

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
HON. OLIVER W. WANGER

J. DOE,)	No. CIV-F-03-6249 OWW
)	
Plaintiff,)	Plaintiff's Application for
)	Judgment by Default, Day 3
vs.)	
)	
ALVARO RAFAEL SARAIVIA; and)	
DOES 1-10, inclusive,)	
)	
Defendants.)	
)	

Fresno, California

Thursday, August 26, 2004

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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1 Thursday, August 26, 2004 Fresno, California

2 9:30 a.m.

3 (Discussion was had in chambers off the record.)

4 THE COURT: Good morning. We are going back on the
5 record in Doe versus Saravia.

6 I believe we have Professor Karl on the witness
7 stand.

8 MR. Van AELSTYN: We would like to continue with
9 Professor Terry Lynn Karl.

10 TERRY LYNN KARL,
11 having been previously sworn, resumed the stand and testified
12 as follows:

13 DIRECT EXAMINATION

14 BY MR. Van AELSTYN:

15 Q. Professor Karl, when we finished yesterday, we had gone
16 through your qualifications and the bases of your opinions in
17 this matter.

18 Where I would like to begin now is we turn to the
19 substance of your opinions. First, if you could, I think it
20 would be helpful to an understanding of the events of 1980 to
21 appreciate the historical context in which we find ourselves
22 at that time in El Salvador.

23 So could you please give us a little bit of
24 background about El Salvador at that time and the roots of the
25 conflict that were present at that time.

1 A. Yes, I think the most important thing is that this is a
2 military authoritarian regime. I have actually prepared a few
3 slides to make this go more quickly so that it's not a class
4 of mine. And I think this is Exhibit 129, if we could put
5 that up.

6 The most important thing, I think, to understand
7 about the roots of the conflict in El Salvador are really two
8 issues: The issue of the concentration of land, which I'm
9 going to talk about in one moment, and the fact that this was
10 a country under military authoritarian rule since 1932.

11 The reason I started in 1932 is that there is a major
12 massacre in that time which is referred to as "The Massacre,"
13 that's what it's called, in which it's estimated about 30,000
14 peasants died, killed by militias and people who eventually
15 consolidated into what is at the time of the Romero
16 assassination, the Salvadoran army.

17 And you can see there, I think that's important in
18 that list, is how long it lasted. This is the longest
19 military government in the history of Latin America.

20 Q. The longest continuous military?

21 A. Continuous military government in the history of Latin
22 America. And they occasionally had a practice of inviting
23 civilians into the junta. If they invited enough civilians,
24 we referred to it as a "military civilian junta."

25 So you can see that there are one or two years in '48

1 to '50. But instead of thinking of this as an army that
2 defends the borders, this was an army that is like a
3 government. It has factions, it has groups and cliques
4 inside, it has all kind of conflicts within it because it in
5 fact operates as government.

6 Q. You mentioned the traditional role of military, that of
7 defending borders. Has the military of El Salvador ever
8 engaged in war with any of its neighbors?

9 A. It engaged in a very brief war with Honduras. That war
10 was called the "Soccer War." It broke out after a soccer
11 match. It was very, very brief, and that's the only time that
12 I know of that El Salvador has actually defended -- the El
13 Salvadoran military has defended its borders rather than act
14 as a government whose key role was to keep order inside El
15 Salvador.

16 Q. How did they keep order and what kind of order did it
17 maintain within El Salvador?

18 A. If I can see slide 130 or Exhibit 130? The most important
19 thing, to summarize very quickly, about this is, that in El
20 Salvador, the military ruled with a group of landowners that
21 were often referred to as the "14 families."

22 Q. Were they in fact 14 families?

23 A. No, there were not 14, but they are called "los
24 quatorce" -- I will spell that for you later -- "The 14." And
25 they ruled in conjunction with each other as a kind of

1 bargain.

2 And the bargain was that the military would keep
3 order. It would protect the land of the landowners. It would
4 actually locate National Guard barracks on large property. So
5 there would actually be National Guard, not barracks, but
6 housing in groups inside the property of large landowners, and
7 they would patrol property. And the reason for that --

8 Q. They would patrol the private -- the military would patrol
9 the private property of the landowners?

10 A. That's right.

11 Q. In the barracks?

12 A. That's right. They would make sure that peasants were
13 working, that they were behaving themselves, that they were
14 not organizing. There was no right to organize or freedom of
15 expression or any of the things that we might have in our Bill
16 of Rights.

17 And the purpose was to maintain order on the property
18 of large landowners and make sure that the peasantry did not
19 organize at all or that there were no farm workers unions, et
20 cetera.

21 And if you can see, it was a bargain in the sense
22 that military officers who retired often worked for
23 landowners. And officers who were in the military,
24 particularly low level officers at lower ranks, would, on the
25 side, would for -- excuse me, work for landowners.

1 And that meant that this practice of having, in a
2 sense, two jobs, one in the military, and then one for the
3 landowners, is a practice that is a fairly old one. So they
4 would actually be on the payroll of landowners and on the
5 payroll of the military.

6 Q. And was most of the land in El Salvador then owned by
7 these "14 Family" landowners?

8 A. Yes. El Salvador had at this time one of the highest
9 concentrations of land ownership worldwide, not just in Latin
10 America, but also worldwide. And that meant that there was a
11 situation in which there were some very wealthy Salvadorans,
12 and the great majority of Salvadorans were extremely poor.

13 It was still, at the time of the outbreak of the war,
14 and the assassination of Archbishop Romero, it was still
15 primarily a rural country. And that meant that about -- it's
16 our estimate that about 70 percent of the people -- it's not
17 my estimate, this is the estimate of economists, about 70
18 percent of the people lived far below what we call a
19 poverty -- at absolute poverty line.

20 Q. And most of them lived in the countryside?

21 A. And most of them lived in the countryside, that's right.

22 Q. And the concentration of land ownership, you said at this
23 time, how long did that concentration of land ownership
24 continue?

25 A. The concentration of land ownership continued until a land

1 reform that was actually carried out during the process of the
2 civil war. So land is less concentrated, although wealth and
3 assets in El Salvador, meaning other forms of property, remain
4 as concentrated as before.

5 So there is an important land reform that happens in
6 this story, but not until later, and it is the issue of the
7 concentration of land that is one of the major issues that
8 provokes the kind of violence that we see in El Salvador
9 during this period.

10 Q. You say "later." Let's try to be specific here. Do we
11 mean before or after Monseñor Romero's killing?

12 A. Well, there is a debate inside the military between what I
13 refer to as "hardliners and reformists."

14 The reformists are people who believe that some type
15 of land reform has to occur, even if it's very, very small.
16 And even if it's a very, very small one, of at least massive
17 properties that are unoccupied and are not being worked, that
18 at least those should be broken up.

19 Hardliners do not believe in any form of land reform
20 and they are absolutely violently opposed to it, as are,
21 really, all of the leading landowners.

22 Q. You are talking about 1979-1980?

23 A. This is a long-standing issue. So this is an issue in the
24 60s. It's an issue in the 70s. It's an issue that becomes
25 more and more intense, because after the war with Honduras,

1 the border between Honduras and El Salvador is closed. And --

2 Q. When was that war?

3 A. That's in 1969. The closing of that border is very
4 important, because in the past, Salvadorans, who didn't have
5 land and had no access to land used to cross the border into
6 Honduras, where there is a lot more land, and work there. So
7 it was kind of an escape valve for pressure.

8 As soon as that was closed, the pressure for land
9 reform built up greater and greater and greater inside the
10 country and the tensions within the military over the issue of
11 land reform became greater and greater. The demands for land
12 reform outside became much greater.

13 Q. Professor Karl, before we can understand the nature of the
14 conflict that these tensions that you are describing with
15 regard to the demands for land reform, perhaps you could
16 describe in a little more detail just how it was that the
17 military implemented this model that you have described in
18 terms of its tacit agreement with the landowners?

19 A. Right. As pressure and tensions for land reform grew, the
20 military found itself having to become -- when I say -- let me
21 be clear.

22 When I say "the military," it is shorthand for
23 military and security forces. And that means, unlike our
24 system, military or armed forces means all of the forces of
25 the Salvadoran -- all armed groups in El Salvador. So it

1 includes -- just so I don't have to repeat every group -- it
2 includes the National Guard, the Army, the Air Force, the
3 Treasury Police, the National Police.

4 So armed forces in El Salvador are under one
5 officer -- one group of officers, a very small group. At the
6 time of the outbreak -- at the time of the Romero
7 assassination, there were approximately 450 officers in the
8 country. Those officers ruled over the military.

9 Q. I'm sorry to back up. Just so I'm clear, you have
10 identified, if I understand you correctly, five different
11 branches of the military?

12 A. That's right.

13 Q. The Army, Air Force, National Guard, Treasury Police and
14 National Police?

15 A. That's right.

16 Q. And each one of these branches of the military was a
17 national entity?

18 A. That's right.

19 Q. There were no local police forces?

20 A. No.

21 Q. Okay. And there was no Navy?

22 A. No. And unlike our system, where the police and armed
23 forces are separate, and unlike our system, where there are
24 separate branches of the armed forces, this is all united
25 under one set of officers who have a High Command that rules

1 over all of these groups.

2 Q. So a major in the Army can equally well order troops that
3 are in the National Police; is that what you are saying?

4 A. No, that's not what I'm saying. I'm saying that the High
5 Command, as a group, may decide that the National Guard goes
6 here, and then that will go under the structure of the
7 National Guard.

8 But it also means that they are very used to
9 cooperating. And they graduate in classes together. So you
10 don't go to an Army college, you don't go to a Navy school.
11 You go to a school of the armed forces. You graduate as
12 officers. And your graduating class, one might go to the
13 police, another might go to the Army, another might go to the
14 National Guard.

15 And then that group is your reference group. It's
16 called a "tanda," it's your group of loyalty. It's your
17 clique, if I could put it that way. And yet that group
18 extends throughout the entire armed and security forces and
19 police.

20 So it's very, very different than our own system, and
21 they cooperate together to keep order in El Salvador. And
22 when I say a "military authoritarian government," I mean all
23 of these groups, then.

24 The Minister of Defense would be the Minister of
25 Defense over the Army, the security forces and the police. So

1 it's very different than our system.

2 THE COURT: By 1980, was there a concentration of
3 political authority in one command leader or was there a group
4 that held the power?

5 THE WITNESS: This is what is so interesting to me in
6 this organization, because it actually works more like a
7 government than it does an armed forces, in that it rules by
8 consensus and compromise.

