

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

	)	
<b>ANA PATRICIA CHAVEZ,</b>	)	
<b>CECILIA SANTOS,</b>	)	
<b>JOSE FRANCISCO CALDERON,</b>	)	
<b>ERLINDA FRANCO, and</b>	)	
<b>DANIEL ALVARADO,</b>	)	
	)	<b>NO. 03-2932 MI/P</b>
<b>Plaintiffs,</b>	)	
	)	<b>JURY TRIAL</b>
<b>VS.</b>	)	
	)	<b>JUDGE McCALLA</b>
<b>NICOLAS CARRANZA,</b>	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT’S MOTION FOR JUDGMENT NOTWITHSTANDING  
THE VERDICT, NEW TRIAL, AND/OR REMITTITUR**

**COMES NOW** the Defendant, Nicolas Carranza, by and through counsel of record, pursuant to the Federal Rules of Civil Procedure, including, but not limited to, Rule 59, and submits the following Motion for Judgment Notwithstanding the Verdict, New Trial and/or Remittitur as follows:

1. The Court erred as a matter of law for failing to grant the Defendant’s Motion for Summary Judgment against Plaintiffs’ claims in this case, before and during the trial, for failing to timely file suit within the statutory period provided by 28 United States Code, 1350, Section 2(c).
  
2. The Court erred as a matter of law for failing to grant Defendant’s Motion to Dismiss the Plaintiffs’ claims before and during the trial, based on the sovereign laws, acts and treaties of El Salvador, which passed an amnesty law following a Peace Agreement and Treaty on January 1, 1992. The Peace Agreement and Treaty barred claims for civil or criminal liability

for individuals implicated in “political offenses” of a civil or a criminal nature. The Honorable Court refused to grant full faith and credit to the sovereignty of El Salvador and grant immunity to Defendant Nicolas Carranza. This was in error and denied him due process and equal protection of the law pursuant to The Constitution of the United States, including the 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendments.

3. The Court erred as a matter of law for failing to grant the Defendant’s Motion for a Directed Verdict at the end of the Plaintiffs’ proof, which was a renewed Motion of the Defendant at the conclusion of all of the proof in the case for the grounds stated in Arabic Numbered Paragraphs 1 and 2 above.

4. The Court erred as a matter of law by relying upon pre-trial affidavits filed in opposition to the Defendant’s Motion for Summary Judgment as evidence and proof at trial to deny the Defendant’s Motion for Directed Verdict and renewed Motion for Directed Verdict at the conclusion of all the proof in the case. This was error because the Plaintiffs failed to present any sworn evidence at trial regarding any basis to support the equitable tolling of the statute of limitations. The Court erroneously relied upon the Plaintiffs pre trial affidavits, which denied the Defendant of the opportunity of cross-examination and confrontation, since testimony or evidence supporting the statements of the affidavits was presented at trial.

5. The Court erred as a matter of law by allowing the Plaintiffs to admit hearsay evidence, which hearsay included:

- a. the Truth Commission Report (Exhibit 28);
- b. cables allegedly transmitted from the United States Embassy in El Salvador (including but not limited to, Exhibits 6, 37,40 and 41);
- c. an unsigned cable, highly redacted document as an allegedly written document by former U.S. military attaché Brian Bosch. Plaintiffs’ witnesses, Robert White (Tr. 52-55) and Terry Karl (Tr.156-158),

identified Bosch as the alleged author and used the document to falsely represent to the jury that the Defendant and other members of El Salvador's military allegedly approved and condoned the killing of six (6) FDR leaders. (These portions of false testimony are attached hereto. A copy of the highly inflammatory and false Trial Exhibit 6, is attached hereto as an exhibit to Brian Bosch's attached affidavit.) Contrary to this outrageous testimony, Brian Bosch relates in his attached affidavit that Bosch even met with Plaintiffs' counsel several months before the trial and he did not identify the exhibit and he did not give any information to counsel that would have agreed with the substance of the alleged document. Bosch relates in part:

