

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 99-8364 CIV-HURLEY

Magistrate Judge Seltzer

JUAN ROMAGOZA ARCE, JANE)
DOE, in her personal capacity and)
as Personal Representative of the)
ESTATE OF BABY DOE,)

Plaintiffs,)

vs.)

JOSE GUILLERMO GARCIA, an)
individual, CARLOS EUGENIO)
VIDES CASANOVA, an individual,)
and DOES 1 through 50, inclusive,)

Defendants.)

RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

COME NOW the Defendants, CARLOS EUGENIO VIDES CASANOVA and JOSE GUILLERMO GARCIA, by and through their undersigned counsel, file this their Response to Plaintiffs' Motion for Partial Summary Judgment and in support states:

1. There are disputed material facts herein, prohibiting a granting of summary judgment.
2. The Plaintiffs misstate the law of command responsibility or liability.
3. The extent of, effectiveness of, nature of, etc., the command the Defendants had over the parties who allegedly committed the acts of torture.

STATEMENT OF DISPUTED FACTS

The Defendants have denied that the Plaintiffs were victims of international law violations at the hands of members of the Military and Security Forces during the periods in which the Defendants held positions of command over said forces.

The command structure of the Salvadorean armed forces was in disarray during the times the Defendants held positions of authority from October, 1979 to 1989.

El Salvadore was in a civil war during the time from 1979 to 1989 and the armed forces were disorganized, fractioned and factioned during this time period.

There were outlaw renegade uniformed armed units fighting against other uniformed units, individuals, guerrilla groups.

WHEREFORE, the Defendants pray this Court deny Plaintiffs' Motion for Partial Summary Judgment.

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was mailed to James M. Schurz, James J. Garrett, Peter J. Stern, Beth Van Schaack, Phyllis A. Oscar, Morrison & Foerster LLP, 101 Ygnacio Valley Road, Suite 450, Walnut Creek, CA 04506, Fax no: (925) 946-9912, and mailed to James K. Green, Esq., 250 Australia Avenue, Suite 1602, West Palm Beach, Florida 33401, Susan Shawn Roberts, Esq., Jill Ann Peasley, Esq., Beth Ann Schaack, Esq., Beth Stephens, Esq., The Center for Justice and Accountability, 588 Sutter Street, No. 433, San

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Francisco, CA 94102; Carolyn Patty Blum, Esq., Boalt Hall, School Law, University of California, 685 Simon Hall Berkeley, CA 94720-7200 and Paul Hoffman, Esq., Schonbrun De Simone Seplow, Harris & Hoffman, L.L.P., 723 Ocean Front Walk, Venice, CA. 90291, on this 26th day of February, 2001.

LAW OFFICES OF KURT R. KLAUS, JR.
Attorney for the Defendants
3191 Coral Way, Suite 502
Miami, Florida 33145
Tel: (305) 461-4447

BY: 

KURT R. KLAUS, JR.
Fla. Bar No: 299804