9 So there is a group, which is the High Command, and
10 yet it is -- the decision of who becomes the Minister of
11 Defense is a decision made by the entire High Command in their
12 bargaining. And while that person may then have command
13 responsibility over the group, they could also remove him. So
14 it's more complicated than the system that we have, because
15 they are government, they rule together, make agreements
16 together.

17 It is clear at the time of Romero's assassination
18 that there are some people in the Army High Command, which is
19 a very small group, and in fact, the -- so if you can think of
20 an officer corps that's 450 people, there is a High Command,
21 which is a relatively small group, I don't actually know the
22 exact number, but it's probably something like 30 or so.

23 And then within that group, there is another group,
24 which is the most important in the High Command. And they are
25 often referred to as "compadres." And that actually means

1 godfathers.

2 And the reason for that language inside the military
3 is that these people are so close and so deeply intertwined
4 that they become the godparents for each other's children, and
5 that's how that language came about.

6 So it's an extremely tight-knit group that goes to
7 school together, that rises through the ranks together, that
8 goes to different services together, but their loyalty is
9 never to the service, it is to each other.

10 THE COURT: Was there a central place of government
11 where the High Command, in effect, convened to do the business
12 of the nation?

13 THE WITNESS: Well, there is two places. One is the
14 estado mayor. And that is the -- if you go into San Salvador,
15 there is a huge area of San Salvador that is the headquarters
16 of the armed forces. And inside, that is where their meetings
17 take place; that's where their club is. That's where the high
18 officers live, many of them, et cetera.

19 But there is also the official government, which is
20 the Presidential Palace, and the Minister of Defense, the
21 president, who would be a Colonel, would be inside the
22 Presidency, but there is also the Army Headquarters.

23 So between those two places, that is power, in other
24 words. If you were trying to -- if you were going as the U.S.
25 Ambassador to present your credentials, you would present them

1 to the Colonel, who was President at the time, in the
2 Presidential Palace, but he may very well live and have his
3 permanent residence in the headquarters in San Salvador of the
4 armed forces.

5 BY MR. Van AELSTYN:

6 Q. A small question. Why wouldn't the President be a General
7 instead of a Colonel?

8 A. There were no Generals until after the civil war started.
9 So the High Command were Colonels.

10 And if you look at this slide of mine, what is
11 important in it, what -- the first time I ever did interviews
12 in El Salvador, the first army or military man I ever talked
13 to, I was asking him to explain, since it was not an army that
14 I was familiar with, it was clearly very different, to explain
15 the ranks.

16 And this is what he said to me. He went up through
17 the ranks starting at the bottom and he said, "Captain, Major,
18 Colonel, millionaire." That's the way he explained it to me.
19 And that meant that as you -- the army was a mechanism to
20 become rich.

21 This is very important, because as you pass through
22 in the high officer corps, you also, because of your bargain
23 with the landowners, found ways to move into wealthier
24 occupations and to work for private landowners. That's why
25 this bargain also relates, also develops strong relationships

1 between retired Colonels and landowners.

2 Q. Did there come a time when there were security forces that
3 were of a more irregular nature?

4 THE COURT: Before we get to this, if I may, I would
5 like to ask one more question. That is, was there, in 1980, a
6 legislative body within El Salvador that was separate from
7 this military command you've described?

8 THE WITNESS: There was a legislative body. But the
9 parties that were permitted to operate until October 1979 were
10 military parties. In other words, if you think of the
11 military as government, again, the military actually had a
12 political party which was called the "Party of National
13 Reconciliation" and that party was a military party.

14 There were also smaller military parties. And that's
15 one of the ways the military, as government, also starts to
16 have the problems of any government. It has different groups
17 that want their own party. It has Colonels that, when they
18 retire, want to form an organization. So there is that
19 tension.

20 Until -- well, I will tell more of this history in a
21 little bit, but until, really, 1984, no civilian, nonmilitary
22 party was really permitted to actually enter elections --
23 well, to enter elections, yes, but not to win.

24 THE COURT: Was the legislature, whatever it was
25 called, subordinate to or was it independent or coequal with

1 the ruling command?

2 THE WITNESS: There was nothing independent. There
3 was no independent judiciary. There was no Parliament. The
4 Parliament was run by the military party.

5 The judiciary was usually -- particularly the Supreme
6 Court, was usually a place that landowners felt very strongly
7 about controlling, and one of the things that, in these
8 factions that happened inside the military, you see that there
9 are key positions that hardliners and reformers jockey for.
10 They try to get certain positions because they are more
11 powerful. For example, the Minister of Defense, it's a
12 powerful position. So the hardliners would want that.

13 The hardliners always wanted the investigative units
14 of every operation. For example, the investigative units of
15 the National Police, the agency that actually investigated,
16 was always controlled by hardliners.

17 When I get to the death squad discussion, it became
18 the center of one of the major death squads in the country.

19 The legislature was never independent. And later on,
20 one of the main death squads was run out of the office of the
21 President of the Legislature.

22 So even though there were lots of government
23 institutions, there was one power in the country. And that
24 actually -- well, actually, let me step back from that.

25 What is important, and is very important, I think, to

1 understanding the moment in which the Archbishop is murdered,
2 is that this bargain that I have there (referring to diagram)
3 between the landowners and the military actually changes over
4 time in power.

5 The way it changes is that, as conflict rises, the
6 military, particularly the hardliners and the landowners,
7 believe that you need more and more force and more and more
8 violence to control the country and to make sure that the
9 military stays in power.

10 The more you rely on violence, the more the military
11 becomes powerful. And the landowners begin in this bargain
12 not to be the top -- certainly, they are the top socially, but
13 not politically, I'm speaking, not to be the top. Eventually
14 to be coequal with the military.

15 And later, it is the military that calls the shots
16 and not the landowners. So we are actually living in a time
17 where the more you need to rely on violence to govern
18 El Salvador, the more the people with guns have power.

19 BY MR. Van AELSTYN:

20 Q. And this time that you are talking about, this
21 transitional period, is the 1970s, roughly?

22 A. It is the 1970s. Now, when that happens -- well, it
23 actually starts in the 60s, but through the 70s. When that
24 happens, the military, meaning all of these armed services
25 that I'm talking about, begin to find that the National Guard,

1 as it's constituted, or the police -- and those are the ones
2 that do the most work in maintaining order, because the
3 National Guard, as I said, are often on properties -- the
4 police, those are the ones that maintain order the most in
5 rural areas, internal order.

6 So it's the security forces, the National Guard, that
7 are key -- that are the keys to maintaining order. The First
8 Brigade in the Army is located in San Salvador, but it isn't
9 patrolling in the same way that the police are, for example,
10 to keep order inside.

11 Now, as --

12 Q. If I may understand. The National Police and the National
13 Guard, then, would they be a little bit more closely allied
14 with the rural landowners?

15 A. They would be much more closely allied with the
16 landowners, particularly the Treasury Police. Treasury Police
17 are originally formed in Latin America to collect taxes, but
18 there are no taxes in these countries. There is no collection
19 of taxes.

20 So rather than collecting taxes, the Treasury Police
21 make sure that it helps control labor. This is a system that,
22 as political scientists, we call a "labor repressive system."
23 It means you squeeze as much labor out of workers, farmers,
24 peasants, as you can through the use of force. And rather
25 than paying them a salary or wage or having unions or

1 whatever, you don't allow any of that.

2 And the way you do it is you force people to work
3 certain hours at extremely low pay. And that's what we call a
4 "labor repressive system." This is a classic labor repressive
5 system.

6 What happens is that as the problems in El Salvador
7 intensify, as land becomes more and more scarce, as people --
8 very low standards of living begin to fall, as peasants cannot
9 eke out any kind of livelihood whatsoever, the tension inside
10 this country grows more and more and more as an opposition
11 starts to form.

12 The military begins to feel that it cannot govern
13 with the numbers that it has and that it needs more help. And
14 this is actually a very important decision, because I believe
15 the roots of the Romero murder are actually in this process.

16 What they do, then, is they set up a paramilitary
17 apparatus, which is called "ORDEN" and it means literally
18 "order." It's an acronym, O-R-D-E-N.

19 Now, when I say "they," I need to say a name, who is
20 very important in this story. His name is Colonel Medrano.
21 And Colonel Medrano is the architect. He is, at this point,
22 the primary leader within the High Command. And there are a
23 series of --

24 Your Honor you asked me about whether there was a
25 primary leader. In different moments, there is somebody who

1 rises up because of some kind of skills, and at this moment,
2 in the 60s, it was Colonel Medrano.

3 THE COURT: Would he be the equivalent of a head of
4 state?

5 THE WITNESS: Well, he was not the head of state,
6 because there was a president, there was a different
7 president.

8 But the key to El Salvador is the formal institutions
9 aren't the way it's governed. It's not where real power lies.
10 Real power doesn't lie because you are the president. It lies
11 in who are the key members of the High Command of the
12 military. That's real power in El Salvador.

13 So you can be the president and look like you have
14 formal power, but you will not be able to do anything against
15 what the High Command wants you to do, and you may very well
16 be removed as president of the country by the High Command.

17 So in this case, Colonel Medrano, this is in the late
18 1960s --

19 BY MR. Van AELSTYN:

20 Q. Professor Karl, if I could, I know I may be jumping ahead
21 a little bit, but I think this might be helpful, because you
22 mentioned Colonel Medrano, if we could see slide, Exhibit 164.

23 A. Oh, okay. Do I have a copy of that?

24 THE COURT: Is the monitor on there, Professor Karl?
25 It's too small. All right.

1 THE WITNESS: Okay.

2 BY MR. Van AELSTYN:

3 Q. First, perhaps, if you could quickly identify what
4 Exhibit 164 is?

5 A. Yeah. This is a declassified document from the Central
6 Intelligence Agency.

7 Q. For whom was it prepared?

8 A. This is a memorandum that was prepared for then
9 Vice-president George Bush, the father of the current
10 President. And he was then Vice-president in the Reagan
11 Administration.

12 In 1983, he makes a very important trip to
13 El Salvador, basically, to tell the military High Command that
14 if they do not cut the level of repression and if they do not
15 remove certain officers from the military, that the United
16 States will cut aid. And he says he is bringing -- this is a
17 secret meeting.

18 He says he is bringing this message directly from
19 President Reagan, and I will actually talk about this visit a
20 little later. But in preparation for this visit --

21 Q. Preparation or what's the date of the document?

22 A. No excuse me, this is after. I'm sorry. Well, actually,
23 let me step back, because both in preparation for this visit
24 and after the visit, there were a series of documents prepared
25 so that Vice-president Bush in his meetings would understand

1 exactly who he was meeting with.

