

U.S. Department of Justice  
Executive Office for Immigration Review  
United States Immigration Court

In the Matter of

File:

(b) (6)

CARLOS EUGENIO VIDES CASANOVA

RESPONDENT

)  
)  
)  
)

IN REMOVAL PROCEEDINGS

Transcript of Hearing

Before JAMES K. GRIM, Immigration Judge

Date: April 18, 2011

Place: ORLANDO, FLORIDA

Transcribed by FREE STATE REPORTING, Inc.

Official Interpreter (b) (6)

Language: SPANISH

Appearances:

For the Respondent: DIEGO HANDEL

For the DHS: JAMES CRAIG AND KEVIN STANLEY

1 JUDGE FOR THE RECORD

2 Okay, we're on the record. It's April 18th, 2011, a Monday  
3 in the Immigration Court in Orlando, Florida, Immigration Judge  
4 James Grim in the matter of Mr. Carlos Vides Casanova, (b) (6)  
5 (b) (6) He is in Court today, present in person with his attorney.

6 JUDGE TO MR. HANDEL

7 And Mr. Handel, H A N D E L, if you could state your  
8 appearance.

9 MR. HANDEL TO JUDGE

10 Diego Handel appearing for Mr. Vides Casanova sitting to my  
11 left.

12 JUDGE TO MR. HANDEL

13 Okay.

14 JUDGE TO MR. CRAIG AND MR. STANLEY

15 And for the Government today.

16 MR. CRAIG TO JUDGE

17 James Craig, Assistant Chief Counsel on behalf of the  
18 Department of Homeland Security.

19 MR. STANLEY TO JUDGE

20 Kevin Stanley on behalf of the Department of Homeland  
21 Security.

22 JUDGE TO MR. HANDEL, MR. CRAIG AND MR. STANLEY

23 All right. Thank you all, gentlemen.

24 JUDGE FOR THE RECORD

25 Our Court interpreter in the Spanish language is (b) (6)

(b) (6)

1 (b) (6)

2 JUDGE TO MS. (b) (6)

3 And if you could just raise your right hand for me. Do you  
4 swear or affirm you'll interpret from English to Spanish and  
5 vice versa to the best of your ability?

6 MS. (b) (6) TO JUDGE

7 I do.

8 JUDGE TO MS. (b) (6)

9 Thank you. You may put your hand down. Through the  
10 interpreter to the respondent.

11 JUDGE TO MR. VIDES CASANOVA

12 Q. Mr. Vides, good afternoon, sir. Okay.

13 A. Good afternoon.

14 Q. Please speak up so we can record everything, sir.

15 A. Good afternoon.

16 Q. Okay. Then if you could tell me your true and  
17 complete name, sir.

18 A. Carlos Eugenio Vides Casanova.

19 Q. Okay. And that's the level I need to have you speak  
20 at so I can record everything and are you still living in Palm  
21 Coast at (b) (6)

22 A. Yes.

23 Q. And the gentleman seated next to you Mr. Handel is  
24 your attorney, he's authorized to speak for you.

25 A. Yes.

(b) (6)

1 Q. All right. Let me turn my attention to him for now,  
2 sir, to both counsel.

3 JUDGE TO MR. CRAIG

4 And I assume, Mr. Craig, for most of the hearing, you'll be  
5 speaking for the Government.

6 MR. CRAIG TO JUDGE

7 Yes, Your Honor. Mr. Stanley will be examining several  
8 witnesses though.

9 JUDGE TO MR. CRAIG

10 Okay. And I'll direct most of my attention to you and have  
11 Mr. Stanley step in whenever he needs to.

12 MR. CRAIG TO JUDGE

13 Uh-huh.

14 JUDGE TO MR. HANDEL, MR. CRAIG AND MR. STANLEY

15 A few housekeeping matters first since this is a bit of an  
16 unusual case at least as far as the time that we're going to  
17 invest in it especially, first, I think most of you know or at  
18 least Ms. (b) (6) is our Spanish interpreter assigned to the  
19 case. I hope that she'll be with us a week. I don't anticipate  
20 any problems, but we'll plan on her being available for the  
21 entire hearing trial this week. Ms. (b) (6) here is one of the  
22 Immigration Court employees that will be assisting me. She's  
23 one of our judicial law clerks. So she is a DOJ employee in  
24 case you were wondering who she is and why she's sitting here.  
25 First and this is maybe a little unorthodox, but I've had the

(b) (6)

1 pleasure of knowing all three of the counsel for some time. I  
2 guess we could do a lot worse. I think knowing all of you,  
3 you're very professional and I'm glad that you're assigned to  
4 the cases because I think in many ways it will make this process  
5 go much more smoothly. I know that you're all a very zealous  
6 advocate. I don't expect you to pull any punches so to speak,  
7 but I also don't expect any of the sometimes gamesmanship that I  
8 see with other counsel. I've never seen that from the three of  
9 you. So I'm going I'm glad in the many ways that you're  
10 assigned to the case and you're representing your respective  
11 clients. Having said that, I also know that you come from  
12 backgrounds where you were the criminal prosecutors, defense  
13 attorneys, litigation, high litigation in either the criminal or  
14 civil realm and the rules of evidence are probably in those  
15 realms a little less relaxed than they are in Immigration  
16 proceedings. I suppose the DHS attorneys have dealt more with  
17 the Immigration proceedings and the relaxation of those rules  
18 than Mr. Handel, but we all have to kind of play with that  
19 umbrella above us. What that means is I fully expect everyone  
20 to make any objections they have to witness testimony or to  
21 evidence, but I am going to be operating within the way that the  
22 BIA and the circuit court has addressed rules of evidence and  
23 that's pretty much set forth on the last decision that was just  
24 issued on the motion in Lenny. So with that in mind, I don't  
25 expect anyone to withhold any objections. To make a record is

(b) (6)

1 what I intend to do with everything we do here because no matter  
2 what I decide, one of you is most likely going to appeal my  
3 decision. So we want to be sure to get it all right for the  
4 appellate process. Now as I go through these issues that I want  
5 to address, any questions or comments on that so far?

6 JUDGE TO MR. HANDEL

7 Mr. Handel, anything?

8 MR. HANDEL TO JUDGE

9 No, Your Honor.

10 JUDGE FOR THE RECORD

11 Okay. Recording devices and this is for everyone in the  
12 courtroom so I'll do it in English and Spanish because I don't  
13 know if we have Spanish speakers there, the Department of  
14 Justice basically me, I'm the only one that's going to be  
15 recording these proceedings. No one else in the courtroom is  
16 allowed to have a recording device or have it in operation.  
17 You're more than welcome to write down shorthand or otherwise  
18 anything that goes on in here, but I can't emphasize enough how  
19 much you are not allowed to use recording devices. Any the  
20 unfortunate incidents that one of you does try to record  
21 anything, I'll have to have you leave the Court and be not  
22 allowed to come back in. Now, that applies to most electronic  
23 devices like cell phones. I believe that everyone is allowed to  
24 bring cell phones into the building now, but I would ask that  
25 they all be silent. I'm going to relax that rule a bit for the

(b) (6)

1 attorneys involved in the case given the amount of time this  
2 week and probably beyond that you have to be here in the  
3 courtroom with me. I'm going to allow the attorneys to access  
4 their e-mail or text or whatever else you need to, to keep your  
5 other responsibilities going this week. Any questions on that  
6 from either one, either one of you? Okay.

7 JUDGE TO MR. HANDEL, MR. CRAIG AND MR. STANLEY

8 And from the counsel, anything? Okay. The Department is  
9 cabled to downstairs connection and so I guess I have the  
10 advantage of being able to tie into their database. That can be  
11 a benefit when we're trying to do master hearings and they can  
12 check on I-130s. In this particular case, I don't know what  
13 they would be using it for. If you have a laptop that would  
14 assist you, Mr. Handel, in you know making your case go more  
15 smoothly, feel free to bring it in. If there's any trouble with  
16 that, then talk to Mr. Russelberg, the Court Administrator and  
17 he'll make sure the guards allow you to bring it in.

18 MR. HANDEL TO JUDGE

19 Yeah. I do plan on bringing one tomorrow. So --

20 JUDGE TO MR. HANDEL

21 Okay. Very good and if you have any difficulty, please  
22 just call ahead and we'll make sure that there's a smooth entry  
23 for you.

24 JUDGE TO MR. HANDEL, MR. CRAIG AND MR. STANLEY

25 At the same time, we'll be doing some long days in here.

(b) (6)

1 If you want to bring your water, your coffee in here, feel free  
2 to do that. I don't know if all the Judges allow that, but I'm  
3 not going to make any issue of that. Lastly, we need to be  
4 finished up by 5:15 every day and any nongovernment employee has  
5 to be out of this building no later than 5:30 because that's  
6 when the security staff departs. I don't want anyone in here  
7 that is not a Government employee after 5:30 because I can't  
8 ensure their safety in a realm of possible bad things and I just  
9 don't even want to go there. So by 5:15 if we could complete  
10 everything, be ready to have our tables cleared, give us some  
11 time to get out the door, I would really appreciate everyone  
12 working towards that. Does anyone anticipate that being a  
13 problem?

14 MR. CRAIG TO JUDGE

15 Your Honor, we are going to be meeting with witnesses after  
16 5:30, but obviously we have our own office space downstairs.

17 JUDGE TO MR. CRAIG

18 Okay. Very good.

19 JUDGE TO MR. HANDEL

20 Mr. Handel.

21 MR. HANDEL TO JUDGE

22 I don't anticipate that being a problem.

23 JUDGE TO MR. HANDEL AND MR. CRAIG

24 Okay. And lastly, the only thing I wanted to raise and  
25 then I'll leave it open to the two of you to raise any

(b) (6)



1 housekeeping so to speak issues at the close of the evidence  
2 this week, I'm hopeful that the DHS would have completed their  
3 portion of the case. Given the massive amount of evidence that  
4 we have, I won't necessary expect either side to do an oral  
5 closing argument. You're welcome to do that, but I'll give you  
6 the option now of thinking about doing a written closing  
7 argument if that works for either one or both of you, but I just  
8 throw that out as an option to you. I can go either way with  
9 it, but I just want to give you as much latitude as I can given  
10 the complexity of the case.

11 MR. CRAIG TO JUDGE

12 We are planning on offering the written closing arguments.  
13 We appreciate it.

14 JUDGE TO MR. CRAIG

15 Okay.

16 JUDGE TO MR. HANDEL

17 And Mr. Handel, that'll be for you as well.

18 MR. HANDEL TO JUDGE

19 I haven't really thought through yet, Judge, but I'll let  
20 the Court know.

21 JUDGE TO MR. HANDEL

22 Okay. And if they're going to do their written one given  
23 it's their burden to prove deportability I wouldn't want to take  
24 your closing before, before I hear or see or read theirs. So  
25 what I can do is if you want to do yours orally, set it for a

(b) (6)

1 brief hearing after I have the written closing, but those are  
2 bridges we can cross at a later time. All right. Now, I can't  
3 think of everything.

4 JUDGE TO MR. CRAIG

5 So let me ask the Government, is there anything you want to  
6 bring up that would make this process a little more smoothly  
7 before we jump in?

8 MR. CRAIG TO JUDGE

9 We do have an opening statement prepared. I know we  
10 typically don't do that in Immigration Court, but given the  
11 complexity of this case, we thought it help the, help to give  
12 the Court a little road map as to where we're going and what we  
13 anticipate proving with the evidence.

14 JUDGE TO MR. CRAIG

15 All right.

16 JUDGE TO MR. HANDEL

17 And Mr. Handel, anything that you want to raise at the  
18 outset?

19 MR. HANDEL TO JUDGE

20 I just wanted to confirm with the Court as far as the  
21 actual schedule for this week. Are we starting at 8:30 every  
22 day and ending at 5:15? Or I thought there was one day when  
23 that was different.

24 JUDGE TO MR. HANDEL

25 The day it was different in my recollection was only today

(b) (6)

1 so that I get past that detained docket this morning. I  
2 generally have a detained docket on Mondays and Thursdays, but I  
3 am not scheduling cases for Thursday so that we can continue  
4 with this one through the rest of the week.

5 JUDGE TO MR. CRAIG

6 Is that your understanding, Mr. Craig?

7 MR. CRAIG TO JUDGE

8 Yes, Your Honor.

9 JUDGE TO MR. HANDEL

10 Okay. So as far as I'm concerned, 8:30 is a good start  
11 time. Is that a problem for you?

12 MR. HANDEL TO JUDGE

13 No.

14 JUDGE TO MR. HANDEL

15 Coming from is that Daytona?

16 MR. HANDEL TO JUDGE

17 That's not a problem.

18 JUDGE TO MR. HANDEL

19 Okay. Anything else?

20 MR. HANDEL TO JUDGE

21 The only other question that I had was the issue of witness  
22 sequestration. I know that apparently is discretionary with the  
23 Court. I don't know if the Court has any [indiscernible] on  
24 this part.

25 JUDGE TO MR. HANDEL

(b) (6)

1 I have never not enforced that rule. So I would absent the  
2 parties arguing otherwise, I would always want all witnesses  
3 sequestered. Now, is there a reason you would want one not  
4 sequestered or you're just asking for my position on it?

5 MR. HANDEL TO JUDGE

6 I was just asking for the Court's general position on that.

7 JUDGE TO MR. CRAIG

8 Does the Government have any argument against sequestering  
9 witnesses?

10 MR. CRAIG TO JUDGE

11 We'd ask the Court to sequester witnesses.

12 JUDGE TO MR. CRAIG

13 Okay.

14 JUDGE TO MR. HANDEL

15 And Mr. Handel, well, I don't know anyone's witnesses by  
16 face. So I'll depend on all three of you to tell me if someone  
17 is sitting in the courtroom that shouldn't be there because I'd  
18 hate to exclude them because we didn't notice they had you know  
19 come in and sat down. So --

20 MR. CRAIG TO JUDGE

21 We currently don't have any of our witnesses in the  
22 courtroom.

23 JUDGE TO MR. CRAIG

24 Okay.

25 MR. CRAIG TO JUDGE

(b) (6)

1 And for planning purposes, we are anticipating being done  
2 with our evidence on Wednesday.

3 JUDGE TO MR. CRAIG

4 Okay.

5 MR. CRAIG TO JUDGE

6 So Mr., we discussed he would start his on Thursday.

7 JUDGE TO MR. CRAIG

8 Okay. Wednesday by 5:15 or thereabout you should be  
9 finished. Okay. All right.

10 JUDGE TO MR. HANDEL

11 Mr. Handel, anything else that you want to bring up at this  
12 time and you'll have multiple opportunities? I just wanted to  
13 clear up some of these things at the outset.

14 MR. HANDEL TO JUDGE

15 Yeah. Regarding the schedule of the witnesses, I think  
16 that from the close of the Government's case, I think Wednesday  
17 is optimistic. I think with cross and all that, I think it's  
18 going to go well beyond Wednesday.

19 JUDGE TO MR. HANDEL

20 Okay, okay. All right. Well, with that in mind, no one in  
21 the courtroom now is a witness for your side either.

22 MR. HANDEL TO JUDGE

23 No one, Your Honor.

24 JUDGE TO MR. HANDEL

25 Okay. All right.

(b) (6)

1 JUDGE TO MR. CRAIG

2 Then, are we ready then to hear from the Government as to  
3 their opening statement?

4 MR. CRAIG TO JUDGE

5 We can do that. Do we need to mark exhibits?

6 JUDGE TO MR. HANDEL AND MR. CRAIG

7 Yeah. Maybe just as a matter of course, that would be a  
8 good way to start it out. So let's do that. Let's go through  
9 the exhibits. I don't think anything's been marked except the  
10 NTA. That was marked as Exhibit 1 on November 25th, 2009. For  
11 the record, allegations one through six were admitted. Seven  
12 was denied. The charge was denied. That was on the Notice to  
13 Appear. The I-261 was filed with the Court October 25th, 2010.  
14 It amended number six and number and then added number eight.  
15 Yes. It amended six and added eight and added an additional  
16 charge under the same provision of the Act 237(a)(4)(D) and so  
17 we have two outstanding charges under 237(a)(4)(D). We have  
18 allegation six is amended. Allegation seven and allegation  
19 eight are yet to be resolved. They've been denied and the two  
20 charges. Does that represent the parties' understanding of  
21 what's gone on thus far?

22 MR. CRAIG TO JUDGE

23 Yes, Your Honor.

24 MR. HANDEL TO JUDGE

25 Yes, Your Honor.

(b) (6)

1 JUDGE TO MR. HANDEL AND MR. CRAIG

2 Okay. Then let's go to what I'm going to mark as Exhibit

3 2. It's DHS' first notice of filing. It was received on

4 October 25th, 2010 and it contains Exhibits A through C with

5 three reports basically from Madness to Hope being tabbed A, the  
6 churchwomen murders, B, Senate report, C.

7 JUDGE TO MR. HANDEL

8 And Mr. Handel, you got that.

9 MR. HANDEL TO JUDGE

10 Yes.

11 JUDGE TO MR. HANDEL

12 Okay. Objections to what I have marked as Exhibit No. 3.

13 MR. HANDEL TO JUDGE

14 No objections to the exhibits per se. I'm going to raise  
15 objections to the documents as they come up.

16 JUDGE TO MR. HANDEL AND MR. CRAIG

17 Okay. All right. I'll mark that into the record as number  
18 3 and note that you may have objections later. Number four,  
19 well, let's see. Did I say 3? Actually that would be 2 since  
20 all we had before was the NTA and the I-261. So let me correct  
21 myself before we get started down the wrong road here. This  
22 notice of filing is Exhibit No. 2. DHS' second notice of filing  
23 will be number 3. That contains tabs D through CCC. D is the  
24 Department of State cable, ESAF declares two officers soldiers  
25 guilty, et cetera.

(b) (6)

1 JUDGE TO MR. HANDEL

2 Do you have that one, Mr. Handel?

3 MR. HANDEL TO JUDGE

4 Yes, Your Honor.

5 JUDGE TO MR. HANDEL

6 Objections to DHS' second notice of filing?

7 MR. HANDEL TO JUDGE

8 Same position.

9 JUDGE TO MR. HANDEL AND MR. CRAIG

10 Okay. Number 4 will be the Department's third notice of  
11 filing. It contains tabs DDD as in delta through 000, Country  
12 Reports for the most part, the Elverskud database.

13 JUDGE TO MR. HANDEL

14 Objections, Mr. Handel.

15 MR. HANDEL TO JUDGE

16 Same position, Judge.

17 JUDGE TO MR. HANDEL

18 Okay.

19 JUDGE TO MR. HANDEL AND MR. CRAIG

20 And then DHS' fourth notice of filing will be marked as  
21 number 5, PPP through ZZZ, the last one being Professor Karl's  
22 report.

23 JUDGE TO MR. HANDEL

24 And you have that one as well.

25 MR. HANDEL TO JUDGE

(b) (6)



1 Yes, Your Honor.

2 JUDGE TO MR. HANDEL

3 Objections.

4 MR. HANDEL TO JUDGE

5 Same position.

6 JUDGE TO MR. HANDEL

7 Okay.

8 JUDGE TO MR. HANDEL AND MR. CRAIG

9 I believe chronologically the next thing that came in was

10 the respondent's exhibit list A through F. That was filed April

11 1st just about 11 a.m. I say that because the Department filed

12 one a little bit later in the afternoon. So let's mark

13 respondent's exhibit list as number 6.

14 JUDGE TO MR. CRAIG

15 The Government receive that.

16 MR. CRAIG TO JUDGE

17 Yes, Your Honor. I'm a little unclear. He lists three

18 expert reports, expert report by Professor Jay Karl, Ambassador

19 White, and Ambassador Corr. We only have the first page of

20 those expert reports. So I don't know if he intended to file

21 the entire report, but if so we did not receive those.

22 JUDGE TO MR. CRAIG

23 And mine did not have the entire reports either.

24 JUDGE TO MR. HANDEL

25 Mr. Handel.

(b) (6)

1 MR. HANDEL TO JUDGE

2 I apologize, Judge. It's they should have been. We can  
3 certainly. The reports are I'm sure the Government has copies  
4 of those previously. They were the reports there were filed in  
5 the civil case Romagoza. So there's nothing new there.

6 JUDGE TO MR. HANDEL

7 If you, if you do want me to consider them, I'll have to  
8 have those.

9 MR. HANDEL TO JUDGE

10 I will certainly get that to the Court by tomorrow, Judge.

11 MR. CRAIG TO JUDGE

12 And we will need a complete copy of those as well to make  
13 sure we have everything that was filed with the Court.

14 MR. HANDEL TO JUDGE

15 Make sure both the Court and the Government has a complete  
16 copy of those reports.

17 JUDGE TO MR. HANDEL

18 Okay. And also if you would for future notices of filing,  
19 please paginate and tab them just so it's easier for me to  
20 reference and we can skip through the exhibit.

