters conferred with each other.)

13 THE INTERPRETER: And, Your Honor, the  
14 interpreter would like to change a word in his previous  
15 interpretation, instead of missions or assignments, in  
16 interpreting into Spanish, I used the word missions. In  
17 the original document in Spanish, it says destinations.

18 THE COURT: Certainly. Would you reinterpret  
19 and let's get the response to the question as originally  
20 intended?

21 THE INTERPRETER: I have the question recorded,  
22 I will go over it and change that word.

23 THE COURT: Certainly.

24 THE INTERPRETER: Thank you.

25 A. Yes.

♀

CROSS - JOSE ANTONIO ARAUJO

1314

1 BY MR. ESQUIVEL:

2 Q. Now, let's look at the second part of the  
3 subsecretary's duties, and that involves the coordination of  
4 the technical functions, correct?

5 A. Correct.

6 Q. Now, under the second part, one of the duties of the  
7 subsecretary of defense was to insure the discipline of all  
8 members of the armed forces, isn't that correct?

9 A. I would like to help myself with the materials I have  
10 in order to explain point number two.

11 Q. Well, if you would answer my question first and then,  
12 please, consult your materials.

13 A. Yes.

14 Q. So the answer is yes, under this article, the  
15 subsecretary of defense had a duty to insure the discipline  
16 among the members of the armed forces?

17 A. Yes.

18 Q. And the armed forces at that time included the security  
19 forces, did they not?

20 A. No.

21 Q. The armed forces of El Salvador in 1980 did not include  
22 the three branches of the security forces, is that what you're  
23 saying, sir?

24 A. Forgive me, the question, can you repeat it again, sir,  
25 so I can give you a more clear answer?

♀

CROSS - JOSE ANTONIO ARAUJO

1315

- 1 Q. Sure. Did the armed forces in El Salvador in 1980  
2 include the three branches of the security forces?
- 3 A. Yes.
- 4 Q. So in 1980, the subsecretary of defense had the duty  
5 under this provision to insure discipline among the members of  
6 the security forces, is that right?
- 7 A. No.
- 8 Q. Mr. Araujo, I thought you just told us that under this  
9 section, the subsecretary of defense had a duty to insure  
10 discipline among members of the security forces?
- 11 A. Yes, I said that he could insure discipline, but we  
12 have to bear in mind that the armed forces were so large  
13 whereas he was in a small office, how could he, well, have  
14 control. In order to have control of an army, it was very  
15 difficult, very complicated. I'm not going to say that there  
16 was no discipline, yes, there was discipline in the military,  
17 we can establish that -- that he could -- well, please excuse  
18 me, may I have the question?
- 19 Q. Sir, the question is simply whether the subsecretary of  
20 defense in El Salvador under the law of El Salvador had a duty  
21 to insure discipline among the troops under his command?
- 22 A. Yes, yes.
- 23 Q. And Colonel Carranza --
- 24 A. Has a duty.
- 25 Q. And Colonel Carranza was the subsecretary of in El

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CROSS - JOSE ANTONIO ARAUJO

1316

- 1 Salvador in 1980, is that correct?
- 2 A. It is so.
- 3 Q. And so in 1980, Colonel Carranza had the responsibility
- 4 and the duty under this law to insure the discipline of the
- 5 armed forces of El Salvador, is that right?
- 6 A. That is correct.
- 7 Q. And if Colonel Carranza did not maintain discipline
- 8 among the troops, he would have been in violation of his
- 9 duties under Article 26, isn't that right?
- 10 A. Indeed, that is not correct in the case of my answer.
- 11 Q. Well, would you please explain how that is not correct?
- 12 A. It is not so because the position of Mr. Colonel
- 13 Carranza was a link or a liaison between the state, or rather
- 14 the general staff, and the ministry of defense. He was a
- 15 second level of command on this part of the organizational
- 16 chart, and we cannot attribute responsibility, that is not
- 17 appropriate for Colonel Carranza; therefore, he was a
- 18 secretary, an administrative member of the staff who suggested
- 19 on the -- on the disciplinary matters on the administrative
- 20 part that each one of the units might be granted within the
- 21 armed forces. He would bring this information to the defense
- 22 minister. The defense minister would report to that
- 23 revolutionary government junta in order for them to make the
- 24 decision. These decisions regarding discipline exactly cannot
- 25 be attributed, even though it may seem contradictory as I have

CROSS - JOSE ANTONIO ARAUJO

1317

1 told you awhile ago, cannot be attributed exactly that  
2 responsibility to him. Why? Because he was a link between  
3 the general staff and the minister of defense.

4 Q. But the fact that he served as a link does not get rid  
5 of his independent duty under this section, as you have  
6 testified, to insure discipline among the troops, does it?

7 A. In accordance with your question, I would like to  
8 respond, and I would like you to allow me some space for me to  
9 explain regarding that chain of command and then a portion of  
10 the technical chain.

11 Q. If you would please answer the question first and then  
12 explain your answer.

13 A. I could say yes.

14 Q. Now, would you like to explain?

15 A. The chain of command at that level, the link is a link  
16 between officers through which all the orders and instructions  
17 go down to the subordinate units; however, the technical chain  
18 has its exceptions. The chain of command goes from commander  
19 to commander within the units that the officers command. At  
20 the general staff, they use the chain of command when they act  
21 on behalf of the commander in chief. They have the links that  
22 within the general staff, as we have already said, which is  
23 the third portion of the organizational chart. From there, we  
24 have information and command as established by the chain of  
25 command. Please allow me to repeat.

♀

CROSS - JOSE ANTONIO ARAUJO

1318

1 Q. Well, before you repeat, Mr. Araujo, let me ask you  
2 another question.

3 MR. BROOKE: Objection, Your Honor, the witness  
4 has requested the opportunity to repeat.

5 THE COURT: The objection is sustained.

6 A. The military chain of command goes from commander to  
7 commander within the authority that resides on the officers of  
8 the general staff. We're talking about the general staff,  
9 which is the third portion of that organizational chart.  
10 Would you please show us that organizational chart so that I  
11 can explain exactly where that chain of command lies so as to  
12 make it clear my response to your question?

13 This third portion of the organizational chart shows  
14 the general staff of the armed forces, and below the general  
15 staff we have the rest of the forces, which include the army,  
16 the air force, we have the navy, the national guard, national  
17 police, treasury police. Each one of them has its own  
18 commander of those six units below. The third unit of the  
19 organizational chart includes commanders or directive corps  
20 for the armed forces. They define also the policies for these  
21 units that I have mentioned. The responsibility also of that  
22 command comes from this group of the general staff of the  
23 armed forces as stated by the concept. The chain of command  
24 goes from commander to commander within the authorities that  
25 reside then within those commands that they have. The

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CROSS - JOSE ANTONIO ARAUJO

1319

1 officers of the general staff use the chain of command when  
2 they act on behalf of the commander.

3           The duty of the general staff of the armed forces was  
4 to materialize or execute the policies designed by the  
5 executive branch, materialize the policies of the --  
6 materialize the policies designed by the executive branch,  
7 that is what the organic law of the armed forces states, but  
8 it is explained in two different stages. The executive power  
9 will be designed by the general command of the armed forces.  
10 Of course, there was no precedent back then. It was the  
11 revolutionary government junta that was existing, but the  
12 article is clear in the sense that command came directly from  
13 the general command. In that case was the revolutionary  
14 government junta as in Article 39.

15 Q.       Are you finished with your answer, sir?

16 A.       Thank you. Thank you very much.

17 Q.       Are you familiar with the military code of justice in  
18 El Salvador?

19 A.       Yes.

20 Q.       That's a document that governs the conduct of the  
21 members of the armed forces of El Salvador, isn't it?

22 A.       Yes, it is so.

23 Q.       Did you consider the military code of justice in coming  
24 to your conclusions in this case?

25 A.       Yes.

1 Q. Do you know whether the military code of justice  
2 provides any authority to the vice-minister or secretary of  
3 defense?

4 A. Please, excuse me.

5 Q. Would you like me to ask the question again?

6 A. Please, excuse me, could you repeat the question?

7 Q. Yes, of course. Do you know whether the Salvadoran  
8 code of military justice provides any authority to the  
9 secretary or vice-minister of defense?

10 A. The military code is under the supervision of each one  
11 of the ministers and vice-ministers, and they apply  
12 supervision and behavior of every one in the military.

13 Q. Yes, sir. But do you know whether it provides any  
14 authority to the secretary of defense?

15 A. Yes.

16 Q. Let me ask you to look at what has been marked as Trial  
17 Exhibit 12.

18 MR. ESQUIVEL: Your Honor, may I approach the  
19 witness?

20 THE COURT: You may.

21 BY MR. ESQUIVEL:

22 Q. I've handed you the military code of justice,  
23 Mr. Araujo, and it is in Spanish. Let me ask you to turn to  
24 Article 186, please. Article 186 provides that certain  
25 positions have the authority to make disciplinary punishments

1 on officers. Do you see that, sir?

2 A. It is so.

3 Q. And among the positions that has the authority to  
4 discipline officers is the subsecretary or the undersecretary  
5 of defense, is that right?

6 A. It is so.

7 Q. And you see that Article 186 gives only two people in  
8 the Salvadoran military the authority to discipline officers  
9 by terminating employment, do you see that?