2 There had been a sense among some members of the
3 Republican party that the problem in El Salvador, conservative
4 versus liberal versus Communist insurgency, could be
5 understood somehow like us, that somebody like D'Aubuisson was
6 kind of like a conservative Republican or an especially
7 conservative Republican.

8 And I think they were quickly disabused of that the
9 more people came in contact with the kinds of -- with somebody
10 like Roberto D'Aubuisson and the people around him.

11 So there were constant preparation of documents for
12 each new Ambassador and for anybody who was coming to
13 El Salvador at the first time.

14 Q. That's the importance of this document, by way of
15 preparation, though, because you mentioned Colonel Medrano
16 before, and I wanted to draw your attention to the first
17 paragraph on page 2 at the top.

18 A. I want to say that the importance of this particular memo
19 is after Vice-president Bush read them the riot act, this is a
20 memo prepared afterwards. So they can try to track what
21 actually happened as a result of the Vice-president's visit.

22 The first paragraph of this, as you can see, it's --
23 actually, my copy is more redacted -- I'm sorry.

24 It says D'Aubuisson's military contacts, right. And
25 on this page, it has a history of Roberto D'Aubuisson prepared

1 for the Vice-president.

2 "Before leaving the Armed Forces in the wake of the
3 October 1979 military coup, Major D'Aubuisson had
4 served much of his career as an intelligence officer
5 with the National Guard. He and several other
6 colleagues, graduates from the academy classes of
7 1963, 1964 and 1966, worked directly under or in
8 cooperation with National Guard Director Medrano, a
9 notorious and powerful figure in military and right
10 wing civilian circles. Medrano had his proteges
11 focus on counter-intelligence and rural security;
12 during the 1960s and 1970s, D'Aubuisson and his
13 colleagues helped develop civilian intelligence
14 networks and vigilante organizations controlled by
15 the National Guard.

16 "They also engaged in illegal detentions, torture, and
17 the killing of prisoners, habits which," and this
18 is -- the name is redacted, "suggests stayed with
19 some of them after the 1979 reformist coup."

20 Q. And I bring this up by way of reference back to Medrano,
21 and the origins of the tensions that became more prominent in
22 the 1970s.

23 A. Right.

24 Q. Who was Medrano? And that would then lead us to our
25 discussion of Roberto D'Aubuisson.

1 A. Medrano was a very important figure in the military. He
2 was formally the head of the National Guard, but again, the
3 formal positions are not what's key here, although it meant,
4 as head of the National Guard, that he had more interaction
5 with rural landowners than others.

6 What Medrano did was realize that -- and this is one
7 of the reasons he's considered such a hero inside the
8 Salvadoran military, he believed that the military itself and
9 the security forces, as they were constituted, were not going
10 to be able to control a situation in El Salvador that was
11 arising, and they were not going to be able to stay in power
12 as a military regime unless they developed a more
13 sophisticated repressive apparatus.

14 Q. In this document that you just read, it refers to
15 developing civilian intelligence networks and vigilante
16 organizations?

17 A. That's right. That is ORDEN. And what Medrano did is he
18 established ORDEN, which was a paramilitary organization of
19 about 80,000 civilians that were not in the military, had not
20 been through the military schools. They were not officers,
21 but they were collaborators with the military, and there were
22 about 80,000 of them. So it means they were in every single
23 village.

24 Q. It does say here in the CIA documents that these
25 organizations were controlled by the National Guard?

1 A. That's right. And they had a very close relationship with
2 the National Guard.

3 I want to talk about ORDEN for just a moment, but
4 before I do, let me say one other agency that I think we
5 should also talk about, and that is the other piece that
6 Medrano -- this is again why he is considered such a hero
7 inside the military.

8 The other piece, the other idea was to develop a very
9 sophisticated intelligence apparatus that was -- that united
10 intelligence throughout the country. And meant that if you
11 lived in one part of El Salvador, you could have an
12 intelligence that would let you know what was going on in the
13 other part of El Salvador.

14 And he set up an organization called ANSESAL, which
15 is the National Security Intelligence Agency of El Salvador.

16 And his idea was that you would have the armed
17 forces, meaning the armed forces, the security forces; you
18 would have a major paramilitary organization, ORDEN; and you
19 would have ANSESAL, which is the big intelligence agency.

20 His other idea, which became very important for
21 Roberto D'Aubuisson, is that ORDEN would eventually become a
22 political party that would have two sides to it.

23 The first side was a kind of normal political party,
24 if I could put it that way, in which it would be in the
25 legislature, do whatever the legislature does. It would be a

1 political party affiliated with the military and loyal to the
2 military.

3 But the second part of it was always considered to be
4 a paramilitary apparatus that belonged to the party and that
5 would in fact carry out the kinds of activities that are
6 listed in the document for the preparation of Vice-president
7 Bush.

8 So it would be a party that would have a military
9 apparatus as part of the party.

10 Q. So Colonel Medrano's assessment of the increasing tensions
11 within El Salvador led him to develop the strategy of
12 developing ORDEN and ANSESAL, paramilitary groups and
13 intelligence.

14 What were the problems that Medrano and his
15 colleagues were focused upon for which ORDEN and ANSESAL were
16 their solutions?

17 A. Well, the main problem came from the nature of military
18 rule and the nature of the bargain I talked about, which is --
19 I think -- I'm simplifying a lot.

20 But it comes down to two questions: The right to
21 land or to in some way to earn a livelihood in, particularly,
22 rural areas, but eventually urban areas as well.

23 And the second issue is really democracy. It's the
24 right to form political parties, the right to have unions, the
25 right to have freedom of expression, the right to have

1 newspapers that can print whatever they want, et cetera, et
2 cetera.

3 And that was what the opposition was about. It was
4 an opposition to military authoritarian rule that had governed
5 since 1932.

6 Q. So opposition was starting to develop and increase during
7 this period?

8 A. Absolutely. The Christian Democratic Party, which is a
9 party that was headed by Jose Napoleon Duarte, was founded in
10 the 1960s. It was the first major political party in
11 El Salvador that was not a military party.

12 There were other -- when I say "major," I mean in
13 terms of size and reach. There was a very small Communist
14 party. There were other little parties. Many other little
15 parties, but in terms of the important political party, it was
16 the Christian Democratic Party. It was affiliated with
17 Christian Democratic Parties all over the world, including one
18 in Germany, including one in Spain, et cetera.

19 So -- and it was the primary push at this time for
20 democracy.

21 Now, I should also say that the Christian Democratic
22 party was in its roots, not just in El Salvador, but all over
23 the world, is a party that was formed by religious Catholics.
24 So it's always had, in every country, a strong link with
25 religious authorities and with churches.

1 Q. And was there a role of the Church in the growing
2 opposition at this period in the early 70s?

3 A. Yes. May I have Exhibit 218? I want to be clear that I'm
4 an expert in the Church as a political force and not as a
5 religious organization.

6 So what happens in the Church all over the world at
7 this time is the appearance of something that is called
8 "liberation theology." And liberation theology, this is
9 very -- we date this primarily to changes in the Church in
10 1968, just to put a date on it.

11 Liberation theology --

12 Q. I'm sorry, was there a place as well?

13 A. Medellin.

14 Q. Was there a conference there?

15 A. Yes, and the Pope.

16 Q. The Pope met at this conference in Medellin?

17 A. As I said, I think others are more able to talk about the
18 religious origins of this and how liberation theology -- but
19 it is a major shift in Catholic doctrine.

20 Q. Okay.

21 A. I think that's the important thing. And the reason it's a
22 shift is that what it says is that the Church has a duty for
23 what is called a "preferential option for the poor." In other
24 words, it needs to prefer and put ahead of others the needs of
25 the poor.

1 And that means that in the case of El Salvador, the
2 way this translates, is that instead of teaching that your
3 life might be miserable today, but you will have a better
4 after life, after you die, the Church -- and this is all over
5 Latin America -- begins to say that hunger, disease, infant
6 mortality, these things are not the will of God, these are
7 man-made problems. This is not God's order. And that since
8 they are man-made problems, people need to do something about
9 them.

10 So it encourages, actually, the organization of
11 unions, really, of peasant federations, of joining political
12 parties, because it says this order is not a natural order, it
13 is not God's will. These are problems made by human beings
14 and they can be changed by human beings.

15 And this is a very major change. Because the Church
16 initially, Archbishop Romero initially, these are conservative
17 bishops whose job in El Salvador, really, is to baptize and
18 educate the children of the wealthier. The UCA, the Catholic
19 University, was considered the best university in Central
20 America, all over Central America, by the way, for people
21 to -- for wealthy people to send their children.

22 So unlike a -- unlike other Latin American countries
23 that may want to send their child to Stanford or Harvard, that
24 wasn't what you wanted to do in El Salvador. Your kids went
25 to the UCA, because it was a very powerful and prestigious

1 university that educated primarily the children of the wealthy
2 and the middle class -- well, it was a very little middle
3 class -- and professionals, let me put it that way.

4 So this is a big shift. Because as the Church then
5 begins to move from that traditional role, it doesn't leave
6 that role, but it starts to talk about farm workers having
7 rights to organize, and it starts to preach this preferential
8 option for the poor to the wealthy.

9 This is an enormous betrayal. It's just -- I can't
10 even explain how visceral this is to them.

11 Q. What percentage of the population El Salvador was Catholic
12 at this time?

13 A. Probably about 93 percent.

14 Q. 93 percent?

15 A. Uh-huh, somewhere between 93 and 95.

16 Q. It may be a little hard for us to appreciate in a more
17 secular society here, at least at this time. How practicing
18 were people at that time?

19 A. Very practicing.

20 Q. So this --

21 A. Priests were -- even prior to the role that Archbishop
22 Romero played, in every community in El Salvador, the priest
23 was the only other major authority besides the military
24 commander of the area where you lived.

25 So if you were a peasant, you didn't travel, you

1 stayed -- you worked the land and stayed where you were. And
2 you worked for somebody. And the people in your life that
3 mattered were the landowner you worked for, the military
4 officer that patrolled your area, and the priest or religious
5 worker that ministered to your soul.

6 Q. So this change in theology of the Church, then, this was a
7 voice that could be heard in El Salvador?

8 A. Oh, absolutely. And it also then joins with the building
9 up of a Christian Democratic Party.

10 Now, it also joins with other civilian political
11 parties that form. So there is the formation of a small
12 Social Democratic Party. There is a small Communist Party.
13 There is a bigger and growing Christian Democratic Party,
14 which I want to stress, that both the Social Democratic Party
15 and the Christian Democratic Party are very anti-Communist.
16 Deeply anti-Communist.