- 1) "On 22 July 2005, Attorney David Esquivel came to the Washington D. C. area to meet with me to discuss the book I authored about my experience in El Salvador as a military attaché. The title of my book is "The Salvadoran Officer Corps and the Final Offensive of 1981."
- 2) During Mr. Esquivel's interview, he presented to me copies of several documents. I scanned them quickly. At least one was in the format of Trial Exhibit 6, but I told Mr. Esquivel that, based on the format, the document was not prepared by me. (A copy of the attached Trial Exhibit 6 was provided to me by Attorney Bruce D. Brooke on November 18, 2005.)
- 3) I later carefully reviewed the attached document, which has been identified as Trial Exhibit 6, and I am absolutely positive that I did not prepare this document. The document is not consistent with my style of writing and it is inconsistent with the form of document that I would have prepared while serving in my capacity as the military attaché. In the Defense Attaché System throughout the world, all military attachés (Army, Navy, and Air Force) utilize a specific Department of Defense format to report intelligence information.
- 4) Most importantly, the substance of the document is completely contrary to my recollection of the facts and circumstances surrounding the events of the kidnapping and killing of the six (6) FDR members in El Salvador. After the killing of the FDR leaders, I was contacted in the early morning hours by a key member of the General Staff. He was distressed that the incident had occurred, and he was very concerned about the effect on the international community. Later in the day, I talked with the Chief of the General Staff, who was a member of the Salvadoran High Command (as was Colonel Carranza). He also was distressed with the atrocity and was concerned about the

negative impact on international public opinion. At no time did I observe or hear any expression by any of El Salvador's military officials that exhibited or expressed condoning or approval of the kidnapping and killing of the FDR leaders.

- 5) Contrary to the document marked and identified as Trial Exhibit 6 and attached hereto, I am unaware of any Salvadoran military officer who was "*highly pleased with the assassination of the six FDR leaders.*" I, likewise, have no facts or knowledge that any of the Salvadoran officers believed that "*other leaders and members of the FDR should be eliminated in a similar fashion wherever possible.*"
- 6) I knew Nicolas Carranza during my service in El Salvador and at no time did he indicate either by his words or conduct on any occasion in which he was in my presence that he supported the killing of the six FDR leaders.
- 7) At no time during my conversation with Attorney Esquivel, did I make any statements that, in any way, could have conveyed the thought that any of the information in the attached document identified as Trial Exhibit 6 was true."

6. The Court erred as a matter of law by erroneously admitting into evidence hearsay documents and speculative testimony and reliance thereon by a misapplication and erroneous interpretation of Rule 803(8) of the Federal Rules of Evidence. In permitting such hearsay and evidence, the Defendant was deprived of cross-examination, and deprived the rights of confrontation and due process.

7. The Court erred as a matter of law by admitting into evidence, over Defendant's objections, highly inflammatory photographs depicting numerous dead bodies and victims of alleged military atrocities, for which there was no direct causal relationship to any conduct of the Defendant, and the proof grossly prejudiced and inflamed the trier of fact. (These erroneously admitted and inflammatory exhibits included but are not limited to, Exhibits 20, 22, 25 and 26.)

8. The Court erred as a matter of law by permitting, over Defendant's objection, Plaintiffs' witnesses, Robert White and Terry Karl, to testify in reliance upon inadmissible

hearsay and inflammatory irrelevant information, which was not applicable or relevant to the potential liability of the Defendant or to the facts and circumstances in his case. This evidence included hearsay evidence regarding unknown and unidentified third parties and outrageous conduct committed after the Defendant was no longer associated with the military and after the Defendant had left El Salvador.

9. The Court erred as a matter of law by permitting, over Defendant's objection, Plaintiffs' Political Science Expert, Terry Karl, to testify and offer opinion testimony regarding military procedures and command responsibility. This was error because she never served in any military organization and did not have military training or education and was not identified as a military expert prior to the trial. An example of the inadmissible hearsay used by witness Karl was her opinion that although the Truth Commission Report did not place any responsibility on the Defendant Carranza, the

“...state is responsible. And by that , they are naming the top officials of the state, which is the high command, and particularly the defense ministry, so that is how the Truth Commission dealt with responsibility in those years. It says the state has responsibility for these murders.” (Karl testimony, p. 280)

10. The Court erred as a matter of law for failing to grant the Defendant's Motion to have the case tried to twelve (12) jurors.

