

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

ANA PATRICIA CHAVEZ, CECILIA)	
SANTOS, JOSE FRANCISCO CALDERON,)	
JANE DOE, AND JOHN DOE,)	
)	No. 03-2932 M1/P
Plaintiffs,)	
)	JURY TRIAL
v.)	
)	
NICOLAS CARRANZA,)	
)	
Defendant.)	
)	

PLAINTIFFS' STATEMENT OF UNDISPUTED MATERIAL FACTS

Pursuant to Local Rule 7.2(d), Plaintiffs respectfully submit the following statement of material facts as to which there are no genuine issues for trial.

1. Guillermina and Humberto Chavez were teachers in Ahuachapan and members of the teachers' union known as "ANDES," which worked for the improvement of lives for teachers. [Deposition of Ana Patricia Chavez Penate ("Chavez Dep.") at 13-16; attached to the accompanying memorandum at Exh. A]

RESPONSE:

2. On July 26, 1980, Ms. Chavez was in her parents' home for a weekend visit. Early that morning, Ms. Chavez saw in the corridor of the house a man dressed in civilian clothes, wearing a mask, and carrying a rifle. [Chavez Dep. at 20-21, 23]

RESPONSE:

3. When this man saw Ms. Chavez' mother, Guillermina, walk out of the bathroom, he grabbed her and threw her onto a bed. [Chavez Dep. at 20]

RESPONSE:

4. More armed men, dressed similarly, then began coming into the house. [Chavez Dep. at 21]

RESPONSE:

5. One of the men that had invaded the house threw Ms. Chavez on the bed next to her mother. [Chavez Dep. at 21]

RESPONSE:

6. The men then began beating Guillermina Chavez. They opened all the drawers in the bedroom wardrobe, and demanded to see "propaganda and money." [Chavez Dep. at 21]

RESPONSE:

7. The men took Ms. Chavez to a separate room with her infant daughter, where she heard her mother continue to be beaten. [Chavez Dep. at 24-25]

RESPONSE:

8. Ms. Chavez then heard gunshots, and when she had heard no more noise, left her room, went to her mother's bedroom, and found her mother's lifeless body on the bed. [Chavez Dep. at 25]

RESPONSE:

9. Ms. Chavez left the house to find her father and her partner, Omar. A neighbor told her that "there was a young man that was dead outside her house." [Chavez Dep. at 27]

RESPONSE:

10. Ms. Chavez went to the neighbor's house and discovered that the young man was Omar, who had been fatally shot by the death squad. [Chavez Dep. at 27]

RESPONSE:

11. Ms. Chavez returned to her house and found her father dead in the corridor with several gunshot wounds. [Chavez Dep. at 28-29]

RESPONSE:

12. During the early 1980s, death squads, like the one that killed Guillermina and Humberto Chavez, acted together with government actors to carry out attacks on the civilian population. The U.N. Truth Commission found that “[t]he State of El Salvador ... is responsible for having taken part in, encouraged and tolerated the operations of the death squads.” [Report of the United Nations Truth Commission on El Salvador (“Truth Commission Report”), at 137 (Bates number PL 0168) (relevant excerpts attached to the accompanying memorandum at Exh. B)]

RESPONSE:

13. The death squads were able “to insinuate themselves ... perniciously into the formal State structure.” [Truth Commission Report at 132 (PL 0161)]

RESPONSE:

14. Members of the Salvadoran Security Forces had already formed and participated in death squads by 1980, with the support of the corresponding official institutions. [Dec. of Prof. Terry Karl (“Karl Dec.”), at ¶11 (attached to the accompanying memorandum at Exh. C)]

RESPONSE:

15. The death squads were organized from within government Security Forces or were linked directly to the Security Forces. [Karl Dec. at ¶10]

RESPONSE:

B. Cecilia Santos

16. In 1980, Cecilia Santos was a mathematics student at the National University of El Salvador and also worked full time in the Salvadoran government at the Ministry of Education. [Deposition of Cecilia Santos (“Santos Dep.”) at 14-16 (attached to the accompanying memorandum at Exh. D)]

RESPONSE:

17. On September 25, 1980, Ms. Santos was in the restroom at a shopping mall in San Salvador when she heard a “big sound,” like an explosion. [Santos Dep. at 26]