21 JUDGE TO MR. CRAIG

22 So once the expert reports have been provided, Mr. Craig,  
23 any other objections you want to raise?

24 MR. CRAIG TO JUDGE

25 The DVD that he filed, it's mentioned in this exhibit list.

(b) (6)

1 So I don't know if the Court's going to mark it separately. It  
2 came in --  
3 JUDGE TO MR. CRAIG  
4 I will.  
5 MR. CRAIG TO JUDGE  
6 -- later.  
7 JUDGE TO MR. CRAIG  
8 I'll mark it separately.  
9 MR. CRAIG TO JUDGE  
10 Okay. I'll wait until we get the DVD then.  
11 JUDGE TO MR. CRAIG  
12 Okay. And that's referenced in paragraph seven to be  
13 filed. All right.  
14 JUDGE TO MR. HANDEL AND MR. CRAIG  
15 Then, the fifth notice of filing by the Government is going  
16 to be Exhibit No. 7. It contains tabs AAAA beginning with El  
17 Salvador work of 30 photographers and EEEE ends with sick lady  
18 at the table with photographs. That is number 7.  
19 JUDGE TO MR. HANDEL  
20 Mr. Handel, any objections to number 7?  
21 MR. HANDEL TO JUDGE  
22 Same position, Judge.  
23 JUDGE TO MR. HANDEL AND MR. CRAIG  
24 Okay. And then April 6 is when the DVD was in fact filed  
25 with the Court. I'll mark it as number 8. It's respondent's

1 notice of filing containing only the attached DVD.

2 JUDGE TO MR. CRAIG

3 And Government's objection to that.

4 MR. CRAIG TO JUDGE

5 Most of the DVD when we watched it is in Spanish. I'll  
6 note there's a requirement that submitted in a foreign language  
7 be translated into English. So most of it for those of us who  
8 don't speak Spanish which is it definitely includes myself and  
9 Mr. Stanley is unintelligible. There is a portion that is in  
10 English that we could obviously watch and understand, but I  
11 would object to the DVD in its entirety since most of it's in  
12 Spanish and the Court can't or any reviewing officer and us  
13 can't figure out most of what it's saying, the context and all  
14 that.

15 JUDGE TO MR. CRAIG

16 Yeah.

17 JUDGE TO MR. HANDEL

18 And Mr. Handel, that would be my finding as well. I know  
19 after the U.S. military officer presented the award and your  
20 client spoke for sometime in the Spanish language and I also am  
21 not fluent, a little conversant, but not fluent enough. So we  
22 will if you want to have me consider that, it will probably be  
23 best for you to have that transcribed in its entirety so that we  
24 can follow through with the entire DVD. Do you want to do that?

25 MR. HANDEL TO JUDGE

(b) (6)

1 I would suggest, Judge, since the only portion that I would  
2 like to be considered for evidence is the English language part,  
3 we can simply disregard the rest of the DVD and simply consider  
4 the English language portion.

5 MR. CRAIG TO JUDGE

6 Your Honor, I'd object to that because I think the Court  
7 needs to be able to consider it in its entirety. I mean,  
8 obviously, there was a whole ceremony and the Court can't just  
9 take out the one speech by the U.S. Navy officer out of context.  
10 I think we need to be able to hear and understand the entire  
11 ceremony, including the speech from the respondent.

12 MR. HANDEL TO JUDGE

13 Judge, I would respond that I think there's a number of  
14 filings from the Government that are excerpts from documents.  
15 If that's going to be the case, I mean, from publications and  
16 other things, then I think we're going to need entire  
17 publications, so be sworn with the Court.

18 JUDGE TO MR. HANDEL AND MR. CRAIG

19 Okay. Let me mark for identification purposes now Exhibit  
20 8 the DVD and do a little more investigating on this issue. All  
21 right. And I think, I think that was the last evidentiary  
22 material that was submitted in the case. I know I've marked  
23 just for my own benefit the motions that have been filed by  
24 counsel, responses, et cetera. We've got a witness list I think  
25 from both parties. Di I miss anything that either party filed?

(b) (6)

1 MR. HANDEL TO JUDGE

2 No, Your Honor.

3 MR. CRAIG TO JUDGE

4 No.

5 JUDGE TO MR. HANDEL AND MR. CRAIG

6 Okay. All right. Then, with the evidence marked, let's  
7 time stamp this and we'll go to opening statements.

8 JUDGE TO MR. CRAIG

9 I'll begin with you, Mr. Craig.

10 MR. CRAIG TO JUDGE

11 Yes, Your Honor. Thank you. In 2004, Congress amended the  
12 Immigration and Nationality Act to provide the law that we're  
13 dealing with here today. In amending this, they provided the  
14 Immigration Court with the tools that the Courts needed to  
15 remove individuals who had assisted or otherwise participated in  
16 acts of torture or extrajudicial killing outside the United  
17 States. Now, the legislative history for this law is very  
18 instructive and very important for the Court to understand. The  
19 Senate Judiciary Committee issued a report. It's been filed  
20 with the Court in the first notice of filing tab C. The Senate  
21 Judiciary Committee in this report stated that the reasons why  
22 this law is necessary is as follows, quote, "U.S. Immigration  
23 law currently does not prevent war criminals and human rights  
24 abusers from entering and remaining in the country. Through  
25 these legal loopholes, the United States has become a safe haven

(b) (6)

1 for those who exercised power in foreign countries to terrorize,  
2 rape, murder, and torture innocent civilians." End of quote.  
3 Now occasionally as the Government attorneys will sit in front  
4 of the Court in closing arguments will argue metaphorically that  
5 the law was written for that particular person sitting in front  
6 of the Judge in any given case and argue that because of that,  
7 the Judge should issue an order of removal. Undoubtedly, those  
8 arguments are metaphorically however. In this case, this law  
9 was literally written with this respondent in mind. If you look  
10 at the legislative history and follow it back as justification  
11 for why the law was needed, the report cites the murder of four  
12 American churchwomen in El Salvador in 1980. In 1980, four  
13 American churchwomen were kidnapped, raped, and murdered by the  
14 Salvadoran National Guard. The Senate report in citing as  
15 reasons why this law is needed states that two former generals  
16 who are alleged to have covered up the facts of that case are  
17 now residing in Florida. One of these two former generals is  
18 the respondent Carlos Vides Casanova. The Senate report cites  
19 the Truth Commission report from the United Nations which the  
20 Court also has the first notice of filing in tab A. The Truth  
21 Commission report in the portions cited by the Senate report  
22 concludes as follows, quote, "Then Colonel Carlos Eugenio Vides  
23 Casanova, Director General of the national guard among other  
24 officers knew that members of the national guard had committed  
25 the murders and through their actions facilitated the cover up

1 of the facts. As the Truth Commission report notes, the  
2 respondent was director general of the national guard from 1979  
3 until 1983 and he was minister of defense from 1983 through  
4 1989. When he was head of the national guard, he was one of the  
5 most powerful men in the military. When he was minister of the  
6 defense, he was the most powerful man in the military at a time  
7 when the military was the most powerful force in the country and  
8 when you read through the law, the Immigration and Nationality  
9 Act, it only requires a single act of assisting or participating  
10 in any act of torture or any extrajudicial killing in order for  
11 the Court to find the respondent removable. The Senate report  
12 in citing the respondent's cover up of the facts of the  
13 churchwomen murder, by inference, that is certainly enough to  
14 constitute assistance or extrajudicial killing and therefore,  
15 based on that case alone, there's enough evidence for the Court  
16 to order the respondent removable and find that he assisted in  
17 an act of extrajudicial killing, but that's not all that the  
18 Court is going to hear this week. The Court's going to hear  
19 that he did far more than cover up the facts of one horrible  
20 incident of murder and extrajudicial killing. The Court will  
21 hear from two torture survivors. First, the Court will hear  
22 from on Tuesday morning is Daniel Alvarado, in 1983, a military  
23 advisor, United States military advisor was murdered down in El  
24 Salvador. There was tremendous pressure to locate the person  
25 responsible for that murder. Shortly after the murder, Daniel

(b) (6)



1 Alvarado who was then a young college student was arrested by  
2 the treasury police. At this time, the respondents had, had  
3 risen to the minister of defense, head of the entire military in  
4 El Salvador. So anyway, shortly after this murder, Mr. Alvarado  
5 was arrested by the treasury police. Despite having nothing to  
6 do with the murder of the U.S. military advisor, not even  
7 knowing anything about the military advisor, the treasury police  
8 brutally tortured Mr. Alvarado into confessing that he had  
9 committed the murder. Now, we know this is false. The FBI did  
10 their own investigation and they, including a polygraph of Mr.  
11 Alvarado and they completely cleared Mr. Alvarado in any  
12 involvement of the murder and yet, the treasury police brutally  
13 tortured him into confessing that murder. Also, on Tuesday, the  
14 Court will hear from Dr. Juan Romagoza Arce. In 1980, Dr.  
15 Romagoza was a medical student in El Salvador. He felt the need  
16 to help the Salvadoran peasants with medical aid and he would  
17 often go out into the villages and provide free medical aid to  
18 the peasants. One day while he was in a village, helping the  
19 village or setting up to help the village with the medical care,  
20 the national guard charged into the village indiscriminately  
21 shooting at people. Dr. Romagoza was hit. He was shot. He was  
22 captured by the national guard, flown to national guard,  
23 national guard headquarters by helicopter, and he was brutally  
24 tortured over a period of three weeks. During his torture, they  
25 severely injured his hands so that he could no longer perform

(b) (6)

1 surgery. While he was in the torture chamber, he was visited by  
2 a high military official. Dr. Romagoza will identify this high  
3 military official as the respondent Mr. Vides Casanova.

4 MR. HANDEL TO JUDGE

5 Objection, Your Honor. I think we've stated that in  
6 writing. I'm just going to renew my objection.

7 JUDGE TO MR. HANDEL

8 Noted for the record. Thank you.

9 MR. CRAIG TO JUDGE

10 While the, while Mr., Dr. Romagoza was being tortured,  
11 again, he was visited by this high military official. He had to  
12 endure three weeks of torture. At the end of it, he could  
13 barely, he couldn't even walk on his own. He was being carried  
14 out of the national guard headquarters by one of his uncles who  
15 was in the military. As he was being carried out, he saw  
16 another one of his uncles outside watching. Sitting there  
17 talking with his uncle also watching him was again the  
18 respondent Mr. Vides Casanova observing Dr. Romagoza in the  
19 state after having been tortured for three weeks being carried  
20 out. You'll also hear today, our first witness, you'll hear is  
21 former United States ambassador to El Salvador Ambassador Robert  
22 White. He'll tell the Court about his meetings with the highest  
23 members of the Salvadoran military, including the respondent.  
24 During these meetings, he reiterated over and over and over the  
25 need for the Salvadoran military to stop the repression, to stop

(b) (6)

1 the human rights abuses being committed by the military and  
2 security officer. Ambassador White will also provide some  
3 background on the Salvadoran civil war, what led to it in  
4 October of 1979 and some personal observations of, of the  
5 churchwomen murder and then last on Wednesday, the Court will  
6 hear from the foremost expert on the Salvadoran civil war  
7 Professor Terry Karl. Professor Karl will describe the terror  
8 that Salvadoran citizens suffered at the hands of the military  
9 and security forces during the civil war that took up the entire  
10 decade in the 1980s. She will testify about the respondent's  
11 actions, how those actions assisted in the torture and murder of  
12 the thousands of individuals during the time that he was in  
13 power and she'll tell the Court that while the respondent was in  
14 power, there were 70,000 civilians were murdered during the  
15 Salvadoran civil war. To put this in perspective, in 1981,  
16 9,000 people were killed in El Salvador. That constitutes  
17 approximately 0.2% of the population of El Salvador. If the  
18 same percentage of United States population were killed, that  
19 would equal over half a million people each year being killed, a  
20 huge amount of people being killed. Dr. Karl will tell the  
21 Court that the vast majority of these civilians were being  
22 murdered and tortured, were being murdered and tortured at the  
23 hands of the military forces that the respondent was in charge  
24 of. The respondent's actions during the 1980s led to the death  
25 and torture of thousands of people. The plain language of the

(b) (6)

1 Immigration and Nationality Act which provides for the removal  
2 of any individual who assisted or otherwise participated in acts  
3 of torture or any extrajudicial killing, the plain language of  
4 that clearly applies to the respondent. The Senate report that  
5 I had mentioned earlier states that the United States has become  
6 a safe haven for those who exercised power in foreign countries  
7 to murder and torture innocent civilians. This has been true  
8 for the respondent in this case. He has used the United States  
9 as his safe haven for the last 20 years. Now, the facts will  
10 show that the respondent assisted or otherwise participated in  
11 the torture and murder of thousands of people. It's time the  
12 United States was no longer a safe haven for the respondent.  
13 It's time that the respondent was ordered removed from the  
14 United States.

15 JUDGE TO MR. CRAIG

16 Okay. Thank you.

17 JUDGE TO MR. HANDEL

18 Anything in response or do you want to waive your opening,  
19 Mr. Handel?

20 MR. HANDEL TO JUDGE

21 I'm going to reserve opening until our case, Judge.

22 JUDGE TO MR. HANDEL AND MR. CRAIG

23 All right. Then, anything from either side before we begin  
24 the witness testimony?

25 JUDGE TO MR. HANDEL

(b) (6)

1 Mr. Handel.

2 MR. HANDEL TO JUDGE

3 No, Your Honor.

4 JUDGE TO MR. CRAIG

5 Mr. Craig.

6 MR. CRAIG TO JUDGE

7 No, Your Honor. Our first witness will be Ambassador  
8 Robert White. We'll need just a couple of minutes to go in the  
9 office to bring him up.

10 JUDGE TO MR. CRAIG

11 Okay. Very good.

12 JUDGE FOR THE RECORD

13 We'll go off the record momentarily.

14 JUDGE TO MR. HANDEL AND MR. CRAIG

15 And I did mean to tell you earlier we're also going to not  
16 take frequent breaks, but we are going to take some breaks  
17 during this proceeding partly especially when we go into the  
18 Spanish translations. I want to make sure everything is  
19 accurate. The only way we can ensure that is if our interpreter  
20 gets a break every 60 to 90 minutes and closer to the 60 I think  
21 would be best to make sure the record is clear. If no one has  
22 an objection, I'm looking at about every 90 minutes if we are  
23 doing in the English language depending on the time that's  
24 available of course and if someone needs a break for any other  
25 reason, please ask and we'll provide it accordingly.

(b) (6)

1 MR. CRAIG TO JUDGE

2 When we have the witnesses testifying in English, is the  
3 respondent going to want the interpreter provide a simultaneous  
4 translation for him?

5 MR. HANDEL TO JUDGE

6 Yes, Your Honor.

7 JUDGE TO MR. HANDEL AND MR. CRAIG

8 I hadn't planned on doing that. Why don't the two of you  
9 discuss that briefly off the record? I'll see. I don't want  
10 to, what I'm worried about I guess my concern is taxing our  
11 interpreter too much. I guess I couldn't promise that she'd be  
12 able to provide simultaneous in total because I guess I haven't  
13 asked her to gear up for that and that's usually not done in the  
14 Immigration Court. Yeah. Let me, let me talk to Ms. (b) (6)  
15 and the two of you discuss it, but let's take ten minutes now  
16 and come back with your witness.

17 MR. HANDEL TO JUDGE

18 Just one other housekeeping matter.

19 JUDGE TO MR. HANDEL

20 Okay. Go ahead.

21 MR. HANDEL TO JUDGE

22 Judge, does the Court have a sense of what time we're going  
23 to be taking a lunch break during the week or --

24 JUDGE TO MR. HANDEL AND MR. CRAIG

25 As far as I'm concerned as close to noon as we can

(b) (6)

1 depending on the testimony. Is an hour enough for the parties  
2 or do you want to plan on a little more?

3 MR. CRAIG TO JUDGE

4 An hour is adequate for the Government.

5 MR. HANDEL TO JUDGE

6 An hour is fine, Judge.

7 JUDGE TO MR. HANDEL

8 Okay. I think I have plenty spots nearby. It shouldn't  
9 take long to get there and get back. Anything else? All right.

10 JUDGE FOR THE RECORD

11 Let's go off the record for --

12 (OFF THE RECORD)

13 (ON THE RECORD)

14 JUDGE FOR THE RECORD

15 All right. We're back on the record.

16 JUDGE TO MR. HANDEL

17 As to the interpretation for the respondent, Mr. Handel, I  
18 did discuss it with our supervisor interpreter and Court  
19 Administrator and Ms. (b) (6) has agreed if the parties are  
20 okay with it just to sit by the respondent as she's doing now  
21 and do simultaneous interpretation.

22 MR. CRAIG TO JUDGE

23 Yes. That's fine.

24 MR. HANDEL TO JUDGE

25 That's fine, Your Honor.

(b) (6)

1 JUDGE TO MR. HANDEL AND MR. CRAIG

2 All right. And given that she's going to be busy, we may  
3 have another interpreter spell her now and then as far as come  
4 in and take over, but at this point we'll continue with the  
5 witness testimony. Anything else before we start out?

6 MR. HANDEL TO JUDGE

7 No, Your Honor.

8 MR. CRAIG TO JUDGE

9 Not from the Government.

10 JUDGE TO MR. WHITE

11 Q. Good afternoon, sir.

12 A. Good afternoon, Judge.

13 Q. And if you could tell me your true and complete name.

14 A. My name is Robert Edward White.

15 Q. Okay. And your date of your birth.

16 A. 9-21-26.

17 Q. So that makes you how old today, sir.

18 A. Eighty-three.

19 Q. Eighty-three. All right. And could you raise your  
20 right hand for me? Do you swear or affirm the testimony you  
21 give today will be true and correct?

22 A. I do.

23 Q. Okay. You may put your hand down and do you have a  
24 business address?

25 A. I do.

(b) (6)



1 Q. Go ahead.

2 A. Center for International Policy, 1717 Massachusetts  
3 Avenue, Washington, D.C. 20036.

4 Q. 20036. All right. At this point in time, I'm going  
5 to turn the questioning over to the Government. What I'd like  
6 you to do and I'm assuming you've testified before in different  
7 tribunals. Okay. So I'll just waive the usual instructions  
8 that I give and if I notice any problems, I'll instruct you  
9 further.

10 JUDGE TO MR. CRAIG

11 Mr. Craig, go ahead.

12 MR. CRAIG TO JUDGE

13 This will be Mr. Stanley, Mr. Stanley.

14 JUDGE TO MR. CRAIG

15 Oh, Mr. Stanley is going to do this. Okay. Very good.

16 JUDGE TO MR. STANLEY

17 Mr. Stanley.

18 MR. STANLEY TO MR. WHITE

19 Q. Now, sir, you were ambassador to El Salvador. Is that  
20 correct?

21 A. Yes.

22 Q. And when were you ambassador to El Salvador?

23 A. From late 1979 to early 1981.

24 Q. And when did you actually enter the country as  
25 ambassador to El Salvador?

(b) (6)

1 A. I entered the country I believe in February of 1980.

2 Q. Now, if you could give us a brief overview of your  
3 public and Government service over the years.

4 A. Well, I am a, I was a foreign service officer, a  
5 career diplomat. I started out in various parts of the world,  
6 but became interestingly to concentrate on Latin America. I  
7 served in in five or six posts in various embassies and in the  
8 Department of State and I was ambassador to Paraguay and the  
9 ambassador to El Salvador.

10 Q. Now, can you explain exactly what your role was as  
11 ambassador to El Salvador?

12 A. An ambassador represents the interests of the United  
13 States in the country to which he or she is accredited. That  
14 means and there's, there's three sections. Every embassy is  
15 divided into four sections. There's an administrative section,  
16 a consular section which protects among other things the  
17 interests of American citizens, and issues visas and passports  
18 and then there's an economic section which follows the economic  
19 developments in the country and tries perhaps to influence them  
20 in ways favorable to the United States and a political section  
21 which is its business the people who are not sectioned, are  
22 making contact with various political personalities and making  
23 sure we, the embassy is fully aware of the trends and currents  
24 of the political situation in the country. Then, there is a  
25 deputy chief admission who is sort of an alter ego to the

(b) (6)

1 ambassador. The ambassador is of course responsible for the  
2 administration of the entire embassy as he or she who is the  
3 official representative of the United States, personal  
4 representative of the president, and is responsible for carrying  
5 out U.S. policy in that country.

6 Q. And do all of the different groups that you just  
7 discussed report to you as ambassador?

8 A. Yes and I should have included the fact that there is  
9 also a defense attaché and in the case of El Salvador, a  
10 military assistance group and a Central Intelligence Agency also  
11 in the embassy.

12 Q. Now obviously, you're here today to testify about El  
13 Salvador. Can you give us an idea of exactly how big is the  
14 country of El Salvador?

15 A. The way it's usually described is about the same size  
16 as Massachusetts or Connecticut. The way that I've found best  
17 illustrate the size is that if you go in airplane or a  
18 helicopter up to 9,000 feet, you can see the entire country.

19 Q. Now, the relevant timeframe that we want to discuss  
20 with you is 1979 and the early 1980s. However, can you give us  
21 a brief background of what was going on in the country of El  
22 Salvador up to the time that you were ambassador?

23 A. Well, El Salvador had suffered under a military  
24 dictatorship since the 1930s except in 1972, the military of El  
25 Salvador became careless and Napoleon Duarte won the presidency.