11. The Court erred as a matter of law by allowing the Plaintiffs to rely upon the theory of command responsibility of Defendant Carranza when there has not been any specific body of civil law on the subject, except in other cases advanced by Plaintiffs' counsel and their Center for Justice and Accountability.

12. The Court erred as a matter of law in its jury instructions on the issues of:

- a. admitting the Truth Commission Report into evidence and other hearsay documents into evidence over Defendant's objection;

- b. command responsibility;
- c. failure to instruct the jury on the issue of the proximate cause of the injuries and damages; and
- d. failure to properly instruct the jury on Defendant's scienter or knowledge of the occurrences.

13. The Court erred as a matter of law by allowing Plaintiffs to elicit testimony from their expert witnesses, as well as, argue to the jury about "other cases", which was prejudicial to Defendant.

14. The Court erred as a matter of law for failing to grant a mistrial when Plaintiffs' counsel referred to the post-World War II Nuremberg trials against Nazi war criminals when, in distinction, Defendant's counsel was not allowed to impeach the credibility of Plaintiffs' alleged UN military human rights expert from Argentina by pursuing inquiry that Argentina was, in fact, a haven and refuge for German Nazi war criminals.

15. The Court erred as a matter of law in failing to grant the Defendant's pretrial motions which included the following, all of which were objected to by Defendant:

- a. Permitting Plaintiffs' experts to testify and give subjective opinions about hearsay documents rather than testify from personal knowledge;
- b. Permitting Plaintiffs' experts to testify and offer opinions outside their expertise;
- c. Refusing to instruct the jury according to Defendant's special requests;
- d. Granting Plaintiffs' Motion to Exclude the Defendant's expert witness, Dr. David Galindo;
- e. Denying Defendant's Motion to Dismiss the Complaint based on delay in filing the suit and based on estoppel or equitable doctrine of laches; and

- f. The Court erred in applying the doctrine of equitable tolling of the statute of limitations because none of the Plaintiffs knew they had a cause of action to file in the United States until solicited as Plaintiffs by the Center for Justice and Accountability to file claims specifically against the Defendant.

16. The verdict of the jury is excessive and so excessive as to evidence passion, prejudice and unaccountable caprice. The verdict is beyond the scope of the Court's charge regarding punitive damages and not supported by the evidence. There is no evidence of the Defendant's worth or assets, which the jury was instructed to consider, except his testimony that he is retired and drew Social Security. An award of \$4,000,000 for a senior citizen on Social Security is patently excessive.

17. The Plaintiffs failed to present any evidence as to the financial wealth of the Defendant to support a required ingredient of an award for punitive damages.

18. The Court erred in denying all of Defendant's Motions to Dismiss the Complaints and for Summary Judgment and trying the case in Memphis, Tennessee, twenty (20) years after the acts alleged. The Defendant was denied a fair trial because of Plaintiffs' delay in bringing the suits, which prevented Defendant from having access to documents and witnesses in existence at the time of the alleged acts.

### **CONCLUSION**

Because of the errors committed against him stated above, the Defendant, Nicolas Carranza, respectfully requests that his Motions be granted and that the verdict of the jury be set aside and judgment be entered for the Defendant or in the alternative that he be granted a new trial.

Respectfully Submitted,

COUNSEL FOR DEFENDANT



ROBERT M. FARGARSON (#8420)

BRUCE D. BROOKE (#4521)

FARGARSON & BROOKE

254 Court Avenue, Suite 300

Post Office Drawer 3543

Memphis, TN 38173-0543

(901) 523-2500

**CERTIFICATE OF SERVICE**

I, Robert M. Fargarson, do hereby certify that a copy of the foregoing is being served on all Plaintiffs by forwarding same, via U.S. Mail, postage prepaid and Facsimile Transmission on this the 1<sup>ST</sup> day of February, 2006, to:

David R. Esquivel, Esq. (TN #21459)

