



Update on the First Day of Testimony in the Removal Trial of General Jose García

Opening Statements

Testimony in the removal trial of former Salvadoran General Jose García began with a moving opening statement by U.S. Department of Homeland Security trial counsel Loren Coy. Mr. Coy explained how El Salvador was dominated by military governments that supported the aims of the oligarchs – El Salvador’s “14 families” who controlled most of the land. The inequities in land ownership and wealth were stark, and this fundamental inequality was enforced by a “brutal campaign of repression” carried out by the military and security forces. In October 1979, a group of progressive junior officers staged a coup led by Colonel Adolfo Majano. This group promised land reform, banking reform, an end to repression and a transition to democracy with elections to take place in 1982. But this was not to be... General (then Colonel) García was appointed the Minister of Defense. Quickly García and other hard line military officers consolidated power, and repression again became the rule of the day.

As Coy explained it, General García was the most powerful figure in the country. The period of his leadership was characterized by systematic massacres, extra-judicial assassinations, arbitrary detention, torture and disappearances. These were directed not against the FMLN, but against the civilian population. In all over 75,000 people were killed in the conflict, with over 75% of the killings occurring while García was the Minister of Defense. In sheer numbers, relative to the small population of the country, it was among the highest repressive regimes in the world.

Coy noted the nine volumes of documentary evidence entered in the record the previous day and gave a preview of the testimony of Ambassador Robert White, CJA client Juan Romagoza and expert witness Professor Terry Karl.

In conclusion, Coy noted that García had been admitted to the U.S. at a point when he actually was excludable under U.S. law for having “assisted or otherwise participated in” torture or extra-judicial killing, given that he presided over widespread and systematic killings of men, women and children. He effectively gave a green light to engage in these acts, instituting and strengthened the death squads in the military, and approved the use of assassination as a method to get rid of anyone deemed subversive, and failed to prosecute even one officer for these crimes.

García’s lawyer, Alina Cruz, also gave an opening statement in which she emphasized that the law under which García was accused did not apply to him because he did not directly participate or assist in these acts. She repeated this central theme in several different ways in her opening statement. She said he had a distinguished military career culminating in his award of a Legion of Merit by President Reagan. She also mentioned that he had been found not responsible in the *Ford v. García* case (concerning the assassination of the four American churchwomen) because he was (1) not in control of the troops and (2) there was no proximate cause between him and the acts for which he stood accused.

In referring to the Center for Justice & Accountability's landmark litigation in *Romagoza Arce v. García*, Ms. Cruz did note he was found liable but as she stated it "only because the court had removed the requirement of proximate cause" which she characterized as a mistake of law. She said that CJA's case stood for the principle that any member of the military could be blamed for these abuses, which she conceded had occurred in El Salvador. She urged the judge to give the "correct weight" to the decision and give *res judicata* effect to the *Ford* ruling. In closing, she emphasized that there was no direct link to García in the thousands of pages of documents submitted by the DHS; that case law precludes a finding against García; that the DHS' evidence was only opinion and therefore nothing supported a showing he ordered, incited or assisted in extrajudicial killing or torture.

Ambassador Robert E. White

The first witness called was Ambassador Robert E. White. After enumerating his impressive diplomatic credentials, White's testimony elaborated on how he frequently spoke or met with García during his tenure as U.S. Ambassador to El Salvador from March 1980 to early 1981. White explained how the military and security forces were integrated and described the extreme level of repression in the country. White reviewed numerous US government declassified documents, many of which were telegrams he personally sent from the Embassy to the Secretary of State warning the U.S. about the deteriorating human rights situation in El Salvador.

He described discussions with García in which he tried to persuade García to clean up the abuses and hold the perpetrators responsible. One particular incident was the focus of testimony – the murders of the leadership of the FDR, the democratic opposition leadership, killed on, as White said it, "Thanksgiving Day, 1980" – that is November 27, 1980. A joint force operation led to their abductions in broad daylight from the Jesuit High School where they were holding a meeting. Their tortured bodies turned up the next day on the side of a road. (The FDR killings were the subject of previous CJA litigation when, in 2005, we successfully sued García's second in command, Vice Minister of Defense Nicolas Carranza on behalf of the widow of one of the FDR leaders and several other survivors).

White described how everyone knew that the military was responsible for the murders; nevertheless, García denied their involvement to White. He also noted another telegram in which García, and others, expressed their approval of the killings, and their general assent to the strategy of assassination as a means of dealing with dissidents. White stated that García never investigated those responsible for these deaths nor brought anyone to justice for this horrendous crime. White further noted that there was no way that a coordinated operation of this magnitude, against these significant political targets could occur without García's approval.

White testified that García had admitted to him that at least 1% of the military were in the death squads. White told him that even if only 100 men were in the death squads, they were capable of doing irreparable injury to the country and must be stopped and that it was García's responsibility to do so. Further, White said that García did not take orders from the junta since the junta did not control the military. In the discussion of one of White's own telegram to the Secretary of State, he described a conversation with García as one of the "most discouraging and

disappointing conversations so far” – this after a series of other contacts in which García consistently lied, obfuscated and stonewalled the Ambassador – the disappointment in this communique was palpable.

On cross examination, defense attorney Alina Cruz pressed the Ambassador to explain how he “knew” that there had been no investigations, prosecutions, or firings of the military in El Salvador for human rights abuses. The Ambassador assured Cruz that if they had prosecuted anyone, it would have been such big news that of course he and others in the Embassy would have been aware of it. When Cruz tried to give García credit for indicting what she claimed were “two officers” for the murder of the 4 American churchwomen, White responded that this had not occurred on García’s watch; in fact, no serious investigation of that crime occurred during García’s era.

Cruz pressed as to how the Ambassador had obtained information regarding an incident he had described on direct -- the gunning down of two high school students. White described how Spanish reporters had videotaped the whole thing and brought it to the Embassy; he watched the tape and saw that the boys were shot execution style by members of the security forces. White emphasized consistently during his cross examination that there was not any act, no matter how heinous, for which the soldiers who had committed the abuse would have been held responsible by their superiors. The total impunity of the military must be laid at the doorstep of Minister of Defense García.

As Ambassador White said, “Words are one thing and actions another. García’s words that the military was not committing abuses had not relation to what was actually going to happen. His conduct, and that of his subordinates, never changed.” Further, White emphasized that García had never claimed to lack control over his subordinate troops; quite to the contrary, García made it clear that he was the man in charge.

Tomorrow, CJA client Juan Romagoza will testify at 9 a.m. Romagoza is one of three plaintiffs in the CJA civil case that bears his name, *Romagoza Arce et. al. v. García, et al.* It will be a bittersweet moment for Romagoza. 32 years ago tomorrow (December 12, 1980), Romagoza was captured by soldiers, the National Guard and men in civilian clothes. It was the beginning of an excruciating several weeks of torture and an event which changed his life forever.

Dr. Romagoza and CJA are also acutely aware of another significant Salvadoran anniversary – the massacre at El Mozote, 31 years ago also on December 12th. By continuing to shine a light on the responsibility of the top commanders for the crimes of that era, we remember the El Mozote victims and seek to create an accurate historical record.

By CJA Senior Legal Advisor Carolyn Patty Blum. December 11, 2012.