(b) (6)

1 The military then recounted the votes and they, they captured  
2 Duarte and, and threw him out, asking the military of Guatemala  
3 to kill him for them. That's that was the time 1972 when a  
4 failed election was annulled by the military. It's probably the  
5 single most important date in the creation of the revolutionary  
6 movement. There was no revolutionary movement of any  
7 consequence up until 1972. After 1972, there were huge numbers  
8 of young people who were, who sought, who believed that there  
9 was no possibility of peaceful evolution or peaceful change and  
10 they believed that the only way to achieve to get the military  
11 off their backs was to have a revolution.

12 Q. And as a result of the military annulling the '72  
13 election results, did that eventually result in any type of  
14 shift of power in the government?

15 A. No. The revolution, in other words, that was the  
16 opportunity when there could have been. There was actually a  
17 group, a group of military officers who revolted to try against  
18 the established military and tried to restore Duarte to power.  
19 That's known in El Salvador history as the Good Coup, but the  
20 Good Coup was crushed and if anything, the military, the power,  
21 the concentrated power was even more concentrated before. You  
22 see, there was the four or five actors in this drama you know.  
23 the rich people, the very small 1 or 2% minority who owned the  
24 country, controlled it through the military as their agents and  
25 then the powerful, the only -- up until 1968, there was the

(b) (6)

1 church played a supporting role. After 1968, the Catholic  
2 church became much more a supporter of change and so and the  
3 fourth factor if you will are the other people who developed  
4 various labor unions, organized villages, that kind of campesino  
5 union, but so that was the, those were the actors in the  
6 Salvador tragedy.

7 Q. Now, did something significant happen in October of  
8 1979?

9 A. Yes. In October 1979, the young officers of the  
10 Salvadoran military launched a revolution, what they call a  
11 revolution, a rebellion. They, they, these were the officers,  
12 young officers who believed that a democratic form of government  
13 was the right form of government they wanted. They were tired  
14 of the military rule. They believed it was corrupting the  
15 Salvadoran military and so they ousted the president and they  
16 also ousted large numbers of high officers and, and that was and  
17 so they became a power within the military. They, they didn't  
18 absolve the high ranking officers, but a great many of.

19 Q. And it was shortly after this 1979 coup that you  
20 entered the country as ambassador.

21 A. Yes.

22 Q. Now, there's several terms that I anticipate we're  
23 going to hear throughout the trial and I want to see if you can  
24 explain who we're talking about with some of these terms. When  
25 we hear the term "junta," who are we talking about specifically?

(b) (6)

1           A.    When the president was ousted in the October 15th,  
2 1979 coup, a mixed civilian military junta was brought in as the  
3 ruling executive. There were three civilians and two military  
4 representatives. The, the, the, the most distinguished  
5 personality in this junta was Napoleon Duarte, the man who had  
6 won the 1972 election and who had been ousted by the military.

7           Q.    And when we hear the term "far right," what are we  
8 referring to?

9           A.    Well, we're talking there's the far right would be the  
10 people, the rich people. There's a metaphor that is used called  
11 the 14 families to describe the power, economic power structure  
12 which meant that 14 families basically ruled El Salvador and  
13 they owned it and all the, the many odd percent of the wealth  
14 was concentrated in their hands and the poor of El Salvador were  
15 probably the poorest in Latin America you know. The percentage  
16 of landless and near landless in El Salvador was the highest in  
17 the world, Bangladesh second. So and in order to get 100 days  
18 work, you, a peasant would have to move four or five times you  
19 know to eke a mere living. So it was El Salvador was sort of a  
20 monument to injustice.

21          Q.    And when we hear the term "guerrillas," who are those?

22          A.    Well, there was, there were five different groups of  
23 guerrillas. Some were in the sense that guerrillas can be  
24 moderate. They were, there were moderates and then there was  
25 another, another member of the, another group that was sort of

(b) (6)

1 violent and very ideological, but and there were also so-called  
2 popular organizations which were organizations of civilians who  
3 while they didn't necessarily fight, they were sympathetic and,  
4 and supportive of the revolution.

5 Q. Now, I'd like to discuss for a moment the makeup of  
6 the armed forces. Can you explain the basic makeup of the armed  
7 forces?

8 A. Yes. The armed forces were made up of the army  
9 roughly 8,000 when I was there. I think we quintupled it later.  
10 The national guard which was roughly a quarter, the national  
11 police which was another quarter. So that and then there were  
12 the tiny treasury police, navy, and air force and so altogether,  
13 I think I accounted for 110%, but that is that, that's where we,  
14 that, that was the rough makeup and the national guard while as  
15 I recall it the primary responsibility of the national guard was  
16 in the country. It was in the national police more in the city,  
17 but still the national guard did have duties within the city as  
18 well.

19 Q. Now, I've also heard the term "security forces." Who  
20 makes up what's known as the security forces?

21 A. The army is the military and everything else except  
22 for the air force and the navy are the security forces.

23 Q. So the national guard.

24 A. The national guard is the security forces.

25 Q. And the national police.

(b) (6)

1 A. The national police are security forces. Right.

2 Q. Treasury police.

3 A. Treasury police.

4 Q. Now, when you were in El Salvador as the ambassador,  
5 ambassador to El Salvador, what type of reputation did the  
6 security forces have in regards to human rights?

7 A. Well, it was very bad. There was theoretic a system  
8 of justice in El Salvador, but it basically did not operate and  
9 the security forces were very, they were, they would kill  
10 people. They would torture people. They would beat people and  
11 there was no intermediary of justice whatsoever. It was a  
12 direct application of -- it was a population that was kept in  
13 subjection by the security forces.

14 Q. Now, as ambassador to El Salvador, you reported to the  
15 administration. Is that correct?

16 A. Yes.

17 Q. And how would you go about reporting to the  
18 administration?

19 A. Well, the secretary of state as the primary advisor on  
20 foreign policy of the president, I would report as ambassador  
21 directly to the, to the secretary of state. The secretary of  
22 state also has assistant secretaries which with responsibilities  
23 for various areas of the world. In my case, I would report to  
24 the assistant secretary for Inter-American Affairs.

25 Q. And what were the common ways that you would

(b) (6)



1 communicate with the secretary of state and the assistant?

2 A. Primarily by telegram.

3 Q. Are these also referred to as cables so to speak?

4 A. Cable.

5 Q. Now, when you sent these telegrams or cables to the  
6 secretary of state or assistant secretary of state, how  
7 important was it that the information in them be accurate?

8 A. Well, as embassies are the eyes and ears of the United  
9 States abroad, therefore, it is your, one of your primary  
10 functions as ambassador to report the complete truth as, as  
11 accurately and as completely as you can. So it's of crucial  
12 important because you cannot or should not make policy based on  
13 misinformation.

14 Q. Now, I anticipate that during the course of our  
15 testimony today and with the other witnesses, there's going to  
16 be discussion regarding the cables and there's some terms that  
17 are abbreviated in there that I just wanted to see if you can  
18 help us identify. One of the abbreviations that we'll be seeing  
19 is USG. Can you tell us what that stands for?

20 A. United States Government.

21 Q. And there is GOES.

22 A. Yes, government of El Salvador.

23 Q. And ESAF.

24 A. El Salvadoran armed forces.

25 Q. Now, there's also some, some terms in the cables that

(b) (6)

1 I've seen. One is POLOFF, P O L O F F.

2 A. Political officer.

3 Q. And in some of the headings of the cables, there is a  
4 term "REFTEL," R E F T E L.

5 A. So in order that you don't waste time of the secretary  
6 of state and the assistant secretaries, you try not to be  
7 repetitive. So you reference previous messages that would, that  
8 gave the background for this particular message. So REFTEL is  
9 simply reference telegram.

10 Q. And some of the cables also have a term on them  
11 "NODIS," N O D I S.

12 A. There are various cables are confidential, secret, top  
13 secret. Then, there is regular distribution where the cable  
14 goes throughout the Government and there is limited distribution  
15 where the number of recipients is limited and NODIS which  
16 theoretically means for the secretary's eyes alone, no  
17 distribution. Now, as a practical matter, there are of course  
18 five or six different, but it's the highest. It, it, it, it's  
19 an indicator that the message that you send should not be  
20 circulated and is for basically for only the top officials  
21 policy, the top policymaking officials of the Government.

22 Q. Now, I want to take a moment and if you can help  
23 explain to us how we determine when these cables were sent.

24 MR. STANLEY TO JUDGE

25 Your Honor, if I may approach the witness.

(b) (6)

1 JUDGE TO MR. STANLEY

2 Please.

3 MR. STANLEY TO JUDGE

4 I'm approaching with what's been marked under Exhibit 3,  
5 the DHS note of filing, tab D, page 389.

6 JUDGE TO MR. STANLEY

7 3-D you said.

8 MR. STANLEY TO JUDGE

9 3-C.

10 JUDGE TO MR. STANLEY

11 Okay.

12 MR. STANLEY TO MR. WHITE

13 Q. Now, sir, can you explain how we can read --

14 A. Okay.

15 Q. -- what the, the date that this, this telegram was  
16 sent?

17 A. Yes. On the top, on the, on the top line, it says, it  
18 gives some numbers and then it says March 1980. So that's March  
19 is the month, '80 is the year, and then the time is 2045 Zulu  
20 time and using the military and so that means Zulu is the  
21 [indiscernible] time. So this is a, a, a message that was sent  
22 out at, at 8 p.m., 8:45 p.m. Zulu time.

23 Q. Okay. And the number in front of the 2045, does that  
24 represent the actual day of the month that it was sent on?

25 A. Yes.

(b) (6)

1 Q. Okay. So this particular cable would have been sent  
2 on March 19th.

3 A. 19th. Right.

4 Q. Okay. Now, sir, in over your course as ambassador to  
5 El Salvador, you authored several cables. Is that correct?

6 A. Yes.

7 Q. And in some of those cables, there is the term "high  
8 command." When you are saying high command, who are  
9 specifically referring to?

10 A. Well, this is the term that the Salvadoran military  
11 security forces themselves use. Altomando, the high command is  
12 made up the minister of defense, the national guard, the head of  
13 the national guard, the head of the national police, the head of  
14 the, of the treasury police.

15 Q. So in your cables when you are referring to the high  
16 command, those are the specific people you're referring to.

17 A. Yes.

18 Q. And during the time that you were ambassador to El  
19 Salvador, was Vides Casanova, Carlos Vides Casanova a member of  
20 the high command?

21 A. Eugenio Vides Casanova was the chief of the national  
22 guard all the time that I was there.

23 Q. And is that the highest position within the national  
24 guard?

25 A. Yes.

(b) (6)

1 Q. Now, you discussed how part of your, your duties as  
2 the ambassador to El Salvador is to speak to the government of  
3 El Salvador regarding the United States' position on items. Is  
4 that correct?

5 A. Yes.

6 Q. Specifically, did you ever speak to any members of the  
7 government of El Salvador, the military or security forces  
8 regarding human rights?

9 A. This was a constant theme in my conversations with the  
10 high command. The United States was providing more than half  
11 the budget of the Salvadoran government. So we had, we felt we,  
12 our views should be paid attention to and the conduct of the  
13 security forces in particular were such as to bring shame on the  
14 United States for having associated the good name of the United  
15 States with this force. Secondly, it was they were defeating  
16 themselves by their constant or pattern of human rights abuses  
17 that included death squad, military death squads, killing of  
18 unarmed people.

19 MR. HANDEL TO JUDGE

20 Objection, Your Honor. Beyond the scope of the answer, of  
21 the question.

22 JUDGE TO MR. STANLEY

23 Yeah. Why don't we follow up with another question maybe  
24 getting back on track again.

25 MR. STANLEY TO JUDGE

(b) (6)

1 Sure.

2 MR. STANLEY TO MR. WHITE

3 Q. Now, sir, can you explain to us the atmosphere of El  
4 Salvador during this time that you were ambassador?

5 A. Well, as the result of the heaped up injustices of  
6 many decades, you had where there was no possibility for  
7 peaceful change, you had a revolution or the beginnings of a  
8 revolution. Now, it was just the beginning and what you have I  
9 want to recall for you that indeed this spirit of change was  
10 also in the, in the officer corps of the military, but the  
11 problem was that instead of trying to change repression, it  
12 became the chief tool of the security forces. So while you can  
13 say there was a, something of a revolution going on, the factors  
14 that there was violence and violence by the military, by the  
15 security forces in the four barrios of, of the city, various  
16 cities, but in the rich barrios where all the, where the rich  
17 people lived, it was peaceful. People went to the movies.  
18 People went out to dinner. People went to shopping malls. So it  
19 would be too much. There was, there was, it was a country, it  
20 was a country where repression was endemic in the poor areas  
21 because that's where the discontent, that's where the anger,  
22 that's where the frustration lay.

23 Q. Now, the killings and, and torturing that you  
24 mentioned earlier, was, was that geared towards specific people  
25 or was it just random violence that you're talking about during

(b) (6)

1 this timeframe?

2 A. Well, while there was perhaps some random violence,  
3 the, there was also you could trace a pattern of targeted  
4 repression by the security forces. Yes.

5 Q. What type of people were being targeted specifically?

6 A. Well --

7 MR. HANDEL TO JUDGE

8 Objection, Your Honor. No foundation laid for the question  
9 or answer.

10 JUDGE TO MR. STANLEY

11 Why don't you lay some foundation, Mr. Stanley?

12 MR. STANLEY TO JUDGE

13 Sure.

14 MR. STANLEY TO MR. WHITE

15 Q. Sir, as your, as being ambassador to El Salvador, you  
16 mentioned that several people report to you within the embassy,  
17 correct, and part of that was the CIA, the defense attaché, and  
18 the military? Is that correct?

19 A. Yes.

20 Q. And during your time as ambassador, did you receive  
21 reports on the types of violence that were being committed  
22 within El Salvador?

23 A. Yes. We received a constant flow of reports. This  
24 was our chief problem to overcome was the right wing as term in  
25 the telegrams or officially sponsored military violence.

(b) (6)

1 Q. And in those reportings, would you have the  
2 information when it was available of who these victims were as  
3 far as were they associated with groups, that type of thing?

4 A. Yes. I mean, there were. There were. The most  
5 dangerous occupation in El Salvador was to be involved in labor  
6 unions. The second most important was the, the most dangerous  
7 was to be a catalyst for the Catholic church. Those were the,  
8 just two examples of groups that were targeted. Priests and  
9 nuns were, were, the priests particularly were, were also  
10 targeted.

11 Q. Now, sir, I want to talk to you about a few of the  
12 specific cables that you were involved with starting with that  
13 same exhibit that's in front of you Exhibit D, again found,  
14 found at, it's Exhibit 3, DHS second notes of filing, tab D and  
15 page 391, the third page there.

16 A. Okay. Yes.

17 Q. Now, sir, I'm going to read you a portion that I want  
18 to draw your attention to and ask you a few questions. On page  
19 391 approximately halfway down of what's been labeled as  
20 paragraph seven, it states, in the countryside, elements of the  
21 security forces torture and kill the campesinos, shoot up their  
22 houses and burn their crops. At least 200 refugees from the  
23 countryside arrive daily in the capital city. This campaign of  
24 terror is radicalizing the rural areas just as surely as  
25 Somoza's national guard did in Nicaragua. Unfortunately, the

(b) (6)



1 command structure of the army and the security forces either  
2 tolerates or encourages this activity. The senior officers  
3 believe or pretend to believe that they are eliminating the  
4 guerrillas. Now, when you use the term "command structures of  
5 the army and the security forces," who specifically are you  
6 referring to there?

7 A. The minister of defense Colonel Garcia, the minister -  
8 - oh, excuse me. The head of the national guard Colonel Vides  
9 Casanova, the head of the national police and the head of the  
10 treasury police.

11 Q. Now, was this a cable that you personally authored?

12 A. It's this is a cable that this was my, basically my  
13 first overall report of the situation in El Salvador. It was we  
14 asked each section chief, each independent agency chief to  
15 contribute to this telegram. I participated in the drafting.  
16 For example, when I, I had previously served in Nicaragua and  
17 that's why and so I wrote this particular program what I said is  
18 radicalizing the rural areas just as surely as Somoza's national  
19 guard did in Nicaragua because there was an analogy and as you  
20 know there was a revolution in El Salvador, in Nicaragua prior  
21 to the unrest in El Salvador.

22 Q. Now, in the very last page of this cable, the very  
23 last line, it says White.

24 A. Yes.

25 Q. What is the significance of it saying White at the

(b) (6)

1 very end?

2 A. Well, they're all signed White as long as I'm in the  
3 country because I'm responsible for everything that goes into  
4 these telegrams, but that doesn't mean that I read every  
5 telegram or that I wrote every telegram. It means that if they  
6 were important telegrams that I was sending in that I expected  
7 to have an impact on policy or it was vital for top officers in  
8 the administration to know, then I would use the, I would say I.  
9 if it doesn't have I in it, I probably didn't write it. I  
10 probably just saw it. In some cases of just routine stuff, I  
11 just you know, the other people would sign my name.

12 Q. Now, can anyone just anyone in the embassy sign cables  
13 or are there only a select group?

14 A. No, no, no. The only one other person, the deputy  
15 chief of mission would sign cables except in some special  
16 circumstance.

17 Q. And you mentioned ones that you thought were of high  
18 importance to the administration that you would personally be  
19 involved in --

20 A. Drafting, yes.

21 Q. -- drafting. Would you have considered during this  
22 timeframe a cable regarding human rights violations of El  
23 Salvador as an important topic?

24 A. Well, yes.

25 Q. Now, sir, I also want to show you a cable that is can

(b) (6)

1 be found under Exhibit 3, tab T. That was, that was from May  
2 3rd of 1980

3 A. Yes.

4 Q. Turning your attention to the second page, page 418  
5 starting at paragraph seven, the cable states that the labor  
6 attaché commented that killings in the countryside seem to be  
7 coming from all directions and that he had heard that the local  
8 national guard commanders bore much of the responsibility for  
9 the repression. The directors agreed, but named three officials  
10 who they said could stop the repression if they wished, minister  
11 of defense Garcia, sub-secretary of defense Carranza, and  
12 director of the national guard Vides Casanova and these three,  
13 they added were not in favor of the JRG's reforms and are  
14 allowing low ranking officers to obstruct them. Now first of  
15 all, the labor attaché, is that someone who would report to you  
16 in the embassy?

17 A. Yes, but I mean, normally through the chief of the  
18 political section, but yes.

19 Q. Okay.

20 A. It was a small and then at that time relatively small  
21 embassy.

22 Q. And do you agree with the statement that the labor  
23 attaché made that the national guard bore much of the  
24 responsibility for extrajudicial killings in the countryside?

25 A. All of the information that I have from various

(b) (6)

1 sources agreed on this statement. Yes.

2 Q. Do you also agree with the statement that Vides  
3 Casanova among the other two listed here could have stopped the  
4 extrajudicial killings?

5 MR. HANDEL TO JUDGE

6 Objection, Your Honor. It calls for speculation I believe.

7 MR. STANLEY TO MR. WHITE

8 Q. Based on your, your knowledge that you had at the  
9 time?

10 MR. HANDEL TO JUDGE

11 It calls for speculation. No foundation laid for his  
12 testimony on this question.

13 JUDGE TO MR. STANLEY

14 I'm going to allow it. Overruled.

15 MR. STANLEY TO MR. WHITE

16 Q. You can answer the question. I'll re-ask it. sir,  
17 based on the, the information you had at your disposal as  
18 ambassador to El Salvador and based on this cable, did you agree  
19 that Vides Casanova could have stopped the extrajudicial  
20 killings by the national guard?

21 A. I think it was generally believed. Certainly, it was  
22 the collective opinion of the defense attaché, the head of the  
23 United States military group and the political officers and my  
24 own personal experience that, that Colonel Vides Casanova was  
25 probably you know the, the second most important military figure

(b) (6)

1 in, in the country and in one sense because of I would say that  
2 because he had troops directly under his command. He is a very  
3 powerful man. Yes. He had the power to stop.

4 Q. Now, during your time as ambassador to El Salvador,  
5 you had several meetings that Vides was present in, correct?

6 A. Colonel Vides and I met frequently not usually alone,  
7 no, but with, with, with Colonel Garcia, the minister of  
8 defense.

9 Q. And during that time and your meetings with both the  
10 minister of defense Garcia and the head of the national guard  
11 Colonel Vides Casanova, did either of them indicate to you that  
12 they were unable to, to control their human rights abuses?

13 MR. HANDEL TO JUDGE

14 Objection. Asked for a questions that assumes a fact in  
15 evidence.

16 JUDGE TO MR. HANDEL

17 That assumes a fact not in evidence. Is that what you  
18 said?

19 MR. HANDEL TO JUDGE

20 Assumes a fact in evidence. He's asking a compound  
21 question that's assuming a premise.

22 JUDGE TO MR. STANLEY

23 Okay. Well, why don't you ask it again? I'm not sure I'm  
24 following the objection.

25 MR. STANLEY TO JUDGE

(b) (6)

1           Okay. Let me back up.

2   MR. STANLEY TO MR. WHITE

3           Q. Sir, you, you had meetings where both Vides Casanova

4   and Colonel Vides Casanova and General Garcia were present,

5   correct?