AmSouth Center

315 Deaderick Street, Suite 2700

Nashville, TN 37238-3001



ROBERT M. FARGARSON



**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 MIP**

**NICOLAS CARRANZA,**

**Defendant.**

---

**AFFIDAVIT OF COLONEL BRIAN J. BOSCH, (RETIRED)**

---

STATE OF VIRGINIA  
COUNTY OF ARLINGTON

I, Brian J. Bosch, a retired colonel of the United States Army, do hereby state under oath as follows:

1. I reside at 1001 Twenty-Sixth Street South, Arlington, Virginia, 22202-2101.
2. I served as the Defense and Army Attaché at the U.S. Embassy in San Salvador, El Salvador, during 1980-1981. After, I served in the Pentagon as the Defense Intelligence Officer for Latin America and, then, chief of military attaché operations in Latin America.
3. On 22 July 2005, Attorney David Esquivel came to the Washington D. C. area to meet with me to discuss the book I authored about my experience in El Salvador as a military

attaché. The title of my book is “The Salvadoran Officer Corps and the Final Offensive of 1981.”

4. During Mr. Esquivel’s interview, he presented to me copies of several documents. I scanned them quickly. At least one was in the format of Trial Exhibit 6, but I told Mr. Esquivel that, based on the format, the document was not prepared by me. (A copy of the attached Trial Exhibit 6 has been provided to me by Attorney Bruce D. Brooke on November 18, 2005.)

5. I later carefully reviewed the attached document, which has been identified as Trial Exhibit 6, and I am absolutely positive that I did not prepare this document. The document is not consistent with my style of writing and it is inconsistent with the form of document that I would have prepared while serving in my capacity as the military attaché. In the Defense Attaché System throughout the world, all military attachés (Army, Navy, and Air Force) utilize a specific Department of Defense format to report intelligence information.

6. Most importantly, the substance of the document is completely contrary to my recollection of the facts and circumstances surrounding the events of the kidnapping and killing of the six (6) FDR members in El Salvador. After the killing of the FDR leaders, I was contacted in the early morning hours by a key member of the General Staff. He was distressed that the incident had occurred, and he was very concerned about the effect on the international community. Later in the day, I talked with the Chief of the General Staff, who was a member of the Salvadoran High Command (as was Colonel Carranza). He also was distressed with the atrocity and was concerned about the negative impact on international public opinion. At no time did I observe or hear any expression by any of El

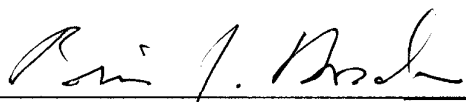
Salvador's military officials that exhibited or expressed condoning or approval of the kidnapping and killing of the FDR leaders.

7. Contrary to the document marked and identified as Trial Exhibit 6 and attached hereto, I am unaware of any Salvadoran military officer who was "*highly pleased with the assassination of the six FDR leaders.*" I, likewise, have no facts or knowledge that any of the Salvadoran officers believed that "*other leaders and members of the FDR should be eliminated in a similar fashion wherever possible.*"


8. I knew Nicolas Carranza during my service in El Salvador and at no time did he indicate either by his words or conduct on any occasion in which he was in my presence that he supported the killing of the six FDR leaders.

9. At no time during my conversation with Attorney Esquivel, did I make any statements that, in any way, could have conveyed the thought that any of the information in the attached document identified as Trial Exhibit 6 was true.

I DO HEREBY STATE THAT EACH OF THE ABOVE STATEMENTS IS TRUE AND CORRECT BASED UPON MY PERSONAL KNOWLEDGE, INFORMATION AND BELIEF.

  
BRIAN J. BOSCH, COLONEL (RETIRED)

SIGNED AND SWORN TO before me on this 25<sup>th</sup> day of November, 2005.

