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21 UNITED STATES DISTRICT COURT
22 EASTERN DISTRICT OF CALIFORNIA

23 J. DOE,
24
25 Plaintiff,
26
27 v.
28 ALVARO RAFAEL SARAVIA;
and DOES 1-10 inclusive,
Defendants.

Case No.:
**COMPLAINT FOR
EXTRAJUDICIAL KILLING AND
CRIMES AGAINST HUMANITY**
JURY TRIAL DEMANDED

1 Plaintiff J. Doe alleges as follows:

2 **PRELIMINARY STATEMENT**

3 1. On March 24, 1980, Oscar Arnulfo Romero y Galdamez, Archbishop of San
4 Salvador and a leading figure in the struggle for human rights in El Salvador (“Archbishop
5 Romero”), was assassinated while he celebrated mass in the Chapel of the Hospital of
6 Divine Providence. This action alleges that Captain Alvaro Rafael Saravia Merino
7 (“Saravia”) is liable for ordering, conspiring to commit, and aiding and abetting the
8 Archbishop’s assassination.

9 **JURISDICTION**

10 2. This is a civil action by a non-citizen asserting violations of the law of
11 nations, including the prohibition against extrajudicial killing and crimes against humanity,
12 and for violation of the prohibition against extrajudicial killing under the Torture Victim
13 Protection Act (“TVPA”), Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C.
14 § 1350 note). Accordingly, this Court has jurisdiction over this action based on the Alien
15 Tort Claims Act (“ATCA”), 28 U.S.C. § 1350, and 28 U.S.C. § 1331.

16 3. On information and belief, Defendant Saravia is an alien and resides in the
17 Eastern District of California. Accordingly, venue is proper in the United States District
18 Court for the Eastern District of California pursuant to 28 U.S.C. § 1391(d) and/or (b).

19 **PARTIES**

20 *Defendants*

21 4. On information and belief, Defendant Saravia is a Salvadoran citizen and a
22 resident of the city of Modesto in Stanislaus County, California. Defendant Saravia
23 previously served as a captain in the Salvadoran air force. In 1979, he resigned or was
24 discharged from the military, and from that time worked closely with Major Roberto
25 D’Aubuisson. D’Aubuisson, at the direction of and in conjunction with elements of the
26 Salvadoran armed forces and far right Salvadoran civilians inside and outside of El
27 Salvador, founded the far right political movement Frente Amplio Nacional (the “FAN”)
28

1 and the far right political party Alianza Republicana Nacionalista (“ARENA”), and
2 organized “escuadrones de la muerte,” or “death squads,” paramilitary organizations
3 composed of civilians and military figures that systematically carried out politically-
4 motivated assassinations and other human rights abuses in El Salvador.

5 5. Plaintiff is ignorant of the true names and capacities of Defendants sued
6 herein as Does 1 through 10, and therefore sues these Defendants by such fictitious names.
7 Plaintiff is informed and believes, and on that basis alleges, that each Doe Defendant is
8 liable to Plaintiff in some manner for the events stated in this complaint. Plaintiff will
9 amend this complaint to allege the true names and capacities of such Doe Defendants when
10 they are ascertained.

11 *Plaintiff*

12 6. Plaintiff J. Doe, an alien, is a surviving relative of Archbishop Oscar Romero.

13 **STATEMENT OF FACTS**

14 Plaintiff J. Doe alleges as follows on information and belief:

15 7. Archbishop Romero was appointed Metropolitan Archbishop of San Salvador
16 on or about February 3, 1977. This was a period of growing political tension in El Salvador
17 in which the military and security forces, and associated paramilitary groups, began
18 engaging in a pattern of massive human rights abuses. By the early 1980’s, as many as
19 1,000 civilians were being murdered each month.

20 8. During his tenure as Archbishop, Romero became an outspoken critic of the
21 increasing human rights abuses being committed by the Salvadoran armed forces. His
22 weekly homilies, broadcast nationally by radio, regularly exposed grave human rights
23 violations committed by Salvadoran military and security forces. These weekly sermons
24 captivated the Salvadoran people, and Archbishop Romero quickly became the most
25 prominent figure in the struggle for human rights in El Salvador. Archbishop Romero was
26 widely viewed as the voice of the Salvadoran oppressed as he increasingly advocated for the
27 interests of the Salvadoran poor and those victimized or affected by the violence being
28 committed by the armed forces.

1 military officers and civilians dedicated to carrying out acts of political violence. At the
2 direction of and/or with the financial and logistical support of the Salvadoran armed forces
3 and far right Salvadoran civilians inside and outside El Salvador, D'Aubuisson
4 simultaneously sought to create a public facade for these violent activities through a far
5 right political movement under the banner of the FAN and, later, the ARENA party.