6           A. Colonel Garcia, yes.

7           Q. Colonel Garcia, that's fine. Yes. And during those

8   meetings, did either -- actually let me back up. During those

9   meetings, did Garcia, General Caron Garcia ever tell you that he

10   did not have the ability to stop the extrajudicial killings?

11   MR. HANDEL TO JUDGE

12           Objection as to hearsay.

13   JUDGE TO MR. STANLEY

14           Yeah. I'm going to have to sustain that one.

15   MR. STANLEY TO JUDGE

16           Hearsay is admissible in Immigration Court, Your Honor.

17   JUDGE TO MR. STANLEY

18           Did you, you're asking about the which officer?

19   MR. STANLEY TO JUDGE

20           I'm asking him if, if Colonel Garcia, the minister of

21   defense ever told him he was unable to stop the extrajudicial

22   killings.

23   JUDGE TO MR. STANLEY

24           Okay. I'm going to allow that one. I'm reading it again.

25   Go ahead.

1 JUDGE TO MR. WHITE

2 Q. Answer the question if you know.

3 A. No, sir. The minister of defense never pleaded  
4 inability, never pleaded impetus. They, they simply, they  
5 either, well, he either said it wasn't true or tried to explain  
6 it away, but for example, there's another telegram I don't know  
7 if we have it here where I meet with Colonel Garcia, the  
8 minister of defense.

9 MR. HANDEL TO JUDGE

10 Objection, Your Honor. Discussing matters that are not  
11 before the Court.

12 JUDGE TO MR. STANLEY

13 Okay. Why don't you ask a follow up questions?

14 MR. STANLEY TO JUDGE

15 Sure. Understand.

16 MR. STANLEY TO MR. WHITE

17 Q. Sir, you were discussing a moment ago that that you  
18 authored several cables. Were there any cables where you  
19 discussed with Colonel Garcia, the minister of defense  
20 specifically human rights abuses?

21 A. Yes. I discussed human rights violations on many  
22 occasions with the minister of defense.

23 Q. Did he ever try to justify or minimize the violence  
24 that was going on by the military and national guard?

25 A. I met with him and I made it clear my disappointment

(b) (6)

1 and knowledge that there were military death squads operating  
2 out of the military establishments and security forces and  
3 Colonel Garcia responded by saying that, that that only about 1%  
4 perhaps were involved in death squads. I said, well, if there  
5 are 16,000 people, 16,000 men in the military and security  
6 forces, 1% of that is 160 people and 160 people involved in  
7 carrying out death squad activity, torture, and murder is can be  
8 the, they are the ones who are wrecking the reputation of the  
9 armed forces and so I urged him as I urged the entire high  
10 command on many occasions to rid the security forces, the armed  
11 forces, the security forces of these people who were known,  
12 these officers who were known who were notorious for their human  
13 rights violations.

14 Q. Now, you mentioned --

15 MR. HANDEL TO JUDGE

16 Objection, Judge. I believe the question, at least a  
17 series of questions refer to cables or communications and the  
18 answer seemed to not refer to any cables, communications, to  
19 conversations that was --

20 JUDGE TO MR. STANLEY

21 I was taking responses referencing cables that information  
22 in cables that he had authored. Is that incorrect, Mr. Stanley?  
23 You were asking that.

24 MR. STANLEY TO MR. WHITE

25 Q. The discussion you just discussed or you just told us

(b) (6)



1 about, was that something that you placed in a cable that you  
2 sent out?

3 A. Yes.

4 Q. Okay.

5 A. Yes, it was.

6 JUDGE TO MR. STANLEY

7 Okay. I'll overrule the objection.

8 MR. STANLEY TO MR. WHITE

9 Q. Sir, you just mentioned death squads. Can you just  
10 briefly explain what are the death squads when you're referring  
11 to that?

12 A. Death squads when I was there, all the information we  
13 had was that the death squads were military death squads and  
14 they would go out and target particular people, particular  
15 leaders of like labor union leaders, catechists, priests, et  
16 cetera. Those are what are referred to as death squads.

17 Q. Now, a moment ago, you testified that minister of  
18 defense Garcia never claimed to have the lack of ability to stop  
19 extrajudicial killings. Would that also be true of Vides  
20 Casanova?

21 MR. HANDEL TO JUDGE

22 The same objection.

23 JUDGE TO MR. STANLEY

24 Overruled.

25 JUDGE TO MR. WHITE

(b) (6)

1 Q. Go ahead.

2 A. Yes. I remember a discussion with Colonel Garcia and  
3 Colonel Vides Casanova which I later sent a cable to Washington  
4 about where I objected of the lack of action of ridding the  
5 armed forces of notorious violators of human rights and I  
6 mentioned in particular two notorious figures. If I remember  
7 correctly, their names were Roberto Mauricio Esteban and Colonel  
8 Vides jumped up and said I've told you 100 times, Guillermo,  
9 talking to, to Colonel Garcia, to get rid of those crazy people.  
10 There was never any hint whatsoever they couldn't get rid of  
11 them because this was a command and control situation. I mean,  
12 they were subordinates of, of Colonel Garcia and Colonel Vides  
13 Casanova. So the idea that somehow the heads of the various  
14 groups within the military, within the security forces the  
15 commander that didn't have control over their people, I think is  
16 simply not borne out by the facts.

17 MR. STANLEY TO MR. WHITE

18 Q. Now, sir, I want to turn your attention to another  
19 cable which can be found at Exhibit 3, tab G authored on August  
20 23rd, 19 [indiscernible]. Now, turning your attention to page,  
21 the bottom of page 422 and the top of 423, the cable states that  
22 the ambassador also noted the serious problems created and the  
23 relationship by continuing violence of the extremist right which  
24 is perceived internally to be and often actually is condoned by  
25 onus within the military. The failure of the government of El

(b) (6)

1 Salvador to put an end to that violence is the principal  
2 obstacle to greater cooperation between the governments and when  
3 you're talking the governments, which government are you  
4 discussing?

5 A. Well, I'm talking about the cooperation between the  
6 Government of the United States and the government of El  
7 Salvador.

8 Q. Now, in that paragraph, it talks about the perceived  
9 internationally to be and often actually is condoned violence by  
10 the military. Did you believe that the military condoned the  
11 violence that was going on at that time?

12 MR. HANDEL TO JUDGE

13 Objection as to relevance.

14 JUDGE TO MR. STANLEY

15 Oh, Mr. Stanley, anything?

16 MR. STANLEY TO JUDGE

17 Your Honor, it's very relevant. I'll rephrase the  
18 question.

19 JUDGE TO MR. STANLEY

20 Okay.

21 MR. STANLEY TO MR. WHITE

22 Q. Did you believe that the military, the armed forces as  
23 a whole, including the national guard condoned the violence?

24 MR. HANDEL TO JUDGE

25 Objection one again as to the relevance.

(b) (6)

1 MR. STANLEY TO JUDGE

2 It's relevant because the next question is going to be,  
3 does that include Vides Casanova?

4 JUDGE TO MR. STANLEY

5 Okay. Overruled.

6 JUDGE TO MR. WHITE

7 Q. Go ahead.

8 A. All the information and I stress all the information,  
9 all the information from the defense attaché from the labor  
10 attaché, from the head of the U.S. military group, from the CIA,  
11 everyone agreed, including by the way independent witnesses you  
12 know. The embassy of the United States does not live in a  
13 vacuum. We have people out there. We also have the capacity to  
14 listen in on the conversations between various officers of the  
15 military. So we knew what was going on. We had, we, we  
16 listened to their conversations. So I would say that there is  
17 simply no doubt in anybody's mind that the military and security  
18 offices, the army and the security forces of El Salvador were  
19 not only condoning, but committing on a regular basis human  
20 rights violations.

21 MR. HANDEL TO JUDGE

22 Objection. The ambassador is testifying to material that's  
23 not in evidence at this point. He's referring to reports from  
24 labor attachés, CIA attachés and therefore, there's no  
25 foundation for his testimony.

(b) (6)

1 JUDGE TO MR. STANLEY

2 I'll take that part of the testimony where he indicated  
3 that his information indicate the military, military condoned  
4 the acts of violence and exclude that regarding the military  
5 committing their own for a later time I think. Go ahead, Mr.  
6 Stanley.

7 MR. STANLEY TO MR. WHITE

8 Q. Snow, sir, do you believe, did that include Vides,  
9 Colonel Vides Casanova in the condoning of the violence?

10 MR. HANDEL TO JUDGE

11 Same objection.

12 JUDGE TO MR. STANLEY

13 Overruled.

14 JUDGE TO MR. WHITE

15 Q. Go ahead.

16 A. As head of the national guard as one of the leading  
17 members of the high command, it certainly does include Colonel  
18 Vides Casanova.

19 Q. When you say here certain elements within the  
20 military, is there any reason this particular cable wasn't more  
21 particular as to naming certain persons, the minister of defense  
22 or otherwise or is that just in another part that hasn't been  
23 referenced?

24 A. Well, if you notice the title, Judge, there's because  
25 we were furnishing weapons and material, always material to the

(b) (6)

1 armed forces of El Salvador and we were being severely  
2 criticized for this. I mean, I want you to remember that it was  
3 my job to make this the help, to use the assets of the United  
4 States Government to help the armed forces do the their job more  
5 effectively. I was, I wanted to be on their side and they were  
6 preventing by their regular flow of, of human rights abuses.

7 Q. Okay.

8 JUDGE TO MR. STANLEY

9 Mr. Stanley.

10 MR. STANLEY TO MR. WHITE

11 Q. Sir, if you direct your attention to page 427 of  
12 [indiscernible] starting at what's labeled as paragraph 18. In  
13 the cable, it states that Colonel Vides Casanova asked why the  
14 U.S. was so insistent on dealing toughly with the right  
15 extremists and not with those on the left. He indicated that  
16 some people of the right have done more to resolve the country's  
17 problems since the October coup than those in the left. The  
18 ambassador told Colonel Vides that there was a misunderstanding.  
19 Liberty of expression is not at issue. People should have the  
20 right to think any way they choose to act within the law. What  
21 they do not have a right to do is to commit acts of terrorist  
22 violence. For example, he asked when was the last time that an  
23 Gordon militant was punished? No one came up with an answer.  
24 Now when you referred to Gordon, can you explain to us what  
25 Gordon is?

1           A.    Gordon was an auxiliary force that assisted and the,  
2   the national guard in particular because it was primarily a,  
3   Gordon was primarily out in the countryside and they were  
4   notorious for, Gordon was notorious for human rights violations,  
5   but the point here is that nobody in, in the armed forces, in  
6   the armed forces here, I'm talking about the officers, while I  
7   was there as far as I know, no officer was ever demoted or  
8   expelled for human rights violations.

9           Q.    Now obviously in this cable, you are talking about  
10   human rights abuses with Colonel Vides Casanova. Were there  
11   other times during your time as ambassador to El Salvador where  
12   Vides was present when human rights were discussed?

13          A.    I supposed I met with the high command or components  
14   with the high command perhaps two or three times a month and  
15   human rights always came up and so because that was the chief  
16   concern of the United States Government. Remember, I am not  
17   acting here on my own. I'm acting on the instructions from the  
18   Department of State.

19          Q.    Now, I want to talk to you about a couple of high  
20   profile human rights abuses that occurred while you were  
21   ambassador to El Salvador. I'd first like to draw your attorney  
22   to the murder of the six FDR leaders. Can you explain what  
23   exactly the murder of the six FDR leaders was?

24          A.    The murder of the FDR, the FDR was the, was the Fronte  
25   Democratical Revolutionale, the Revolutionary Democratic Front.

(b) (6)

1 Okay. They were people who worked for revolutionary change in  
2 El Salvador, but tried to, but were not, did not use weapons so  
3 that they were peace. They were working within what should have  
4 been the political system. They met downtown in a secondary  
5 school that they used. It was in the offices of a, of an  
6 organization called Seguro Politico if I recall correctly which  
7 was a humans rights organization and according to all of the  
8 reports we had, the armed forces, security forces came in, in  
9 front of, this is right in the middle of downtown on  
10 Thanksgiving Day. It was they tied the fountain. This is the  
11 routine way that the --

12 MR. HANDEL TO JUDGE

13 Objection, Your Honor, to the testimony. There is no  
14 predicate laid for there's a reference to reports. There's no  
15 description of any reports, where they came from. There's no  
16 timeframe, no foundation.

17 JUDGE TO MR. STANLEY

18 I think, I think the question more went to who they were.  
19 so why don't you move on to the next question?

20 MR. STANLEY TO JUDGE

21 Sure.

22 JUDGE TO MR. WHITE

23 Q. And let me clarify the city you're talking about is  
24 the capital city.

25 A. San Salvador, yes, sir.

(b) (6)



1 Q. Okay. Thank you.

2 MR. STANLEY TO MR. WHITE

3 Q. Now, sir, as ambassador to El Salvador, did you  
4 receive reports regarding the murder of the six FDR leaders?

5 A. Yes. This was a, this was a terrible blow.

6 Q. How?

7 MR. HANDEL TO JUDGE

8 Objection, Your Honor. There is a characterization in the  
9 question assuming fact in evidence. The question was regarding  
10 the murder. It has not been established that there was a  
11 murder.

12 JUDGE TO MR. STANLEY

13 As was yes. Sustained. Next question.

14 MR. STANLEY TO MR. WHITE

15 Q. Sir, did you get information that a murder occurred of  
16 six FDR leaders?

17 A. Yes. It was on the front page of all the newspapers.

18 Q. Okay. Did you get other information from being as an  
19 ambassador from internal sources?

20 A. Yes. We had maintained contact with all the human  
21 rights, with the human rights organizations, including Seguro  
22 Politico. Yes.

23 Q. Was this something that as ambassador to El Salvador  
24 that you spoke with the government of El Salvador about?

25 A. Well, this sort of thing, yes.

(b) (6)

1 Q. Now, I'm going to direct you to a cable which can be  
2 found in the third exhibit, tab J, the bottom of the first page,  
3 page 439.

4 A. Uh-huh.

5 Q. The cable says the evidence that the security forces  
6 are responsible for this action is overwhelming. The commander  
7 of the national guard Colonel Carlos Eugenio Vides Casanova told  
8 me that the security forces maintain a constant surveillance of  
9 the offices of Seguro Politico. Now, sir, that quote there, is  
10 that from a discussion that you had with Vides Casanova?

11 A. I don't think so. No. This is, this does not result  
12 in any discussion I had with Colonel vides Casanova. This is a,  
13 a reporting telegram from all the different, from several  
14 different sources about what took place in downtown and I and I  
15 am saying here that all of the evidence we --

16 MR. HANDEL TO JUDGE

17 Objection, Your Honor, as to testifying about what he was  
18 told without identifying the sources.

19 MR. STANLEY TO JUDGE

20 He's explaining what the cable means I believe.

21 JUDGE TO MR. STANLEY

22 Yeah. I think he's talked about the various sources  
23 enough. So I'll let him go ahead.

24 JUDGE TO MR. WHITE

25 Q. Go ahead, sir.

(b) (6)

1           A.    The evidence that the security forces are responsible  
2   for this action is overwhelming.  The command of the national  
3   guard Colonel Eugenio Vides Casanova told me that the security  
4   forces, I think he told me this on another occasion.  I don't  
5   think he told me on this, is that the security forces maintain a  
6   constant surveillance of the offices of Seguro Politico.  He  
7   told me this several months ago.  Yeah.  He told me this several  
8   months ago and I -- something about the -- I can't read the rest  
9   of it, but that's the key point that that, that that I knew from  
10  firsthand from Colonel Vides Casanova that the national guard  
11  maintained a permanent surveillance of Seguro Politico.

12  MR. STANLEY TO MR. WHITE

13           Q.    And how was that at all relevant to the murder of the  
14  six FDR leaders?

15           A.    Well, in other words, that means that nothing could  
16  occur there without the knowledge of the national guard who kept  
17  the, that building and the goings and comings of people under  
18  constant surveillance.

19           Q.    Now, what significance as far as a peaceful solution  
20  did the murder of the six FDR leaders have, the kidnapping and  
21  murder?

22           A.    The significance was that if there was ever to be a  
23  negotiated solution, these people who were working for dramatic  
24  change in El Salvador and were trusted at least by a substantial  
25  group of the people as honorable men and women who, who were,

1 who were trying to work within the political system to bring  
2 about change if there was to ever be a negotiated solution,  
3 these people would have played a key role in that brokered  
4 peace.

5 MR. STANLEY TO JUDGE

6 Your Honor, it's been approximately an hour. This would be  
7 a good spot for me if the Court wants to take a brief recess.

8 JUDGE TO MR. STANLEY

9 It sounds like a good thing.

10 JUDGE TO MR. HANDEL

11 Mr. Handel, you agree.

12 MR. HANDEL TO JUDGE

13 Yes, Your Honor.

14 JUDGE TO MR. HANDEL

15 All right.

16 MR. HANDEL TO JUDGE

17 I do agree.

18 JUDGE FOR THE RECORD

19 All right. Let's go off the record.

20 (OFF THE RECORD)

21 (ON THE RECORD)

22 JUDGE FOR THE RECORD

23 And we're back on the record. We'll continue with direct.

24 JUDGE TO MR. STANLEY

25 Mr. Stanley.

(b) (6)

1 MR. STANLEY TO MR. WHITE

2 Q. Sir, now, I'd like to turn your attention to an event  
3 that's been termed the four churchwomen murder. Are you  
4 familiar with that event?

5 A. Yes.

6 Q. And can you explain to us how you are familiar with  
7 that event?

8 A. I was when the churchwomen were murdered --

9 MR. HANDEL TO JUDGE

10 Objection, Your Honor. Assume facts not in evidence.

11 MR. STANLEY TO JUDGE

12 Your Honor, he hasn't answered the question yet.

13 MR. HANDEL TO JUDGE

14 He's describing something that is assumed to be in  
15 evidence.

16 JUDGE TO MR. STANLEY

17 You asked him if he was familiar with it and he said yes.

18 MR. STANLEY TO JUDGE

19 Yes and he's explaining how he's familiar with it at this  
20 time.

21 JUDGE TO MR. STANLEY

22 Okay.

23 MR. HANDEL TO JUDGE

24 The assumption here, Judge, is that there was a murder. I  
25 mean, there was no -- assuming facts in evidence.

(b) (6)

1 MR. STANLEY TO JUDGE

2 I'll clarify. I'll --

3 JUDGE TO MR. STANLEY

4 Go ahead.

5 MR. STANLEY TO MR. WHITE

6 Q. Sir, were you present when four bodies of churchwomen  
7 were brought out of the ground?

8 A. I was.

9 Q. Okay. And were these churchwomen dead?

10 A. They certainly were.

11 Q. Okay. Now, sir, can you explain how you found out  
12 about the disappearance and subsequent knowledge of the murders  
13 of the four churchwomen?

14 A. Yeah. This, the same time as this was all going on in  
15 El Salvador, people had been taken hostage in Iran and Canadian  
16 embassy officials had hidden some of our, my colleagues and so  
17 when I learned that, I talked to these Canadians who their car  
18 was immediately behind the car of the churchwomen as it exited  
19 the airport and these Canadian church, they were mostly church  
20 people had witnessed the national guard men stop the car of --

21 MR. HANDEL TO JUDGE

22 Hearsay.

23 JUDGE TO MR. STANLEY

24 I'm going to allow it.

25 JUDGE TO MR. WHITE

(b) (6)

1 Q. Go ahead. Now, you're saying you personally spoke to  
2 these Canadians.

3 A. I did speak to those Canadians.

4 Q. Okay. Go ahead.

5 A. And they told me that they saw the national guard men  
6 enter the car and take them away and the reason they told it --  
7 MR. HANDEL TO JUDGE

8 Objection, Your Honor. He's describing persons that spoke  
9 with him. He's not identifying who spoke with him, when that  
10 was.

11 JUDGE TO MR. WHITE

12 Q. Okay. Why don't you be a little more specific? So  
13 how was it that you came to speak to these Canadians?

14 A. Oh, that was that they telephone me and said they were  
15 frightened for their lives because they were the witnesses to  
16 these national guardsmen in effect kidnapping these American  
17 churchwomen.

18 Q. And this phone call came when approximately?

19 A. The phone call came the day after the murder of the  
20 nun. No. Excuse me. This, this phone call, wait a minute.

21 Q. Take your time.

22 A. Yeah. All right. The embassy not I personally, but  
23 the, an official of the embassy received the call saying that  
24 there was a group of Canadians in a hotel and that they had  
25 witnessed the abduction of the four churchwomen and that they

(b) (6)

1 were frightened for their lives and they asked as there was no  
2 Canadian embassy there, they closed their embassy because of the  
3 violence, they requested assistance in getting out of El  
4 Salvador. So I took enough cars plus the, the security detail,  
5 went to the hotel, picked up the Canadian witnesses if you will,  
6 and rode with them to the, on the way to the air, to the  
7 airport. On the way to the airport, I received a call from the  
8 embassy saying that the bishop, the Catholic bishop of that area  
9 had just received a report that there, there were four women had  
10 been murdered the night before. So we dropped. We, we dropped  
11 these, the Canadians at the airport and put them in charge. We  
12 left a person with them. Then, the consul and I went  
13 immediately to San Juan Nonualco where the, where the report of  
14 the bodies and as we arrived --

15 MR. HANDEL TO JUDGE

16 Objection. Again, there's testimony here regarding persons  
17 without any names.

18 MR. STANLEY TO JUDGE

19 Your Honor.

20 MR. HANDEL TO JUDGE

21 And we, there's a mention of a consul. There's a mention  
22 of Canadians. I mean, there's no names of anyone.

23 MR. STANLEY TO JUDGE

24 Your Honor, these are all questions for cross-examination  
25 if he wants further information on any of this. However, he is



1 answering the question.