  
NOTARY PUBLIC

My Commission Expires: March 31<sup>st</sup>, 2009

PAGE 001  
TOR: 011823Z DEC 80

[REDACTED]

COUNTRY: EL SALVADOR  
SUBJECT: SATISFACTION OF MANY MILITARY OFFICERS WITH ASSASSINATION OF LEADERS OF THE REVOLUTIONARY DEMOCRATIC FRONT (FDR); BELIEF THAT THE SAME TACTICS SHOULD BE USED TO ELIMINATE OTHER LEFTIST LEADERS

[REDACTED]

2. MANY SENIOR AND MIDDLE-LEVEL MILITARY AND NATIONAL GUARD (GN) OFFICERS BELIEVE THAT THE ASSASSINATION OF THE SIX LEADERS OF THE REVOLUTIONARY DEMOCRATIC FRONT (FDR) ON 27 NOVEMBER 1980 WAS A POSITIVE ACT. THE CURRENT MOOD OF THESE OFFICERS IS THAT THE DEATHS OF THESE FOR LEADERS WILL SOON BE FORGOTTEN, ALTHOUGH SOME SHORT TERM PROBLEMS CAN BE EXPECTED INTERNATIONALLY. WHILE THE REVOLUTIONARY GOVERNING JUNTA (JRG) HAS PUBLICLY PROMISED THAT AN INVESTIGATION INTO THESE KILLINGS WILL BE CARRIED OUT, IT IS NOT EXPECTED THAT THIS INVESTIGATION WILL BE A SERIOUS ONE OR THAT ANYONE WILL BE APPREHENDED.

3. MANY MILITARY OFFICERS HAVE STATED THAT THEY PERSONALLY SUPPORT THE KILLINGS OF THE FDR LEADERS. THEY BELIEVE THAT IF THESE LEADERS WERE NOT EXTREMIST TERRORISTS, THEY WERE AT LEAST "USEFUL FOOLS" FOR THE TERRORISTS AND SO DESERVED TO BE KILLED.

4. THESE MILITARY OFFICERS EXPECT THAT THE U.S. GOVERNMENT WILL PROTEST THE DEATHS, BUT THEY BELIEVE THAT THE JRG CAN EXIST WITHOUT U.S. GOVERNMENT SUPPORT, AT LEAST IN THE SHORT TERM. THEY BELIEVE THAT THE CHRISTIAN DEMOCRATIC PARTY (PDC) WILL NOT CAUSE THE JRG

EXHIBIT  
6  
03-2932

ANY SERIOUS PROBLEMS AS A RESULT OF THE DEATHS AND WILL REMAIN IN THE GOVERNMENT.

[REDACTED]

6. THE GENERAL MOOD AMONG MIDDLE-LEVEL MILITARY OFFICERS IS THAT THE FDR LEADERS WHO WERE KILLED GOT WHAT THEY DESERVED. THERE HAS BEEN GROWING FRUSTRATION WITHIN THE MILITARY THAT THEY HAVE BEEN WASTING THEIR TIME FIGHTING LOW-LEVEL LEFTIST TERRORISTS IN THE COUNTRYSIDE WHILE LEFTIST LEADERS OPERATED OPENLY IN THE CAPITAL CITY. THEY BELIEVE THAT THE TIME HAS COME TO CUT OFF THE HEAD OF THE LEFTIST MOVEMENT AS A MEANS TO END THE WAR WITH THE TERRORIST. [REDACTED] IT IS MOST LIKELY THAT MEMBERS OF EITHER THE TREASURY POLICE, NATIONAL POLICE OR THE GN WERE RESPONSIBLE FOR THE DEATHS OF THE FDR LEADERS, SINCE IT IS MEMBERS OF THESE ORGANIZATIONS WHO ARE PRIMARILY INVOLVED IN COUNTERTERRORIST ACTIVITIES DIRECTED AGAINST THE LEFT.)

[REDACTED]

[REDACTED] MOST MILITARY OFFICERS WERE HIGHLY PLEASED WITH THE ASSASSINATION OF THE SIX FDR LEADERS. THESE OFFICERS BELIEVE THAT OTHER LEADERS AND MEMBERS OF THE FDR SHOULD BE ELIMINATED IN A SIMILAR FASHION WHEREVER POSSIBLE. THESE FEELINGS WERE EXPRESSED BY SEVERAL MIDDLE-LEVEL ARMY OFFICERS ON 28 NOVEMBER 1980 IN THE PRESENCE OF COL. JOSE GARCIA MERINO; MINISTER OF DEFENSE, AND NICOLAS CARRANZA, SUB-MINISTER OF DEFENSE, AND BOTH GARCIA AND CARRANZA INDICATED THAT THEY SUPPORTED THIS LINE OF THINKING. FROM THE COMMENTS OF ALL THOSE PRESENT DURING THIS CONVERSATION, IT WAS CLEAR THAT GARCIA, CARRANZA AND THE OTHER OFFICERS PRESENT ACCEPTED AS A FACT THAT THE MILITARY SERVICES WERE RESPONSIBLE FOR THE ASSASSINATION OF THE SIX FDR LEADERS)