10 A. It is so.

11 Q. And so under the Salvadoran code of military justice,  
12 Colonel Carranza had the authority to punish officers, to  
13 discipline officers who committed violations, isn't that  
14 right?

15 A. That is correct.

16 Q. And Colonel Carranza was one of two people in the  
17 Salvadoran military who were authorized to terminate the  
18 employment of officers as a disciplinary punishment, isn't  
19 that right?

20 A. That is correct.

21 Q. Now, you have reached your conclusions in this case by  
22 reading the text of the national defense law, is that right?

23 A. Correct.

24 Q. You don't have knowledge of what Colonel Carranza  
25 actually did while he served as vice-minister of defense?

- 1 A. I do have knowl edge.
- 2 Q. What is that knowl edge based on?
- 3 A. Well, I have mentioned earlier that Mario Carranza, a  
4 friend of mi ne, the brother of Ni col as Carranza, we were  
5 students at the Uni versi ty of El Sal vador, state uni versi ty,  
6 and we had very broad communi ca tion, and we used to talk about  
7 the degree, the mili tary rank, the type of mili tary man that  
8 Mr. Col onel Carranza was, that he was very respected. The  
9 mili tary were persons with a great capaci ty for di recting the  
10 in sti tu tions, and in this case, hold ing a very im por tant  
11 po si tion in El Sal vador that made me understand when I was  
12 Ma rio's class mate at tend ing the uni versi ty that his brother,  
13 his brother, Ni col as Carranza, was a person of great  
14 re put a tion; how ever, I, my sel f, was able to cor ro bo rate this  
15 as I was al ready of suffi ci ent age, I was 23 or 24,  
16 ap pro xi ma tely, to get to know who was di rect ing our coun try  
17 and to es ta bl ish who were the persons who were gui di ng the  
18 armed forces, and then I can say that Mr. Carranza or Col onel  
19 Carranza is a person with great respect, with great  
20 re spon si bi li ty and who was able to manage that in sti tu tion  
21 from his second level as an un der se cre ta ry with great  
22 re spon si bi li ty.
- 23 THE COURT: This will be our last response  
24 before lunch.
- 25 A. In the City of Sandi ago de Ma ria in the department of

1 Usulután from which Mr. Carranza is originally from, it was a  
2 joy, it was a great joy because there was an outstanding  
3 person who had come from that city and he had attained an  
4 important grant within the armed force, and there was trust,  
5 there was a great deal of trust in him, because everybody  
6 loved him and still love him. So this proves that the degree,  
7 the military rank that Colonel Carranza got, that his behavior  
8 and military conduct also helped him attain this second rank,  
9 this second position, second in command of the defense  
10 ministry. This I was also able to corroborate because we were  
11 able to talk to the brothers, we were able to establish  
12 through the media that indeed a person with great category,  
13 with great respect -- please, excuse me, with great respect  
14 and with a great deal of dignity had been selected.

15 THE COURT: We're going to take our lunch break  
16 at this time. Lunch should be ready for you, and we will  
17 resume at 2:00 promptly. We will see you at that time.

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

20 (Recess taken at 12:30 until 2:00 p.m.)

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

22 THE COURT: All right. You may be seated.  
23 Counsel may proceed.

24 MR. ESQUIVEL: Thank you, Your Honor.

25 BY MR. ESQUIVEL:

- 1 Q. Mr. Araujo, you have been friends with Colonel  
2 Carranza's brother, Mario, is that right?
- 3 A. It's correct.
- 4 Q. You and Colonel Carranza's brother went to grade school  
5 together?
- 6 A. That's correct.
- 7 Q. And you and Colonel Carranza's brother studied together  
8 at the University of El Salvador?
- 9 A. That's correct.
- 10 Q. You ate meals in the Carranza household?
- 11 A. No.
- 12 Q. You did not eat meals with Colonel Carranza's brother,  
13 Mario, and his family?
- 14 A. Well, we only played together in the street, you know,  
15 but we didn't share meals, because each one of us would go to  
16 each one of our houses to have their meals, and we wouldn't go  
17 over to share meals, neither me to his house or he to mine.
- 18 Q. Mr. Araujo, do you recall giving a deposition in this  
19 case?
- 20 A. Yes.
- 21 Q. Do you remember you and I were there in Mr. Fargarson's  
22 office about three months ago?
- 23 A. Yes, yes.
- 24 Q. And there was a court reporter there who was taking  
25 down everything we said, do you remember that?

1 A. I recall.

2 Q. Do you recall that you raised your hand and took an  
3 oath to tell the truth during that deposition?

4 A. Yes.

5 MR. ESQUIVEL: Your Honor, may I approach the  
6 witness?

7 THE COURT: You may.

8 BY MR. ESQUIVEL:

9 Q. Mr. Araujo, I have handed you a transcript of your  
10 deposition testimony from August 12, 2005. Would you please  
11 look at page 45, line 14? I'm sorry, if you look at line 11  
12 on page 45, please.

13 A. Page 45, counsel?

14 Q. Yes, sir.

15 A. But it's in English.

16 Q. Yes. Well, the interpreter will interpret it for you.  
17 Did I ask the following questions and you give the following  
18 answers in your deposition:

19 Question: So are these half brothers or stepbrothers  
20 of Colonel Carranza?

21 Answer: Half brothers.

22 Question: I see, okay. Did you ever eat at their  
23 house?

24 Answer: Yes.

25 Mr. Araujo, I notice you have some papers in front of

1 you that you brought with you to court, what are those papers?

2 A. These are documents -- these are not documents, these  
3 are reports that I have used to illustrate myself to be able  
4 to provide information for this entire public viewing that was  
5 going to be performed, and I have used them to make certain  
6 notes to each one of my calendars to have greater knowledge of  
7 this public viewing. I did not recall this issue of three  
8 months ago whether we had agreed to have lunch or to eat  
9 something at Mario's house, I could not recall.

10 Q. Mr. Araujo, who prepared the documents that you have in  
11 front of you at the witness stand?

12 A. Well, these documents that I have here in existence, I  
13 have the military code, the ordinance of the army, the  
14 statement in Spanish that we gave on the 12th of August which  
15 was provided to me -- a copy in English was provided to me,  
16 and this one I have here was prepared by some friends of mine.  
17 That translation that came into my hands in English was  
18 translated into Spanish. I have other information here, these  
19 charts that I presented, these are samples of the preparation  
20 of the organic law. They are reduced copies of materials  
21 always concerning the organic laws so that I can have this  
22 material to help me in order to be able to respond to the  
23 questions that have been posed here. Likewise, these  
24 materials over here, these pamphlets, this includes the  
25 statement from August the 12th, 2005, these -- the very same

1 document that you have turned over to me in English just a  
2 moment ago. And other documents -- not documents, other  
3 information that I had in my home and in my library concerning  
4 the guaranties for judicial processes and procedural  
5 guaranties that are enforced in El Salvador. Once again, a  
6 copy of the organic law and information which was issued by  
7 the ministry of human rights in El Salvador from the general  
8 assembly of the security council and there is a note here from  
9 the general secretary, the Peace Accords that I had mentioned  
10 back then on August the 12th, 2005.

11 Q. Other than the people who helped you translate the  
12 deposition, did anyone else help you prepare those materials?

13 A. Oh, yes.

14 Q. Who were they?

15 A. When I was asked to study these materials, that was  
16 Dr. Robert Escobar Garcia who, along with me, was part at the  
17 Military University in El Salvador, he was vice-director of  
18 the university at the time, and he's a good friend to Colonel  
19 Carranza, and he stated to me as an attorney -- as a trusted  
20 attorney, he asked whether or not we could, excuse me, perform  
21 an analysis of one of these documentations and all of these  
22 pamphlets with the purpose of having an estimation of the  
23 entire history of what has taken place and also perform the  
24 analysis of this portion of the organic law. So having all of  
25 this information that in the -- that you found in the file

1 that you just borrowed to me, loaned to me, he asked me if I  
2 could assist him with the cause, and the cause -- by the  
3 cause, he means to do a favor, and so we had an extensive  
4 conversation about -- with Dr. Roberto Garcia concerning this  
5 case for the purpose of being present here, and I'm told him,  
6 listen, I have some difficulties, they are not considerable  
7 difficulties, but I have to be -- I have to pay attention to  
8 my cases in El Salvador, I have to be present for them, but  
9 nevertheless, considering that this is about Mr. Carranza, of  
10 whom I had already had knowledge, I already knew who he was,  
11 how he acted, and also with my knowledge of his brothers, I  
12 said, all right, let's get some more information about the  
13 case and thus be able to start helping him.

14 Q. Now, Mr. Araujo, when Colonel Carranza was the  
15 vice-minister of defense in 1980, you were 18 years old, is  
16 that correct?

17 A. I want to think it over.

18 Q. Please take your time.

19 A. 17 years old, 17 -- 17, 18 years old, approximately.

20 Q. You've never been a member of the Salvadoran military,  
21 have you, sir?

22 A. No.

23 Q. You've never written a book on Salvadoran military law?

24 A. No.

25 Q. And you have never written an article on Salvadoran

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CROSS - JOSE ANTONIO ARAUJO

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1 military law?