2 MR. HANDEL TO JUDGE

3 Your Honor, if he's going to be giving opinions and he's  
4 going to be referring to evidence, I would argue there's no  
5 foundation where there's testimony regarding ultimate facts, not  
6 names of anyone.

7 JUDGE TO MR. WHITE

8 Q. Do you know any of the, the identities of these  
9 Canadians that you picked up?

10 A. Well, I could, I can research it and find it.

11 Q. I mean, off the top of your head.

12 A. I do know the name of the consul's name. Her name is  
13 Patricia Lasbury. She was accompanying me.

14 Q. Consul of.

15 A. The United States of America.

16 Q. And she was with you in the, one of the vehicle, in  
17 the car that day. Okay.

18 A. The, Patricia Lasbury and I immediately went to the  
19 site described. As we arrived, they were taking the bodies out  
20 of these, the makeshift grave. As this was happening, a  
21 detachment of national guardsmen came and circled us and with  
22 and pointed their guns at us. In other words, we were in a  
23 sense prisoners and we didn't know of course what was going to  
24 happen, but and I know they were national guardsmen because I  
25 recognize the uniform. The, so I, the justice of the peace came

(b) (6)

1 and in El Salvador, the justice of the peace is, has duties  
2 beyond what one would have here and he had to certify the  
3 deaths. So I, he, he had seen also. We took him back. We  
4 invited him to return to the embassy and we took a long  
5 statement from him where he said that this particular spot San  
6 Juan Nonualco was used as a dumping ground by the security  
7 forces.

8 Q. Do you know the person's name, this justice of the  
9 peace?

10 A. It's in, it's in the, it will be in the messages of  
11 the consul.

12 Q. Regarding the cables. Okay.

13 MR. STANLEY TO MR. WHITE

14 Q. Now, sir, I'd like to direct your attention to a cable  
15 from Exhibit 3, tab L December 4th of 1980. Now, this is not a  
16 document that you authored. Is that correct?

17 A. That's correct.

18 Q. And who would have been the author of this document?

19 A. According to this, it was authored by the assistant  
20 secretary for human rights in the Department of State Patricia  
21 Darrion.

22 Q. And were you familiar with Ms. Darrion?

23 A. I knew Ms. Darrion, yes.

24 Q. Okay. And in your job as ambassador to El Salvador,  
25 did you respect her opinion?

(b) (6)

1       A.   Well, she was, she was the first assistant secretary  
2 of the human rights and was a very, very effective official in  
3 the Carter administration.

4       Q.   I want to direct you to the bottom of the first page,  
5 page 553. The cable states that the security forces are  
6 essentially dominated by the right and act in league with the  
7 rightest terrorist groups.

8       A.   Yes.

9       Q.   Embassy reports make clear that the security forces  
10 and military --

11      A.   Excuse me. Where are we here?

12      Q.   Page 553 and in the top part [indiscernible].

13      A.   Right here.

14      Q.   [Indiscernible].

15      A.   Oh, okay. Embassy reports make clear that the  
16 security forces and the military are responsible for much of the  
17 killings and human rights abuses in the country. Yes.

18      Q.   Now, since you didn't write that, do you agree with  
19 that assessment?

20      A.   Yes.

21      Q.   And was a particular branch of the security forces  
22 responsible for the majority of these types of abuses?

23      A.   Well, I don't know that of my own knowledge. All I  
24 could say is that the --

25 MR. HANDEL TO JUDGE

(b) (6)

1           Objection, Your Honor. He doesn't know. Then, he can't  
2 testify.

3 MR. WHITE TO MR. STANLEY

4           I didn't --

5 MR. STANLEY TO JUDGE

6           Your Honor, he hasn't. I think we need to let him finish  
7 what he can say.

8 JUDGE TO MR. STANLEY

9           Okay. Why don't you ask the question again and maybe less  
10 leading?

11 MR. STANLEY TO JUDGE

12           Sure.

13 MR. STANLEY TO MR. WHITE

14           Q. Sir, based on all of the information that you received  
15 as ambassador of, to El Salvador, did you have information on  
16 which of the security forces was responsible for most of the  
17 human rights abuses?

18           A. In the countryside, the countryside also known as in  
19 the rural area, the national guard under Colonel Vides Casanova  
20 had primary responsibility for law and order in the country.  
21 They were the largest force and there were individual instances  
22 of reports, such as the death of the, the torture and death of  
23 the American churchwomen where we knew that it was the national  
24 guard.

25 MR. HANDEL TO JUDGE

(b) (6)

1           Objection, Your Honor. That's define that that it was  
2 known, no foundation.

3 JUDGE TO MR. STANLEY

4           For the last part of the statement.

5 MR. STANLEY TO JUDGE

6           Your Honor, [indiscernible] was it. He's testified that  
7 there was knowledge that he had as ambassador and through his  
8 resources which he's testified about numerous times of having  
9 the access to the CIA, the military attaché, the political  
10 attaché, and all of those other parts of the embassy.

11 MR. HANDEL TO JUDGE

12           The objection is, Your Honor, he's testifying that he  
13 knows. I'm not sure he was part of any tribunal or anything  
14 that investigated this. So I'm not sure where that conclusion  
15 comes from.

16 JUDGE TO MR. HANDEL

17           Okay.

18 JUDGE TO MR. WHITE

19           Q. And what? How did you arrive at that conclusion that  
20 the military was, the national guard was responsible?

21           A. One, there were several concrete instances where we  
22 knew that. Secondly, this was inductive reasoning because it  
23 the national guard who had the sole responsibility for keeping  
24 law and order in those areas and therefore, they were the  
25 primary armed group in the area. So I do not know of my own

(b) (6)

1 [indiscernible] of a huge number of, of individual instances. I  
2 do know that the national guard was the, the force that occupied  
3 and was responsible for keeping order in those areas.

4 Q. Okay.

5 MR. STANLEY TO MR. WHITE

6 Q. Now, sir, based on your numerous discussions that you  
7 previously testified that you had regarding human rights abuses  
8 with Colonel Vides Casanova, is there any doubt in your mind  
9 that Colonel Vides Casanova was aware of the tortures and  
10 extrajudicial killings that were being committed by the national  
11 guard?

12 MR. HANDEL TO JUDGE

13 Objection as to foundation.

14 MR. STANLEY TO JUDGE

15 Based on his discussions.

16 MR. HANDEL TO JUDGE

17 There are no discussions regarding this particular  
18 question.

19 MR. STANLEY TO JUDGE

20 He's testified that he's had several meetings a month with  
21 Vides present in which every one of those, he discussed human  
22 rights. I believe there is a background for this question.

23 JUDGE TO MR. STANLEY

24 Let me follow. That was a question I had when he said that  
25 he met two to three times a month with members of the high

(b) (6)

1 command.

2 JUDGE TO MR. WHITE

3 Q. You said, sir.

4 A. Yes.

5 Q. All right.

6 MR. HANDEL TO JUDGE

7 The question is, Judge, he testified that there were  
8 meetings with members of the high command. It jumped from that  
9 there was meetings with the high command to the conclusion of  
10 the question is a wide jump.

11 JUDGE TO MR. WHITE

12 Q. I just wanted to confirm that Mr., the respondent was,  
13 was present at some of those meetings.

14 A. Oh, yes.

15 Q. Okay. So all right.

16 JUDGE TO MR. STANLEY

17 Ask the question again, Mr. Stanley.

18 MR. STANLEY TO JUDGE

19 Sure.

20 MR. STANLEY TO MR. WHITE

21 Q. Based on your numerous discussions that you had  
22 regarding human rights in meetings where Colonel Vides Casanova  
23 was present, is there any doubt in your mind that Vides Casanova  
24 was aware of tortures and extrajudicial killings being committed  
25 by the national guard?

(b) (6)

1 MR. HANDEL TO JUDGE

2 Your Honor, the objection here goes to the heart of the  
3 testimony of the witness. He's asking the witness to testify  
4 whether he knows, what was in the mind of someone else and I  
5 think the Courts have clearly ruled that it's improper for any  
6 witness lay or expert to testify as to what is in the mind of  
7 someone else or that he knows that he knew. It's clearly  
8 impossible. I think this issue came up actually in the civil  
9 case and the judge disallowed it completely saying that it's  
10 improper for any witness to testify. It's beyond the scope.  
11 There is no such expertise in the world that exists.

12 MR. STANLEY TO JUDGE

13 Your Honor, I believe he can perfectly testify to what he's  
14 told Vides Casanova when he was present about human rights and  
15 there could be a reasonable inference based on that.

16 MR. HANDEL TO JUDGE

17 Your Honor, he can testifies to what, what he, what he told  
18 someone, but to go from there to the conclusion as to what the  
19 other person knows is highly improper.

20 JUDGE TO MR. STANLEY

21 I guess I need some foundation as to what, on what basis he  
22 would know what the respondent knows.

23 MR. STANLEY TO JUDGE

24 Okay.

25 JUDGE TO MR. STANLEY

(b) (6)



1           And I think given that I've reviewed several hundred pages  
2 of information, I think I know where you're going, but if you  
3 could ask the questions to get us there.

4 MR. STANLEY TO MR. WHITE

5           Q.    Sir, you discussed Vides Casanova being present during  
6 several meetings where you discussed human rights, correct?

7           A.    Colonel Vides Casanova and I spoke of human rights  
8 violations by the security forces on several occasions.   Yes.

9 MR. STANLEY TO JUDGE

10          No further questions, Your Honor.

11 JUDGE TO MR. STANLEY

12          Okay.   Are you finished with direct?

13 MR. STANLEY TO JUDGE

14          Yes, Your Honor.

15 JUDGE TO MR. HANDEL

16          All right.   Are you ready to begin cross-examination, Mr.  
17 Handel?

18 MR. HANDEL TO JUDGE

19          Just a moment, Your Honor.

20 JUDGE TO MR. HANDEL

21          Okay.

22 MR. HANDEL TO JUDGE

23          Yes, I am.

24 JUDGE TO MR. HANDEL

25          Okay.   At your convenience.

(b) (6)

1 MR. HANDEL TO JUDGE

2 Thank you.

3 MR. HANDEL TO MR. WHITE

4 Q. Ambassador White, you spoke regarding meeting with  
5 members of the high command.

6 A. Yes, sir.

7 Q. Was General Vides a member of the high command at the  
8 time you were an ambassador?

9 A. Yes, he was.

10 Q. Now, isn't it true that as a director of the national  
11 guard, he was not strictly a member of the high command, the  
12 military [indiscernible]?

13 A. As far as I am aware, ex officio he is part of the  
14 high command.

15 Q. When you say ex officio, what do you mean by that?

16 A. I'm assaying whether it, whether his name is Vides  
17 Casanova or whatever his name, the head, the commander of the  
18 national guard is by virtue of the office he holds a member of  
19 the high command of the Salvadoran armed forces.

20 Q. Now, you testified regarding the incident with the  
21 churchwomen regarding the call from the Canadians. Now, I  
22 believe you said you did not take that call at the embassy.

23 A. No.

24 Q. Do you know who took that call at the embassy?

25 A. I knew at the time. I'm not sure that I -- I mean, we

(b) (6)

1 can look it up, but it was a member of the embassy. It was  
2 probably the consul, but I am not 100% certain at this moment.

3 Q. And how many persons were in that group of Canadians?

4 A. Approximately six.

5 Q. I believe you said you don't recall any of their  
6 names. Is that right?

7 A. No, I do not.

8 Q. What were their ages?

9 A. Well, they were men and women in their late thirties,  
10 mid-40, 30, late thirties to 50 probably.

11 Q. Six, they were about six of them.

12 A. Yes.

13 Q. Do you know what any of them did for a living?

14 A. Yes. They were connected with churches, with the  
15 church, various churches of Canada.

16 Q. Do you know what churches?

17 A. Well, I know that one was -- no. I don't want to, I  
18 don't [indiscernible]. I know they were Protestant church men  
19 and women.

20 JUDGE TO MR. HANDEL

21 Let me ask a couple of follow up on that while you're going  
22 over your notes.

23 JUDGE TO MR. WHITE

24 Q. So the call comes in to your embassy because the  
25 Canadians happened to have arrived at the airport at the same

(b) (6)

1 time as the churchwomen. They were behind them in the car and  
2 supposedly saw them being taken. They checked into a hotel,  
3 were in fear for themselves, and then contacted the American  
4 embassy.

5 A. Yes. As I understand it, Judge, there was you know,  
6 there was immediate. When the churchwomen did not arrive at  
7 their intended destination, there was immediately suspicion that  
8 something had happened to them and there was communication  
9 between the human rights community in El Salvador and the  
10 churchwomen and nuns who were the colleagues of the murdered  
11 women and they were in communication and told the Canadians that  
12 they had fears that there had been, that they had been waylaid  
13 by the security forces. So that's why. That's the origin of  
14 their fear.

15 Q. And it was the next day that you picked them up at  
16 their hotel.

17 A. Yes.

18 Q. So and that was prior to you hearing that the four  
19 churchwomen bodies had been found if I took your testimony.

20 A. That's correct, but, but I had already spoken. I  
21 knew. I felt I knew that they were already dead because I had  
22 called Colonel Garcia that when I, when I, when I received a  
23 call telling me that the friend had found the burned van on the  
24 highway and when I called the minister of defense, his response  
25 was were these nuns wearing habits? You know the traditional

(b) (6)

1 and that's my heart sank when I heard that because the armed  
2 forces of El Salvador distinguish between good nuns and bad  
3 nuns. Good nuns were those who dressed in the traditional long  
4 dress with the wimple and so forth, the, and the nuns that wore  
5 regular clothes except for a scarf on their head. So that's  
6 when he said that, I inferred that he had prior knowledge that  
7 the women had been waylaid by the security forces because he was  
8 in my opinion, he was already building up a case against them.

9 Q. And why, why did you take part in picking up the  
10 Canadians and taking them to the airport? I'm just curious as  
11 to why as an ambassador you would take it upon yourself to  
12 become so involved in it to actually be in the vehicle and take  
13 them to the airport.

14 A. Well, it was a chance to get out of the embassy you  
15 know. I can't tell you that. Right. I have, I was fairly and  
16 I can, I did that quite a bit. I mean, I, when I got some,  
17 there was another case where the security forces had arrested an  
18 American woman and I went down at 3 a.m. to get her out of the  
19 treasury police. I think that there's there was always a fear  
20 that I would become insulated in the embassy and I tried to get  
21 out as much as I could.

22 Q. Okay. Thank you.

23 JUDGE TO MR. HANDEL

24 Mr. Handel.

25 MR. HANDEL TO MR. WHITE

(b) (6)

1 Q. Now, you've testified that in, in referring to a cable  
2 that the policies of the Salvadoran military were a problem  
3 between the U.S. Government and the Salvadoran government,  
4 correct?

5 A. Yes.

6 Q. And was that your personal opinion or was that the  
7 position of the U.S. Government?

8 A. That was the position of the U.S. Government.

9 Q. Were there people in the U.S. Government that disagree  
10 with you on that point?

11 A. Yes.

12 Q. Who were they?

13 A. Well, did they disagree with me about the facts? No.  
14 Did they disagree with me that this -- the disagreement was  
15 those people who said you can't make an omelet without breaking  
16 eggs I think, in other words, people who were willing to  
17 tolerate human rights abuses in order to gain the objective of  
18 eliminating physically the revolution.

19 Q. And who was that within the U.S. Government?

20 A. I didn't -- I, I mean, I would hesitate to name names.  
21 I mean, I could probably do it, but what I am saying is that  
22 there is always a, there are very few instances in a situation  
23 such as in El Salvador of conflict and U.S. participation in  
24 that conflict when there aren't differences of opinion. That's  
25 why you have a National Security Council to make sure the

(b) (6)

1 president receives all the options, but what we're talking about  
2 as far as I'm concerned, sir, is not policy. We're talking  
3 about facts on the ground.

4 Q. Well, I'm asking you about policy. You said that  
5 there were people who disagreed with you and you've written  
6 extensively on the subject. Who were the people that disagreed  
7 with you?

8 MR. CRAIG TO JUDGE

9 Your Honor, I'm going to object as to relevance.

10 MR. HANDEL TO JUDGE

11 He's been talking about policy, Judge. I'm allowed to  
12 inquire into that whether his testimony is correct.

13 JUDGE TO MR. CRAIG

14 I'll give him some latitude.

15 JUDGE TO MR. WHITE

16 Q. I would say that for example the headquarters of the  
17 CIA at Langley who were in general more, much more tolerant of  
18 human rights violations than the State Department. I would say  
19 the Pentagon was much more. They didn't -- not, I am not  
20 accusing them of insensitivity. I'm just saying that they were,  
21 they were willing to deliver the tools of war to the Salvadoran  
22 military despite their terrible record of human rights  
23 violations. Whereas, I believed that that it was a grave  
24 mistake to not attach conditions of civilized conduct respect  
25 for law that unless we did attach these conditions, we would,

(b) (6)

1 the United States would be put in the position of simply backing  
2 the worse kind of repression.

3 MR. HANDEL TO MR. WHITE

4 Q. Ambassador, at some point, you, you left the employ of  
5 the U.S. Government, correct?

6 A. Yes.

7 Q. And why was that?

8 A. That was because the new administration came in and  
9 ambassadors are, are routinely changed for that, but there was  
10 an issue too.

11 Q. What was that issue?

12 A. The issue was that I received a phone call stating  
13 that Secretary of State Alexander Haig wanted a telegram stating  
14 that the armed forces of El Salvador were making progress on the  
15 investigation of the case of the nuns or the case of the  
16 American churchwomen. Now, one, it's, it was in my experience  
17 unheard of for Washington to tell an ambassador what he should  
18 report. Secondly, as I told Secretary of State Haig's  
19 representative who called me, I said as you know from our  
20 reporting, it was the armed forces of El Salvador that killed  
21 the American churchwomen and the idea that they are making  
22 progress of an investigation is simply to be out of touch with  
23 reality because you are -- they, they had already, the, the  
24 armed, the high command had already done what it could to  
25 frustrate the investigation into who was responsible for the

(b) (6)



1 American churchwomen's death. They had transferred the  
2 different, the accused, the people we suspected to the point  
3 that we had to, we called in the FBI to come down because it  
4 was, it was simply -- and one, they did appoint a, the high  
5 command did appoint a commission, but that was a, just an  
6 exercise of showmanship. When I talked to the head of the  
7 commission, he said, well, you know this is, this is El  
8 Salvador. You can't. Anyway, the point was I refused to send  
9 in that telegram and then I suppose one could take as the  
10 proximate cause of my departure.

11 Q. So you said that that conversation you had with  
12 Alexander Haig or with someone else.

13 A. No. I had that, I had a conversation with Alexander  
14 Haig later, but this was by the acting assistant secretary of  
15 state for Inter-American Affairs who was representing himself  
16 as, as relaying the secretary's request.

17 Q. What was the name of that person?

18 A. His name is John Bushnell.

19 Q. Mr. Bushnell asked you to write a report.

20 A. Correct.

21 Q. And he asked you in that report to state that the  
22 Salvadoran government was making progress on the investigation.

23 A. Correct.

24 Q. And you refused to write that report.

25 A. I refused to write it because it was false. It

(b) (6)

1 wouldn't have been true. I would have delighted. I would have  
2 been delighted to write it, but it was false.

3 JUDGE TO MR. WHITE

4 Q. Okay. Be sure just answer the question. Okay.

5 A. Yeah. I'm sorry.

6 Q. Okay.

7 MR. STANLEY TO MR. WHITE

8 Q. And what was Mr. Bushnell's response to you, can you -

9 -

10 A. He said that could create a problem for, for us both  
11 and I said, well, I can understand why it might cause a problem  
12 for you, but it's not a problem for me.

13 Q. Then, you said you spoke to Alexander Haig as well.

14 A. Well, when I refused to do that, the Secretary of  
15 State called me up, called me to Washington and we had a long  
16 conversation.

17 Q. What was the nature of that conversation?

18 A. He complimented me on my reporting. He said I had  
19 done a great job and then he fired me.

20 Q. That was a long conversation. What was discussed in  
21 connection with [indiscernible]?

22 A. Well, he asked me on my opinion of the policy and he  
23 asked if I could support continued military assistance to -- I -  
24 - he asked me if I could support lethal military assistance to  
25 El Salvador and I said no, I thought it would be a grave error.

(b) (6)

1 Q. Okay. [Indiscernible].

2 A. I said I thought that would be a grave error.

3 Q. And what was his response?

4 A. Well, I think the Secretary of State didn't feel  
5 obligated to respond to me. I don't think he was ready to the  
6 appeal, but it was clear from the conversation that they were  
7 ready to forget about human rights considerations and to and to  
8 begin a large scale military assistance.