[REDACTED]

[REDACTED] MANY MILITARY OFFICERS HAVE DECIDED THAT THE ELECTION OF RONALD REAGAN TO THE U.S. PRESIDENCY WILL MEAN THAT THE U.S. GOVERNMENT WILL NO LONGER TAKE A HARD LINE AGAINST REPRESSION AGAINST THE LEFT IN EL SALVADOR. THERE ARE ALSO MANY OFFICERS WHO ARE PREPARED TO FOREGO U.S. GOVERNMENT SUPPORT IF NECESSARY AND TO TURN TO ARGENTINA, CHILE, AND GUATEMALA INSTEAD. THEY BELIEVE THAT ANY REDUCTION IN U.S. FINANCIAL SUPPORT CAN BE MADE UP BY PRIVATE INVESTMENT FROM THE SALVADORAN OLIGARCHS CURRENTLY IN EXILE, WHO WILL BE WILLING TO REINVEST IN EL SALVADOR ONCE THEY SEE THAT THE MILITARY IS ACTING FORCEFULLY TO ELIMINATE THE LEFTIST TERRORISTS.)

9. [REDACTED] COMMENT: I AM SURE THAT THIS REPRESENTS ACCURATELY THE FEELING OF MANY OFFICERS. THE CRUCIAL QUESTION IS WHAT POSITIONS DO THEY HOLD AND WHAT INFLUENCE DO THEY WIELD. THERE IS ANOTHER LARGE GROUPS OF OFFICERS WHO REJECT THIS TYPE OF BARBARISM AND WANT TO PARTICIPATE IN A PROFESSIONAL MILITARY.)

[REDACTED]

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

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ANA PATRICIA CHAVEZ, CECILIA )  
SANTOS, JOSE FRANCISCO )  
CALDERON, ERLINDA FRANCO, AND )  
DANIEL ALVARADO, )

Plaintiffs, )

VS. )

NO. 03-2932-M1/P )

NICOLAS CARRANZA, )

Defendant. )  
-----

TESTIMONY OF TERRY LYNN KARL

BEFORE THE HONORABLE JON PHIPPS MCCALLA, JUDGE

NOVEMBER 7, 2005

BRENDA PARKER  
OFFICIAL REPORTER  
SUITE 942 FEDERAL BUILDING  
167 NORTH MAIN STREET  
MEMPHIS, TENNESSEE 38103

DIRECT - TERRY LYNN KARL

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1 A. There has been an obvious lack of interest in ordering  
2 an exhaustive investigation by an independent state organ to  
3 clarify the facts, find out who was responsible and bring  
4 those responsible to justice.

5 Q. And is that finding consistent with your understanding  
6 about what happened in El Salvador and what investigation may  
7 or may not have taken place?

8 A. Yes.

9 Q. Now, Professor Karl, at some point in late 1980, early  
10 1981, was Colonel Carranza removed from power as the  
11 vice-minister of defense?

12 A. Yes, he was.

13 Q. And based on your research and your analysis, why was  
14 Colonel Carranza removed in 1981?

15 A. I think first of all there were a series of discussions  
16 that Ambassador White talked about in which the -- and there  
17 are a series of cables reporting this -- that the military and  
18 security forces were pleased with the murder of the FDR.  
19 There have been some cables submitted in evidence that show  
20 that. There was a cable put in evidence as well that  
21 indicated that Colonel Carranza shared their sentiments. In  
22 other words, that he was also pleased, according to the  
23 declassified documents. The murder of the FDR leaders,  
24 combined with the murder of four American religious women,  
25 caused a crisis in the United States over what appropriate

**DIRECT - TERRY LYNN KARL**

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1 policy should be towards El Salvador, and in particular there  
2 was a very strong push to get -- push out of the military the  
3 most apparent leaders of the extremist right; in other words,  
4 to move against people who were expressing their support for  
5 these kinds of actions. And at that time, there was a move by  
6 the Christian democratic party who simply stated very clearly  
7 that they would not stay in alliance with the military, they  
8 would not work with the military unless something was done  
9 about extremism. The United States also said we must do  
10 something about this right wing extremism that is resulting in  
11 these murders.