- 2 A. No.
- 3 Q. And you have never written a book on Salvadoran  
4 military structure, is that right?
- 5 A. No.
- 6 Q. And you have never written an article on Salvadoran  
7 military structure, have you, sir?
- 8 A. No.
- 9 Q. In 1998, you received your degree from the Military  
10 University of El Salvador, is that correct?
- 11 A. Correct.
- 12 Q. And the next year, you were a professor at that  
13 institution?
- 14 A. Correct.
- 15 Q. And the next year, you became administrator at that  
16 institution?
- 17 A. I don't remember. I don't remember the date exactly  
18 the date, but I did hold the position of the administrator of  
19 university, I don't remember the date.
- 20 Q. That university is no longer in existence, is it, sir?
- 21 A. No, it does not exist.
- 22 Q. And on October the 11th, 1999, is it true that the  
23 ministry of education in El Salvador issued a resolution to  
24 close down that university?
- 25 A. What year did you say?

- 1 Q. The year 1999.

2 A. Oh, yes. Yes, I believe so.  
3 Q. And did the ministry of education cite as a reason to  
4 close that university irregularities in the graduation and the  
5 academic registration process for students?  
6 A. One case of one student.  
7 Q. And was that finding upheld by the constitutional  
8 chamber of the Supreme Court of El Salvador in a decision in  
9 November of 2002?  
10 THE INTERPRETER: The interpreter requests  
11 counsel to please repeat the question.  
12 BY MR. ESQUIVEL:  
13 Q. Was the decision of the ministry of education upheld by  
14 the Supreme Court of El Salvador in November of 2002?  
15 A. The ruling was upheld.  
16 MR. ESQUIVEL: Thank you. I have no further  
17 questions, Your Honor.  
18 THE COURT: Redirect?  
19 REDIRECT EXAMINATION  
20 BY MR. BROOKE:  
21 Q. Sir, have you ever been accused of being a teacher of  
22 math?  
23 A. I've never taught mathematics.  
24 Q. In your relationship with Mario Carranza, is he a half  
25 brother of Mr. Carranza -- Colonel Carranza?

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REDIRECT - JOSE ANTONIO ARAUJO

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1 A. Yes.  
2 Q. Which house was it that you ate a meal at?  
Page 71

- 3 A. At the house of Mario Carranza where his parents were,  
4 his father was, Dano De Hoy Carranza, Reynaldo was also there,  
5 at their house in the La Parroquia neighborhood in the  
6 Department of Usulután.
- 7 Q. Has your relationship, friendship with Mr. Carranza's  
8 half brothers and his father influenced you to not tell the  
9 truth?
- 10 A. At no time has this affected me, and as to telling the  
11 truth, the truth must be told because this is the truth.
- 12 Q. In El Salvador as a lawyer, do you take an oath to be  
13 an officer of the courts for him whom you appear?
- 14 A. Please, repeat it.
- 15 Q. As a lawyer in El Salvador, do you have a  
16 responsibility to be an officer of the court and tell the  
17 truth?
- 18 A. That is so.
- 19 Q. The name of Dr. Escobar Garcia who was the chancellor  
20 or president of the university at which you taught, is he the  
21 same Garcia who was the minister of defense?
- 22 A. No.
- 23 Q. I would request that you look at Article 26 of the  
24 organic law.
- 25 A. Okay.

♀

REDIRECT - JOSE ANTONIO ARAUJO

1332

- 1 Q. In subsection one, the first two words to provide, can  
2 you tell the jury what that means?

3 A. To inform.

4 Q. In subsection two, the first two words, the words to  
5 coordinate, can you tell the jury what those first two words  
6 mean?

7 A. To coordinate is an administrative portion or part of  
8 the entire area of the armed force. It is an administrative  
9 part which is executed upon the entirety of the personnel from  
10 the higher ranks towards the levels of the lower ranks, that  
11 is coordinate, to administer, coordinate.

12 Q. And subsection three, the first two words, to propose,  
13 can you tell the jury what that means, sir?

14 A. To propose is to recommend, to suggest, and that is  
15 what the vice-minister or deputy secretary of defense did in  
16 accordance with Article 26.

17 THE INTERPRETER: Also, the interpreter will  
18 advise the court at this point the witness has read a  
19 document that he has before them, and the interpreter  
20 would like to know if the court would have the interpreter  
21 translate that portion into the record.

22 THE COURT: Yes, that would be preferable.

23 THE INTERPRETER: The interpreter will proceed  
24 at this point. The witness read from the document and  
25 said:

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REDIRECT - JOSE ANTONIO ARAUJO

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1 A. The undersecretary of defense who, in repetition, would  
2 respond for the coordination of the technical function of the  
3 general staff and of all of the institutions shall avoid

4 jurisdictional and competency conflicts supervising each  
5 branch and the entire institution which will place his  
6 capacity in the compliance of the plans and orders of the  
7 general staff for the benefit of the mission.

8 THE INTERPRETER: And the interpreter will now  
9 give you the rest of the response.

10 A. This is to suggest, not to order, to suggest that this  
11 should be done. He would give suggestions.

12 BY MR. BROOKE:

13 Q. Sir, in Article 26 defining the responsibility of the  
14 undersecretary of defense, is there any language that has the  
15 subsecretary is to order or to issue orders?

16 A. According to the explanations that I have been able to  
17 contribute to the jury, it says -- it doesn't say order, it  
18 says suggests, advises, proposes.

19 MR. BROOKE: Thank you very much, sir.

20 THE COURT: Well, thank you. And we will let  
21 you step down. Thank you very much.

22 (Witness excused.)

23 THE COURT: Mr. Fargarson or Mr. Brooke, who  
24 will our next witness be?

25 MR. BROOKE: Mr. Talavera. If I may call him.

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1 THE COURT: Absolutely.

2 THE CLERK: Sir, if you will raise your right  
3 hand to be sworn. Do you solemnly swear that the

4 testimony you are about to give the court and jury in this  
5 matter to be the truth, the whole truth and following but  
6 the truth, so help you God?

7 THE WITNESS: Yes.

8 THE CLERK: You may take the witness stand.

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DIRECT - JULIO ROMERO

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

3 JULIO ROMERO,

4 was thereupon called as a witness on behalf of the

5 Defendant, and having been first duly sworn, was  
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BROOKE:

9 Q. Good afternoon, sir.

10 A. Good afternoon.

11 Q. Would you please state your full name for the court and  
12 jury?

13 A. My name is Julio Romero.

14 Q. And where do you live?

15 A. In Costa Rica.

16 Q. And what is your age?

17 A. Fifty-six.

18 Q. In the 1970s, were you a commercial pilot in Latin  
19 America?

20 A. Yes.

21 Q. As well, were you likewise a private pilot in Latin  
22 America?

23 A. Yes.

24 Q. In Latin America, during the 1970s, did you frequently  
25 have occasion to fly Nicaragua Sandinistas to other Latin

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DIRECT - JULIO ROMERO

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1 American countries?

2 MR. EISENBRANDT: Objection, leading.

3 THE COURT: Objection is overruled. Doesn't  
4 suggest the answer.

5 A. I had Sandinista passengers, not from Nicaragua, but  
6 from Costa Rica towards other countries, particularly in south  
7 America.

8 BY MR. BROOKE:

9 Q. In January of 1981, did you receive a phone call  
10 requesting the rescue of some persons in El Salvador?

11 A. Approximately on January the 20th of 1981, some  
12 officials -- high ranking officials of the Nicaraguan  
13 government appeared around midnight at my house requesting  
14 that I fly from Managua to El Salvador to a point in El  
15 Salvador to rescue three seriously wounded persons.

16 Q. Were the persons you were to rescue part of the  
17 guerrillas?

18 A. Yes.

19 MR. BROOKE: If I may approach the stand, Your  
20 Honor.

21 THE COURT: You may.

22 BY MR. BROOKE:

23 Q. Sir, at my request, did you draw for me an outline of a  
24 little bit of a map of the areas we are talking about?

25 A. Well, that is not exactly the geographical

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DIRECT - JULIO ROMERO

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1 distribution, may I step up?

2 Q. Yes, yes, please.

3 THE COURT: I thought we had a map earlier that  
4 you had.

5 MR. BROOKE: We did have one. I don't know if  
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6 it has been marked as an exhibit.

7 THE COURT: And, of course, we can make it any  
8 size you would like.

9 BY MR. BROOKE:

10 Q. Thank you. In order to fly the mission, am I correct  
11 that you were flying from Managua, Nicaragua?

12 A. Yes.

13 Q. And were you flying to the area of the battle line of  
14 the main offensive between the guerillas and the military army  
15 of El Salvador?

16 MR. EISENBRANDT: Objection, leading.

17 THE COURT: That is leading. Objection  
18 sustained.

19 BY MR. BROOKE:

20 Q. Will you tell us where you were to fly to?

21 A. Taking off from Managua and flying over to the place I  
22 have marked next to the Lempa River.

23 Q. Was there a battle going on in that area?

24 A. Very well. There was a fire line or the battle line on  
25 the territory dominated by the armed forces and the territory

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DIRECT - JULIO ROMERO

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1 dominated by the guerillas.

2 Q. And did you land -- successfully land your plane?

3 A. Yes.

4 Q. And would you tell the jury what happened then?

5 A. An aircraft from the Salvadoran aircraft destroyed my

6 aircraft while it was on the ground at the moment that two of  
7 the wounded persons were boarding.