9 Q. When was that discussion?

10 A. That discussion was early February 1981.

11 Q. And what was going on in El Salvador at the time?

12 A. Well, in the, in the interval between the election of,  
13 of Ronald Reagan when it and the, his taking in the first  
14 Tuesday of November and his taking office on January 20th, there  
15 was a rash of killing. The, the killing spiked in El Salvador.  
16 You had the murder of the FDR in November. You had the murders  
17 of Michael Hammer, Mark Roman. There was Diagra (phonetic sp.)  
18 in December I believe and in January you had the murders of the  
19 American churchwomen and so that was probably the bloodiest  
20 period in, certainly the bloodiest period that I had  
21 experienced.

22 Q. That was you said December of 1981.

23 A. No. December of 19, it was from November 20th to  
24 January. It was from early in November 1980 to January 20th,  
25 1981. There was a, a, a dramatic increase in high profile

(b) (6)

1 killings.

2 JUDGE TO MR. WHITE

3 Q. The time from Reagan's, from the election to --

4 A. The election.

5 Q. -- his inauguration.

6 A. Yes, yes.

7 Q. Okay.

8 MR. HANDEL TO MR. WHITE

9 Q. What? So when you were speaking to Alexander Haig,  
10 the secretary of state, his position was that the U.S. had to  
11 be, take a more aggressive role.

12 A. That was certainly the -- yes.

13 Q. And what was the reason that he gave you for that?

14 A. I'm not sure that he actually gave me a reason. I  
15 think he felt -- he said that would I favor renewal of military  
16 assistance? And I said, look, Mr. Secretary, if you're counting  
17 on the Salvadoran military, the Salvadoran security forces to  
18 fight the fight on [indiscernible] I think you're making a big  
19 mistake because the security forces of El Salvador are very good  
20 at gunning down on people that's beating up campesinos, but they  
21 have never shown much talent for shooting back at armed people  
22 and armed. So this is you know the, I -- you joined, a young  
23 man joined at 14 the Salvadoran security, the officer corps for  
24 a great many reasons, but fighting an armed force was never in  
25 the context. I put, I, I -- as long as we're on the subject, I

(b) (6)

1 want to tell you that that the United States Government  
2 quintupled the size of the Salvadoran armed forces.

3 Q. When was that?

4 A. Immediately they over the next, the course of the next  
5 six or seven years.

6 Q. From what size to what size approximately?

7 A. From 16,000, I mean, I, if I recall, it went to  
8 something like 50,000, but they couldn't, still couldn't win the  
9 war. In other words, remember that if you count the war started  
10 in 1981 and we gave them huge unlimited amounts of equipment and  
11 training.

12 Q. Let me interrupt for one second. How much aid was the  
13 U.S. actually giving El Salvador?

14 A. I think they didn't, we didn't have all that -- as it  
15 was my conviction when I was there, that's the only thing I'm  
16 comfortable testifying. When I was there, I was convinced that  
17 this was not that if it came to a military solution, we would  
18 lose. We would lose in every way. My intent, my policy if you  
19 will and the policy of the administration was to do everything  
20 we could to, to find a political solution and to the extent that  
21 --

22 Q. Let me just interrupt for one second. When you said  
23 administration, you were referring to.

24 A. The Carter.

25 Q. The Carter administration.

(b) (6)

1 A. Yes.

2 Q. Okay.

3 A. And the and Secretary of State Haig and I discussed  
4 that and I said, sir, if you are willing to put in U.S. troops  
5 into El Salvador, that's a different thing, but I believe on the  
6 basis of everything I know that the armed forces of El Salvador  
7 will not be able to beat the Salvadoran revolutionaries military  
8 and --

9 Q. Why was that?

10 A. For the very reason that I said because they were not  
11 a fighting force. They were a, a occupation. They were a, a  
12 garrison force like it's a increasingly rebellious operation.

13 Q. Who, who were the Salvadoran military, who were they  
14 facing?

15 A. They were facing, they were facing a volunteer force  
16 of people who refused to take the injustices anymore and formed  
17 themselves into a rebel army.

18 Q. Were they armed?

19 A. Their primary source of arms when I was there was,  
20 were, were arms that they captured from the Salvadoran military.  
21 They were very if you -- no. I'll stop regressing.

22 Q. Where else did they get weapons from?

23 MR. CRAIG TO JUDGE

24 Your Honor, I'm going to object as to relevance as to the  
25 issue as being whether or not the respondent assisted or

(b) (6)

1 otherwise participated in torture and extrajudicial killing.  
2 Where people were getting, the guerrillas were getting their  
3 weapons --

4 JUDGE TO MR. HANDEL

5 Yeah.

6 MR. HANDEL TO JUDGE

7 Well, he's, he's talking about the policy of the U.S. and  
8 it's, it's clear, Judge, that he's testifying that it's not so  
9 clear what the policy of the U.S. was. He's saying that his  
10 opinion for which he got terminated from service was different  
11 from the position of the U.S. Government. He's also testifying  
12 and at what cooperation between the, the two governments  
13 entailed and might cause problems and that's precisely what  
14 we're talking about. I think it's certainly within the ambit of  
15 the question since he was the ambassador, a person in charge for  
16 the U.S. Government on the ground to testify on all matters.  
17 It's certainly, it's certainly relevant as to what was going on  
18 in El Salvador. He's testified extensively on this.

19 JUDGE TO MR. HANDEL

20 Yeah and I think that up to now given his earlier testimony  
21 that the conduct of the ESAF brought same on the U.S., they were  
22 defeating themselves with the death squads. I understood where  
23 you were going with this line of questioning, the weapons origin  
24 of those for, for the rebel forces, et cetera. I'm not sure if  
25 that's relevant.

(b) (6)

1 MR. HANDEL TO MR. WHITE

2 Q. Well, I guess the question would be was the, was the  
3 U.S. training the Salvadoran military?

4 A. There was some training. Yes.

5 Q. What sort of training?

6 A. Military training teams. Mostly we, we, we were  
7 trying to train them in to make, help make them a more  
8 professional force.

9 Q. Were the Green Berets also training?

10 A. Not while I was there.

11 Q. Did they come after you?

12 A. Well, as I said, I'm not comfortable testifying. You  
13 better ask somebody who was there. I don't know anything. I  
14 know that ultimately the revolutionaries were so successful that  
15 the United States had to put in secretly U.S. troops into El  
16 Salvador.

17 Q. So U.S. had to put in secretly troops. What sorts of  
18 troops?

19 A. Well, again, you'll have to ask the ambassador who was  
20 there at the time, but there have been. The reason we found out  
21 about it was that U.S. military personnel who had served in  
22 violent conditions in El Salvador, requested officially to the  
23 secretary of defense that they be given campaign ribbons for  
24 their service in El Salvador and that's how it came out that  
25 there had been indeed some kind of unpublicized insertion of

(b) (6)



1 U.S. military personnel into El Salvador.

2 Q. Were there military, U.S. military advisors in El  
3 Salvador while you were there?

4 A. Yes, sir. They were limited to 55.

5 Q. Well, was that limit kept in fact?

6 A. Well, in theory it was kept, but the military, the  
7 Pentagon is very [indiscernible] when it comes to bringing in  
8 temporary duty people and that kind of thing. It was exceeded,  
9 but the official number of advisors, I mean, the, that we  
10 brought Salvadoran troops and officers to the United States and  
11 outside of El Salvador for training.

12 Q. Where? Where were they trained?

13 A. Well, you -- again, I just remember these reports, but  
14 I don't know of my own knowledge. These were press releases.  
15 You're taking me beyond my competence.

16 Q. During the time that you were there, were Salvadoran  
17 troops --

18 A. No, no, no.

19 Q. -- being trained?

20 A. We, our training there was the [indiscernible] because  
21 as I have explained to you, it was the policy of the U.S.  
22 Government, it was the policy of the U.S. Government to withhold  
23 military training and military hardware from the Salvadoran  
24 military and security forces to encourage them to improve their  
25 human rights thing.

(b) (6)

1 Q. When was that policy?

2 A. That was the policy of the Carter White House.

3 Q. That changed.

4 A. It changed with the Reagan administration.

5 Q. It changed dramatically.

6 A. Yes.

7 Q. When you were there, were U.S. military or other  
8 military personnel advising Salvadoran officials in  
9 interrogation techniques?

10 A. Not that I was aware of. I don't -- I, I hope -- I, I  
11 do not believe so. No. It certainly would have been against  
12 the policy. The answer is no.

13 Q. The answer that it did not take place.

14 A. Not that I am aware of, no, sir. It would have --

15 Q. What was your relationship with the military and CIA  
16 attachés at your embassy when you were there?

17 A. They worked for me. It was a harmonious relationship.

18 Q. You had no problems with the CIA personnel that were  
19 there at the embassy.

20 A. Well, I had, I had no problems with the second CIA  
21 representative. I had problems with the first one.

22 Q. What were those problems?

23 A. The problem was that the, he -- I requested him. I'm  
24 not sure how much how free I am to talk. Let us say this that I  
25 made requests of him that were endorsed by Washington, by, at

(b) (6)

1 least by the Department of State and he was either unwilling or  
2 unable to carry those requests, those steps. So, so  
3 [indiscernible].

4 Q. Now, is it your position that the policies of the U.S.  
5 convinced the Salvadoran government that they did not have to  
6 abide by human rights?

7 A. Could you -- I'm not sure that I follow that question.  
8 Can you repeat it?

9 Q. Did you have reason to believe that policies and  
10 actions of the United States Government led the Salvadoran  
11 government and military to believe that they did not have to  
12 comply with human rights?

13 A. I did everything I could to convince them of the  
14 urgency and importance of respecting the, the civil and human  
15 rights of the Salvadoran people and I might add that several  
16 people within the Salvadoran government, they were of the same  
17 opinion.

18 Q. Answer the question I asked you though. I asked you,  
19 isn't it true that you, you knew that there were many members of  
20 the or actions of U.S. Government officials that convinced the  
21 Salvadorans that they did not have to abide by human rights?

22 MR. CRAIG TO JUDGE

23 Your Honor, I'm going to object. He's asking for them, him  
24 to testify as to the El Salvadoran military's state of mind  
25 which so eloquently objected to earlier.

(b) (6)

1 JUDGE TO MR. HANDEL

2 He's kind of using your objection against that.

3 MR. HANDEL TO JUDGE

4 Well, I'm not asking what was in, in their mind, but I'm  
5 asking for his opinion as to what their reactions were.

6 JUDGE TO MR. HANDEL

7 You asked him if the actions led them to believe they  
8 didn't have to comply. So why don't you ask the question I a  
9 way that would withstand the objection?

10 MR. HANDEL TO MR. WHITE

11 Q. You've talked about the situation in El Salvador  
12 extensively on direct examination. Was there a sense in El  
13 Salvador that there was no need to abide by human rights --

14 MR. CRAIG TO JUDGE

15 I'm going to object as to overly broad, a sense of who?

16 MR. HANDEL TO MR. WHITE

17 Q. Let's talk about the senior military officials, senior  
18 military officials in El Salvador.

19 MR. CRAIG TO JUDGE

20 Again, I'm going to object as to the state of mind.

21 JUDGE TO MR. HANDEL

22 It does seem to be going to their state of mind. So if we  
23 can get back to his opinion in some fashion.

24 MR. HANDEL TO MR. WHITE

25 Q. Was it your opinion that the deception by U.S.

1 Government officials regarding what was going on in El Salvador,  
2 the lies to Congress that you've written about, did that affect  
3 things on the ground in El Salvador?

4 A. I'm sorry, but I don't follow you. What is it that  
5 you want to know? do you want to know what, what the reaction  
6 was of the Salvadoran military high command from my, to my  
7 importunes on human rights?

8 Q. Correct me if I'm wrong. You, you've written that  
9 Salvadoran military high command acted as if they did not have  
10 to abide with human rights because of the policies of the U.S.

11 A. Well, I think that's somewhat convoluted. The  
12 Salvadoran military did not observe international standards of  
13 human rights. They were notorious for brutality, for torture,  
14 for death squads, for the killing of civilians. Now, why? I  
15 don't understand. I mean, that's a fact that I have written  
16 that, but I don't understand what you are, what else you want to  
17 know.

18 Q. Did the U.S. Government speak with one voice regarding  
19 its demands of El Salvador as to human rights?

20 A. The U.S. Government never speaks with one voice. To  
21 the extent, look, these, the people in power in El Salvador knew  
22 perfectly well who spoke for the United States. I have written  
23 that when I arrived at El Salvador, I was, I had an  
24 undisciplined embassy where and I that was one of the reasons  
25 why first I got rid of a few people and secondly, for the first

1 time in my life, I gave public speeches because I wanted the  
2 Salvadoran people who ran El Salvador and [indiscernible] in El  
3 Salvador, I wanted them to know what the president's  
4 representative was defining as U.S. policy and at staff  
5 meetings, I made it clear that nobody was to dissent. I mean,  
6 they could dissent all they wanted inside. I encouraged dissent  
7 inside, but outside, the extent that it was humanly possible, I  
8 tried to make us speak with one, make the embassy speak with one  
9 voice. Was I successful? Not 100%, but I was, but as I said,  
10 those people in charge of El Salvador knew who the president's  
11 representative was. They knew what I, what my interpretation of  
12 the president's policy. They were in no doubt about that and  
13 the fact that there was somebody, some, somebody saying this,  
14 somebody saying that was irrelevant to, to how the U.S. judged  
15 their actions.

16 Q. Now, why was what was happening in El Salvador  
17 important for the United States?

18 A. Every country in Latin America is of importance to the  
19 United States. Traditionally, Central America has been an area  
20 of concern for the United States particularly because it has  
21 been plagued, at least four of them of the Central American  
22 republics have been plagued by dictatorship, injustice, and  
23 consequently unstable governments.

24 Q. My question was specifically asked to El Salvador.

25 A. Yes.

1 Q. Why was El Salvador of importance, particular  
2 importance to the U.S.?

3 A. Because there was a, a revolutionary movement building  
4 that had, that was about to overthrow, that could potentially  
5 overthrow the government of El Salvador and we were against a,  
6 the violent overthrow of a government and we believed that it  
7 was possible to make adjustments so that we had, we had hoped.  
8 That's why the United States was very pleased with the October  
9 15th revolution [sic] or change or rebellion and that's why we  
10 tried very hard to have this government reform so that violent  
11 revolution would not succeed.

12 Q. Well, isn't true though, ambassador, that it's more  
13 than just violent revolution? It's the type of government that  
14 we were concerned with.

15 A. Well, according to the Kissinger report of 1984,  
16 revolution in, in Latin America and the subject was particularly  
17 El Salvador, revolution in itself is not a danger to the United  
18 States. Revolution is a danger when the, when foreign  
19 countries, such as the Soviet Union or Cuba for example in those  
20 days were involved in the, in support of the revolution.

21 Q. Was that a concern of the U.S. vis-à-vis El Salvador?

22 A. There was a potential concern. If you notice the  
23 first telegram that we went over, I, I say in that telegram, we  
24 have to get it out of our heads that the Cubans play any  
25 important role.

1 JUDGE TO MR. HANDEL  
2 Let me stop you there for just a moment, Mr. Handel.  
3 JUDGE FOR THE RECORD  
4 Let's take another ten minute break to give everyone a  
5 chance to stretch their legs.  
6 MR. HANDEL TO JUDGE  
7 Yes, Your Honor.  
8 (OFF THE RECORD)  
9 (ON THE RECORD)  
10 JUDGE FOR THE RECORD  
11 Back on the record after a brief break. We'll continue  
12 with cross-examination.  
13 JUDGE TO MR. HANDEL  
14 Go ahead, sir.  
15 MR. HANDEL TO JUDGE  
16 Thank you, Your Honor.  
17 MR. HANDEL TO MR. WHITE  
18 Q. Ambassador, I was asking you regarding the reason that  
19 El Salvador was important to the U.S. in particular regarding to  
20 what was happening in the region of El Salvador. Why, why was  
21 it?  
22 MR. CRAIG TO JUDGE  
23 I believe that was asked and answered.  
24 JUDGE TO MR. HANDEL  
25 He had said that because of the revolutionary movement

(b) (6)



1 potentially overthrow the government and then --

2 MR. WHITE TO MR. HANDEL

3 Instability in El Salvador is, it certainly was a concern.  
4 Nicaragua had been lost to revolutionary forces from a U.S., it  
5 was a U.S. supported dictatorship in Nicaragua and insurgent  
6 forces overthrew the Somoza dynasty. The Salvadoran armed  
7 forces have stifled democracy in El Salvador since 1933, '34 and  
8 we knew enough about that to know that the longer you impose a  
9 dictatorship on a country, the more violent is going to be the  
10 reaction and therefore, we were concerned that reform take the  
11 place of revolution.

12 MR. HANDEL TO MR. WHITE

13 Q. Now, you've spoken just now about what had happened in  
14 Nicaragua. What was it about the government of Nicaragua that  
15 affected U.S. policy as to El Salvador?

16 MR. CRAIG TO JUDGE

17 Objection.

18 MR. WHITE TO MR. HANDEL

19 I don't know the answer to that you know. I mean, I --

20 JUDGE TO MR. WHITE

21 Hold on a second sir.

22 JUDGE TO MR. CRAIG

23 Relevance objection.

24 MR. CRAIG TO JUDGE

25 Yes, sir.

(b) (6)

1 MR. HANDEL TO JUDGE

2 It's directly relevant. I had asked him whether there was  
3 concern in the U.S. Government regarding the government and  
4 whether there was, whether the U.S. Government was unified in  
5 responding to what was happening in El Salvador and this is  
6 along the same line of questions and I'll change the question  
7 somewhat.

8 JUDGE TO MR. HANDEL

9 Okay. Go ahead.

10 MR. HANDEL TO MR. WHITE

11 Q. Isn't it true, ambassador, that the U.S. Government  
12 was concerned about communism in El Salvador?

13 A. As I wrote in the telegram, it would be a mistake to  
14 attribute Cuban, any responsibility of Cuba to the Salvadoran  
15 revolution. The Salvadoran revolution as we reported time and  
16 again was authentic home grown revolution, the result of the  
17 heaped up injustices for decades that finally exploded in people  
18 who just couldn't take it anymore. There is always a potential  
19 particularly in the context of a world where the Soviet Union  
20 and Cuba were there you know existed and, and were and hoped to  
21 take advantage of the situation, but that did not. The fact  
22 that the Soviet Union and Cuba existed does not detract in any  
23 way from the authenticity of the Salvadoran revolution and the  
24 and the importance of understanding that authenticity and not  
25 attributing internal revolt to outside forces. That has been a

(b) (6)

1 -- no. I'll stop.

2 Q. Isn't it true though, ambassador, that particularly  
3 when Reagan came into power that there was extreme concern in  
4 the U.S. Government regarding El Salvador turning communist?

5 A. I think you'd better talk to the people who  
6 represented President Reagan. I don't feel comfortable  
7 testifying about what the President Reagan did or didn't do or  
8 felt.

9 Q. But you were still a member of the U.S. foreign  
10 service.

11 A. Well, to the extent that I was there when I found --  
12 well, no. What I objected to was not the policy of the Reagan  
13 administration. What I objected to was an improper request for  
14 me to use official channels to lie. That was.

15 Q. You mentioned Alexander Haig. Did you have dealings  
16 with Elliot Abrams?

17 A. Yes.

18 Q. And how would you characterize those dealings in  
19 connection with El Salvador?

20 MR. CRAIG TO JUDGE

21 Objection as to relevance, Your Honor.

22 JUDGE TO MR. HANDEL

23 Mr. Handel.

24 MR. HANDEL TO JUDGE

25 Well, I'm asking him it's --

(b) (6)

1 MR. HANDEL TO MR. WHITE

2 Q. What was --

3 A. Excuse me. I had dealings with. I think I'm at fault  
4 in not explaining my answer. I have had many dealings with  
5 Elliot Abrams, but I had no official dealings with Elliot Abrams  
6 because he was not an official in the Government at the same  
7 time that I was.

8 Q. How about John Edgar Aponte, was he in the Government  
9 at the time that you were there?

10 A. John Edgar Aponte was certainly in the government, but  
11 he was not concerned as far as I know with Latin America in any  
12 way.

13 Q. How about Otto Wright, was he in the Government at the  
14 time you were there?

15 A. No.

16 Q. Now, you've, you've testified that it was your view  
17 that the U.S. Government should not be concerned with outside  
18 forces in El Salvador. Was that view --

19 A. Excuse me. That wasn't my testimony. I was saying  
20 factually, factually there was no evidence of substantial Cuban.  
21 There is no evidence at all of Russian interference and there  
22 was, there were, there was, there was Cuban involvement in the  
23 sense that there were revolution. Some of the revolutionary  
24 forces were trained in Cuba.

25 Q. Salvadoran revolutionary forces.

(b) (6)

1           A.    I'm sorry. Did I say? Some Salvadoran  
2 revolutionaries received training in Cuba.

3           Q.    What sorts of training?

4           MR. CRAIG TO JUDGE

5           Objection as to relevance, Your Honor.

6           JUDGE TO MR. HANDEL

7           Mr. Handel.

8           MR. HANDEL TO JUDGE

9           We're talking about the communist regime.

10          MR. CRAIG TO JUDGE

11          Your Honor, the matter at hand is whether or not the  
12 respondent assisted or otherwise participated in torture and  
13 extrajudicial killings. Whether or not the guerrillas were  
14 trained in certain ways by the Cubans is not really relevant and  
15 I don't know how he can say that it is.