12 **Q.** And how did Colonel Carranza fit into those discussions  
13 or those demands?

14 **A.** He had been identified as a member of the extreme -- as  
15 a sympathizer of the extreme right, as a hardliner, he was  
16 someone who never hid those feelings and opinions, and he was  
17 quite open, particularly in his conversations with the  
18 military attaches at the time about his sharing the views of  
19 the hardline officers, so he was immediately identified as a  
20 hardliner, as an extremist and as a major leader. Remember,  
21 he has the number two position in the country, and he is  
22 saying I support -- you know, I share this -- these sentiments  
23 and so it is quite obvious since he is saying this, since he  
24 is known as a hardliner, since he's really number two and he's  
25 the highest ranking official making these kinds of statements,



**DIRECT - TERRY LYNN KARL**

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1 that if you're going to do something about this kind of  
2 terror, he is someone you must do something about.

3 **MR. ESQUIVEL:** Your Honor, may I have  
4 permission to approach the witness?

5 **THE COURT:** You may.

6 **BY MR. ESQUIVEL:**

7 **Q.** Professor Karl, I've handed you a document that is an  
8 embassy cable dated May 9, 1980. It is entitled JRG faces  
9 worst crisis yet. Have you seen this document before?

10 **A.** Yes, I have.

11 **Q.** And what is it?

12 **A.** JRG are the initials that refer to the junta, so when  
13 you see JRG, it means this military civilian junta. It has  
14 changed several times. The civilians keep resigning because  
15 of the repression, but it is still a military civilian junta.  
16 This is a cable describing the crisis that comes in this  
17 period of time with the murders of the FDR leaders and the  
18 murders of the nuns.

19 **Q.** Now --

20 **MR. ESQUIVEL:** Well, Your Honor, the plaintiffs  
21 move this exhibit into evidence as Number 37.

22 **MR. BROOKE:** What is the date of this? You  
23 said 1980?

24 **MR. ESQUIVEL:** I believe it is dated May 9,  
25 1980.

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ANA PATRICIA CHAVEZ, CECILIA )  
SANTOS, JOSE FRANCISCO )  
CALDERON, ERLINDA FRANCO, AND )  
DANIEL ALVARADO, )

Plaintiffs, )

VS. )

NO. 03-2932-M1/P )

NICOLAS CARRANZA, )

Defendant. )  
-----

DIRECT EXAMINATION OF ROBERT WHITE  
BEFORE THE HONORABLE JON PHIPPS MCCALLA, JUDGE

NOVEMBER 1, 2005

BRENDA PARKER  
OFFICIAL REPORTER  
SUITE 942 FEDERAL BUILDING  
167 NORTH MAIN STREET  
MEMPHIS, TENNESSEE 38103

**DIRECT - ROBERT WHITE**

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1 extermination, what did you mean by that phrase?

2 **A.** I mean that they were killing unarmed people in public  
3 life who wanted to use peaceful means, the ballot box,  
4 elections, votes to change the country, which I might add was  
5 also the policy of the United States government, to try to  
6 peacefully change the country and help democracy take hold.

7 **Q.** Was there ever any variance in the United States policy  
8 on that issue?

9 **A.** Not while I was there.

10 **Q.** What did you communicate to the leaders of the  
11 Salvadoran military while you served as ambassador about that  
12 policy?

13 **A.** That they were strengthening the violent left by  
14 killing people who had never taken up arms against them.

15 **MR. ESQUIVEL:** Your Honor, may I approach the  
16 witness, please?

17 **THE COURT:** You may.

