

Memphian Carranza Found Guilty of Human Rights Abuses

Thursday, March 19, 2009, Vol. 124, No. 54
REBEKAH HEARN | The Daily News

The U.S. Sixth Circuit Court of Appeals affirmed Tuesday that Nicolas Carranza, a former commander of El Salvador's security forces – now a naturalized U.S. citizen and Memphis resident – is responsible for human rights abuses that took place under his command in his native country in the 1980s.

The appeals court upheld a 2005 civil court verdict. In that case, which was heard in Memphis by Judge [Jon P. McCalla](#) in the U.S. District Court for the Western District of Tennessee, the jury found in favor of four of the five plaintiffs, all former or current residents of El Salvador. The jury was hung on the fifth plaintiff.

The trial jury returned a \$6 million judgment against Carranza in 2005, finding that he had “command responsibility” for his soldiers' actions.

David R. Esquivel, a member in the Nashville office of Bass, Berry & Sims PLC, was the plaintiffs' attorney. Bass, Berry & Sims and the San Francisco-based Center for Justice and Accountability filed the case jointly.

No immunity

On appeal, the Sixth Circuit rejected Carranza's argument that he was immune from the lawsuit because of an amnesty passed as part of the 1992 peace accords in El Salvador. But the court ruled that amnesty has no effect on U.S. law.

The defense filed its appeal based primarily on the jury's verdict and also on some of McCalla's pre-trial rulings.

“U.S. courts will apply U.S. laws in support of human rights, even when regimes try to immunize their own conduct,” Esquivel said in a statement to The Associated Press.

The Memphis suit claimed that soldiers under Carranza's command tortured and murdered Salvadoran civilians who were opposed to the country's military rulers.

Carranza held the rank of colonel in El Salvador's army and was a top commander of the country's internal security forces. He was vice minister of defense and public security, overseeing the National Guard and National Police from October 1979 to January 1981. He later served as director of the Treasury Police from June 1983 to May 1984.

Carranza moved to the U.S. in 1984 and settled with his family in Memphis in 1986, where he worked as a museum security guard. He became a U.S. citizen in 1991 and is now 76.

Shifting blame

At trial, Carranza said he tried to reform the military units under his command, and he blamed the killing of civilians on right- and left-wing extremists. In his appeal, Carranza also argued unsuccessfully that his accusers waited too long to file their suit.

The plaintiffs accused Carranza of being responsible for the beatings and murders that were carried out by soldiers on his watch.

The jury found for four of the five plaintiffs, but failed to reach a verdict on charges from the fifth.

When asked why the jury was hung on one of the five plaintiffs, Esquivel said it was a matter of the person's evidence.

In four of the cases, there were eyewitnesses to the beatings and murders, which were all performed by uniformed military personnel. But the fifth plaintiff had a different situation. As a child, she watched as people broke into her home and killed her parents. Those people were in plain clothes.

“In order to prove that Carranza was responsible for that as a commander, we had to prove that the people who committed those acts were under his control,” Esquivel said. “So (with this plaintiff) we put on evidence that showed that military often operated in death squads by taking off their uniforms, going out and perpetrating these acts in plain clothes so as to be able to deny that they were involved. But the jury had a difficult time with that element. My guess is that's what hung them up on her case.”

Carranza's lawyer, Robert Fargason, said “we'll likely file a petition in the (U.S.) Supreme Court to see what they say about (the case).”

‘Crimes against humanity’

Esquivel told The Daily News he surmised the Supreme Court would not take the case, but added “the odds are against anybody having their case heard in the Supreme Court. The Supreme Court takes about 1 percent of the cases they are asked to weigh in on. ... We won on appeal, so I hope the Supreme Court doesn't take it.”

As for what happens now, the appeals court upheld the \$6 million jury verdict, but Carranza has no money, “so that's basically at an end,” Esquivel said. He also said his clients never expected to collect on the judgment.

“What we hope will happen now, which is beyond our control and our clients' control, is that the federal government, which has the ability to look back at (Carranza's) citizenship application and the process by which he became a citizen, (and) we're hoping they will determine whether or not he ought to continue to enjoy privileges of citizenship.

“Now that the jury has found, and it has been upheld on appeal, that he was responsible for crimes against humanity, we hope that will trigger some review in the (U.S.) Justice Department to see if it's appropriate for him to continue to enjoy U.S. citizenship,” Esquivel said.

He cited prior instances in which Nazi war criminals made their way into the U.S. after World War II, were discovered and the Justice Department would bring proceedings to remove their citizenship.

Three of the plaintiffs in the Carranza case currently live in the U.S. – two in California and one in New York – while another plaintiff lives in Sweden and the final one still lives in El Salvador.

“I can’t say enough about our clients – people who endured really serious violence and horrific torture and spent 25 years without anybody being held responsible, and Carranza is one of a number of people who are responsible for that,” Esquivel said. “The ability of them to carry that around and be willing to try to seek justice 25 years later was pretty inspiring. It was an amazing case.”

The Associated Press contributed to this story.