16          MR. HANDEL TO JUDGE

17          Your Honor, the Government has reached pretty broad here to  
18 bring in El Salvador background regarding Salvadoran military,  
19 regarding events that were taking place there and I'm hard  
20 pressed to see how the Government could take a position now that  
21 this is simply not a political case and there can't be any  
22 political background.

23          MR. CRAIG TO JUDGE

24          It goes well beyond the scope of the Government's direct.

25          JUDGE TO MR. HANDEL

(b) (6)

1           Yeah. I think we need to begin again and narrow our focus.  
2 We've had quite a bit of discussion now about the U.S. policy at  
3 the time and after the ambassador's tenure. So let's get back  
4 more to the focus of the case if you will and I'll sustain the  
5 objection.

6 MR. HANDEL TO MR. WHITE

7           Q. Have you, isn't it true that you, you've written that  
8 Carlos Vides and other members of the Salvadoran government were  
9 foreign agents of U.S. policy?

10          A. I would like to have the quotation before I answer  
11 that. I don't remember ever writing those words. El Salvador  
12 in my view, the Salvadoran, I was treating with an independent  
13 government. I was treating with a government that was  
14 responsible. It was a member of the United Nations. It was a  
15 member of the Organization of American States. It was a  
16 signatory to human rights conventions. I'm dealing with an  
17 independent government. Now, was there, was the United States  
18 working with the Salvadoran government? Were -- while I was  
19 there, we, I made every effort I think I don't think to always  
20 respect the opinions, the requests of the Salvadoran, of my, of  
21 the people that I came into contact with in the course of the  
22 diplomatic business that I carried out with the government of El  
23 Salvador. I certainly always made every attempt to treat them  
24 with the respect and that they merited as an independent  
25 country.

(b) (6)

1 Q. Let's see. Correct me if I'm wrong, but I believe  
2 that you've written, what kind of country puts the foreign  
3 agents of its policy in the dock or confers honors and high  
4 public office on the domestic architects and executives of that  
5 policy and such as Elliot Abrams and the National Security  
6 Council, Otto Wright, Assistant Secretary of State, and John  
7 Edgar Aponte, U.S. Ambassador to the U.N.?

8 A. Well, one, I would point out that I'm writing that as  
9 a private citizen, but two, what I am saying is that is a, that  
10 what I am saying is that we see fit to as we -- wait a minute.  
11 I'm not going to make any [indiscernible] that we have, that we  
12 have questioned that we have acted judicially against  
13 Salvadorans who violated human rights, but we have not acted  
14 against U.S. Government representatives who, who excused those,  
15 who found excuses for it and that so I, I was, this was a, an  
16 attack against Elliot Abrams, Otto Wright and Otto Wright. Who  
17 else was there that that you mentioned?

18 Q. Elliot Abrams, Otto Wright and John Edgar Aponte.

19 A. Okay. I have remembered. I had not remembered that I  
20 had written John Edgar Aponte.

21 Q. So you had written that that persons such as Mr. Vides  
22 were foreign agents of U.S. policy, correct?

23 A. Would you quote my exact words back to me?

24 Q. Sure. What kind of country puts the foreign agents of  
25 its policy in the dock or confers --

(b) (6)

1       A.   Here I am talking about the Reagan administration and  
2   its actions.  I'm not talking about the Carter administration  
3   and its actions.

4       Q.   Now, you had mentioned, you had written also regarding  
5   honors that that the U.S. Government bestowed upon General  
6   Vides, correct?

7       A.   Yes.

8       Q.   And in particular you've written about the Legion of  
9   Merit.

10      A.   Yes.

11      Q.   And what's the significance of the Legion of Merit  
12   being awarded?

13      A.   Well, I don't know the precise military definition,  
14   but clearly it's an honor.

15      Q.   Is it an honor?

16      A.   I would say it was a somewhat [indiscernible].

17      Q.   Isn't it the highest honor that can be bestowed upon a  
18   foreign leader?

19      A.   It may well be.

20      Q.   Correct me if I'm wrong, but I believe you had written  
21   not President Ronald Reagan awarded each of the defendants  
22   talking about Vides and Garcia a Legion of Merit, the highest  
23   honor our Government can bestow on a foreign leader for  
24   exceptionally meritorious conduct in the performance of  
25   outstanding services.

(b) (6)



1 A. Yes.

2 Q. That's the highest honor.

3 A. Okay.

4 MR. CRAIG TO JUDGE

5 Your Honor, asked and answered.

6 MR. WHITE TO MR. HANDEL

7 What, what I am attacking here, sir, is I am saying the

8 ends does not justify the means.

9 MR. HANDEL TO MR. WHITE

10 Q. Explain that.

11 A. Sure. It was the policy. Wait a minute. Wait a

12 minute. I'm not sure. This is my opinion as a civilian you know

13 after I leave the, after I left the foreign service, after I

14 left Government service. I'm not quite sure. What is it you

15 want me to say? What is it you want me to do to talk to about?

16 Q. Well, I just asked you regarding the statement that

17 you had made and I asked you to explain it.

18 A. Okay.

19 MR. CRAIG TO JUDGE

20 Your Honor, I think he's going to ask, he needs to ask a

21 more specific question.

22 JUDGE TO MR. HANDEL

23 The highest, the highest honor bestowed on a foreign leader

24 is that Legion of Merit. He said the ends does not justify the

25 means.

(b) (6)

1 MR. HANDEL TO JUDGE

2 Yeah and I asked him to explain that.

3 MR. HANDEL TO MR. SMITH

4 Q. What does that mean?

5 A. What I mean by that is that in my opinion, the Reagan  
6 administration concealed, tried its best to keep out of the  
7 public domain human rights violations and overlooked though and  
8 awarded the highest honor we could bestow on a foreigner the  
9 people who in my opinion were guilty of gross human rights  
10 violations and that to me was a violation of the, of the law of  
11 the United States.

12 Q. Your opinion though was not shared by President  
13 Reagan.

14 A. That's correct.

15 Q. President Reagan's opinion was that --

16 MR. CRAIG TO JUDGE

17 Your Honor, I'm going to object as to him inferring what  
18 President Reagan's opinion was.

19 MR. HANDEL TO JUDGE

20 Well, he's an employee of the president and he's appointed  
21 to speak for the Government and I'm asking what his ultimate  
22 boss' position is. I think he's within the purview of his  
23 knowledge.

24 JUDGE TO MR. HANDEL

25 Go ahead and ask the question.

(b) (6)

1 MR. HANDEL TO MR. WHITE

2 Q. What was President Reagan's position on this?

3 A. Well, I never knew his position because I only served  
4 for something like 45 or 50 days under President Reagan. So I  
5 have really very little official knowledge.

6 Q. Well, you had discussions with a number of people in  
7 the Reagan administration. You had mentioned Alexander Haig.

8 A. Not as ambassador.

9 Q. As a member of the U.S. Government.

10 A. No, not in a, not in, not in the discharge of official  
11 duties I did not.

12 Q. When you spoke to Alexander Haig, you were not --

13 A. Yes. When I spoke to --

14 Q. -- an employee of the U.S. Government.

15 A. -- Alexander Haig, I was a member of, I was the  
16 ambassador to El Salvador and I and I have recounted to you and  
17 I'd be delighted to tell you other, anything else you want to  
18 know about my conversation with Alexander Haig or anybody else  
19 in that, during that time period, but I simply pleaded ignorance  
20 of any understanding of what was in the mind of President Reagan  
21 because I had no contact with him.

22 Q. Isn't it true that in rewarding the Legion of Merit,  
23 the U.S. Government cited General Vides for the war against the  
24 communist?

25 MR. CRAIG TO JUDGE

(b) (6)

1           Your Honor, I would object to that. He wasn't an  
2 ambassador at the time the award was entered.

3 JUDGE TO MR. HANDEL

4           What is the --

5 MR. HANDEL TO JUDGE

6           The objection.

7 JUDGE TO MR. HANDEL

8           He said he wasn't the ambassador at the time the award was  
9 presented. What is the date that the award was presented,  
10 anyone? No. I think it's --

11 MR. HANDEL TO JUDGE

12           He's written about the award extensively, Judge. So he's  
13 certainly is purported to have knowledge regarding that.

14 JUDGE TO MR. HANDEL

15           It appears the award was given to him for conduct between  
16 April 1983 and 1985. It doesn't have a date as to when it was  
17 bestowed.

18 MR. CRAIG TO JUDGE

19           The entire date of conduct is beyond the ambassador's time  
20 as ambassador.

21 MR. HANDEL TO JUDGE

22           He certainly was a member of the U.S. Government. He's  
23 testified that he served under President Reagan. We're talking  
24 about his president who made the award. He's written about it.  
25 if he doesn't know, he doesn't know, but he certainly

(b) (6)

1 [indiscernible].

2 MR. CRAIG TO JUDGE

3 He's testified several times he doesn't know what Ronald  
4 Reagan's positions were.

5 MR. HANDEL TO JUDGE

6 That's not what I asked him. What I asked him was whether  
7 the award was given to his knowledge in part in combatting  
8 communism.

9 JUDGE TO MR. WHITE

10 Q. Do you know the answer, sir?

11 A. I know what he just said, but that's the extent of my  
12 -- I know that the, that Colonel Vides Casanova received the  
13 Merit, the Legion of Merit.

14 Q. Legion of Merit.

15 A. I know that, but that's and I and I know that I have  
16 written about it, but I know I have no official knowledge of why  
17 the Reagan administration gave that. That's simply you know  
18 that's simply I don't, I do not know that.

19 Q. Okay.

20 MR. HANDEL TO MR. WHITE

21 Q. You've testified also regarding your dealings with  
22 U.S. military personal vis-à-vis El Salvador. Isn't it true  
23 that you had serious differences of opinion with U.S. military  
24 advisors regarding what was happening in El Salvador?

25 A. I'm not sure what you're referring to. Do you have

(b) (6)

1 anything you want to cite to me about?

2 Q. Isn't it true that you disagreed dramatically with  
3 requests by U.S. military personnel to act in El Salvador?

4 A. I can't imagine. I don't recall what you're -- I  
5 don't really understand what you're talking about. When in an  
6 embassy, no recommendations or policy chain upgrade or downgrade  
7 goes from a defense attaché or a military group. They are,  
8 defense attachés are advisors. A military group are advisors.  
9 What? They don't have the power of recommending policy.

10 Q. What was your relationship with General Wallace  
11 Nutting?

12 A. I knew and liked General Nutting, accepted as friends.

13 Q. What was his position at the time that you were  
14 ambassador to El Salvador?

15 A. It was very interesting. See, I would not permit  
16 General Nutting El Salvador.

17 Q. Why not?

18 A. Because as I explained earlier, it was my belief and  
19 the policy of the Carter administration not to militarize this,  
20 but to try to make this, find some common ground, find a way to  
21 have a political solution. So the idea of bringing in General  
22 Nutting into El Salvador would be kind, would be treated by the  
23 press, by international viewers as a sign that the United States  
24 was militarizing its policy and I wanted to avoid that. I  
25 wanted to avoid that.

(b) (6)

1 Q. What was, why was, General Wallace Nutting, what was  
2 his position?

3 A. He was the head of the southern command, the U.S.  
4 southern command which is a, it's the, it was his area of  
5 responsibility, but he has no line of responsibility in El  
6 Salvador distinguish it could be the staff or not.

7 Q. You said that that General Wallace Nutting wanted to  
8 go into El Salvador, but you --

9 A. But it is --

10 Q. -- said no.

11 A. Well --

12 MR. CRAIG TO JUDGE

13 Your Honor.

14 MR. SMITH TO MR. HANDEL

15 The south --

16 MR. CRAIG TO JUDGE

17 Your Honor.

18 JUDGE TO MR. WHITE

19 Hold on just a second.

20 MR. CRAIG TO JUDGE

21 It's just a misstatement of the facts is what he's  
22 testifying or asking the --

23 JUDGE TO MR. CRAIG

24 Yeah. When he said he was not allowed to visit El  
25 Salvador, is that what you're getting at?

(b) (6)

1 MR. HANDEL TO JUDGE

2 Not allowed to visit El Salvador.

3 MR. WHITE TO MR. HANDEL

4 I did not. The ambassador, an ambassador has to give  
5 permission to other officials to come in. I refused permission.  
6 It was, it was sort of, it was, it was an unusual thing to do I  
7 fully admit. I have to admit that, but and I would just explain  
8 to you the reason for that is because I thought that it was a  
9 mistake to militarize the U.S. policy towards El Salvador and as  
10 long as [indiscernible] I want to remind you that in the end,  
11 the Salvadoran revolutionaries brought the greatly increased and  
12 American trained military to a standstill and there was a  
13 negotiated solution that in my opinion could have been reached  
14 ten years earlier.

15 MR. HANDEL TO MR. WHITE

16 Q. Your opinion is that a negotiated solution --

17 A. And a, a negotiated solution had there been reasonable  
18 people with whom to deal with in, in power in El Salvador, we  
19 could have reached a, a negotiated solution a long time before,  
20 but the military of El Salvador and the people who, the economic  
21 powers of El Salvador wanted a military victory.

22 Q. Now, you've testified that the Salvadoran military  
23 during the time that you were there was not doing well against  
24 the opposition.

25 A. Not doing well in what sense?

(b) (6)



1 Q. Militarily not, not winning against the  
2 [indiscernible].

3 A. Well, the war had not really. There were, there  
4 wasn't. Look, in 1983 and '84 if I recall correctly, the, the  
5 revolutionaries were attacking in battalion strength. It was  
6 nothing like that. Now, this, there was still a chance when I  
7 was there the save El Salvador from the war from a full pledged  
8 all out civil war and that was the direction the Carter  
9 administration wanted to go. That policy was changed as you  
10 have pointed out when President Reagan came.

11 Q. And, and during your time as a Reagan's  
12 administration, do you know how the level of aid changed?

13 MR. CRAIG TO JUDGE

14 I'm going to object as to relevancy, Your Honor.

15 JUDGE TO MR. HANDEL

16 The aid during the Reagan administration.

17 MR. HANDEL TO JUDGE

18 During the time that he was a member of the U.S. Government  
19 during the Reagan administration.

20 JUDGE TO MR. HANDEL

21 The brief period of time.

22 MR. WHITE TO MR. HANDEL

23 Well, I, I, I did not permit lethal military assistance.  
24 Most of the assistance the United States gave the military in El  
25 Salvador while I was there, they were already through trucks,

(b) (6)

1 [indiscernible], other things like that. There were military  
2 training. When and this was because the Carter administration  
3 simply believe in a less army and the security forces of El  
4 Salvador bided by the norms of civilized conduct unless the you  
5 know the, the treaties that they signed the Petra that they  
6 would inexorably lose that that the rebellion would grow and  
7 that the and that the revolt would become more generalized. So  
8 that was our fear.

9 MR. HANDEL TO MR. WHITE

10 Q. At the time that you left U.S. Government service, how  
11 many years had you been in the foreign service?

12 A. Twenty-five.

13 Q. You had served in various countries in Latin America.  
14 Had you served in Paraguay I believe? What other countries had  
15 you served in?

16 A. Well, I had served in Ecuador, briefly in the  
17 Dominican Republic during our invasion, Honduras, Nicaragua,  
18 Colombia, Paraguay. Maybe, I missed one.

19 Q. Were you also at some point an assistant secretary of  
20 state for Latin America, deputy assistant secretary, some, some  
21 sort of --

22 A. Acting at one point, but no.

23 Q. You were acting what?

24 A. When I was assigned as ambassador to El Salvador,  
25 there was a gap because the Senate had not acted on my

(b) (6)

1 nomination. So deputy assistant secretary Dave Cheeks was  
2 assigned as charge d'affaire in San Salvador and I filled in for  
3 him as the acting deputy assistant secretary, but that filled  
4 that one.

5 Q. How long was that?

6 A. A few months.

7 Q. And what year was that in?

8 A. That was 1979.

9 Q. 1979 and --

10 A. And '80 as a [indiscernible].

11 Q. During the time that you served in that capacity, was  
12 there concern of the U.S. Government about Latin America turning  
13 communist?

14 MR. CRAIG TO JUDGE

15 I'm going to object as to relevance, Your Honor.

16 MR. HANDEL TO JUDGE

17 I think it goes right to the heart of his testimony. He's  
18 testified or I should say he's testified so far that there, that  
19 he's not aware of any such, such concern in his other capacity  
20 and I'm asking him in his capacity as deputy when he was the  
21 assistant secretary of state Latin America.

22 JUDGE TO MR. HANDEL

23 Yeah. Overruled.

24 JUDGE TO MR. WHITE

25 Q. Go ahead and answer the question.

(b) (6)

1           A.   No. I think that the answer is no. I think that  
2   there was a sophistication about revolutionary unrest or unrest  
3   in Latin America. What would -- remember the Sandinistas had  
4   taken over in Nicaragua.

5   MR. HANDEL TO MR. WHITE

6           Q.   What year did they take over?

7           A.   '79.

8           Q.   In '79, you had a left wing government that had just  
9   taken over in Nicaragua.

10          A.   Correct and so there was concern that that El Salvador  
11   not follow Nicaragua.

12          Q.   Why was that concern? What was that a concern?

13          A.   Well, it was a concern because you never -- the  
14   revolutionary, revolutions are bad. Revolutions do not --  
15   governments exist in a sense to keep the government in power and  
16   we wanted it's natural, it's important for the United States in  
17   the near neighborhood to make sure that revolution doesn't --  
18   unrest isn't contagious and therefore, there was great concern  
19   about El Salvador. What you had was a real concern by a lot of  
20   officials that violent revolution not succeed in El Salvador  
21   again.

22          Q.   Wasn't the concern though primarily because it was a  
23   revolution of the left and not of the right?

24          A.   Yes.

25          Q.   So when you left El Salvador which was in you said

(b) (6)

1 1981, what month was it in '81?

2 A. '82 probably.

3 Q. '82.

4 A. Wait a minute. No, no. It was '81. No. '81. Uh-  
5 huh. '81.

6 Q. 1981. Do you know how much in dollars the U.S. was  
7 pumping into El Salvador?

8 MR. CRAIG TO JUDGE

9 Objection, Your Honor.

10 MR. WHITE TO MR. HANDEL

11 No, I didn't know, but I can't remember. Okay.

12 MR. HANDEL TO MR. WHITE

13 Q. Haven't you, isn't it true that you have written that  
14 the way the U.S. Government has treated General Vides is  
15 selective justice?

16 A. In the sense that I was advocating that U.S. officials  
17 who lied about the document, I mean, lied not my opinion I mean,  
18 found by a court who have, who have demonstrably lied that these  
19 in order to keep a policy alive. I think that that I was  
20 advocating that it, it is selective in the sense that I believe  
21 that American officials are just as responsible for following  
22 law and policy as Salvadoran responsible.

23 Q. U.S. Government officials are just as responsible.

24 A. The law, it is the law of the United States that that  
25 the Geneva Convention be observed for example and it is also the

(b) (6)

1 policy of the United States that American officials not use, not  
2 lie about what is going on in their country or not lie to  
3 Congress and I strongly believe that that, that I mean, it's on  
4 the record not opinion that Elliot Abrams lied to Congress about  
5 El Salvador and he was and I and it came out that he lied. I  
6 think it was everybody that I think that kind of conduct should  
7 be punished.

8 Q. What did he lie about?

9 A. He --

10 MR. CRAIG TO JUDGE

11 Objection. Relevancy.

12 JUDGE TO MR. HANDEL

13 And the relevancy of this line of questioning even though  
14 he's --

15 MR. HANDEL TO JUDGE

16 [Indiscernible]. He's talking about serious matters  
17 regarding U.S. policy and that's exactly what I'm asking him  
18 now.

19 MR. CRAIG TO JUDGE

20 Your Honor, we're in Immigration Court. None of these  
21 other people are on trial. We're here to determine whether or  
22 not the respondent is guilty of what he's alleged to have done.

23 MR. HANDEL TO JUDGE

24 He's talking about U.S. policy. He's a U.S. Government  
25 official. He's talking about senior people in the U.S.

(b) (6)

1 Government regarding El Salvador and we're trying to determine  
2 what the policy is and he just said that a senior member of the  
3 U.S. Government lied to Congress about something significant and  
4 we're trying to find out what that is.

5 MR. CRAIG TO JUDGE

6 The issue here is not what the U.S. policy was. The issue  
7 is whether the respondent assisted or otherwise participated in  
8 acts of torture. We're getting way beyond the issues relevant  
9 in this case. It's gone way beyond what's relevant. We've been  
10 very generous in not objecting very much, but I think we are way  
11 beyond direct, way beyond the scope of direct examination, way  
12 beyond what's relevant in this case. We now have ten minutes  
13 left. I think we need to move on to stuff that's actually  
14 relevant that actually goes to what was concerned in direct  
15 examination. If Mr. Handel wants to bring him back as his own  
16 witness, he can do that, but we're way beyond the scope of  
17 direct, way beyond what's relevant in this case.