18 **BY MR. ESQUIVEL:**

19 **Q.** Ambassador White, I'm handing you a document that's  
20 dated December 1, 1980. Its subject is satisfaction of many  
21 military officers with assassination of leaders of the  
22 Revolutionary Democratic Front, FDR. Have you seen this  
23 document before?

24 **A.** I have.

25 **Q.** What is it?

DIRECT - ROBERT WHITE

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1 A. It's a report by the military attache, it is not my  
2 report. This is -- the reason it is blacked out is because  
3 the different numerals and letters there could give clue as to  
4 the sources and methods by which they gathered this  
5 information, and so this is a report by a colonel in the  
6 United States military who was reporting what officers told  
7 him and what he gathered from his association with the  
8 Salvadoran military officers.

9 Q. And is this also a report of the type you referred to  
10 earlier that would be conveyed by the Embassy in El Salvador  
11 to the State Department in Washington?

12 A. Well, this is slightly different because the primary  
13 destination of this is the military intelligence bureau in the  
14 Pentagon, but they sent copies, of course, to the State  
15 Department, to the White House, to all the different  
16 interested agencies, but the primary consumer of this  
17 report -- this report was written for the Defense Intelligence  
18 Agency.

19 MR. ESQUIVEL: Your Honor, the plaintiffs move  
20 the admission of Exhibit 6 into evidence.

21 MR. BROOKE: Your Honor --

22 THE COURT: It will be received. We can talk  
23 about it if we need to but it appears to be something that  
24 would fall under the exceptions that we discussed earlier.

25 (Exhibit Number 6 was marked. Description:

DIRECT - ROBERT WHITE

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1 Memo.)

2 BY MR. ESQUIVEL:

3 Q. If we could show the members of the jury the paragraph  
4 that appears on PL 1304. I direct your attention, Ambassador  
5 White, to paragraph seven of this report. Before we get to  
6 that, though, let me ask you about the person who prepared it.  
7 Did you know or did you work with personally the United States  
8 colonel who prepared this report?

9 A. Yes, I did.

10 Q. What was his name?

11 A. His name was Colonel Brian Bosch.

12 Q. And what do you know about Colonel Bosch and the work  
13 that he did?

14 A. He was probably the best or one of the very top best  
15 top ranking defense attaches with whom I have ever worked. He  
16 was -- Bosch is a Catalan name, a Spanish name, and he was  
17 bilingual in Spanish, so when he was down at the Officers Club  
18 having a beer, I mean they -- to them, to the rest of the  
19 Salvadorian military, he was just like one of them, and so he  
20 didn't acquire this information primarily by asking questions;  
21 he just overheard, he was present at conversations where there  
22 was jokes and laughter and drinking going on, and that's the  
23 way you get real intelligence.

24 Q. Now, Ambassador White, read Colonel Bosch's report  
25 paragraph seven for the jury.

**DIRECT - ROBERT WHITE**

55

1 **A.** Most military officers were highly pleased with the  
2 assassination of the six FDR leaders. These officers believe  
3 that other leaders and members of the FDR should be eliminated  
4 in a similar fashion wherever possible. These feelings were  
5 expressed by several mid level Army officers on the 28th of  
6 November, 1980, in the presence of Colonel Jose Garcia Merino,  
7 Minister of Defense, and Nicolas Carranza, subminister of  
8 defense. And both Garcia and Carranza indicated that they  
9 supported this line of thinking. From the comments of all  
10 those present during this conversation, it was clear that  
11 Garcia, Carranza and the other officers present accepted as a  
12 fact that the military services were responsible for the  
13 assassination of the six FDR leaders.

14 **Q.** Ambassador White, the line of thinking that's referred  
15 to in this report, is that consistent with your understanding  
16 of the line of thinking of the leaders of the Salvadoran  
17 military?

18 **A.** Yes.

19 **MR. ESQUIVEL:** Your Honor, may I approach the  
20 witness, please?

21 **THE COURT:** You may.

22 **BY MR. ESQUIVEL:**

23 **Q.** Ambassador White, I have handed you a memorandum from  
24 the State Department that is dated December 4, 1980, and it is  
25 entitled U. S. response to assassination of FDR leadership.