17 And the liberation theologians are theologians, so
18 they are not atheists, they are not members of a Communist
19 party. They are people who change because of this religious
20 doctrine of the preferential option for the poor.

21 So there is a deep religiosity in most of the
22 opposition of El Salvador. There is a very deep religiosity,
23 whether you are in a political party, whether you are a
24 religious worker, whether you are a union organizer, there is
25 a very deep religiosity in all of this.

1 Q. Was there an election in 1972?

2 A. Yes, there was. In 1972, was the first time that a
3 civilian party had been able to both form and participate in
4 elections.

5 Q. This is the first time that civilian parties were allowed
6 to participate?

7 A. Were allowed to participate in an election. It just turns
8 out they weren't allowed to win one.

9 Q. Could you explain that?

10 A. Yeah. In 1972, Jose Napoleon Duarte and this new
11 Christian Democratic Party ran in the elections against the
12 military party. And by every single account, not only our
13 intelligence agencies and our Embassy, but every single
14 account in El Salvador, including the Right, by the way, and
15 including the military, Jose Napoleon Duarte won those
16 elections by what looked like a landslide.

17 As it was clear that he was winning, and, therefore,
18 would occupy the Presidency, and there would be a civilian
19 Christian Democrat who actually was in the opposition and
20 wanted a democracy and wanted to end military rule and had a
21 platform for land reform, when it became clear that he had won
22 this election, a group of military officers intervened from
23 the High Command to overturn the elections and to install a
24 new Colonel as president.

25 So Duarte was captured. He was caught and beaten.

1 He probably would have been killed, most of us believe, except
2 he was very close to the President of the University of Notre
3 Dame in the United States, Father Theodore Hesberg, who is a
4 leading, both academic and theologian, in this country. And
5 Father Hesberg was called immediately, contacted somebody in
6 the CIA. And the CIA actually intervened to save Duarte.

7 Duarte then went to Venezuela in exile, which is how
8 I met him and how I actually became interested in El Salvador.

9 So that's what happens to him. He's actually forced
10 out of the country. The elections are shut down. And the
11 fraud is carried out by a group that installs Colonel Molina
12 as president. He becomes president from 1972 to 1977.

13 Q. Could we have Exhibit 77, please. Who are these people?

14 A. Well, the man on the right is Archbishop Romero, and the
15 other man is President and Colonel Molina.

16 Q. So this is before Archbishop Romero was elevated to the
17 Archbishop?

18 A. No, this is when he's a Bishop, I believe. I don't know
19 the date of this photo. But if he is meeting with Molina, he
20 is a Bishop.

21 He was working in the eastern part of the country,
22 and he probably met fairly regularly. Remember, Archbishop
23 Romero was actually considered a conservative cleric.

24 Q. When he was Bishop of San Miguel?

25 A. When he was Bishop of San Miguel, that's right. And so he

1 participated, as did the bishops and the Archbishop, in the
2 ceremonies. When a president would be elected, they would
3 meet with the presidents, et cetera.

4 But Molina who is there, is a Colonel in the High
5 Command. And his -- the decision to make him president wasn't
6 just his decision. It was the decision of a group of people
7 in the High Command and their allies.

8 And that group is called the "Molina Group." That
9 group is very important. Because in the Molina Group are a
10 number of people that all figure very prominently in the
11 assassination of Archbishop Romero. Should I name them?

12 Q. Yes.

13 A. Okay. The names that are important, there are other
14 names, but the key names are a Colonel Gutierrez, a Colonel
15 Garcia, and the man who became part of the Presidential Guard
16 of Colonel Molina, Roberto D'Aubuisson.

17 Q. Could we have Exhibit 45, please. Is that Roberto
18 D'Aubuisson?

19 A. Yes, it is.

20 Q. Could we have --

21 A. I should add that D'Aubuisson at this time is a relatively
22 low level military officer. And the way that these cliques
23 would work is there would be a powerful group. So the
24 powerful group in this case is Medrano, Gutierrez, Garcia,
25 another one named Carranza, Santivañez, and then D'Aubuisson

1 works for them. He is very low level at this time in history.

2 The reason some of those names are important --

3 Q. If I could interrupt for one moment. Did D'Aubuisson have
4 anybody below him even at this early level in Molina's
5 Presidential Guard?

6 A. Yes, he did. He had -- in the Presidential Guard, he met
7 Alvaro Saravia. So he worked with Saravia in the Presidential
8 Guard of Colonel Molina after the electoral fraud of 1972.

9 Q. Thank you. Go on.

10 A. Just to be clear, the reason that this is important is
11 that there is a kind of hierarchy here. There is Medrano at
12 the top. Medrano has two chief lieutenants, which he calls --
13 which he calls his two chief lieutenants.

14 One of them is the person who was given the job of
15 forming ORDEN, of forming this paramilitary apparatus of these
16 80,000 civilians. And his name was Colonel Carranza.

17 The other person was given the job of setting up the
18 intelligence agency. The other two -- and that was Colonel
19 Gutierrez and Colonel Santivañez.

20 The reason that's important is Santivañez is
21 D'Aubuisson's direct boss, because D'Aubuisson ends up -- his
22 base of operation is the intelligence agency, ANSESAL.

23 So that's why I'm telling all this, is his base of
24 operation is in ANSESAL, after he leaves the Presidential
25 Guard. So I know we will talk about that a little bit, but

1 just to understand the hierarchy, and also the institutions
2 that they occupy.

3 Q. So how long did Colonel Molina govern El Salvador?

4 A. Colonel Molina governed El Salvador from 1972 till 1977.

5 And when he governed, the Grupo Molina, the Molina Group, was
6 within the High Command what we call the "compadres," the
7 godfathers. They were the "High Command of the High Command,"
8 if I can put it that way.

9 And this is, again, very important to understand,
10 because since the military is also the government, there are
11 always people who are in or out.

12 And at this point, during the Molina period, from '72
13 to '73, the Molina Group --

14 Q. '72 to '77?

15 A. Excuse me, '72 to '77, the Molina Group are the ins. They
16 are the ones who are the godfathers.

17 When the next president comes in, who is another
18 Colonel, in 1977, they become "outs," because they are
19 associated with the last president.

20 Q. And the one who came in in 1977 was Humberto Romero?

21 A. That's right. He has the same name as the Archbishop. He
22 was Colonel Romero.

23 Q. And they are not related?

24 A. They are not related.

25 Q. So in 1977, the Grupo Molina goes on the outs after having

1 been the ins on the High Command?

2 A. When I say "outs," they are still enormously powerful.

3 They are in the High Command. But in the High Command, there
4 are people who control the High Command, or who are more
5 powerful within the High Command. And they have moved from
6 the most powerful group back to the High Command. They are
7 still the governing apparatus of the country, and I mean that
8 in terms of power.

9 Q. Do I understand correctly then that within the High
10 Command there may be factions that are gaining power over each
11 other, occupying the position of the compadres you described?

12 A. That's right.

13 Q. So for any given period, one faction might be the
14 compadres within the High Command?

15 A. Right. So, for example, when Molina is in power, he wants
16 around him the people who made the decision to make him
17 president. So the people who were most powerful in the
18 decision in the High Command to choose Colonel Molina as
19 president of the country are the people that become the
20 godfathers.

21 When Romero, after -- these are five-year terms. And
22 I guess I should clarify something. El Salvador, during the
23 entire time it was a military authoritarian rule, always had
24 elections. Always. It's always had more elections under
25 authoritarian rule than almost any other country that was

1 under authoritarian rule, but these were elections in which a
2 military party participated.

3 So the decision of who was going to be president
4 changed every five years. It's one of the reasons the
5 authoritarian regime lasted so long, because there was
6 actually a rotation of power within it.

7 This is one of the reasons why it was so durable,
8 because you actually shared power. You got to be in for a
9 while, and that's why the ranks of the military were described
10 in the way they were. You got to get into power. You got to
11 circulate, you got to get to the top of power, if you were an
12 officer. I'm not talking about a normal soldier or national
13 guardsman or a person like Garay, for example, which would
14 never have had these opportunities.

15 But if you were a member of the officer corps, if you
16 were one of these 450, you would always have the chance to
17 move up. You would always have the chance to be a member of
18 the High Command, if you were a good enough officer.

19 And if you were a member of the High Command, you
20 were going to be, at some point, if, again, you were a good
21 enough officer in the terms of what "good" meant in the
22 system, you would eventually get to be part of the godfathers.
23 You would get your turn.

24 And then once you got your turn, you would use that
25 to cement your relationship with the landowners and your

1 ability to live well after you left the Army or the armed
2 forces.

3 So once Molina has his five years, there is an
4 election. He's out. He is no longer in the military. The
5 Molina Group is back into the High Command, but there is a new
6 group that are the godfathers.

7 Q. And that's the Romero Group?

8 A. That's Colonel Romero's group. Now, this is a system
9 which operated well when there was no opposition. But as
10 opposition grows, who becomes the high group in the High
11 Command becomes a much more controversial and political
12 question, because if it was once just a problem of whether you
13 had gone to school with this guy or not or were in the same
14 clique as him, it is now a problem of whether you are a
15 hardliner or a reformer within the military.

16 So the decision of who becomes president, of who is
17 in the High Command and then who in the High Command are the
18 godfathers of the High Command, becomes an extremely political
19 and politicized question within the military.

20 Q. When the Molina Group was out of power, what did they do,
21 including Roberto D'Aubuisson? Within 1977, now we are
22 talking about, no longer compadres, but still within the High
23 Command, but out of the most powerful position. Did they
24 begin to exercise power in some other way?

25 A. Well, speaking of Roberto D'Aubuisson, in particular, he

1 was -- is -- was, excuse me, he's dead, but he was an
2 extraordinarily ambitious, very intelligent and clever person.
3 And he always wanted to rise high in the ranks.

4 So one of the things he did in this period of time
5 which actually sets him apart from all the others, is he had
6 some extensive training outside El Salvador.

7 Q. Where did he get this training?

8 A. He got training both inside the United States, but I think
9 actually more important, as his ideology, which becomes very
10 important, he went to the War College in Taiwan and
11 specialized in their courses on Political Warfare. That's the
12 name of the course. It was on political warfare. These were
13 taught by the Kuomintang, who was the Chinese party that had
14 lost in the Chinese revolution to Mao, and was extremely
15 anti-Communist.

16 The reason that this matters is that the political
17 war classes in Taiwan emphasize the model of -- what was then
18 Taiwan's authoritarian government, and that is a military, a
19 military party, which is a single party. It's not a
20 competitive -- it's not a competitive authoritarian system.
21 You can't have two military parties, you are just going to
22 have one. So there is a military, a military-based party, a
23 paramilitary organization. And that's the way that they would
24 teach how you control a country. That's how Taiwan was
25 governed at the time.