8 Q. Were there boxes, large boxes in the area of your  
9 aircraft?

10 A. Yes, the official pilot on the airplane that destroyed  
11 my aircraft, once that I was already a prisoner at the Air  
12 Force offices, he explained to me that he realized that my  
13 plane was on the ground. Because of several very large  
14 parachutes and that was --

15 MR. EISENBRANDT: Objection, Your Honor, this  
16 is hearsay.

17 THE COURT: Objection sustained.

18 BY MR. BROOKE:

19 Q. What was in the boxes?

20 A. The pilot of the other plane told me that these --

21 MR. EISENBRANDT: Objection, hearsay.

22 BY MR. BROOKE:

23 Q. You can't testify --

24 THE COURT: Right, that would be a statement  
25 that would not be admissible under the exception that has

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DIRECT - JULIO ROMERO

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1 been cited at this point. Objection has to be sustained.

2 BY MR. BROOKE:

3 Q. What type of airplane had you flown to this location?

4 A. A small twin engine five place aircraft.

5 Q. And did you flee after your plane had been destroyed?

6 A. Yes.

7 Q. And did you hide with the guerillas?  
8 A. Yes.  
9 Q. And did you later get captured by the El Salvador  
10 military?  
11 A. Ten hours later.  
12 Q. And then for the next several years, were you  
13 imprisoned at various prisons and jails in El Salvador?  
14 A. Yes.  
15 Q. Did those facilities include facilities operated by the  
16 air force, the national guard, national police and finally the  
17 treasury police?  
18 A. Yes, up until four years.  
19 Q. And did you learn that there was a new director or new  
20 chief of the treasury police?  
21 A. Yes, almost four years later.  
22 Q. And what did you do at that time?  
23 A. I let the new director of the treasury police know as a  
24 request that it was already time to stop the inhuman  
25 treatment, absolutely terrifying, denying me all sorts of

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DIRECT - JULIO ROMERO

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1 rights, and I said that -- I requested that I be treated like  
2 a human being. That is all.  
3 BY MR. BROOKE:  
4 Q. Did you then have the opportunity to meet Mr. Carranza?  
5 A. Yes, I did, and different to the other directors, the  
6 other previous directors of that military corps, Mr. Carranza

7 paid attention to my words. He improved my immediate  
8 condition in reclusion. He went to see me and to tell me to  
9 trust that I could call my family, whom I had almost three  
10 years of not seeing so that they could have contact with me,  
11 making himself responsible and guaranteeing that my family  
12 would not be attacked or persecuted as they had been up to  
13 that moment. He allowed me to get in touch with my country's  
14 ambassador, and between all three of us, we called my wife in  
15 Costa Rica, and then I was able to see her after almost three  
16 years. After that, the treatment I received improved  
17 remarkably. And a few weeks after that, at long last, at long  
18 last after so many years, my request was fulfilled in the  
19 sense that if I had to continue in imprisonment that I could  
20 be at another prison where I might have contact with other  
21 human beings and where my family could come without the  
22 restrictions that I had had up to that moment at the Finest  
23 Police -- at the treasury police, rather. That to me  
24 represented, once all it was done, it was living again.  
25 Q. From your observations, sir, what general conditions in

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DIRECT - JULIO ROMERO

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1 the premises or the facility were made when Colonel Carranza  
2 became the new director of the treasury police?

3 A. In the few hours during which I was able to observe  
4 after my petition, I saw that there was a cleanup. There was  
5 an improvement in the physical conditions of the cells that up  
6 to that moment had been under the treasury police, but I was  
7 not able to see much more because I was transferred from a

8 cell -- from that cell to a room with different conditions in  
9 which I stayed for a few weeks, and then I was transferred  
10 from the treasury police to the jail in Santa Ana.

11 Q. When Colonel Carranza met you, sir, what was your body  
12 weight?

13 A. Close to 100 pounds, perhaps.

14 Q. And can you tell the jury how much you weigh today?

15 A. I am a bit fat, 170 something.

16 Q. Since -- how many total years did you spend in prison  
17 or jails in El Salvador, sir?

18 A. Five years.

19 Q. And since returning to Costa Rica, you and your family  
20 now operate a restaurant?

21 A. Yes.

22 Q. And how is it that you learned of this trial or  
23 Mr. Carranza having becoming involved in a trial?

24 A. A politician -- through a politician in Costa Rica,  
25 Colonel Carranza got in touch with me to find out whether I

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DIRECT - JULIO ROMERO

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1 would be willing to have a conversation with him. I responded  
2 affirmatively, then he went to Costa Rica and explained to me  
3 the situation, asking me whether I wanted to tell that part of  
4 my story in El Salvador, that part which -- of which he and I  
5 were the stars, each one at a different end; and after some  
6 days of talking it over with my family and remembering the  
7 moments of approximately 21 years ago I was living at the

8 treasury police where neither my government, nor human rights,  
9 nor the International Red Cross had been able to rescue me  
10 from that terror, from that trampling of my rights, from that  
11 denial to a due process. When my family and I appraised that,  
12 we appraised Mr. Carranza's actions positively, whom in spite  
13 of belonging to the armed forces and that government, put me  
14 in a different position, and I believe that he not only saved  
15 my life with that action, but also did a lot of good to my  
16 wife, my children and to my parents who in those days were  
17 still alive and were suffering very much due to the condition  
18 I was imprisoned in.

19

20 Q. Between the time you left incarceration or prison in El  
21 Salvador, have you had any communication with Mr. Carranza any  
22 time prior to the last several months?

23 A. No.

24 MR. BROOKE: Thank you very much, sir.

25 THE COURT: Cross examination?

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DIRECT - JULIO ROMERO

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1 MR. EISENBRANDT: Mr. Warren, could you  
2 possibly move that?

3 CROSS EXAMINATION

4 BY MR. EISENBRANDT:

5 Q. Good afternoon, Mr. Romero.

6 A. Good afternoon.

7 Q. It was in January of 1981 when you were captured?

8 A. Yes.

9 Q. You said that the Salvadoran air force destroyed your  
10 plane at that time?

11 A. Yes.

12 Q. And that was while you were rescuing three wounded  
13 people?

14 A. Yes.

15 Q. And you testified that there were two wounded people  
16 being boarded at the time that the Salvadoran air force  
17 destroyed your plane?

18 MR. EISENBRANDT: At the time that, counsel,  
19 that the --

20 BY MR. EISENBRANDT:

21 Q. That the Salvadoran air force destroyed your plane.

22 A. Yes.

23 Q. Did you have a weapon on you when you landed in the  
24 plane?

25 A. No.

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CROSS - JULIO ROMERO

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1 Q. When you were arrested by the Salvadoran military, what  
2 crime were you charged with?

3 A. In a military court that was convened approximately a  
4 year and a half after my capture, I was accused of seduction  
5 and conspiracy or something like that, and I was convicted to  
6 serve 25 years imprisonment mainly in a maximum security  
7 prison.

8 Q. And during that military court process, you had a

9 lawyer?  
10 THE INTERPRETER: The interpreter requests  
11 permission to consult with the witness on the use of an  
12 expression.  
13 THE COURT: You may.  
14 (The interpreter conferred with the witness.)  
15 THE INTERPRETER: The interpreter has consulted  
16 with the witness and will respond now.  
17 A. Yes, kind of a dummy who could not speak, nor defend  
18 me.  
19 BY MR. EISENBRANDT:  
20 Q. And that was a year and a half after you were captured?  
21 A. Yes.  
22 Q. I just want to make sure that I have clear the order,  
23 you were at the national guard, the national police and the  
24 treasury police, is that correct?  
25 A. First, at the air force.

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CROSS - JULIO ROMERO

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1 Q. And then which one was next?  
2 A. 1981.  
3 Q. I'm sorry, sir, I just meant after you were detained by  
4 the Air Force, then where were you taken?  
5 A. I was a prisoner first of the army, and then after  
6 that, I was transferred to the air force, and from then on,  
7 you have the order correct.  
8 Q. Do you remember at all when you got to the treasury  
9 police the first time?

10 A. It is difficult to pinpoint it, but it was some weeks  
11 later, perhaps six weeks.

12 Q. So just approximately it would have still been in 1981  
13 that you were taken to the treasury police?

14 A. Oh, yes.

15 Q. And then you were at the treasury police until about  
16 1984?

17 A. End of '83 or beginning of '84.

18 Q. In your early days at the treasury police, you were  
19 tortured, weren't you?

20 THE INTERPRETER: The interpreter requests  
21 counsel to repeat the question.

22 BY MR. EISENBRANDT:

23 Q. In your early days at the treasury police, you were  
24 tortured, weren't you?

25 A. Yes.

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CROSS - JULIO ROMERO

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1 Q. You were tortured over a period of many weeks, weren't  
2 you?

3 A. No.

4 Q. How much time -- during what period of time were you  
5 tortured?

6 A. I think it was during the first two days, the men were  
7 talking physically, and then continuously until the end of my  
8 third year of reclusion in an emotional psychological manner.