RESPONSE:

18. Shortly thereafter, two private security guards entered the restroom and began questioning Ms. Santos about the sound. [Santos Dep. at 29]

RESPONSE:

19. Ms. Santos did not know anything about the sound or what caused it. [Santos Dep. at 29]

RESPONSE:

20. These guards took Ms. Santos to the shopping mall’s administration office and accused her of having planted a bomb, offering what appeared to be a box of cigarettes as proof. [Santos Dep. at 30-32]

RESPONSE:

21. Ms. Santos did not know anything about the box of cigarettes; she did not smoke and had not taken the box into the restroom with her. [Santos Dep. at 35]

RESPONSE:

22. A person in the administration office of the shopping mall made a phone call, and after about 30 minutes, two men dressed in civilian clothes came to the office and took Ms. Santos away in a taxi. [Santos Dep. at 37-38]

RESPONSE:

23. After about a 20 minute drive, Ms. Santos and these men arrived at the headquarters of the National Police. [Santos Dep. at 39-40]

RESPONSE:

24. One of the men took her by the arm and led her through the main entrance of the National Police headquarters. [Santos Dep. at 40-41]

RESPONSE:

25. Inside the headquarters, she was turned over to the Corporation of National Investigation, or “CAIN,” a subsection of the National Police agency. [Santos Dep. at 42-44]

RESPONSE:

26. Ms. Santos was blindfolded and led through a tunnel. She crossed a larger room where she heard the sounds of many people moaning and groaning on the floor. She reached a room where she was told to sit at a school desk. [Santos Dep. at 47-51]

RESPONSE:

27. There were several men in this room, one of whom told Ms. Santos: “It will be easy if you cooperate with us.” [Santos Dep. at 53]

RESPONSE:

28. One man interrogated Ms. Santos, asking her to identify her family members, co-workers, and fellow students, while another man groped her by pressing on her breasts and legs, and trying to put his hand inside her blouse and skirt. [Santos Dep. at 54-55]

RESPONSE:

29. Later in the interrogation, one of her interrogators pulled her partially out of the chair and forced an object into her vagina. [Santos Dep. at 58]

RESPONSE:

30. When Ms. Santos screamed in pain, an interrogator said: “That’s nothing. That’s just to test.” [Santos Dep. at 58]

RESPONSE:

31. Another interrogator added: “Do you remember where you are? This is the National Police Headquarters, and here we decide what is going on, what can ... happen to you.” [Santos Dep. at 58]

RESPONSE:

32. Ms. Santos was then asked whether she knew how to prepare a bomb. [Santos Dep. at 58-59]

RESPONSE:

33. When she replied that did not, her interrogator replied, “You have to know, because you are in the University.” [Santos Dep. at 59]

RESPONSE:

34. The man then dipped a Q-Tip into a bottle of sulphuric acid and inserted it into Ms. Santos’ nose. [Santos Dep. at 59]

RESPONSE:

35. He also dropped acid onto Ms. Santos’ right hand, which caused it to blister almost immediately. [Santos Dep. at 59-60]

RESPONSE:

36. When Ms. Santos asked for something to relieve the pain caused by the acid, her captor replied: “Did you forget? You are not in a hotel. You are in the police headquarters.” [Santos Dep. at 60]

RESPONSE:

37. Later in the interrogation, while one man monitored her heart rate with a stethoscope, another man attached wires around the fingers of Ms. Santos' right hand and administered electric shocks. [Santos Dep. at 63]

RESPONSE:

38. While the shocks were administered, the interrogators placed pictures of different faces in front of Ms. Santos and asked her to identify them. [Santos Dep. at 65]

RESPONSE:

39. Later, Ms. Santos, with the assistance of one of her interrogators, signed a blank piece of paper. [Santos Dep. at 67]

RESPONSE:

40. Ms. Santos' torture and interrogation lasted the entire night of September 25, 1980, from approximately 7:30 p.m. until the early morning of September 26. [Santos Dep. at 72]

RESPONSE:

41. Afterwards, one of Ms. Santos' interrogators took her to a man in a green uniform, who was to place her in a cell. Her interrogator instructed the man in uniform that "[s]he is in the deposit of the Ministry of Defense." [Santos Dep. at 70]