1 And this was extremely important for Roberto
2 D'Aubuisson. He is the only one who had this kind of
3 training. So no one else went. He was the only one who was
4 really interested in ideology and in models of how to rule.

5 And he was already extremely worried about -- he was
6 a deeply, deeply, and I'm not using this word loosely,
7 fanatical anti-Communist.

8 And you will see how he's referred to in the cables.
9 They say, he's crazy, he's a radic, he's reckless.

10 He actually was very smart. He was very fanatic. He
11 blamed his own family situation on the 1932 massacre on the
12 uprising of peasants. He said if they hadn't risen up, he
13 would have been a wealthier person. He blamed family
14 misfortunes on that.

15 And so he was absolutely, in his own way of being,
16 committed to making sure that El Salvador was governed by a
17 military party, and that -- and he was very worried that the
18 current way the country was reigned as a traditional military
19 authoritarian rule wasn't going to be able to keep control of
20 this.

21 So the first thing that's important is he starts
22 developing international contacts. The second thing that's
23 important is that he forms what I have found in my research,
24 unless I'm missing something, was probably the first major
25 death squad in this period of time.

1 Q. "This period of time," being roughly the 1970s?

2 A. 1977. Yes, he is still in the military and he is rising
3 in the ranks of the military.

4 Q. And is he in ANSESAL?

5 A. He is not in ANSESAL at this moment, but he ends up there.
6 He does end up there. He is number three. Remember, he is
7 again a younger officer than the rest. He is a lower ranking
8 military officer at this time. And so he is number three in
9 ANSESAL, in the intelligence agency. He is the -- and this is
10 the national intelligence agency. He is working -- his direct
11 boss is Colonel Santivañez.

12 Q. So as he has obtained this training and developed a more
13 refined ideology around 1977, what form did that ideology
14 take?

15 A. He, through his -- actually, I don't know this for sure,
16 but I would -- I believe from the trajectory of his career,
17 through his experience in Taiwan, he became part of an
18 organization that is called the "World Anti-Communist League."
19 That is considered by academics the most important and far
20 reaching extreme Right world organization. It was founded in
21 South Korea and Taiwan and it eventually becomes a worldwide
22 organization.

23 It sets up something called the "Confederation of
24 Latin American Anti-Communists." I call that the "CAL,"
25 C-A-L, the Confederation of Latin American Anti-Communists.

1 And this confederation has representatives from different
2 countries. So you attend as a delegate from your country.

3 So again, if I'm clear, there is the World
4 Anti-Communist League. There is a Latin American branch of it
5 called the CAL, which is precisely founded in 1972, when world
6 anti-Communist extremists are very worried that Latin America
7 may become Communist.

8 They are very worried about events in Chile, where
9 Allende is the government and he is a socialist. They are
10 worried about events in Argentina. They are not worried about
11 Central America, by the way. Central America is off the map
12 at this time.

13 But they do form this Latin American organization,
14 and the delegates in 1977 to the CAL meetings, there are a
15 number of names from El Salvador, but the two that I think are
16 most important are Roberto D'Aubuisson and Francisco Guerrero.

17 I mention him, because he later is the President of
18 the Supreme Court. And that's -- becomes very important in
19 the -- and he becomes President of the -- of the Salvador
20 Supreme Court during various investigations of the Romero
21 assassination.

22 THE COURT: Was he a military officer?

23 THE WITNESS: No, he is not a military officer. He
24 is a wealthy Salvadoran. And there are important positions
25 that have always, as this extreme Right faction formed and

1 articulated itself with an ideology, with positions and with
2 links between civilians and military, there were key positions
3 that they deliberately sought.

4 And there are certain positions in the military, for
5 example, the heads of every single intelligence group in the
6 military in the National Guard, in the National Police, in the
7 Treasury Police. The intelligence units and the investigative
8 units, they always wanted to control those. They always
9 wanted to control the Supreme Court. So every single
10 president of the Supreme Court from the late 70s on, is an
11 extreme rightist in this circle.

12 There are other positions they wanted as well, but
13 these are the ones that are most important.

14 THE COURT: Do the Supreme Court judges have, as a
15 condition to their position, the requirements of legal
16 training? They have to be lawyers?

17 THE WITNESS: Absolutely, they do need legal
18 training. And it's a question of, again, which group and
19 which faction controls which positions.

20 BY MR. Van AELSTYN:

21 Q. You mentioned that there was concern amongst the far Right
22 in the early 70s in the Southern Cone.

23 Did concerns start to grow in Central America when
24 Nicaragua had its revolution?

25 A. Yes. What happens -- and just to follow the chronology a

1 bit, in 1977, D'Aubuisson and other Salvadorans become part of
2 this world organization, and I will show you later some of
3 their positions and resolutions, et cetera, and particularly
4 their positions on priests.

5 But what becomes important is that even before the
6 Nicaraguan revolution, and before the coup of October '79,
7 there is an ideology that is extremely strong in this group,
8 and that is that they believe very, very strongly that the key
9 enemy is not, in fact, the Communists, but it's the moderates.

10 And the reason for that, and I will be able to show
11 this later and demonstrate this through certain things, the
12 reason for that is that it's moderates, meaning Christian
13 Democrats, that open the door for Communism. That's what they
14 believe. That if the door is slammed shut, you are safe. But
15 if somebody opens it a little bit, the people behind them can
16 push through.

17 And so D'Aubuisson believed, and he said this all the
18 time --

19 Q. You testified yesterday that you met him several times?

20 A. Uh-huh.

21 Q. Did he tell this to you?

22 A. Yes, he did. I am really interested in these things, so
23 probably -- he was very proud of his political sophistication,
24 and I think not many people understood how sophisticated he
25 was in his thinking. I think not many people appreciated --

1 he was sort of seen as a thug with a right wing death squad.

2 And, in fact, he really did have a plan. That became
3 clear later as he became a presidential candidate and as he
4 ran for the president and as he became head of the
5 legislature, which he did, and as he grew in stature.

6 The things I'm saying later became clear to the
7 people, but in the early days, that wasn't clear.

8 One of the things I remember -- he has said this to
9 other people as well, but one of the things I most remember
10 about him saying to me, is that he was talking about moderates
11 being Communists, basically, and I said -- he would name
12 people.

13 He would say, "You know, Duarte is a Communist."

14 Q. Didn't you say the Christian Democrats were very
15 anti-Communists?

16 A. Yes, so that was strange to me.

17 And so I would say, "You know, they have this
18 platform, the Christian Democrats. They are anti-Communists.
19 The International Christian Democracy fought in World War II
20 against Communism. They have always been the opposition to
21 Communism. So how can you say they are Communists?"

22 And he would say, "You know, the thing is you can be
23 a Communist without knowing you are a Communist. You don't
24 have to know you are a Communist."

25 And he would -- he did this early, even before he was

1 president. He would --

2 Q. Before he was president?

3 A. Excuse me, before he ran for president. I'm sorry.

4 Even before he ran for president, he would pick up,
5 if you were with him and he had it next to him, he would pick
6 up a watermelon, because a watermelon is green and the color
7 of the Christian Democratic party is green. And he would cut
8 open the watermelon, and he said, "See? Green on the outside,
9 red on the inside." That's what he would say.

10 And he would say, "You can be a Communist and not
11 know you are a Communist."

12 And for him, the real danger, and I think this has
13 not been understood very well because of what happened
14 subsequently in the civil war, but at this time, the real
15 dangers are what he considered moderates, who, like Christian
16 Democrats and, eventually, I think you will see, the Church.

17 Now, what happens with the Nicaraguan revolution in
18 1979 --

19 Q. One question before you go there. At this time in 1977,
20 '78, is there a guerilla army, the FMLN that conducted the
21 civil war in the mid-80s?

22 A. No. It does not exist. What they are is they are small
23 armed groups. They are quite small. They don't really gain
24 strength until the very late 70s. So when I say "gain
25 strength," even by the time Archbishop Romero is murdered,

1 there are still relatively small armed groups.

2 They -- we don't know exact numbers, but very, very
3 small, maybe not even a thousand members, for example. Very
4 small armed groups.

5 They are fighting each other in factions, in five
6 factions. So there is -- and some of them are Communist and
7 some of them are not, or espouse a kind of Communist ideology
8 and some of them are not.

9 The FMLN guerilla army forms after the murder of
10 Archbishop Romero, and the actual war between the guerilla
11 army and the Salvadoran army -- they are not two armies until
12 after Archbishop Romero is assassinated.

13 Q. So in '77 and '78, when D'Aubuisson is developing his
14 ideology, he doesn't view those very small armed groups as the
15 problem, he views the moderates as the problem?

16 A. That's right. Absolutely.

17 Q. And then --

18 A. Particularly the Christian Democrats. And particularly
19 the Church. So there are two groups that had his animus.
20 There was the Christian Democratic Party and the Church.

21 THE COURT: Let's take the morning recess at this
22 time. We will stand in recess until 11:00 a.m.

23 MR. Van AELSTYN: Thank you, your Honor.

24 (Recess)

25 MR. Van AELSTYN: We will continue with Professor

1 Terry Lynn Karl.

2 THE COURT: We are back on the record in Doe versus
3 Saravia.

4 Mr. Van Aelstyn, you may proceed.

5 MR. Van AELSTYN: Thank you, your Honor.

6 BY MR. Van AELSTYN:

7 Q. Professor Karl, I believe you were about to start going
8 into the impact of the revolution in Nicaragua on these
9 developments.

10 A. Yes. Just before I said that, you asked me the question
11 before that was: What D'Aubuisson was doing in 1977 after
12 Molina was replaced as president?

13 And I talked about his international links with
14 Taiwan and with the World Communist League and then later, the
15 Confederation of Latin American Anti-Communists.

16 I wanted to just say something else about that. The
17 Confederation of Latin American Anti-Communists is the place
18 where leaders of death squad activity actually met.

19 And when you look at who attended these meetings,
20 particularly the Chileans and the Argentinians, almost all of
21 them have subsequently been tried, by the way, in the
22 Democratic system that followed the military authoritarian
23 regimes --

24 THE REPORTER: I'm sorry, "military authoritarian
25 regimes" --

1 THE WITNESS: In Latin American, when military
2 authoritarian regimes were replaced by democratic regimes in
3 both Argentine and Cotina (phonetic). And very recently, in
4 Chile, there have been efforts to try officers for human
5 rights abuses. The officers that have been tried and
6 convicted, a number of them, appear in the meetings of the
7 Confederation of Latin American Anti-Communists.