6 13. Paramilitary groups organized by D'Aubuisson, known as "escuadrones de la
7 muerte," or "death squads," participated in a widespread and systematic assault against
8 Salvadoran civilians in conjunction with the Salvadoran armed and security forces that
9 included intimidation, assault, abduction, torture, summary killings, and disappearances.
10 These groups targeted individuals perceived as members or sympathizers of moderate and
11 left wing political parties or guerrilla organizations, and groups and individuals who
12 focused on the needs of farmers, workers, and the poor. Victims included labor activists,
13 students, members of the clergy, farmworkers, villages in conflict zones, and leaders,
14 officials, and members of various political parties, including the Christian Democratic
15 Party, the Social Democratic Party and the Democratic Revolutionary Front.

16 14. In or about early 1980, Major D'Aubuisson, Defendant Saravia and other far
17 right military and civilian members of a group close to Major D'Aubuisson met to discuss
18 and plan the executions of Archbishop Romero and other prominent civilian leaders
19 perceived to be opponents of the Salvadoran armed forces. Defendant Saravia made
20 arrangements to obtain weapons, vehicles, and other material necessary for these actions.

21 Assassination of Archbishop Romero

22 15. On or about March 24, 1980, Major D'Aubuisson, Defendant Saravia and
23 others gathered at the home of a D'Aubuisson supporter in San Salvador. The group was
24 informed that Archbishop Romero would be celebrating a mass that day and proposed that
25 this provided a good opportunity to carry out the already approved assassination.

26 D'Aubuisson agreed, and the group began to make arrangements.

27 16. Defendant Saravia coordinated the group. Defendant Saravia, among other
28 things, ordered his personal driver to take a car and transport the assassin to the murder site

1 by following another car to the Chapel of the Hospital of Divine Providence. After the
2 assassin shot and killed Archbishop Romero, Saravia's driver returned the assassin to the
3 home from which they had departed earlier in the day. Upon returning to that location, the
4 assassin informed Saravia, who was present, that the mission had been accomplished.
5 Saravia then took the assassin inside the house.

6 17. Later, Defendant Saravia notified Major D'Aubuisson that the group's plan to
7 assassinate Archbishop Romero had been accomplished. Additionally Saravia delivered a
8 sum of money, which earlier had been provided to him to pay the assassin, to the assassin or
9 his agent.

10 18. In furtherance of the conspirators' plan, design, and scheme to assassinate
11 Archbishop Romero, National Police and other government officials charged with
12 investigating the assassination failed to conduct a timely investigation, failed to collect and
13 preserve material evidence, and failed to identify witnesses or take their statements. Just
14 three days after the assassination, the investigating judge to whom the Romero case had
15 been assigned, Judge Atilio Ramirez Amaya, was forced to flee the country after an attempt
16 was made to kill him in his own home. Additionally, a witness, who had entered the Chapel
17 of the Hospital of Divine Providence just after the assassination and witnessed the
18 assassin's flight, was kidnapped and remains disappeared.

19 19. The United Nations Commission on the Truth for El Salvador and the Inter-
20 American Commission on Human Rights conducted separate extensive investigations. The
21 U.N. Truth Commission found that Saravia was "actively involved in planning and carrying
22 out the assassination" because he was in charge of the operation and was involved in paying
23 the assassin's fees. The Inter-American Commission concluded that the State of El
24 Salvador violated Archbishop Romero's right to life. In fact, the Inter-American
25 Commission found that, "In 1980 and 1981, death squad operations were frequently
26 coordinated with the Armed Forces. The clandestine nature of their actions made it possible
27 to cover up the state responsibility and to create an ambience of total impunity for the
28 killers." Furthermore, "the death squads incorporated active members of the state security

1 forces in their ranks and had the support of the corresponding official institutions.” The
2 Commissions both concluded that the Salvadoran government conspired to cover up
3 responsibility for the assassination.

4 20. Defendant Saravia left El Salvador in or about 1985 and first arrived in the
5 United States in or about 1985 or 1986. In 1987, a Salvadoran court initiated a criminal
6 proceeding against Saravia for his alleged role in Archbishop Romero’s assassination and
7 requested his extradition from the United States. Saravia was detained in south Florida on
8 immigration grounds while the extradition proceeding remained pending. In 1988, under
9 questionable circumstances, the Supreme Court of El Salvador ruled that the arrest order
10 and extradition request for Saravia were invalid. The U.N. Truth Commission found that
11 the Salvadoran Supreme Court “played an active role that served to hinder the extradition
12 from the United States and later imprisonment of former Capt. Saravia in El Salvador.”
13 After the extradition request was withdrawn, Saravia posted bond and was freed from
14 detention. He has lived freely in the United States since that time.