9 Q. What do you mean by tortured in a psychological manner?

10 A. Well, indefinite reclusion is in and of itself a  
11 psychological and emotional burden. The denial of the right  
12 to a defense is psychological torture. Knowing that my  
13 family, and particularly my wife, when she attempted to visit  
14 me, she was harassed, harassed wherever she lodged, in the  
15 hotels where she lodged. She was under tremendous  
16 persecution, sexual harassment. Not being able to see her, to  
17 see my children because I was in that type of reclusion,  
18 because she had to enter an armed institution, not a penal  
19 institution, that is part of the emotional and psychological  
20 burden to be a prisoner with no contact with other human  
21 beings, totally isolated, in total isolation many times with  
22 only the light from one bulb. The weight of thoughts, you can  
23 also touch them. That is psychological torture.  
24 Q. And you testified that that occurred until the end of  
25 your third year in prison?

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CROSS - JULIO ROMERO

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1 A. To be exact, to be fair and to be very clear, this  
2 happened up and until Mr. Nicolas Carranza, ex-colonel from  
3 that armed institution arrived and proceeded to act as I have  
4 stated earlier.  
5 Q. Sir, you were captured on January 25th, 1981, correct?  
6 A. I am unsure. Up until now, I thought it had been the  
7 20th or 21st of January.  
8 Q. Were you physically tortured in the days immediately  
9 after your capture?  
10 A. Upon the night of my capture in Usulután, on the night

11 of my capture in Usulután, after that at the national police,  
12 after that -- I'm sorry, let's do this in order. First,  
13 Usulután, national guard, national police, and during the  
14 first two days at the treasury police. We are speaking of  
15 some weeks.

16 Q. When you were first tortured in Usulután, what did they  
17 do to you?

18 A. Beatings, water troths, magnetos, electricity, that.

19 Q. What do you mean by water troths?

20 A. In those towns, they usually have these large -- well,  
21 it is to collect water for washing your clothes, they have  
22 these large water fountains type things, and they shove your  
23 head in there, they hold you down until you swallow water and  
24 you have trouble with your breathing.

25 Q. And then how did they torture at the national guard?

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CROSS - JULIO ROMERO

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1 A. Much of the same with special emphasis on not allowing  
2 me to sleep and applying the electric magnetos.

3 Q. How did they torture at the national police?

4 A. There was no electromagnetism, less beatings, but there  
5 was a psychological attack that was deeper.

6 Q. What do you mean by that?

7 A. Well, using words to create terror in you. Values are  
8 attacked, such as the family that comes to visit you, your  
9 destiny, the destiny you might meet amongst them,  
10 disappearance and death.

11 THE COURT: We need to go ahead and take our  
12 break at this time. We will make it 20 minutes. We will  
13 come back in 20 minutes. Don't discuss the case among  
14 yourselves. Don't let anybody talk with you about it. We  
15 will see you in 20 minutes. We will let y'all be excused.

16 (Recess taken.)

17 THE COURT: We can come back in and we can  
18 bring the jury back in. I think we're all set, we will  
19 have the witness come back around. Joe, we will get  
20 everybody situated.

21 Mr. Brooke, are we doing okay on our time? Are  
22 we going to be able to get to Mr. Carranza's testimony  
23 tomorrow?

24 MR. FARGARSON: Oh, yes, sir.

25 THE COURT: I mean are we likely to -- are we

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CROSS - JULIO ROMERO

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1 doing okay on our time?

2 MR. FARGARSON: Yes, sir, I think we will get  
3 through with -- well, I mean, depending on cross  
4 examination, but we probably will get through.

5 THE COURT: Okay. Might even finish all of our  
6 proof tomorrow?

7 MR. FARGARSON: I think so.

8 THE COURT: Okay. And, Joe, will you have them  
9 go ahead and send out that set of instructions that has  
10 been put together so y'all can look at them over the  
11 evening?

12 MR. BROOKE: Your Honor, can we inquire --

13 THE COURT: I'm mindful that Mr. Fargarson has  
14 made me aware that he needs to leave by 5:00 o'clock to  
15 get your things done, is that accurate?

16 MR. FARGARSON: That's right.

17 THE COURT: So we're going to do that. I'm now  
18 much more attuned with the obligations that you have.  
19 We're going to do that.

20 MR. BROOKE: As to tomorrow, Your Honor, could  
21 we plan the final argument would take place Monday  
22 morning?

23 THE COURT: Oh, definitely, definitely.

24 MR. BROOKE: So we don't have to try and get  
25 that ready.

♀

CROSS - JULIO ROMERO

1350

1 THE COURT: I don't think there's any chance  
2 that we would get through the cross examination -- I'm  
3 assuming that it is likely that Mr. Carranza may testify?

4 MR. BROOKE: Sure.

5 MR. FARGARSON: Oh, yeah.

6 THE COURT: Is that a reasonable expectation  
7 that we will do that on Monday morning?

8 MR. EISENBRANDT: Yes, sir, I think we would  
9 all prefer to do closing on Monday.

10 THE COURT: If all of you prefer that, we will  
11 definitely do that.

12 MR. BROOKE: As a matter of inquiry, Your  
13 Honor, before the final arguments, since we have got so  
14 many documents and witnesses and --

15 THE COURT: Sure.

16 MR. BROOKE: -- would it be appropriate that we  
17 consider -- that we can split the argument?

18 THE COURT: Sure. If they want to split theirs  
19 and you want to split yours, we allow it. Now, we do  
20 impose some general time limit. It is not an invitation  
21 to double the argument.

22 MR. BROOKE: Right.

23 THE COURT: But rather to divide the  
24 responsibility.

25 MR. BROOKE: Thank you.

♀

CROSS - JULIO ROMERO

1351

1 THE COURT: If both sides would like to do  
2 that, that's fine. But we need to -- I need to know about  
3 the amount of time. I would assume that neither side  
4 would under any circumstance in close take more than 90  
5 minutes. That's a long, long close. An hour is a long  
6 close, so I mean I would expect no one would take more  
7 than 90 minutes. Hopefully, it would be considerably  
8 shorter, is that your thought?

9 MR. BROOKE: I think 90 minutes will be --

10 MR. FARGARSON: If you talk over an hour,  
11 you're talking to yourself. That's usually my philosophy.  
12 You end up talking to yourself.

13 THE COURT: I think that's really an accurate  
14 observation. It is a long time unless it is an  
15 extraordinarily complex case. That will be fine. We will  
16 shoot toward an hour, hour and ten minute timeframes,  
17 and -- okay, we're all set.

18 MS. BLUM: Your Honor, would you -- then  
19 tomorrow, if need be, we will discuss any issues on the  
20 jury instructions?

21 THE COURT: Yes, and they're going to give out  
22 a revised set, which I have only skimmed through. We have  
23 had discussions about it, and I may have still one or two  
24 things that we have not changed, but I think giving it to  
25 you over the evening is probably helpful. Sure. And I

♀

CROSS - JULIO ROMERO

1352

1 will try to -- Joe, I will take a look at it. I think  
2 we're all set. And I'm going to tell the jury what we're  
3 going to be doing.

4 (Jury in at 3:58 p.m.)

5 THE COURT: All right. Everybody can be  
6 seated. We have gone over the schedule, and this is what  
7 it looks like is going to occur in all likelihood.  
8 There's nothing certain, but this is likely to be the  
9 schedule. We're going to stay until about 5:00 o'clock  
10 tonight, that a good time to break. It does wear you out,  
11 all of us, my staff too. We need -- we will come back in  
12 on the schedule we had this morning, I think that is going

13 to work for you. You were all able to get in all right,  
14 so that's great, and we're going to finish the proof  
15 tomorrow in all likelihood. It could be that we don't  
16 quite, but we hope we will. We will plan on final --  
17 well, closing arguments for Monday morning more than  
18 likely, and final instructions at the close of closing  
19 arguments. And, of course, you will get a written set of  
20 final instructions. So sometime by the end of day on  
21 Monday, perhaps earlier than that. That's our schedule.  
22 So we're actually doing, as you can see, much better in  
23 terms of time than we at one point thought we were doing  
24 or might be doing. So I wanted to let y'all know that.  
25 Of course, you get Friday off.

♀

CROSS - JULIO ROMERO

1353

1 Counsel may proceed with the examination of the  
2 witness.

3 MR. EISENBRANDT: Thank you, Your Honor.

4 BY MR. EISENBRANDT:

5 Q. Mr. Romero, while you were in prison, where did your  
6 family live?

7 A. At the treasury police, the Santa Ana prison, Mari ono  
8 in San Salvador.

9 Q. I'm sorry, sir, maybe I messed up on the question. I  
10 was wondering where your family lived.

11 A. Costa Rica.

12 Q. Now, before the break, you testified that you were at  
13 both the national guard and the national police. Would

14 those -- were both those in Usulután or in San Salvador?  
15 A. No, Usulután, we can say that was the battle zone, and  
16 that's where I was taken prisoner. The national police, the  
17 national guard, the treasury police are located at the capital  
18 city in San Salvador.  
19 Q. You mentioned that at the national guard you were  
20 tortured, you made reference to electromagnetic torture, is  
21 that the same thing as electrical shock?  
22 A. I'm not sure.  
23 Q. Did they attach wires to your hands?  
24 A. Yes, the hands, the ears, my anus and my testicles.  
25 Q. And then they ran electrical current through those

♀

CROSS - JULIO ROMERO

1354

1 wires?  
2 A. Yes. Let me explain.  
3 Q. Go right ahead, sir.  
4 A. They use two or three terminals, wires, terminals.  
5 They placed them in the places where they want to put them,  
6 and then they turn an apparatus by using a handle, and that  
7 generates electromagnetic shocks, if that is descriptive for  
8 you.  
9 Q. At the treasury police headquarters, what kind of a  
10 cell were you first put in?  
11 A. In an isolated cell that was in -- it was a place that  
12 was in very bad shape where I was visited by day and by night  
13 so that they could ask me questions and pressure me, emotional

14 pressure that cause you fear, cause you terror.