18 MR. HANDEL TO JUDGE

19 Well, Your Honor, the problem here is that I think the  
20 Government has certainly opened the door wide open regarding so  
21 this is not a typical case where you bring allegations of  
22 conduct without background. The Government has submitted  
23 thousands of pages of cables from the State Department from all  
24 kinds of officials, people other than Ambassador White. There  
25 is a treasure trove of documents that the Government has brought

(b) (6)

1 in and now the Government is saying, well, wait a second, this  
2 is all really shouldn't be considered. I think it's certainly  
3 important to the determination of this Court for looking at  
4 events that happened in El Salvador in 1979. We're talking  
5 about over 30 years ago and we're talking about a U.S.  
6 Government official testifying regarding what the U.S.  
7 Government was doing there. He's talking about vast now  
8 differences of opinion. He's saying that senior members of the  
9 administration had different positions. He also said that that  
10 basically everybody in El Salvador knew what the U.S. Government  
11 position is. I believe now he's, he's contradicted that  
12 directly.

13 JUDGE TO MR. HANDEL

14 Yeah. I'm not sure though that the last few questions we  
15 haven't gone beyond his time even in the U.S. Government let  
16 alone his time in El Salvador and Government makes a good point  
17 that much of the policy discussion we've been having is beyond  
18 the scope of the direct. So I'm going to have to reign you in  
19 and ask you to close it up quite a bit more and focus on the  
20 years that he was in El Salvador and not so much on what he's  
21 written about it as to what happened afterwards because we could  
22 spend another week on that type of testimony I think.

23 MR. HANDEL TO JUDGE

24 Well, Your Honor, I don't intend to spend a lot of time,  
25 but I think the point regarding he claims that Elliot Abrams who

(b) (6)



1 was one of his superiors in the Government lied about El  
2 Salvador, I think that's important and, and I would submit to  
3 the Court that we be allowed to explore that.

4 JUDGE TO MR. HANDEL

5 I need to tie this witness up a bit, mister. I just, I  
6 know Mr. Handel, I'm afraid that we're getting into policy  
7 issues that as noted could extend a hearing, this trial much  
8 beyond the focus of the trial and so I don't want to eliminate  
9 the questions, but at the same time we do have to focus in more  
10 on what I need to decide here and I'm not sure I am that  
11 concerned with what Elliot Abrams or any other official. I'm  
12 concerned with what this gentleman knows about what was going on  
13 in El Salvador at the time that he was there and the policy that  
14 was going on, et cetera. So we really do need to focus on that.

15 MR. HANDEL TO JUDGE

16 Well, I think one of the issues in this case, Judge, also  
17 is, is we have, we have expert reports here from Professor Karl.  
18 She has --

19 MR. CRAIG TO JUDGE

20 We don't have expert reports, Your Honor. Those were not  
21 provided other than the one the Government provided.

22 MR. HANDEL TO JUDGE

23 No. I'm talking about Government provided an expert report  
24 which they have filed in this case.

25 JUDGE TO MR. HANDEL

(b) (6)

1 Right.

2 MR. HANDEL TO JUDGE

3 Professor Karl, that report which is what I'm talking  
4 about, there is, there is discussions regarding reasons why the  
5 Salvadoran government, the Salvadoran military was able to in  
6 her opinion rain in human rights violations. She talks about  
7 the way they perceive the U.S. Government position towards them.  
8 There's a discussion that where there is threats of cutting off  
9 aid. That may be relevant. These are all, these are all in the  
10 Government's submissions. Now, we're talking about the U.S.  
11 Government position vis-à-vis the Salvadoran government as  
12 referred to in Professor Karl's report. That's in the  
13 Government's report and therefore, I'm asking the witness  
14 regarding the position of the U.S. Government as it affected El  
15 Salvador in particular senior members of the U.S. Government.  
16 That's essentially where I'm doing.

17 MR. CRAIG TO JUDGE

18 Your Honor, if he wants to cross-examine Terry Karl on  
19 what's in her report, that's certainly appropriate, but it's  
20 inappropriate to cross-examine Ambassador White on what is in  
21 Professor Karl's report.

22 MR. HANDEL TO JUDGE

23 I'm not asking him about that. I'm asking him about the  
24 subject matter. That's certainly relevant. If it wasn't  
25 relevant to this area, then it wouldn't be in the Government's

(b) (6)

1 report, Your Honor. It's certainly in there unless the  
2 Government would like to withdraw her report.

3 JUDGE TO MR. HANDEL

4 Then, why don't you go ahead and ask the next question and  
5 as I said let's try to again focus our efforts on the issue  
6 before the Court.

7 MR. HANDEL TO MR. WHITE

8 Q. Did you ever observe any member of the Salvadoran  
9 military commit any human rights abuses?

10 A. No. The job of the ambassador, I mean, it's already  
11 been noted that I, that I was supposed to went outside the  
12 embassy more than most, but, yes, I did. I saw Francisco Moran,  
13 the head of the treasury police jail a young American citizen  
14 for no charge under no valid charges and I went down and got her  
15 out.

16 Q. You went to what?

17 A. I went to the prison and got her out. So I have  
18 personal knowledge that Lieutenant Colonels Francisco Moran  
19 wrongfully arrested a young American woman and put her into  
20 prison in very bad conditions and I and so and he was there and  
21 I talked to him about it. So I do have.

22 Q. Other than that, do you have any other incidents that  
23 you observed?

24 A. Well, certainly, I saw the bodies of the four American  
25 churchwomen.

(b) (6)

1 Q. No. I'm asking whether you actually observed.  
2 A. Well, I --  
3 Q. The aftermath of it. Did you actually personally  
4 observe --  
5 A. Well, you haven't let me finish.  
6 Q. All right. Go ahead.  
7 A. I, I had. I saw the bodies [indiscernible] and I saw  
8 the members of the national guard with their rifles pointed at,  
9 at unarmed men and women. They had to witness a very terrible  
10 event and I think that that was a violation of, of the rights of  
11 people not to be threatened by arbitrary force by the national  
12 guard of El Salvador.  
13 Q. You didn't observe any shooting.  
14 A. No, but it certainly worried me.  
15 Q. I didn't hear what you said.  
16 A. I said no, but it certainly worried me when, when  
17 there's 30 guns pointed at me for no, for absolutely no reason  
18 they have just killed four women, helpless women. I think it --  
19 Q. You didn't see them killing the women.  
20 A. No, but that has been established by a court.  
21 Q. You didn't see that.  
22 A. I never claimed to have seen it.  
23 Q. Did you ever see General Vides kill anyone?  
24 A. Of course not.  
25 Q. Did you ever see General Vides order anyone killed?

(b) (6)

1 Did you ever see General Vides order anyone tortured?

2 A. No.

3 Q. Now, when you talked about the information that you  
4 derived that you were able to --

5 MR. HANDEL TO JUDGE

6 I know, Your Honor, it's 5:15. I'm not sure if you will  
7 like me to stop. It's going --

8 JUDGE TO MR. HANDEL

9 How much more questioning do you think you have?

10 MR. HANDEL TO JUDGE

11 Probably about 15, 20 minutes.

12 JUDGE TO MR. CRAIG

13 Government will have redirect.

14 MR. CRAIG TO JUDGE

15 Probably not.

16 JUDGE TO MR. CRAIG

17 On that. Okay.

18 JUDGE TO MR. HANDEL

19 We're good to go. You can --

20 MR. HANDEL TO JUDGE

21 Is --

22 JUDGE TO MR. HANDEL

23 You can continue.

24 MR. HANDEL TO MR. WHITE

25 Q. During the time that you were ambassador in El

(b) (6)

1 Salvador, you have testified that you received information  
2 regarding what was going on, on the ground. Did you receive any  
3 information regarding human rights violations by the opposition?  
4 Let me rephrase that. Did you receive any information --

5 A. Yes.

6 Q. -- regarding human rights violations by the  
7 opposition?

8 A. Technically as I understand, only the government can  
9 commit human rights violations, but if you're talking about  
10 conduct that, abusive conduct, we certainly did get.

11 Q. What sort of abusive conduct did you receive  
12 information the opposition?

13 A. Well, there were cases I hadn't anticipated this  
14 question and so I have to if you give me a minute, I can  
15 probably recall some cases where, but certainly we, every chance  
16 we got, we would report on conduct that was, that would serve  
17 call into disrepute the, the revolutionary forces, but yeah.  
18 That's all, but I can't, but right offhand I mean, I'd have to  
19 sort of sit and think for awhile about you know things that  
20 happened, the names that happened and as you pointed out, the  
21 number of years ago, but it was let us say you know the  
22 impression was to the extent that we could tally the armed  
23 forces of El Salvador were responsible for it.

24 Q. I'm not asking you about the armed forces. I'm asking  
25 you specifically about the opposition.

(b) (6)

1 A. The only say I can get at this question is to give you  
2 a percent.

3 Q. I'm not asking you about percentages. I'm asking you  
4 about incidents --

5 A. That I --

6 Q. -- you are aware of --

7 A. The answer is I do not recall.

8 Q. -- the opposition.

9 A. There were incidents, but I do not recall.

10 Q. You recall incidents by the incidents by the  
11 government, but not by the opposition.

12 A. No. We reported. We reported on incidents by the, by  
13 the revolutionaries. We reported on them certainly.

14 Q. What types of incidents? I'm not asking you  
15 specifically names and dates, but what types of incidents by the  
16 opposition?

17 A. Well, there were cases of assaults on unconstituted  
18 authorities, but and I mean, we reported them.

19 Q. Were there kidnappings?

20 A. Yes. Thank you. There were kidnappings.

21 Q. Crop burnings.

22 A. Yes.

23 Q. What else?

24 A. I think that's those. I'm glad you jarred my memory  
25 on that. There were those incidents. There were incidents of

(b) (6)

1 wholesale killing of livestock, things like that.

2 Q. What about killings of human beings?

3 A. Not so many. The revolutionaries don't. I mean, you  
4 know there, there were some. There were, there were  
5 assassinations, but they if I recall correctly there was an  
6 assassination of a foreign minister, but that happened before I  
7 was there. There may have been, I think there were a couple of  
8 public assassinations by, by the revolutionaries, the  
9 kidnapping. The, the, when there were several kidnappings  
10 of civilians who were identified as people or the sons of people  
11 who were, who were among the privileged of El Salvador and we  
12 did report those. Yes, sir.

13 Q. You testified that the Salvadoran military high  
14 command in your opinion was able to reign in or reign in human  
15 rights violations. Is that correct?

16 A. It was their responsibility to do so and they  
17 certainly never said that they didn't have effective control  
18 over their own troops. In fact, every conversation I had with  
19 them, it was implicit that General Vides Casanova had effective  
20 control over the national guard, that you know that each one had  
21 their. So it was never questioned, but remember we're talking  
22 about a country that's very small and the communication is  
23 relatively easy with the officers. I mean, there was no -- that  
24 idea that that they were not in effective control of the troops  
25 was never raised by any member of the high command.



1 Q. Well, you, you've testified also that the Salvadoran  
2 military really was not a good fighting force that they weren't  
3 --

4 A. That's --

5 Q. -- fighting well.

6 A. That's right.

7 Q. You testified that they were corrupt, disorganized.

8 A. No. Disorganized, I don't think I said disorganized.

9 Q. Were they disorganized?

10 A. No. I don't believe they were disorganized.

11 Q. They were inefficient, but not disorganized.

12 A. No. That's your word.

13 Q. I'm asking you.

14 A. They were, they were inefficient in the sense of doing  
15 the job they were supposed to do. They were very efficient at  
16 killing unarmed people, attacking as agents of landlords of the  
17 country.

18 Q. But they were inefficient at doing what?

19 A. They were inefficient as a, as a fighting force  
20 against the revolutionaries. Yes.

21 Q. And when you say inefficient as a fighting force, what  
22 does that mean?

23 A. It means that they did not, that they did not, that  
24 they were not successful at quelling the revolutionary movement.

25 Q. And what about their combat or their fighting rendered

(b) (6)

1 them unsuccessful?

2 A. There was, there was very little straightforward  
3 [indiscernible] during the time that I was there. There was a  
4 lot of killing, but there was killing. It was of unarmed  
5 people. There was torturing and killing of civilians of young  
6 men in particular, but if you're talking about -- I mean, I  
7 think you have a misconception about guerrilla war. They don't  
8 seek confrontation. They avoid it.

9 Q. What you're staying is that the, the Salvadoran  
10 military was unable to engage the enemy.

11 A. No. I'm not saying that. I'm saying that, what I am  
12 saying is that they spent, they were in effect recruiters for  
13 the revolutionary movement because in revolutionary situations,  
14 it doesn't matter so much how many people you kill. It matters  
15 how many people you leave alive. So everyone you torture and  
16 kill, you, you, you have five more recruits for the  
17 revolutionary forces.

18 Q. We're talking about the, the, the actual fighting.  
19 You said that Salvadoran military was inefficient in the way  
20 that it dealt with the --

21 A. But you said, I said that they were inefficient at the  
22 task of quelling the revolutionary movement because they were  
23 killing and torturing unarmed men and disappearing unarmed men  
24 and women and that only grew the revolutionary movement. That  
25 was what inefficient.

(b) (6)

1 Q. Since you've testified that the military was, was  
2 corrupt and inefficient in some ways.

3 A. I said they were corrupt. Inefficient I believe is  
4 your word. Do you, do you have some telegram where I said  
5 inefficient?

6 Q. I'm asking you. Were they inefficient?

7 A. I just had that as a question that's so general I  
8 can't imagine how I can answer. Inefficient in what?

9 Q. Inefficient in carrying out their duties as a  
10 military?

11 A. Well, they were certainly inefficient in observing  
12 the, the rules that could characterize a military that is,  
13 exists to protect its people. They certainly were inefficient  
14 in that.

15 Q. Now, would it be fair to say that a military that  
16 exhibits inefficiencies is corrupt is also unable to necessarily  
17 control the actions of its soldier?

18 A. I don't think that follows at all.

19 Q. Well, when you, when you say that the government is  
20 corrupt, how was it corrupt, the military? Excuse me.

21 MR. CRAIG TO JUDGE

22 Asked and answered, Your Honor. I mean, he's asked that  
23 specific, answered that question specifically three or four  
24 times now.

25 JUDGE TO MR. CRAIG

(b) (6)

1           Yeah.

2       JUDGE TO MR. HANDEL

3           Why don't you ask him, why don't ask him about the control  
4 specifically why he believes that?

5       MR. HANDEL TO MR. WHITE

6           Q.   Well, why do you believe that the military leaders  
7 have control over soldier?

8           A.   Well, one, that's the whole point of an armed force is  
9 the higher organization and the superior officers command the,  
10 this, their subordinates. That's the whole principle of a  
11 military establishment. Two, there was a very efficient killing  
12 of labor union leaders, assassinations of labor union,  
13 catechists, political leaders by the security forces.  
14 Therefore, they were very efficient at what they wanted to do,  
15 but they, they were not efficient at coping with a revolutionary  
16 situation. They were simply increasing the anger and  
17 frustration of the people and acting as recruiting agents for  
18 the revolution.

19          Q.   Well, you've testified that the high military or the  
20 higher ups in the security military forces had control of the  
21 soldiers and the question still remains how do you know that?

22          A.   Because every report we had from the defense attachés  
23 said that. Every, the whole, we had a very large military group  
24 that was down helping them to improve their efficiency,  
25 organization, recordkeeping, that kind of thing, but there was I

(b) (6)

1 repeat never at any moment at any time in my multiple interviews  
2 with the high command did any one of them ever claim that they  
3 didn't have the power to control their troops.

4 Q. But that's not what I'm asking you though. You're  
5 saying about what you were told.

6 A. That's exactly what you're asking.

7 Q. That's you're saying that, that they never told you  
8 that they didn't. What I'm asking you is different. What I'm  
9 asking you is to jump to the conclusion that they -- you, you've  
10 just testified that the U.S. was assisting in recordkeeping, in  
11 organization, and things of that nature. Now, if there is a  
12 need to assist in those things, doesn't that lead you to the  
13 conclusion that where there's problems such as those, there is  
14 not necessarily going to be control of soldiers?

15 A. No, not at all. It leads me to believe that they need  
16 improvement in their recordkeeping. It does not lead me to  
17 believe -- we're talking about a total force of 16,000 people in  
18 a small country. The, they were organized into groups. There's  
19 absolutely nothing on the record whatsoever of any concern  
20 expressed by the high command that they didn't have control.  
21 Implicit in everything that they did and we did was that they  
22 did have control.

23 Q. But when you say that they needed help with  
24 organization, what type of help did they need?

25 A. Well, we're talking as I said recordkeeping is

(b) (6)

1 something that keeps, that comes to mind.

2 Q. What sorts of, what sort of recordkeeping?

3 A. You know you, you I think you're misunderstanding the  
4 level of detail that are factored into these things. There were  
5 military training teams that came in and I remember particularly  
6 one who was, which was concerned of making certain that records  
7 were kept properly, that kind of thing. I just used that as an  
8 example, but I don't, I have no idea what exactly. I know that  
9 they were, they were training in various techniques, but  
10 implicit in the fact that we had military training forces there  
11 was that the officers who were being trained had control of  
12 their troops. Otherwise, what would be the point of training  
13 them?

14 Q. You said that you, you really did get into the details  
15 of the military systems. Now, it's very possible that we in  
16 fact did train the Salvadorans --

17 MR. CRAIG TO JUDGE

18 Object. This asks for speculation.

19 JUDGE TO MR. CRAIG

20 He didn't ask the question.

21 JUDGE TO MR. HANDEL

22 Go ahead and ask the question. I'm not sure where you  
23 were.

24 MR. HANDEL TO MR. WHITE

25 Q. So, so you wouldn't know whether the U.S. military

(b) (6)

1 trained the Salvadorans extensively in organization and command  
2 control. You wouldn't know that.

3 A. No. I would if I had the opportunity to look up, but  
4 I would approve the general outline of what the military  
5 training teams were doing that they were, that they were  
6 training them in this or that particular thing and that  
7 particular discipline, such as recordkeeping, but that so I  
8 would know the broad outlines and I know that there were no,  
9 that they weren't teaching for example, we would train them in  
10 the use of equipment if we gave them nonlethal equipment. We  
11 did, but I think that there's no, what you're saying is that we,  
12 there were military training teams there. Yes, that they  
13 treated, that they try to improve them in certain phases, but  
14 that this argues in any way that there was not command and  
15 control by the high command over their troops I would say was  
16 the exact opposite. I would say that unless we had, unless they  
17 had command control over their troops, we would have been  
18 wasting time bringing in these down there because there would  
19 have been no purpose to it.

20 Q. We brought in all sorts of military assistance, didn't  
21 we? It wasn't just weapons.

22 A. We didn't bring in. No. We didn't bring.

23 Q. What, advisors?

24 A. Of course 55 advisors.

25 Q. You said more than that, 55 officials.

(b) (6)

1           A.    No.   Fifty-five while I was there.   Afterwards, I said  
2   they expanded it dramatically.  
3           Q.    What were those advisors doing?  
4   MR. CRAIG TO JUDGE  
5           Objection, Your Honor.   He already testified about the  
6   advisors.  
7   MR. WHITE TO MR. HANDEL  
8           Among them were the military [indiscernible].  
9   JUDGE TO MR. WHITE  
10          No.   That's fine, that's fine, that's fine.  
11   MR. HANDEL TO JUDGE  
12          One moment, Your Honor.  
13   JUDGE TO MR. HANDEL  
14          Sure.  
15   MR. HANDEL TO JUDGE  
16          No other questions at this time.  
17   JUDGE TO MR. HANDEL  
18          All right.  
19   MR. CRAIG TO JUDGE  
20          None from the Government, Your Honor.  
21   JUDGE TO MR. CRAIG  
22          None from Mr. Stanley.   All right.  
23   JUDGE TO MR. WHITE  
24          Ambassador White, thank you for your testimony.   I  
25   appreciate you making time for the case.   You're excused.

(b) (6)



1 JUDGE TO MR. CRAIG  
2 All right. Then begin again tomorrow at 8:30 and Mr.  
3 Craig, the first witness tomorrow will be who?  
4 MR. CRAIG TO JUDGE  
5 Daniel Alvarado.  
6 JUDGE TO MR. CRAIG  
7 Okay.  
8 MR. CRAIG TO JUDGE  
9 We anticipate taking the morning with them and then we'll  
10 call Dr. Romagoza in the afternoon.  
11 JUDGE TO MR. CRAIG  
12 And if necessary they'll, one or both will be able to stay  
13 over until Wednesday as necessary.  
14 MR. CRAIG TO JUDGE  
15 We'll make sure one of them can. Yes.  
16 JUDGE TO MR. HANDEL AND MR. CRAIG  
17 All right. Anything to take up from either side before we  
18 adjourn for today?  
19 MR. HANDEL TO JUDGE  
20 Not from us, Your Honor.  
21 MR. CRAIG TO JUDGE  
22 No, Your Honor. Thank you.  
23 JUDGE TO MR. HANDEL AND MR. CRAIG  
24 All right. All right. Thank you all and we'll see you  
25 back here at 8:30 tomorrow.

(b) (6)



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HEARING ADJOURNED

(b) (6)