15 21. No person has ever been held criminally responsible, let alone prosecuted, for
16 Archbishop Romero’s assassination.

17 22. Following U.N.-supervised elections held pursuant to the Salvadoran Peace
18 Accords, the first democratically-elected government took office in El Salvador on June 1,
19 1994. Prior to that time, the military and security forces held enormous power, and any
20 person who leveled allegations against active or former members of the military not only
21 risked reprisal but also the futility of confronting an institution that consistently and
22 vigorously denied that human rights abuses were committed by its members and obfuscated
23 investigations into those abuses. Even after the Salvadoran security forces were disbanded
24 pursuant to the Peace Accords, Salvadoran courts were still unable or unwilling to hear
25 most claims for human rights violations against individuals for alleged involvement in
26 financing, ordering, assisting, or carrying out death squad killings, including the
27 assassination of Archbishop Romero. Even today, survivors of torture and relatives of
28 killings committed by Salvadoran death squads and the armed forces as far back as the

1 1970's and early 1980's have declined to bring claims in El Salvador or elsewhere against
2 the individuals responsible for fear of violent reprisals.

3 **GENERAL ALLEGATIONS**

4 23. Unless otherwise specified below, all acts and omissions alleged by Plaintiff
5 were carried out by Defendant Saravia and/or active or former Salvadoran military and
6 security personnel and Salvadoran civilians living in and outside of El Salvador. One or
7 more of these people conspired and acted in concert with Defendant Saravia pursuant to a
8 common plan, design, and scheme to assassinate Archbishop Romero and other persons
9 identified as "enemies" of the Salvadoran far right. Saravia knowingly joined and
10 participated in carrying out the common plan, design, and scheme. In addition to being
11 personally liable for his own actions, Defendant Saravia is also jointly and severally liable
12 for the actions of the other members of D'Aubuisson's death squads, all of which were
13 actions undertaken in furtherance of a common, plan, design and scheme to assassinate
14 Archbishop Romero and other persons identified as "enemies" of the Salvadoran far right.

15 24. The actions of Defendant Saravia and his co-conspirators were committed in
16 concert with and/or with the approval or acquiescence of Salvadoran armed and security
17 forces.

18 **FIRST CLAIM FOR RELIEF**

19 *(Extrajudicial killing)*

20 25. Plaintiff J. Doe realleges and incorporates by reference the allegations set
21 forth above as if fully set forth herein.

22 26. Defendants Saravia and Does 1-10 helped plan and carry out the assassination
23 of the decedent, Archbishop Romero, as joint tortfeasors, co-conspirators, and participants
24 in a common plan, design, and scheme to assassinate the Archbishop. Defendants Saravia
25 and Does 1-10 ordered, directed, procured, planned, organized, and/or aided and abetted
26 others in effecting the common plan, design, and scheme that resulted in the murder of
27 Archbishop Romero.
28

1 abetted others in effecting the common plan, design, and scheme that resulted in
2 Archbishop Romero's murder.

3 34. Defendants Saravia and Does 1-10 knew or should have known that their acts
4 were committed as part of a widespread or systematic attack against a civilian population.

5 35. The knowing participation of Defendants Saravia and Does 1-10 in and
6 substantial assistance to Archbishop Romero's assassination constitutes a "tort . . .
7 committed in violation of the law of nations or a treaty of the United States" under the
8 ATCA in that the assassination of Archbishop Romero violated customary international law
9 prohibiting crimes against humanity as reflected, expressed, and defined in multilateral
10 treaties and other international instruments, international and domestic judicial decisions,
11 and other authorities.

12 36. The assassination of Archbishop Romero has caused Plaintiff J. Doe pain and
13 suffering. As a result, Plaintiff has been damaged in an amount to be proven at trial.

14 37. The acts and omissions of Defendants Saravia and Does 1-10 were deliberate,
15 willful, intentional, wanton, malicious and oppressive, and should be punished by an award
16 of punitive damages in an amount to be determined at trial.

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PRAYER FOR RELIEF

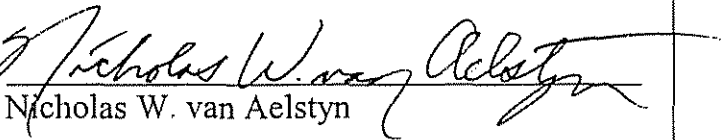
WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- (a) For compensatory damages according to proof;
- (b) For punitive and exemplary damages according to proof;
- (c) For reasonable attorneys' fees and costs of suit, according to proof, and
- (d) For such other and further relief as the court may deem just and proper.

A jury trial is demanded on all issues.

DATED: September 12, 2003

HELLER EHRMAN WHITE & McAULIFFE LLP

By 
Nicholas W. van Aelstyn

Attorneys for Plaintiff
J. DOE