RESPONSE:

C. Francisco Calderon

42. Paco Calderon was a school principal in the city of Ahuachapan and a member of the teachers' union known as "ANDES." [Deposition of Jose Francisco Calderon ("Calderon Dep.") at 15-16 (attached to the accompanying memorandum at Exh. E)]

[Calderon Dep. at 15-16]

RESPONSE:

43. In June 1980, Paco Calderon was arrested at a military roadblock when he attempted to get rid of flyers he was holding that instructed the population about what to do in the event of a general strike or natural disaster. [Calderon Dep. at 18-21]

RESPONSE:

44. Upon his release, Paco Calderon immediately moved to San Salvador to live with his daughter and his adult son, Francisco Calderon. [Calderon Dep. at 26-27]

RESPONSE:

45. On September 11, 1980, Francisco Calderon was getting ready for bed around 10:00 p.m. when he heard the loud sound of boots kicking his front door. [Calderon Dep. at 31]

RESPONSE:

46. Francisco Calderon came to the front door and looked out to see uniformed members of the National Police wearing bulletproof vests. [Calderon Dep. at 32]

RESPONSE:

47. The police demanded that Francisco Calderon open the door, and he complied. [Calderon Dep. at 32-33]

RESPONSE:

48. Immediately after the door was opened, several men in civilian clothes entered the house. [Calderon Dep. at 33]

RESPONSE:

49. One of these men, who was wearing a mask and carried a G3 military-issued rifle, forced Francisco Calderon to lie down on the floor, stepped on him with his boot, and pointed the rifle at his back. [Calderon Dep. at 33]

RESPONSE:

50. Francisco Calderon heard his father try to get his sister out of the house, but men on the roof prevented their escape. [Calderon Dep. at 34]

RESPONSE:

51. As Paco Calderon came down the corridor toward the living room, Francisco Calderon said to his father, “They are going to kill me.” [Calderon Dep. at 34]

RESPONSE:

52. The armed men attempted to carry Paco Calderon outside. [Calderon Dep. at 35]

RESPONSE:

53. Apparently fearing for his life, “that he was going to be cut to pieces all along the highway,” according to his son, Paco told the armed men: “It’s best that you kill me here, you sons of bitches.” [Calderon Dep. at 36]

RESPONSE:

54. The armed men broke the light bulbs in the living room, then fired five gunshots from the G3 rifles into Paco Calderon’s body. [Calderon Dep. at 36]

RESPONSE:

55. Francisco Calderon thought that he would be shot next, but instead the armed men left the house while firing shots into the air. [Calderon Dep. at 37]

RESPONSE:

D. Jane Doe (Erlinda Revelo, Viuda de Franco)

56. In 1980, Manuel Franco was thirty-five years old, a professor at the National University, and a prominent leader of the Democratic Revolutionary Front (FDR). [Truth Commission Report at 58 & n.136 (PL 0068, 0262) (Exh. B)]

RESPONSE:

57. The FDR was formed in April 1980 as a coalition of democratic, popular organizations and political parties. [Truth Commission Report at n.139 (PL 0263)]

RESPONSE:

58. On the morning of November 27, 1980, Mr. Franco left for a meeting of the FDR leadership at a Jesuit school in the heart of San Salvador. Between 9:30 and 11:00 a.m., Mr. Franco and five other FDR leaders were abducted from their meeting in a military operation in which the perimeter of the school was secured by the Treasury Police. [Deposition of Erlinda Revelo, Viuda de Franco (“Revelo Dep.”) at 26-27 (attached to the accompanying memorandum at Exh. F); Truth Commission Report at 58-61 (PL 0068-73) (Exh. B)]

RESPONSE:

59. Later that day, Manuel Franco’s body was dumped on the side of the road on the outskirts of Apulo, El Salvador. [Truth Commission Report at 59 (PL 0070)]

RESPONSE:

60. Ms. Revelo identified her husband’s body at a funeral home the next day, where she saw gunshot wounds to her husband’s mouth and thorax, as well as a well-defined burn surrounding his entire neck. [Revelo Dep. at 26, 31 (Exh. F); Truth Commission Report at n.136 (PL 0262) (Exh. B)].