8 I have reviewed all their records and they keep
9 records of who actually attends different meetings or who
10 attends their annual meetings.

11 And they began to share among them how you -- the
12 techniques of how you organize paramilitaries, how you
13 organize death squad apparatuses, et cetera, and they began to
14 help each other out and they even visited each other's
15 countries and helped each other out.

16 D'Aubuisson was part of this from 1977 on. And as I
17 said, it seems like the death squad that he was a part of,
18 which is called the White Warriors Union, and in Spanish, it's
19 called the "Union Guerrero Blanca" and its initials are UGB.
20 I'm going to single that one out because it becomes important
21 again.

22 It's one of the first. It is founded during this
23 period. And the reason that it is founded in this period is
24 that the pressures for land reform are becoming so great that
25 landowners, the military, ORDEN, all of these groups, are

1 organizing more and more, and the violence is growing to try
2 to stop, particularly, the organization of farm workers
3 unions. Also unions in the cities, but I think the chief
4 concern was in the rural area.

5 So D'Aubuisson, one of his activities at this time
6 was the beginning of an organization of a death squad
7 apparatus, and that's very important in the '77 period,
8 because that's when that first appears.

9 In 1979, there is a revolution in Nicaragua, which is
10 right next door to El Salvador. And what happens in that
11 revolution is the National Guard, under the Somoza family, the
12 Somoza dictatorship comes apart. It actually is defeated, and
13 it actually breaks up as an institution.

14 The National Guard was the brother institution of the
15 Salvadoran armed forces and military. So they see, in 1979,
16 that something that had ruled the country for a very long
17 period of time suddenly is gone. It just is no longer in
18 power. It is defeated, and it disappears. And it absolutely
19 panics them. This is very clear in all kinds of internal
20 writings and their discussions. They all mention, everybody
21 mentions it when you interview them among the military
22 officers.

23 So, first, is this sense that if reformers actually
24 take power that there may not be a military any more. They
25 may not just -- it won't just be your clique out of favor, it

1 will be the whole thing will be gone.

2 And remember, when I talk about a clique in favor or
3 out of favor, there is still the government, there is still
4 the elite, there is still the High Command, and they are going
5 to lose a lot, not just in terms of power, but also in terms
6 of position and ability to make money and all kinds of things.

7 So this is a real fear. The Nicaraguan revolution
8 just strikes terror to the hardliners.

9 The second thing that happens is in October 1979,
10 there is actually a military coup in El Salvador. Now, this
11 is, again, not unusual.

12 There are both elections, and then every once in a
13 while, something goes wrong with the military president and
14 then a faction of the armed forces overthrows the president in
15 power. There is what we call "internal military coups," so
16 it's not a coup against a Democratic government, it's a coup
17 against the authoritarians already in power.

18 Q. So the different factions within the High Command that
19 take turns, you testified --

20 A. Right.

21 Q. -- before with regard to elections sometimes don't wait to
22 take their turn?

23 A. That's right. And so there are some times they move more
24 quickly than they would in a normal electoral cycle. And, in
25 this case, in October 1979 -- and this is really the key event

1 for, I think, understanding the Romero assassination. In
2 October 1979, for the very first time in history, there is a
3 coup of junior officers led by a Colonel Majano, who moves
4 against the military government of Colonel Romero. So it's
5 one Colonel against another Colonel.

6 It's what we refer to, even though it's led by a
7 Colonel, we actually refer to it as a "junior officers coup,"
8 because most of the people in it were younger officers moving
9 under the orders of Colonel Majano. So he is the Colonel.

10 THE COURT: Is this accomplished by force, military
11 force?

12 THE WITNESS: Well, these are not usually done that
13 way. It really depends on who controls the First Brigade,
14 which is the brigade in San Salvador. And in this case, it's
15 who has the -- as in any country, it's the capital city that
16 really matters.

17 And in El Salvador, if you have the city of San
18 Salvador, you have El Salvador. There is no other place that
19 is as much of a center of power. So it isn't really
20 accomplished by force, and yet the force is right there.

21 You are leaving Colonel Romero --

22 THE COURT: It's a bloodless coup.

23 THE WITNESS: It's a bloodless coup, exactly. So
24 Romero, who was extremely repressive, Colonel Romero,
25 extremely repressive, and who had jacked up the level of

1 oppression very much, Romero is -- and there are -- it's the
2 beginning of death squad killings. You are starting to see
3 bodies. You are starting to see bodies around in rural areas
4 that are marked, either with a white hand, which means it's
5 the White Hand Death Squad that got you, or with a "UGB" that
6 means it's the White Warriors Union that killed you, or you
7 may just have an "EM" written on you, which stands for
8 "esquadron de muerte," which means "death squad." These
9 bodies are starting to appear in great numbers.

10 BY MR. Van AELSTYN:

11 Q. You mentioned Colonel Romero's presidency being
12 particularly repressive. He came into power in 1977, you
13 testified, and I believe you had testimony earlier that
14 Archbishop Oscar Romero was elevated to become Archbishop
15 around the same time?

16 A. That's right.

17 Q. What was his relationship there in the same seat of power,
18 San Salvador, with President Romero?

19 A. Well, as these -- the number of bodies appear and grow and
20 as they become very visible and as very explicit threats
21 against priests begin, and as priests start being killed, he
22 is then -- the Archbishop Romero, begins to change how he
23 understands the country, and he, for the first time, does
24 something that is never done in the history of El Salvador.
25 As the Archbishop, the highest religious authority, he refuses

1 to attend the inauguration of Colonel/President Romero.

2 So this is the very first visible thing that
3 Archbishop Romero has done that shows that he is not content
4 with the way events are moving in El Salvador.

5 And it is very, very controversial. Because the
6 Archbishop is -- there is the military, the landowners and
7 God. And it's -- to not attend is a tremendous insult, if I
8 can put it that way. Even though he was an extraordinarily
9 courteous man, it was a tremendous insult to Colonel Romero.

10 Q. Okay, thank you. I believe you were talking then about
11 the coup in 1975 -- '9 by the junior officers?

12 A. So in October 1979, there is a coup led by Colonel Majano.
13 What is important at this moment is that nobody is very sure
14 what Majano's own positions are. And when I say that, there
15 are -- the military at this point has, although most of the
16 military and the overwhelming number of the officer corps and
17 the High Command are hardliners, there are some reformers
18 inside the High Command and at the level of Colonel.

19 So that's -- and the other thing I want to say about
20 this, why this is so important at the level of Colonel, is in
21 all of my years working in El Salvador and asking every single
22 Colonel and then General I met, "Have you ever had orders
23 disobeyed?" I never had anybody say yes.

24 In other words, when a Colonel said, "We are going to
25 do this," you say, "Si, mi Colonel." And it wasn't just "Yes,

1 sir." It was "Yes, my Colonel." You were "my Colonel." And
2 I have never encountered a case when a Colonel gave an order
3 and it was not obeyed.

4 So when Majano comes in as the top of this what we
5 now know as a reformist coup, we didn't know what kind of a
6 coup it was at that time, and that meant that nobody was quite
7 sure where Majano was going to come down in what, inside the
8 military, had become a growing fight over the issue of reform.

9 Now, when I say it's a "growing fight," the division
10 was -- and again, you have to think of the High Command as the
11 governing body of the country, the division was whether you
12 were going to have no land reform at all, never do anything to
13 change, or whether you would do a little reform so that you
14 could keep more stability in the country.

15 And there were those Generals -- or excuse me, they
16 weren't Generals, they were the Colonels at the time, who were
17 hardliners, but who thought not of a big land reform, just a
18 little bit of something might be a good idea. And there were
19 other hardliners who said absolutely nothing. And then there
20 were reformers who wanted more. And nobody quite knew -- they
21 knew that Majano wanted something, but they didn't know how
22 much.

23 Q. Did Majano then become president?

24 A. Majano sets up a governing junta. It's called a "junta,"
25 J-U-N-T-A, and he is the head of that junta. The day he takes

1 power --

2 Q. I'm sorry. How many members of the junta are there?

3 A. Actually, I don't remember, but I think it's -- actually,
4 I don't remember.

5 Q. Okay. I'm sorry. Carry on.

6 A. The day that Majano takes over, Roberto D'Aubuisson comes
7 to see him. The very day of October 15th, the day of the
8 coup, he comes to see Majano and he offers his services to
9 Majano. He said, "I am here to serve you, sir." In other
10 words, he is saying my loyalties are going to go to you now.

11 And Majano knows, because by this point, Roberto
12 D'Aubuisson is a very well known ultra hardliner. Majano
13 says, "I don't need your services."

14 Q. To whom?

15 A. This is Colonel Majano speaking. He says, "I don't need
16 your services, go back to your position." D'Aubuisson's
17 position is in ANSESAL, he is number three, and ANSESAL is the
18 intelligence agency of El Salvador.

19 So this is a very important defining moment because
20 it is Majano saying, "You are not going to work with me."

21 The next thing that happens that is extremely
22 important in just these very first days after the October 1979
23 coup, several extremely important things happen. The first is
24 that Majano makes clear that they are going to kick out of the
25 military the most repressive hardliners linked to Colonel

1 Romero. In other words, they don't just get to go back and be
2 in the military and be not the godfathers, but they are going
3 to have to get out of the military. They are going to be --
4 the term is "cashiered." They are going to be pushed out of
5 the military.

6 Now, this only happens, you know, in a very rare
7 sense when some officer has done something to really displease
8 you and you might be cashiered. But there is never a
9 wholesale cashiering of, say, 80 officers out of the military.
10 So that's one of the very first things that Colonel Majano
11 does.

12 The other thing he does, which appears in
13 legislation, but the decision is made in the very first days
14 after the coup, is to disband two organizations. One is
15 ORDEN, which is the root of the Molina Group's death squads.
16 And the other is ANSESAL, which is the intelligence agency
17 controlled by the Molina Group.

18 So he makes, in this -- when I said there were these
19 three types of repressive apparatuses, the normal army,
20 military forces, et cetera, ORDEN and ANSESAL, he is saying,
21 we are kicking out ultra hardliners from the military and we
22 are going to dismantle this paramilitary and intelligence
23 apparatus.

24 Q. And this is shortly after Colonel Majano came into power
25 in 1979?

1 A. That's right.

2 Q. And you base this information on what?

3 A. Well, this is actually quite public record, because there
4 are decrees eventually that you can see, the decrees show you
5 that these were actual orders given. They don't show you when
6 the decision was made necessarily to do it, but in the first
7 weeks after the coup, all of these things are decreed.