15 Q. And these people who did this, how were they dressed?

16 A. Sometimes military clothing, sometimes civilian  
17 clothing.

18 Q. When you were in this cell in bad conditions, how did  
19 they physically torture you?

20 A. Usually it's beatings while you have your -- while  
21 you're blindfolded, while you have your thumbs tied together  
22 behind you, while you have your big toes tied together. And  
23 under these conditions at the treasury police, after having  
24 gone through all the other police agencies, the physical  
25 punishment was maybe not that much, but whatever I got would

‡

CROSS - JULIO ROMERO

1355

1 multiply as a result of the state of terror that at that time  
2 was several weeks, the state of terror that had already taken  
3 over me, that takes over every person who goes through that.

4 Q. The physical beatings that you described, you say those  
5 lasted for two days?

6 A. The last time at the treasury police.

7 Q. Yes. That lasted two days?

8 A. Uh-huh, yes.

9 Q. Now, did you after those -- excuse me, let me start  
10 over, sir, I'm sorry. The place where you were tortured, was  
11 that different than the place where you were taken when they  
12 weren't torturing you?

13 A. It was another place. Usually they blindfold you, they  
14 take you out of the place where you're being held, and they

15 take you to a special place where you are interrogated.  
16 Q. And then you said that for a long period of time at the  
17 treasury police, you were in an isolation cell?  
18 A. Yes.  
19 Q. What kind of mental condition were you in during that  
20 time in the isolation cell?  
21 A. It's difficult to explain it, but I was very bad, I did  
22 not know if I was sane or whether I was truly crazy.  
23 Q. Mr. Romero, you have talked about different treasury  
24 police directors, did you have direct contact with directors  
25 of the treasury police?

♀

CROSS - JULIO ROMERO

1356

1 A. Yes.  
2 Q. Who was the first director that you had contact with?  
3 A. I remember a name Moran. There was another one at some  
4 point, I don't remember the name, and the last director was  
5 Colonel Carranza.  
6 Q. Tell us what happened in your interaction with  
7 Mr. Moran.  
8 A. Terror.  
9 Q. What happened in your interaction with him that caused  
10 you terror?  
11 A. Everything, absolutely everything.  
12 Q. He threatened you?  
13 A. Yes.  
14 Q. He hit you?

- 15 A. Not personally.
- 16 Q. He ordered others to hit you?
- 17 A. During the days that I mentioned at the beginning two  
18 days, he had an officer, a nephew who would -- who had the  
19 practice of beating me whenever -- whenever it occurs to him,  
20 whenever he saw me, whenever he came by my -- he came close by  
21 my cell. This happened two, three times.
- 22 Q. Do you know what his --
- 23 A. And it was one of the instruments through which he  
24 would cause me terror. He also had the surname Moran.
- 25 Q. Do you know what the first name of that man was?

♀

CROSS - JULIO ROMERO

1357

- 1 A. No.
- 2 Q. Did you personally see or talk to Mr. Moran, the  
3 director?
- 4 A. On some occasion.
- 5 Q. What did he say to you?
- 6 A. I was visited several times by high ranking  
7 representatives of my government -- of the government of my  
8 country, the interpreter corrects himself. And on some  
9 occasion, he had me called to his office to give me certain  
10 warnings before I was to speak with those diplomatic  
11 gentlemen.
- 12 Q. What kind of warnings did he give you?
- 13 A. That I should speak in such a manner that would not  
14 provide me with consequences after they had concluded the  
15 visit.

- 16 Q. And when you met with these officials, did you say  
17 anything about your torture?  
18 A. Yes, a little. Yes, of course.  
19 Q. Did you always tell them about your torture every time  
20 you met?  
21 A. Almost always. In addition, it was evident.  
22 Q. You met in May of 1983 with two Costa Rican officials,  
23 didn't you?  
24 A. I don't know, I could not say. I do not recall.  
25 Q. Do you recall the names Eckhart Peters and Carlos Jose

‡

CROSS - JULIO ROMERO

1358

- 1 Gutierrez?  
2 A. I know Carlos Gutierrez. I've heard of Eckhart Peters,  
3 but I do not recall Eckhart Peters visiting me.  
4 Q. And Mr. Gutierrez was in the foreign ministry of Costa  
5 Rica?  
6 A. Yes, something like that, the ministry or the  
7 vice-minister, I am not sure.  
8 Q. And Mr. Gutierrez visited you at the treasury police?  
9 A. Yes.  
10 Q. You described earlier the petition that you made for  
11 better treatment after your torture, you made that petition  
12 directly to Colonel Carranza?  
13 THE INTERPRETER: The interpreter requests that  
14 counsel please repeat the question.  
15 MR. EISENBRANDT: Certainly.

16 BY MR. EISENBRANDT:  
17 Q. You referred earlier to a petition that you made at the  
18 treasury police for better treatment, that petition you made  
19 directly to Colonel Carranza?  
20 A. Yes.  
21 Q. And you met with him to make that petition?  
22 A. Yes.  
23 Q. You were then transferred to the Santa Ana prison, is  
24 that right?  
25 A. A few weeks after Mr. Carranza started as the director

♀

CROSS - JULIO ROMERO

1359

1 of the treasury police, he personally transferred me to the  
2 Santa Ana prison.  
3 Q. But first within the treasury police, you were  
4 transferred to a separate room from your previous cell?  
5 A. Yes.  
6 Q. And that room was not near the cell where you had been  
7 held?  
8 A. It was a room that belonged to an officer, and they  
9 took him out, and it was turned over to me precisely so that I  
10 could receive my family, my wife.  
11 Q. And how long did you stay in that room?  
12 A. A very few weeks until the moment when I was  
13 transferred to Santa Ana.  
14 Q. After you were transferred to Santa Ana, did you meet  
15 with any member of the treasury police to talk about your  
16 torture?

17 A. Not at Santa Ana. In Mariona. I was held not with the  
18 political prisoners, but with certain police officers and  
19 members of the army who had been internationally accused of  
20 assassinations. There were people who had mistreated me and  
21 tortured me at the treasury police who were the -- who were  
22 Colonel Moran's trusted people, and there were three who were  
23 accused of the assassination of the nuns, an event which I  
24 believe took place in 1980.

25 Q. Do you remember any of their names?

♀

CROSS - JULIO ROMERO

1360

1 A. Only one. Palacios.  
2 Q. But they weren't investigating your torture, were they?  
3 A. No, they were prisoners. I think it was human rights  
4 had leveled charged against them, and they were put in prison.  
5 I'm referring to the people from the treasury police. The  
6 nuns' assassins were also in the same place where I was.  
7 Q. Did any official from the Salvadoran government come to  
8 visit you to interview you about your torture?  
9 A. No.  
10 Q. Were you ever asked to testify in a disciplinary  
11 hearing or court-martial about your torture?  
12 A. Excuse me, I don't know. Before or after I was a  
13 prisoner?  
14 Q. After you had left, at any time after you left the  
15 treasury police.  
16 A. While I was in El Salvador?

17 Q. Yes.

18 A. No.

19 Q. During that time, after you had left the treasury  
20 police but were still in El Salvador, were you ever asked by a  
21 government official to write a report about your torture?

22 A. No.

23 MR. EISENBRANDT: Thank you, sir. I have no  
24 more questions.

25 THE COURT: Redirect.

†

REDIRECT - JULIO ROMERO

1361

1 REDIRECT EXAMINATION

2 BY MR. BROOKE:

3 Q. Sir, how far was the battle zone area where you landed  
4 your plane from the city of San Salvador?

5 A. In a straight line, approximately 25 miles.

6 Q. And the charges that were made against you for which  
7 you received a 25-year sentence, did those involve the  
8 contents of the six large boxes near your plane?

9 A. Definitely.

10 Q. And you had a dumb lawyer?

11 THE INTERPRETER: The interpreter requests  
12 counsel to clarify the question.

13 BY MR. BROOKE:

14 Q. And at your hearing, you had a dumb lawyer?

15 THE COURT: Would you explain what you mean by  
16 dumb because it can have different --

17 THE INTERPRETER: Is counsel referring to mute  
Page 101

18 or lacking in intelligence?

19 THE COURT: Correct.

20 MR. BROOKE: Okay.

21 BY MR. BROOKE:

22 Q. A dummy lawyer.

23 THE COURT: I think you mean lacking in  
24 intelligence.

25 BY MR. BROOKE:

♀

REDIRECT - JULIO ROMERO

1362

1 Q. Lacking in intelligence. I'm going with his word.

2 Lacking in intelligence lawyer.

3 A. I think he had intelligence and considerable  
4 knowledgeable, but not to defend me in this case. He  
5 couldn't.

6 Q. At any time after you learned that Mr. Carranza had  
7 become the director of the treasury police, did you receive  
8 any torture?

9 A. No, no. That is the reason why I'm here. I'm -- which  
10 is to say everything changed positively when he received the  
11 treasury police. That is my history, that's what happened.