RESPONSE:

61. The abduction of the FDR leaders “was an operation carried out by one or more public security forces.” [Revelo Dep. at 58 (PL 0069)]

RESPONSE:

62. The Security Forces were responsible for the abduction, torture, and murder of Manuel Franco and the other FDR leaders. “[T]he Security Forces of the government kidnapped and killed six of the FDR leadership,” and “[t]he evidence that the security forces are responsible for this action is overwhelming.” [Cable from Amb. White, Nov. 29, 1980, at 1 (PL 1423) (attached to the accompanying memorandum at Exhibit G)]

RESPONSE:

63. “Salvadoran National Police officials assigned to the investigation of the assassination of six FDR leaders in San Salvador on 27 November 1980 were boasting that the National Police had committed the assassinations....While National Police probably aided in the assassinations, the operation almost certainly contained elements of other Security Forces.” [Cable (redacted author), Dec. 4, 1980, at 1-2 (PL 1379-80) (attached to the accompanying memorandum at Exh. H)]

RESPONSE:

E. John Doe (Daniel Alvarado)

64. In August 1983, while attending a soccer game in San Salvador, John Doe was abducted by men dressed in civilian clothes, but who carried military-issued rifles. [Deposition of Daniel Alvarado (“Alvarado Dep.”) at 26-28 (attached to the accompanying memorandum at Exh. I)]

RESPONSE:

65. Mr. Alvarado’s abductors blindfolded him, tied him up, threw him onto the floor of a car, and sat on top of him. [Alvarado Dep. at 29]

RESPONSE:

66. After being driven around for about 45 minutes, Mr. Alvarado was taken to the Treasury Police headquarters. [Alvarado Dep. at 29]

RESPONSE:

67. In a clandestine cell, Mr. Alvarado’s captors took his clothes off, gave him a pair of torn trousers, and connected wires to the big toes on his feet. [Alvarado Dep. at 30]

RESPONSE:

68. They ran electrical current through his body, placed a hood over his head to keep him from breathing, laid him down on the floor, and beat him. [Alvarado Dep. at 31]

RESPONSE:

69. Mr. Alvarado's captors called this form of torture, "the little airplane with its pilot."

[T]hey called it the little airplane with its pilot because they would lay you out on the floor face down, ... and they would place the hood over you and they would pull you back by it, a man would pull you back with the hood. At the same time, they would stand on you; they would beat you; they would insult you.

[Alvarado Dep. at 39]

RESPONSE:

70. Mr. Alvarado was "continuously tortured" in this manner from approximately 6:00 p.m. until approximately 1:00 or 2:00 in the morning. [Alvarado Dep. at 31-32]

RESPONSE:

71. The captors accused Mr. Alvarado of being a guerrilla fighter and wanted the names of people who participated with the guerrillas. [Alvarado Dep. at 31]

RESPONSE:

72. They also accused him of responsibility for the death of a United States military advisor in El Salvador, Lt. Cmdr. Albert Schaufelberger. [Alvarado Dep. at 31]

RESPONSE:

73. Mr. Alvarado had nothing to do with the assassination of Lt. Cmdr. Schaufelberger, who was killed at the University of Central America in San Salvador in May 1983. [Alvarado Dep. at 31-32]

RESPONSE:

74. During his torture, Mr. Alvarado was told that he “had to cooperate,” which meant that he had to give his captors names of other people or accept responsibility for the assassination of the United States military advisor. [Alvarado Dep. at 35]

RESPONSE:

75. Mr. Alvarado identified the man in charge of his torturers as Maj. Ricardo Pozo, chief of the intelligence section (“S-2”) of the Treasury Police and the head of the official Salvadoran investigation into Lt. Cmdr. Schaufelberger’s death. [Alvarado Dep. at 35-36; Deposition of Nicolas Carranza (Carranza Dep.”), at 381 (relevant excerpt attached to the accompanying memorandum at Exh. J)]

RESPONSE:

76. Maj. Pozo told Mr. Alvarado that his cooperation was necessary because there was a reward for finding the perpetrator of the Schaufelberger assassination, and that Maj. Pozo wanted to give the reward to “his boys,” Mr. Alvarado’s torturers. [Alvarado Dep. at 35 (Exh. I)]

