



February 26, 2013: Second Day of Continued Hearing in the Removal Case of General Jose Guillermo Garcia before Immigration Judge Michael Horn, Miami, FL

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General Garcia took the witness stand in his own defense to the charges that he is removable from the United States because he “ordered, incited, assisted or otherwise participated in torture and extra-judicial killing.” Garcia testified that he had entered the Salvadoran Military Academy directly from High School, graduated from the Academy in 1956 with the highest honors for his class (in El Salvador referred to as his “tanda.”) and then spent the next 40 years in military service.

He narrated his own version of events of the October 15, 1979 “junior officers” coup which overthrew the government of General Romero. He stressed that he initially refused the invitation to become the Minister of Defense but on the third try, his military colleague General Jaime Abdul Gutiérrez persuaded him. As he put it, “they targeted my pride.” He was the Minister of Defense for three years and five months.

Garcia’s described events in El Salvador at that time as the military fighting a leftist insurgency supported by the Soviet Union, Cuba, Nicaragua and Panama. He attempted to locate himself in a middle ground between the extreme right and the extreme left.

When he became Minister of Defense, Garcia claimed that he tried to address the abuses of the prior government by releasing political prisoners, giving the ICRC unfettered access to prisoners, and curbing abuses. When interrupted by the Immigration Judge to direct his focus to abuses that occurred during his tenure as Minister of Defense (not those of the past), Garcia admitted that he knew there were widespread abuses. As Garcia put it, “When I say I knew, it was public knowledge that cannot be denied.”

Garcia’s testimony then turned to the investigations which he said he ordered although he stated he was hamstrung by “the information available.” One example was the investigation of the Sheraton murders (about which Professor Karl had testified on the previous day) – the killing of Jose Rodolfo Viera, the head of the Salvadoran agrarian reform institute and two U.S. labor advisors. He noted that one of those who ordered that killing, Lt. Lopez-Sibrian, was referred for investigation; however, he was wearing a disguise when witnesses were asked to identify him so the failure of identification meant the case could go no further. He termed this case “beyond his control.” He testified that Alvaro Saravia, the accused former military officer implicated in the assassination of Archbishop Oscar Romero, had been tried in a civilian court. (link to CJA case against Saravia). The only situation that he noted went to military court was that of the conspirators at the San Luis Finca who were likely foiled while plotting a coup. He stated that case did not get very far because “the necessary evidence was not produced.” Garcia resigned his position in April 1983 and came to the U.S. six years later. His attorney tried to elicit a substantial amount of testimony regarding his asylum request in the United States, particularly his candor about his position as Minister of Defense on his application. He stated that he had received anonymous threats to himself and his family which indicated that the caller was aware of his movement, schedule, and vehicles. He was granted asylum and thereafter became a lawful permanent resident. Garcia also stated that he and his wife were cancer survivors.

In a surprise move, the Department of Homeland Security did not cross examine Garcia. Instead, they offered rebuttal evidence in the form of the testimony of expert witness Terry Karl. Picking up on

Garcia's own testimony regarding his high honors in the *tanda* of 1956, Karl pointed out that this made him "Presidential" material, according to the logic of Salvador's sixty year military rule. He was sidelined, however, in the coup by General Romero in 1977. But his appointment as the Minister of Defense, as a result of the October 1979 coup, meant a re-assumption of power, and, within months, he had consolidated that power. Reading from a US government declassified cable of biographic information about Garcia (a commonly-used intelligence briefing format), Garcia was viewed as "in effect, the power behind the throne." Karl emphasized the broad powers Garcia possessed to transfer military personnel out of the country, fire officers (as he admitted he did with Major Roberto D'Aubuisson) and order investigations and punish abusers.

In reviewing the investigation of the Sheraton murders, Karl emphasized that the two killers confessed and named the three officers who ordered the killing. Karl agreed with Garcia that it was a "travesty of justice" that Lt. Lopez-Sibrian escaped accountability. Yet, unlike Garcia, Karl noted that the two other named officers also were never investigated. Despite U.S. government pressure on Garcia to make headway on this investigation, Garcia continued to obstruct justice. He appointed his *compadre* Col. Lopez-Nuila, the head of the National Police, to investigate the crime despite the fact that the National Police that already had "botched" the investigation, according to Karl. Then, Garcia appointed Col. Vides-Casanova, the head of the National Guard, to investigate despite the fact that the intelligence division of the National Guard (G-2) was where the crime had been planned. In the end, only the perpetrators, and not the planners, were tried for the crime – and this occurred after Garcia left office. Karl also set the record straight that Saravia had never been tried in El Salvador for the assassination of Archbishop Romero. Similarly, she emphasized Garcia's failure to investigate the massacre at Las Hojas, the slaying of 80 unarmed men. Two soldiers who were involved in the killings told U.S. Ambassador Hinton about the crime, including that it was ordered by Col. Elmer Gonzalez-Araujo. Karl cited a US declassified document reporting a conversation between Hinton and Garcia about the massacre and the man responsible for it. Garcia appointed a military officer to investigate who concluded that the deaths were the result of a "military clash," a conclusion which flew in the face of eyewitness accounts, forensics and the accounts of the two soldiers.

Karl also set the record straight that the ICRC was never given unfettered access to prisoners, as confirmed by a declassified document raising the access issue, along with the Sheraton murders and the Las Hojas massacre, in a conversation between President Reagan and Salvadoran President Magana. Garcia's attorney, on re-cross, re-raised the outcome of the *Ford v. Garcia* case, saying that Garcia had been "exonerated" in that case due to his lack of effective control of the military. Karl responded that much more information about the murders of the four American churchwomen was available now than at the 2000 civil trial. In no uncertain terms, Karl stated that General Garcia failed to investigate the crime and obstructed investigations. As Karl put it, "not even the most minimal forensic work took place, including autopsies ostensibly because coroners forgot to bring surgical masks." Under intense pressure from the Americans, Garcia kept "promising to get to the bottom of the slayings," according to Karl, but only named his allies, Lopez-Nuila and Vides-Casanova to conduct what essentially were sham investigations. Only after Secretary of State Haig communicated directly to Garcia that Haig would have difficulty defending US support of El Salvador to the U.S. Congress unless there was "significant progress on these investigations" did Garcia allow action to be taken against the direct perpetrators in the National Guard. These men, according to Karl, have stated that their actions against the churchwomen were the result of higher orders.

Final testimony will continue tomorrow when one of Garcia's daughters will testify on his behalf. Testimony then will conclude.