12 Q. And did Colonel Carranza allow you to have visitation  
13 with your wife?

14 A. Yes, I said so before.

15 Q. And what was the name of the facility or the prison at  
16 which you were where the police officers and members of the  
17 military who had committed human rights violations were

18 incarcerated or jailed with you?  
19 A. Are you referring to Mariana?  
20 Q. I want to find out the name of the prison or jail where  
21 the human rights police officers or military personnel were  
22 imprisoned.  
23 A. Mariana.  
24 MR. BROOKE: Thank you very much, sir.  
25 THE COURT: Thank you very much. You may step

♀

REDIRECT - JULIO ROMERO

1363

1 down.  
2 (Witness excused.)  
3 THE COURT: Who will our next witness be?  
4 MR. DEFENDANT: Your Honor, the defense calls  
5 Mr. Carranza.  
6 THE COURT: All right. If he would step around  
7 to the podium and raise his right hand.  
8 THE CLERK: Do you solemnly swear the testimony  
9 you are about to give the court and jury in this matter to  
10 be the truth, the whole truth and nothing but the truth,  
11 so help you God?  
12 THE WITNESS: Yes, sir, I do.  
13 THE CLERK: You may take the witness stand.  
14  
15  
16  
17  
18

19  
20  
21  
22  
23  
24  
25

♀

DIRECT - NICOLAS CARRANZA

1364

1                                   NICOLAS CARRANZA,  
2 was thereupon called as a witness on behalf of the  
3 Defendant, and having been first duly sworn, was  
4 examined and testified as follows:  
5                                   DIRECT EXAMINATION  
6 BY MR. FARGARSON:  
7 Q.       Tell the court and jury your full name.  
8 A.       My name is Nicolas Carranza.  
9 Q.       Tell us your age, please.  
10 A.       I'm 7 -- almost 73 years old.  
11 Q.       And where do you live?  
12 A.       I live in Memphis at 6530 Red Birch Drive, Memphis  
13 38115.  
14 Q.       And how long have you lived here in Memphis, Tennessee?  
15 A.       I have lived here since the 25th of March, 1986. I  
16 have been 20 years here.  
17 Q.       And what is your status as a resident of the United  
18 States?

- 19 A. I'm a citizen since 1991.
- 20 Q. And where did you live prior to coming to the United
- 21 States?
- 22 A. Excuse me?
- 23 Q. Where did you live prior to coming to the United
- 24 States?
- 25 A. For a short period, I was in Mexico before I had to

♀

DIRECT - NICOLAS CARRANZA

1365

- 1 transfer to come here in order to become a legal resident.
- 2 Q. And that short period of time that you were in Mexico
- 3 was approximately how long?
- 4 A. Three months established by the law that I had to be
- 5 out of the United States in order to come back and receive the
- 6 card of legal resident.
- 7 Q. And where did you live in Mexico in the three months
- 8 that you were in Mexico?
- 9 A. I was living in Guadalajara.
- 10 Q. Tell us whether you're married or not.
- 11 A. Excuse me?
- 12 Q. Are you married? Do you have a wife?
- 13 A. Yes, sir, I am married, happily.
- 14 Q. And how long have you been married?
- 15 A. Since 1958, 47 years.
- 16 Q. And what is your wife's name?
- 17 A. My wife's name is Norma Elizabeth Carranza.
- 18 Q. Do you have a family, do you and Norma have children?
- 19 A. Yes, sir, we have five children. Victor Manuel, Maria

20 Teresa, Norma Elizabeth, Connie Anococella and Claudia Hel dena  
21 (spelled phonetically).

22 Q. Do you have any children that live in Memphis,  
23 Tennessee?

24 A. Yes, sir, two of them are living here. The youngest  
25 and the oldest.

♀

DIRECT - NICOLAS CARRANZA

1366

1 Q. Is that the reason you came to Memphis, Tennessee that  
2 you had family here?

3 A. Yes, sir, because she was here, but because mainly of  
4 the friendly people of Memphis -- of Tennessee, because I make  
5 different visits to the United States. I was in Washington,  
6 D. C., I was in Miami, I made a little -- I was a little bit  
7 in New Orleans, I was sometime in Los Angeles, California, but  
8 decided -- I decided to remain here in Memphis.

9 Q. Well, you mentioned a number of cities that you have  
10 either been in or visited or had family in, what was the  
11 reason for all of those visits that you were speaking of to  
12 Washington, New Orleans, Miami and Los Angeles or wherever  
13 else it was?

14 A. We were trying to find a better place to live. We  
15 found sometimes some kind of discrimination certain parts.  
16 Sometimes the city was too much -- too large, and so we  
17 decided to remain in Memphis.

18 Q. And when you came to Memphis, did you obtain any type  
19 of employment or work?

20 A. At the very beginning, no, sir, because I have some  
21 kind of salary from El Salvador, but later I -- when I retired  
22 from there, I needed some money and I began working here at  
23 different places.

24 Q. What is the first work you engaged in or the first  
25 types of work that you did when you came to Memphis.

†

DIRECT - NICOLAS CARRANZA

1367

1 A. I got a license of real estate, I was working as a  
2 realtor for a couple of years with Mr. Tom Bradford, an  
3 excellent realtor, and -- for a couple of years, and then  
4 after that, I found my -- maybe my language, my way of  
5 speaking at the time was not so fluent and people did not give  
6 me too much credit, and I had to leave that for awhile.

7 Q. What did you do following being involved in real  
8 estate?

9 A. I found out with a friend of mine that there was a  
10 vacancy in the security officers of the Brooks Museum Park. I  
11 made an application, I went to talk to the chief of security,  
12 and I got the job.

13 Q. And when you got a job at the Brooks Art Gallery in  
14 security, what was the first job that you had in that area of  
15 the Brooks Art Gallery work?

16 A. The first job I had was security, I was security guard  
17 taking care of the security of the precious pieces of art that  
18 the museum has.

19 Q. Approximately when was that, Mr. Carranza, that you  
20 were employed first at Brooks Art Gallery?

- 21 A. I think it was around 1991.
- 22 Q. And then after being a security guard to guard the art,  
23 did you get any type of promotion or advancement?
- 24 A. Sir, I was having a change with work, and after that, I  
25 went to the next step was to be a consultant operator. Consultant

♀

DIRECT - NICOLAS CARRANZA

1368

- 1 operator, it is security system in which you see, you have to  
2 watch the entrance to the museum, you have to assist them,  
3 turn the system with cameras that we were able to watch all  
4 the pieces of art that were there at the museum. And we had a  
5 radio system to communicate with the guards so they could  
6 locate any person that would be suspicious to touch any of the  
7 pieces, which we are instructed not to let the people because  
8 they damage the material, and we were able in that way to  
9 protect the treasure of the Memphis Brooks Museum. After a  
10 short period, there was a vacancy of supervisor, and I got the  
11 promotion also. So --
- 12 Q. You got a promotion?
- 13 A. It was -- every change of play was a promotion, sir.
- 14 Q. So when you got a promotion -- did you mention you got  
15 a promotion to supervisor?
- 16 A. Yes, sir, I became the supervisor.
- 17 Q. And then what did you do there?
- 18 A. After that, there was a chance of becoming part of the  
19 security second shift where the person that was in that place  
20 resigned, and I was selected to occupy that place. Later --

- 21 Q. What about following that?  
22 A. Excuse me?  
23 Q. What about following that, did you get any other  
24 promotions?  
25 A. Yes, sir. Yes, sir. The chief of security resign

♀

DIRECT - NICOLAS CARRANZA

1369

- 1 also, and then I became the chief of security.  
2 Q. And what did you do as chief of security?  
3 A. Well, I had to supervise everything, concerning making  
4 appointments of possible new members of the security system.  
5 It was more supervision with of -- with all the security  
6 system.  
7 Q. And are you still employed at the Brooks Art Gallery in  
8 any capacity at all?  
9 A. No, sir, after being chief of security, that was kind  
10 of a promotion also because there was a place in which I had  
11 to take care of the -- all the facilities of the museum.  
12 There was, I should explain, I don't remember the name of the  
13 post, but I was in charge of assuring that the equipment of  
14 the museum who was the basis for the security and not only  
15 security of the museum could not be damaged and there could be  
16 a repeat in time, sometimes replaced, and I was in  
17 coordination with the office from the city that controls the  
18 budget because they had to make the recommendation about  
19 expenditures they had to do in order to maintain always the  
20 conditions that the museum pieces of art needed in order not  
21 to be deteriorated.

22 Q. And so, again, let me ask you, are you now employed at  
23 the Brooks Art Gallery?

24 A. No, sir, I retired after the little more than ten years  
25 of working over there. In 2001, I think, I retired from them.

†

DIRECT - NICOLAS CARRANZA

1370

1 Q. Okay. And have you had any other employment or jobs  
2 since that time?

3 A. No, sir, I have been taking care -- well, it's kind of  
4 employment, but I have been taking care of my grandkids,  
5 taking them to the school, helping my daughters to be able to  
6 work and helping them to raise their kids, taking care of  
7 their kids also. Otherwise, taking care of the house, you  
8 know, the family jobs, the family chores, taking the garbage  
9 out, mowing the yard, fixing the walls, painting, something  
10 with that, that's my business.