8 Q. And you spoke, as well, of the things that Colonel Majano
9 has said to you?

10 A. Oh, absolutely. The other thing is it becomes very clear
11 that Colonel Majano is going to favor a land reform and he
12 invites civilians into the government. The civilians he
13 invited into the government -- if a civilian was invited into
14 the government in the past, it's usually because he is the
15 banker of the military or the friend of the military, and it's
16 a point of honor that the military is giving to someone else.
17 Bankers were really often invited into the -- as a civilian,
18 as member of a military junta.

19 In this case, Majano invites Christian Democratic
20 Party members into the governing junta. So it is a military
21 civilian junta in which, for the first time, reformist
22 officers are in power and the civilians they invite is a
23 civilian political party that is on record for land reform and
24 democracy.

25 Q. And what is the reaction to that development by the Molina

1 Group, including D'Aubuisson and others?

2 A. The Molina Group immediately organizes itself. And
3 Colonel Gutierrez, who is a Colonel at the time, so that means
4 he's in the highest levels of the officer corps, Colonel
5 Gutierrez calls up Roberto D'Aubuisson, and he says, "Go over
6 to ANSESAL, go over to the offices of the intelligence agency,
7 and take out all of the files and all of the dossiers." The
8 dossiers are the dossiers of people they think are suspect,
9 are subversive. They are anybody who has entered their files
10 as somebody against the military regime.

11 And Colonel Gutierrez orders D'Aubuisson on the day
12 of the coup to go over to ANSESAL to remove the files and take
13 them out of ANSESAL and put them in the estado mayor, in other
14 words, in the military High Command headquarters. So move
15 them out of the government, the military as government, and
16 put them into the military as military, where they are going
17 to be safe and where they cannot fall into the hands of the
18 civil -- the new civil military junta.

19 So that would mean that, for example, the new
20 government, the Christian Democrats, wouldn't be able to see
21 these files. He tells D'Aubuisson to do that.

22 Q. And is D'Aubuisson and Gutierrez cashiered? Are they
23 amongst those officers?

24 A. No. D'Aubuisson is in the Army. He is not a cashiered
25 officer. He is not an officer that is kicked out. This is

1 the day of the coup.

2 So the officers that are kicked out are not yet
3 kicked out and he is not actually one of them. They kick out
4 the people who are close to Colonel Romero, and remember,
5 D'Aubuisson is in a different clique. He is part of the
6 Molina Group. So he is a military officer. His Colonel is
7 Colonel Gutierrez, "Mi Colonel" (saluting) for him. He is a
8 Major at the time. And --

9 THE COURT: Who is the Major?

10 THE WITNESS: D'Aubuisson is a Major. He is a Major
11 at the time. And Colonel Gutierrez calls him up and orders
12 him to take out the files and to put them in the military High
13 Command.

14 He also later, with Colonel Garcia, who is another
15 member of the Molina Group, and who is Minister of Defense in
16 the new junta, he is later -- he is not cashiered. He remains
17 an active military officer on pay from the military.

18 BY MR. Van AELSTYN:

19 Q. Who does?

20 A. D'Aubuisson, excuse me. D'Aubuisson -- actually, I'm
21 sorry. Let me step back. D'Aubuisson takes the files --
22 before I get into his situation in the military.

23 D'Aubuisson takes the files under the orders of
24 Colonel Gutierrez. He moves the files, but before he moves
25 the files, he takes a large number of the files for himself

1 and keeps them.

2 So one set of files goes to the military High
3 Command, where the new government cannot see them.

4 Another set of files remains in D'Aubuisson's
5 personal possession.

6 Q. What other steps do D'Aubuisson and the other members of
7 the Molina Group do in response to the development of the
8 coup, not necessarily that day, but --

9 A. Well, this is the key decision they make. They are, if
10 you think of it from their point of view, they are very
11 scared. There has been a revolution in Nicaragua. There is
12 some civil military coup in their own country. That coup is
13 run by a Colonel who is showing up -- showing that he's a
14 reformer. He has invited the Christian Democrats in the
15 government, and they think the Christian Democrats are worse
16 than Communists. "You can be a Communist without knowing you
17 are a Communist." They think that they may be losing the
18 whole thing.

19 Q. You indicated earlier that in the previous phase, Colonel
20 Medrano's strategy is, you testified, includes the development
21 of ORDEN and ANSESAL.

22 With the Colonel Majano Group seeking to disband
23 ORDEN and ANSESAL, what kind of strategy did D'Aubuisson and
24 the others then develop in response?

25 A. D'Aubuisson, in some ways, modified the strategy that he

1 already had. He had, as I said, he had been in Taiwan. He
2 had been deeply influenced by this model of -- it's a single
3 party system, but it's a military party, the military, et
4 cetera.

5 When this was all happening, he -- and it wasn't just
6 his strategy, it was a strategy by the whole Molina Group.
7 They are afraid of two things: They are afraid that they are
8 losing control of the military. When I say "they," the
9 hardliners, that in fact the reformers are going to be in
10 power in the military and the military is not going to be
11 reliable any more to fight land reform. The military won't be
12 reliable. It might decide to leave power and let there be
13 Democratic elections. They are very worried about the
14 reliability of the military as an institution if reformers
15 control the decisionmaking process.

16 So they are not sure whether -- and they know they
17 are going to fight this. These are people who are extremely
18 fanatically against any form of reform. And those who are not
19 fanatics in terms of their real ideology, and really -- those
20 who are not still want to stay in power. They want to keep
21 the military as an institution and they want to be in power.

22 So they develop a strategy that I call
23 "inside-outside." And what I mean by that is they decide to
24 fight inside the military to try to get the chief positions
25 within the military back from Colonel Majano, from the

1 reformist faction of the military.

2 But at the same time, just in case that fails, they
3 set up an apparatus outside the military. And Gutierrez and
4 Carranza, who are the two Colonels at the time, order
5 D'Aubuisson to cashier himself. In other words, to leave the
6 military and to operate outside the military as a form of
7 security and to help set up an apparatus just in case the
8 military, as an institution, falls under the control of
9 reformers.

10 So D'Aubuisson leaves the military. He makes it
11 public that he has left the military. Now, in fact, and I
12 have seen the documents on this, in fact, he is still on the
13 payroll of the military. He still is on the list of active
14 duty military officers, where he remains through at least the
15 assassination of Archbishop Romero.

16 Q. Professor Karl, you mentioned earlier that D'Aubuisson was
17 a Major.

18 A. Yes.

19 Q. Were you here the other day when Amado Garay testified?

20 A. Yes, I was.

21 Q. He referred to -- what did he refer to D'Aubuisson as?

22 A. He kept calling him "Colonel" D'Aubuisson. I have noticed
23 this a number of times. I have no evidence of this except for
24 Mr. Garay's testimony and another incident that I have seen
25 like this. But you do not mix up ranks in El Salvador. You

1 know when somebody is a Major. You know when somebody is a
2 Colonel. This is very important, because this is the
3 governing body. If you are a Colonel, you are the boss of
4 this country.

5 And I have seen two examples, Mr. Garay is one, where
6 D'Aubuisson is referred to as "Colonel" D'Aubuisson. I do not
7 know whether -- to finish, I know he stayed on the payroll of
8 the military. I know he stayed on the active list of military
9 officers. I know he also received money from a special
10 intelligence account in the military, a secret intelligence
11 account.

12 I do not know whether he was actually promoted or
13 not. But it is clear that some people were calling him
14 Colonel D'Aubuisson.

15 Q. And was --

16 A. He, however, responds, just to be clear to Gutierrez,
17 Carranza, and others as his commanding officer.

18 Q. Okay. You mentioned earlier that Alvaro Saravia was
19 working with D'Aubuisson earlier. Is he involved at this
20 time?

21 A. Alvaro Saravia, as I said, they formed their relationship
22 as part of the team that guarded Colonel Molina when he was
23 President. So they were part of the Presidential Guard of
24 Colonel Molina.

25 D'Aubuisson, as soon as he takes the ANSESAL files,

1 the intelligence files, and as soon as he at least appears to
2 leave the military, he asks Alvaro Saravia to be the head of
3 his personal security. So Alvaro Saravia, at this moment,
4 right after the October coup, becomes the chief security
5 person of D'Aubuisson.

6 Now, when I say "personal security," I don't mean his
7 bodyguard. D'Aubuisson had other bodyguards. I mean the head
8 of D'Aubuisson's -- his Chief of Security. That's a better
9 way to put it, his Chief of Security. And that is what
10 Captain Saravia does.

11 Remember, for Captain Saravia, D'Aubuisson is his
12 commanding officer. So Captain Saravia becomes the Chief of
13 Security of Roberto D'Aubuisson.

14 Q. And D'Aubuisson had a portion of the ANSESAL files?

15 A. Yes, he did.

16 Q. What did they then do? Who -- what names were in these
17 files?

18 A. They did several things. As the events -- this is an
19 extremely traumatic time in El Salvador. Things are changing
20 daily. You don't know exactly what's happening, whether the
21 reformists are going to take command of the armed forces,
22 whether a land reform is going to happen, whether the
23 civilians are going to be allowed to stay. It's a very fluid
24 moment, and it's very controversial moment.

25 Q. Who were their enemies, D'Aubuisson's?

1 A. D'Aubuisson's enemies?

2 Q. Yes. Who did he perceive at that time to be the enemy of
3 his faction within El Salvador?

4 A. Well, I think the way D'Aubuisson thought is that anybody
5 who wasn't his very close friend was his enemy. And the
6 reason I put it that way is that his enemy was a broad
7 umbrella of anybody who wasn't a hardline military officer.
8 And that umbrella was focused primarily, in my view, on the
9 Christian Democratic Party, as a party, and on the Church.

10 Q. On the Church itself?

11 A. On the Church, absolutely.

12 Q. And did -- what did he do with regard to his views of the
13 Church, and then how do you know that?

14 A. Well, the first thing -- can I step back just a moment,
15 because what actually happens then is Roberto D'Aubuisson
16 becomes the point man for the military in setting up a
17 replacement for ORDEN. And a replacement for a -- an
18 intelligence apparatus.

19 So while there is a formal decree to disband the
20 ORDEN, and while there is a formal decree to disband ANSESAL,
21 the intelligence agency, the intelligence agency and its
22 files, that whole apparatus is not dismantled, is not
23 disbanded.

24 And the files belong in two places: In the High
25 Command and with D'Aubuisson. And the ORDEN apparatus becomes

1 a network of death squads throughout El Salvador.

2 So it's very important that while they were formally
3 disbanded, they were not disbanded, but they transformed into
4 this other type of repressive apparatus with D'Aubuisson as
5 the point person who looks civilian, but is not, and who looks
6 like he isn't a part of the military, but is a part of the
7 military.

