



**February 25, 2013, First Day of Continued Removal Hearing of General Jose Guillermo Garcia,
Former Minister of Defense of El Salvador, 1979-1983**

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On a glaringly bright day in Miami, Florida, the small courtroom of Immigration Judge Michael Horn once again heard testimony in the removal case of former Salvadoran General and Minister of Defense Jose Guillermo Garcia. Today's hearing began and concluded the cross examination, redirect and re-cross of expert witness, Stanford political scientist and El Salvador specialist, Professor Terry Karl.

The broad strokes of General Garcia's defense were revealed in the questions of his defense attorney, Alina Cruz of Karl. One crucial tack relied on the process of "certification" in which the President of the United States and the executive branch were required to assure Congress that El Salvador was making progress on ending rampant human rights abuses in order to gain Congressional approval for foreign and military aid to that country. Cruz pressed Professor Karl to explain the difference between the certification documents which seemed to indicate that, even as far back as General Garcia's time as the Minister of Defense, twice a year the President reassured the restive Congress that things were progressing in El Salvador. She offered a certification document from January 1983 as evidence.

Karl responded in two crucial ways. First she explained that in 1993, the Department of State commissioned a full study of the certification process. This review was motivated, at least in part, by the release of the UN Truth Commission Report for El Salvador in which the Truth Commission named those responsible for a number of notorious killings and massacres during the 1980s, in particular, the killings of the four American churchwomen in December 1980 and the head of the Salvadoran land reform program and two American labor advisers (brazenly pulled off in the Sheraton Hotel) in January 1981. As Professor Karl stated it, "If the Truth Commission could attribute these crimes, why hadn't the US been able to?" This led to closer scrutiny of the deficiencies of the certification process. Second, Karl noted the differences between information in the thousands of pages of declassified US government documents she had reviewed for her Report and testimony which indicated that U.S. government officials had failed to include crucial, known information about the magnitude of abuses in El Salvador and the involvement of its military and security forces in these crimes; this information all too often was not included in the certification reports.

In regards to the notorious massacre at El Mozote of December 1981, Cruz inquired whether General Garcia could have denied the existence of the massacre because he did not have accurate intelligence information about it. Karl said this was impossible. Within days of the massacre, two U.S. Embassy officials had flown over the region and reported to Ambassador Hinton that it was clear something serious had occurred. Karl emphasized that Garcia had the capacity and duty to investigate the crime. Cruz pressed Karl that maybe the massacre had been carried out by forces other than the Army. Karl made clear that was not plausible.

Similar to Garcia's defense in CJA's case against him (Romagoza-Arce et. al v. Garcia and Vides), Cruz implied that there were multiple "kinds of people" operating in the country over whom the government had no control. Karl emphasized again that the Salvadoran Armed Forces had been found responsible for the majority of the killings by numerous sources. Cruz referred to a chart created from the findings of the Truth Commission. Karl explained that the Truth Commission findings were based on the statements of over 22,000 victims and that information about perpetrators was gleaned primarily from

these sources. Cruz tried to pin a greater portion of the abuses on the opposition rebels, the FMLN, but Karl emphasized that no statistics by any credible source supported such a conclusion. Karl stated the estimates of 70,000 civilian deaths in the conflict likely were low figures and that, in fact, as many as 80,000-100,000 were killed. When Cruz implied that the killings might have been the acts of renegade soldiers, Karl again stressed that no reputable independent body supported such a finding. She further testified that the Salvadoran situation was not one of “chaos” but instead one where commanders exercised command and control over subordinate troops, a finding, as Karl pointed out, supported by CJA’s case against Garcia and previously found true of Garcia’s National Guard Director, Vides-Casanova in his removal proceeding.

Karl also testified that General Garcia had never encouraged a political solution to the crisis in El Salvador, that he held the single most important position in the military, that he made no efforts to prevent human rights abuses, and he never ordered investigations of human rights abuses. During his time as Minister of Defense, no officer was ever held accountable for any human rights abuses, said Karl.

At the end of a long day of testimony, Immigration Judge Horn asked Professor Karl if she was aware of the specific charges against Garcia in his Notice to Appear for this hearing – that the DHS had alleged that he ordered, incited, assisted or otherwise participated in torture or extra-judicial killing. He particularly wanted to know whether Prof. Karl was familiar with the legal definition of torture to which the statute referred. He asked her opinion on the applicability of the statute to Garcia.

Professor Karl gave an eloquent summation. She described the widespread and systematic use of torture, especially by the Security Forces – that is, the Salvadoran National Police, National Guard and Treasury Police. She noted the similarities in the use of torture techniques at all three of those locations. These three entities were commanded by Garcia’s closest colleagues. As she stated, he knew these men’s views. Lopez Nuila, the head of the National Police was Garcia’s compadre, the godfather of his child. Francisco “Paco” Moran, the head of the Treasury Police, was a notorious human rights abuser, for whom calls for his dismissal were made repeatedly by figures in El Salvador and the U.S. Vides, a trusted ally and the head of the National Guard, had already been held subject to the same statute in his removal case. Garcia knew the reports of secret torture cells within their Headquarters and of the repeated allegations of torture.

Professor Karl referred to her own experience of seeing bodies in the streets with signs of torture. She referred to a State Department official’s visit to the women’s prison where every woman in the “political” section described having been tortured. Karl described the body dump at El Playon, a location that could not be accessed without going through military checkpoints. Karl noted that Amnesty International’s Urgent Action campaign directed members to contact General Garcia about numerous cases of people who had been captured and were at risk of torture or death. As Karl summed up, Garcia willfully turned a blind eye to torture, promoted and protected known torturers or their commanders and knew that torture was being carried out daily under the watch of his subordinates. As she put it, this was a top down organization, and Garcia was its central organizer. In conclusion, Professor Karl stated, he incited, assisted in and participated in torture.