RESPONSE:

77. Maj. Pozo told Mr. Alvarado that he would cooperate sooner or later because “they worked in shifts, and after the ones that [were] torturing [him] were gone, another group would arrive.” [Alvarado Dep. at 36]

RESPONSE:

78. After his first day of torture, Mr. Alvarado was taken by car to his parents’ home, which his captors searched while Mr. Alvarado, unbeknownst to his parents, was outside in the car. [Alvarado Dep. at 38]

RESPONSE:

79. The Treasury Police officers then returned Mr. Alvarado to the clandestine cell, where they tortured him again for approximately 24 hours. In that session, the torturers applied “the little airplane without the pilot,” which consisted of tying Mr. Alvarado’s hands behind his

back, hanging him from the ceiling, placing the hood over his head, administering electric shocks, and beating him. [Alvarado Dep. at 39-40]

RESPONSE:

80. On the fourth day after his capture, Mr. Alvarado was again tortured, this time by hanging him upside down by his feet. [Alvarado Dep. at 40]

RESPONSE:

81. The torturers did not call this form of torture by a particular name, but it consisted of the same cruel methods – “electric shock, the hood, beatings.” [Alvarado Dep. at 41]

RESPONSE:

82. After four days, Mr. Alvarado could not withstand further torture, and he signed a statement, which he did not read, and which he later discovered attributed to him responsibility for the Schaufelberger murder. [Alvarado Dep. at 41-42]

RESPONSE:

83. The following day, Mr. Alvarado was taken before the media at Treasury Police headquarters, an event at which Col. Carranza presided, and was forced to say that he had killed

Lt. Cmdr. Schaufelberger. According to Mr. Alvarado, “I was told that I had to say that I had killed the advisor and that if I didn’t do so, that they would continue with the torture or something might happen to my parents.” [Alvarado Dep. at 45]

RESPONSE:

84. After the press conference, Mr. Alvarado was returned to the clandestine cell. The following day, he was tortured again with the electric shocks and the hood. [Alvarado Dep. at 47]

RESPONSE:

85. During this torture session, Mr. Alvarado suffered a nervous breakdown. [Alvarado Dep. at 48]

RESPONSE:

86. After being held in the clandestine cells for 18 days, Mr. Alvarado was transferred to another prison cell within the more public part of the Treasury Police headquarters. [Alvarado Dep. at 37, 52]

RESPONSE:

87. Several weeks later, Mr. Alvarado was taken to a private home where he was questioned by two representatives of the United States government: one from the United States Navy and the other a member of the FBI. [Alvarado Dep. at 58]

RESPONSE:

88. The following day, the U.S. representatives administered a polygraph examination that confirmed that Mr. Alvarado had been tortured and that he did not participate in the Schaufelberger assassination. [Alvarado Dep. at 63; Cable from Amb. Edwin Corr, April 24, 1986 (describing the results of Mr. Alvarado's polygraph examination) (PL 1580) (attached to the accompanying memorandum as Exh. K)]

RESPONSE:

Dated: June 24, 2005

Respectfully submitted,

David R. Esquivel (TN Bar No. 21459)
BASS, BERRY & SIMS PLC
AmSouth Center
315 Deaderick Street, Suite 2700
Nashville, TN 37238-3001
Tel: (615) 742-6200
Fax: (615) 742-0405

Matthew J. Eisenbrandt (CA Bar No. 217335)
CENTER FOR JUSTICE & ACCOUNTABILITY
870 Market Street, Suite 684
San Francisco, CA 94102
Tel: (415) 544-0444
Fax: (415) 544-0456

Carolyn Patty Blum (MA Bar No. 046880)
CENTER FOR JUSTICE & ACCOUNTABILITY
291 West 12th Street
New York, NY 10014
Tel: (212) 989-0012
Fax: (415) 544-0456

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has this day been served upon the following counsel for the Defendant by depositing a copy thereof in the United States Mail, postage prepaid, this 24th day of June, 2005.

Robert M. Fargarson, Esq.
Fargarson & Brooke
65 Union Avenue, 9th Floor
Memphis, TN 38103

Counsel for Defendant Nicolas Carranza