11 Q. And you mentioned grandchildren, how many grandchildren  
12 do you have here in Memphis?

13 A. Here in Memphis, I have seven. Four, the oldest  
14 daughter, and three from the youngest daughter.

15 Q. And your wife Norma, is she employed?

16 A. Well, she have the most paramount work, which is being  
17 the housewife.

18 Q. Okay.

19 A. Yeah, that's what she does, and she takes care of me  
20 besides the home.

21 Q. Now, we've talked about mainly since you have been in

22 Memphis. Now, I want to take you back to El Salvador where  
23 you came from, and let's talk about where you were born and a  
24 little bit about your family, okay?  
25 A. Yes, sir.

♀

DIRECT - NICOLAS CARRANZA

1371

1 Q. Tell us what department you were born in in El  
2 Salvador.  
3 A. I was born in February 2, 1933 in a small town was  
4 called El Triunfo in Department of Usulután, which is in the  
5 eastern most -- the middle eastern part of the country.  
6 Q. And what was your father's name?  
7 A. My father's name was Nicolás Carranza, the same as  
8 mine. My mother was María Teresa Rivera.  
9 Q. What did your father do?  
10 A. My father was telegraph operator. When I had a little  
11 conscious of -- I want to apologize if I don't pronounce very  
12 well some words. If you don't understand, simply let me know  
13 and I will try to pronounce better or make an explanation. He  
14 was telegraph operator. At that time, when I got conscious,  
15 he was working 24 hours, seven days a week, that's the way  
16 that the telegraph operator in those small towns work. He, as  
17 a consequence, had to teach someone to handle the Morse Code  
18 to communicate by means of the telegram system. So my older  
19 sisters and I had to learn how to work with the Code Morse --  
20 Morse Code. Also, some of my uncles and friends of my father  
21 learned to work that -- and he was in that way teaching a lot  
22 of people to have a good job, at that time at least was secure

23 employment. My mother was housewife. She was sick, I  
24 remember her being sick most of the time. She suffer from  
25 asthma, died relatively young, but she was able to give us

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1 much love. The way we are, the way we are.  
2 Q. Did you have brothers and sisters?  
3 A. Yes, sir, we have -- I had a lot of brothers and  
4 sisters from different families. My father was first in Nueva  
5 Granada. There, he had four kids with a widow lady. After  
6 that, he went to El Triunfo, he married my mother and have  
7 five kids, four daughters and me. I was the second to last.  
8 Q. When you say second to the last, does that mean second  
9 to the youngest?  
10 A. Yes, sir.  
11 Q. All right.  
12 A. Second to the youngest because we had other of my  
13 family. The oldest died young. The second one is still alive  
14 in San Salvador. The third one died of cancer the same way  
15 that my father, and almost at the same time. The other one is  
16 living in Los Angeles, and I'm the only male of that group, so  
17 I had a special treatment from my mother, and my father was  
18 trying to make me to his image, and he was a very excellent  
19 man, dedicated to work, loving people, trying to educate other  
20 people, trying to help anyone.  
21 Q. Did you go to school in -- and I will probably  
22 mispronounce it --

- 23 A. In El Triunfo.  
24 Q. -- in the same department?  
25 A. Yes. When I was six, my father was transferred to

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- 1 Santiago de Maria in the same department, larger town where we  
2 had the opportunity to work, to have a little less work, less  
3 sacrifice because he had other people who raise him. He could  
4 work eight hours, not the whole time, not 24 hours like he  
5 used to be -- used to do. I began the elementary school over  
6 in Santiago de Maria up to -- and then high school the two  
7 first years, and that was the whole branch of education we had  
8 in Santiago De Maria. Then my father sent me to the head of  
9 the department with the name of Usulután also. I spent one  
10 year in 1948, and I was -- I went to San Miguel, which is  
11 different area, another department, where they have higher  
12 education up to high school. Over there, I finished the high  
13 school the last three years. After that, I went to San  
14 Salvador to go to the university.  
15 Q. What university?  
16 A. The National University of El Salvador.  
17 Q. Now, when you say you finished high school, did you get  
18 a diploma like people do in the United States?  
19 A. Yes, sir, at the same level that you have high school  
20 where we get a diploma, and then we can then go to the  
21 university to continue studying.  
22 Q. And when you went to the National University, was that  
23 in the City of San Salvador?

- 24 A. In San Salvador, yes, in the capitol.  
25 Q. And did you have a particular course of study that you

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- 1 were going to take or is that a place where you take general  
2 courses and then maybe specialize?  
3 A. No, sir. The university at that time had -- you had to  
4 enter into a specific field.  
5 Q. What did --  
6 A. I chose -- I mean my father told me to choose law, so I  
7 began the third year. At that time, I met fellow students, a  
8 lot of the members of the Salvadoran band of law were actually  
9 some of the best members of the law in El Salvador.  
10 Q. They didn't have any of those dumb lawyers that  
11 represented Mr. Talavera? That's a joke, never mind.  
12 A. Maybe.  
13 Q. How long did you -- how long did you go to the National  
14 University and pursue law?  
15 A. I had a problem because I didn't have enough money, so  
16 I had to work. I just had to work in the ministry of labor  
17 when one of my -- where the second of my daughter was working,  
18 I got -- made an application, got a job as inspector of labor.  
19 As an inspector of labor, I held special assignment. At that  
20 time, there was a member of the agricultural organization  
21 trying to establish the nutrition, the value of the nutrition  
22 that the laborers in the field were obtaining, so we went, we  
23 made a commission, we went out of San Salvador. In every part

24 of the country, we went to see the places, work, we went to  
25 see the food they were given, the salaries they were paying in

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1 order to make the kind of a statistical study to make  
2 regulations.

3 Q. And what was your -- what was your responsibility or  
4 your area of being a part of this travel at that time in that  
5 employment?

6 A. They call us the same name, it was inspector of labor.  
7 In San Salvador, I learned to -- I mean I was taught the laws,  
8 the rules that we have to apply in the different factories,  
9 working places in San Salvador, and we made inspections in  
10 order to see whether they were complying with the law, working  
11 laws, labor laws, and we made sure that the labor laws were  
12 being applied.

13 Q. And how long did you do that, how long did you have  
14 that job or that position?

15 A. I was -- I continued working, first, like I told you at  
16 the City, in San Salvador, but then I have to go to the field  
17 in order to make this statistical study about the conditions  
18 of labor in the field. After three years, 1953, I saw that I  
19 was not doing anything because I couldn't study, and I was  
20 traveling, I couldn't do anything, so I saved some money and  
21 made an application to the military school, and I earned the  
22 right to entry, I was elected among the people who become  
23 cadets, and I became -- I entered military school in order to  
24 become an officer of the army.

25 Q. You said you made some money, did you have to pay

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1 tuition and things like that to go to military school?

2 A. No, sir. But I had -- we had to buy our equipment.

3 And as my father paying me for study law, and I decided not to  
4 study law, but study in the military field, I decided to save  
5 myself the money in order to buy the equipment and not to be a  
6 burden for my father.

7 Q. When you say equipment to go to military school, are  
8 you talking about books and things of that nature?

9 A. We're talking about cushions, sheets, complete sets of  
10 interior cloth, something like that, shoes and boots, socks  
11 and so forth.

12 THE COURT: We have gotten to a point where it  
13 is probably a good time to stop for the day. We agreed to  
14 stop at this time. Ladies and gentlemen, we anticipate  
15 completing all the proof tomorrow, I think. We will see  
16 how we do. So remember you have only heard part of the  
17 case. You have not heard any final arguments, you have  
18 not heard any instructions on the law, you must continue  
19 to keep an open mind. If somebody should attempt to talk  
20 to you about the case, report that promptly. Don't make  
21 any research or make any inquiry at all. We will see  
22 y'all tomorrow at the same schedule as today, come on in  
23 at, like I said, 8:45. Actually, things could work out so  
24 that we can start shortly after 9:00, but more than likely

25 it will be 9:15 or 9:20. So we will see you tomorrow.

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1 Have a very pleasant evening. We will ask you to step  
2 down, and I will go to the next matter. I will let y'all  
3 be excused.

4 I have handed a draft -- some preliminary  
5 instructions. I think they're pretty close, but there may  
6 be some fine tuning. If anybody has a chance to read  
7 them, they're quite short, and, of course, the main thing  
8 is to make sure that the verdict form is in a form which  
9 is acceptable also. I will ask everybody to do that and  
10 we will talk about that some time during the day tomorrow.  
11 I understand that we should have at least -- and you may  
12 step down. Thanks very much.

13 THE WITNESS: Thank you, sir.

14 THE COURT: I want to make sure how many  
15 witnesses we have remaining, I was checking through the  
16 book and I -- my pretrial order, and it looked like we had  
17 three more.

18 MR. ESQUIVEL: Three more.

19 THE COURT: That's what I thought too. I  
20 wanted to make sure we didn't have a change that we didn't  
21 know about.

22 All right. Well, maybe we will finish the  
23 proof tomorrow. We will see everybody tomorrow. I will  
24 ask everybody to be here no later than 9:00 o'clock so  
25 that if things do break down, which sometimes they do,

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1 they go faster than we expect, we can start then. Thanks  
2 very much. We will see you tomorrow.  
3 (Court adjourned at 5:05 p.m.)

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