8 And this is very important, his specific job, and it
9 actually was his job for a while, was to do the kinds of
10 things that would have been too controversial for the military
11 to do.

12 So the whole practice of traveling and taking off
13 your uniform, being a military man, but carrying out acts
14 without your uniform, is a practice of what we call in
15 political science, it's a "deniability practice"; it means you
16 can say, "We are not doing that, somebody else is doing that."
17 And that is his job.

18 The other thing is he becomes the specialist under
19 the orders of the people -- under the -- in conjunction with
20 the people who are his network, the Molina Group, he becomes
21 the specialist in what are called the high profile
22 assassinations. He becomes the specialist. And his death
23 squad, the first one, the Union of White Warriors,
24 specializes, in particular, in the killing of priests. And I
25 can show you some, if you want to discuss the Church, I can

1 maybe show you why that's the case.

2 But it's important that he is the point man that
3 Captain Saravia is his Chief of Security, which means he is
4 his most -- one of his most trusted colleagues.

5 Q. And were priests indeed being killed?

6 A. Yes, they were. Now, I have prepared some exhibits that I
7 would like to show to show how the Church -- how this
8 extremely right wing fanatic network began to target priests
9 and why they did.

10 And we have to go back to the 1977 period. And,
11 again, I don't quite know how to express the visceral
12 animosity to the changes that are going on in the Church. And
13 the best way I can do it, frankly, because I took a delegation
14 of -- when I was teaching in Harvard, I took a delegation of
15 Congressmen and senators from Massachusetts to El Salvador,
16 who were trying to learn about El Salvador.

17 And they asked the man who was the president of the
18 chamber of commerce at the time this question. They said,
19 "Sir, is it the Cubans, the Soviets and Nicaraguans that are
20 causing problems here in El Salvador?"

21 And the -- this was in Spanish, so they asked the
22 question in Spanish. And the landowner said, "No."

23 This was very early in the Salvador story, because
24 later they wouldn't say this. But the very early part of the
25 story, he said, "No, it is not the Cubans, it is not the

1 Soviets, it is not the Nicaraguans."

2 And so a senator, who was Catholic, said, "So who is
3 it who is causing these problems here in El Salvador, sir?"

4 And the landowner said, "Es la Iglesia." "It's the
5 Church."

6 And our translator was sick so I actually did the
7 translation at this moment. When I turned to the delegation
8 and said, "It's the church," they started saying, "He didn't
9 say that. You must have misunderstood."

10 And I said, "No, he says the Catholic Church is
11 causing all the problems."

12 And they said, "No, you must have misunderstood."

13 So we were having this conversation in English on the
14 side and it turned out that the landowner spoke perfect
15 English, so he turned around and said to the senators and
16 delegation there, he said, "No, no, Congressmen. It's the
17 Church, it's the Catholic Church," in English.

18 So it was this visceral sense that -- and the
19 language that D'Aubuisson and others would use, you are going
20 to see some of it in a moment, but the language they would use
21 when they described it, is that a priest was no longer --
22 somebody who has been a priest and was dressed like a priest
23 and looked like a priest wasn't really a priest anymore.

24 And they used language, like in Spanish, they said
25 "antes era cura" or "antes era sacerdote," and what it meant

1 was before -- "he used to be a priest." It's two forms of
2 saying he used to be a priest. And it means that the person
3 standing before you who you and I might still think is a
4 priest is no longer a priest; he is something else.

5 Q. Were there any formal documents that reflect this
6 viewpoint?

7 A. Yeah. It's important that this is a huge change in
8 El Salvador because priests, and particularly archbishops and
9 bishops, were figures of great prestige and importance in the
10 country.

11 And what is surprising is to see this ideology in El
12 Salvador with no history or tradition of it.

13 I would like to go back to 1977, if I can for a
14 moment, to show you how this evolved, in terms of the
15 targeting of priests, why priests, in particular, become
16 targets.

17 And what you see in the period of time, actually,
18 from 1972 to 1977, is that this far Right network I talked
19 about, which is called the World -- the World League of
20 Anti-Communists -- excuse me, World Anti-Communist League and
21 its branch in Latin America, which was called the
22 Confederation of Latin American Anti-Communists, in their
23 conferences and records and documents and speeches, you can
24 actually track the beginning of targeting priests. You can
25 see the language how priests are becoming more and more

1 dangerous.

2 And you see this from 1972 to 1977, and I won't take
3 you through all this, but I would like to show you one thing,
4 which is Exhibit 135.

5 While he is looking for the exhibit, I will explain
6 what is coming. In 1977, with this growing rhetoric and anger
7 against the Church, the World Anti-Communist League passes a
8 Resolution. It's Resolution number 40 -- excuse me. 1978,
9 this is passed in Washington D.C. This is the culmination of
10 a whole period of time in which you see the Church becoming
11 more and more of an enemy.

12 Before I explain this resolution, in 1977, at their
13 conference, they adopted something that was called "Plan
14 Banzer." Plan Banzer or the Banzer Plan.

15 Banzer was the president of Bolivia, which was a
16 military authoritarian regime. It was named after him,
17 because it was the Bolivian delegation that came up with an
18 idea and this was to form an all Latin American network that
19 would monitor priests and the behavior of priests and keep a
20 dossier on priests to see whether they were suspect priests,
21 in other words, they were liberation theologians or they
22 weren't sufficiently conservative. But they would keep
23 political dossiers on priests, and this is the Resolution in
24 which Plan Banzer is adopted as a Formal Resolution of the
25 World Anti-Communist League.

1 Now, remember, D'Aubuisson is in these and attending
2 and a part of this network.

3 So they adopt, as you see, and they decide to set up
4 an office with files containing the names of priests and nuns,
5 along with their personal background, to be annually revised.

6 Q. What did they do with this information?

7 A. Well --

8 Q. In El Salvador?

9 A. Well, first, it's not just in El Salvador. Within two
10 years of this, for the first time in Latin America, at least
11 28 priests are murdered in two years by groups of armed men
12 not wearing uniforms. And I -- these records are obviously
13 very difficult to keep on an all Latin American basis, but at
14 least 28 priests are murdered. That's the Latin America
15 pattern.

16 What we see in El Salvador at the same time that Plan
17 Banzer is adopted, remember, that's '77, this is the Formal
18 Resolution in '78. In 1977, we see the formation of the White
19 Warriors Union, which is the death squad specializing in high
20 profile assassinations, and particularly specializing in the
21 assassination of clergy. And that is the one that D'Aubuisson
22 has set up.

23 And you begin to see in El Salvador, particularly in
24 1977, which is a very important year, this is when all of this
25 is occurring, you begin to see the real clamp-down on Catholic

1 clergy, Catholic lay people, nuns, et cetera.

2 Q. This is corresponding with the Colonel Romero regime as
3 well?

4 A. This is corresponding with the Colonel Romero regime.

5 Q. Was there any particular killing of a priest during this
6 early period of 1977 that was of any significance?

7 A. Yes. In 1977, Father Rutilio Grande was killed. And the
8 importance of this, again, from a political analysis
9 perspective, not from a religious perspective, there are
10 several things that are important about Father Grande's
11 murder.

12 He is murdered and along with him a 12-year-old boy
13 and a 72-year-old man who were part of his parish. And what
14 is important about this, for the perspective of this case, I
15 believe, is that the Rutilio Grande murder shows a pattern and
16 practice that starts to develop.

17 And what that is, if I can show you, if I can ask for
18 Exhibit 136. This is a flier which encourages people to act
19 violently against clergy criticizing the government. And
20 while I won't translate this, there are a number of other
21 exhibits that are in the Court's -- that are part of exhibits
22 in this case.

23 Q. Professor Karl, I notice down in the bottom of Exhibit 136
24 there appears to be a stamp. It states "Archivo Del
25 Arzobispado".

1 A. It is the archive of the Archbishop's office, which is
2 something that I regularly photocopied from and went through
3 as one of my sources of information.

4 And so I have a very large collection of death squad
5 threats. And this is a -- when they come in, they are stamped
6 of the date of the arrival. I think -- I can't remember if
7 this was already explained in court, but as these documents
8 would come in, they would come into secretaries. They were
9 always stamped when they came in, and there were records kept
10 of whether they were letters, if they were answered, if they
11 were not answered, whether they went to the personal attention
12 or was dealt with the secretary, et cetera. So this is the
13 way they kept their correspondence.

14 And that stamp means this was something received at
15 the Archbishop's office.

16 Q. Professor Karl, in your experience, is this the only one
17 that you have seen or are there others?

18 A. No. We have, I believe, as exhibits in the court,
19 although it would take a long time to go through all of them,
20 we have a number of death threats. I'm going to show you a
21 few for particular reasons.

22 But this one, I wanted to show because the pattern
23 and practice that I have observed over and over again in death
24 squads in general, and that you see in the Father Grande
25 assassination, is that first there are fliers saying these are

1 bad --

2 THE COURT: What do these headings say?

3 THE WITNESS: This is workers in the field, actually
4 peasants. "Alerta Trabajadores Del Campo!" It says,
5 "Attention, peasants," and it says -- the basic sense of all
6 this, says, "Don't let yourself be fooled. These are liars."
7 And they are talking about priests. They are saying, "Don't
8 let yourself be fooled. These priests are lying to you.
9 Don't follow them, don't listen to them, don't let yourself be
10 fooled."

11 And what is important in this one, although I can't
12 see it very well, I believe, is that it does not name a
13 particular priest, but it names a place, and the place is
14 Aguilares, which is where -- which is where Father Grande was
15 working.

16 In other words, you get a series of fliers that are
17 released. One says "Don't trust these people." The next one
18 says, "Don't trust," in particular, "people from this place."
19 The last one in this hierarchy of threats usually says, "You,"
20 and gives a name, "are going to die."

21 So it's not like you suddenly get killed. There is a
22 process of building up towards it. It's a process in which
23 people leave the country if they get one of these. If they
24 are named, they definitely leave the country, but the clergy
25 don't.

1 And so you have a situation in which you get this
2 buildup of terror. "Don't listen to people. They are liars."
3 The language is very similar in all of these. "They are
4 Judists. They are not doing the will of Jesus Christ." In
5 particular, "Don't trust people who live in this region." In
6 particular, "This man should die." And they'll eventually say
7 that. And I will show you examples.

8 THE COURT: Was that a priest who was named?

9 THE WITNESS: I will show you some examples of that
10 in a moment.

11 The other thing that's important about this is this
12 is the first killing of a priest in El Salvador in this
13 period, and it is a killing that is carried out, the group
14 that claims responsibility for it is the White Warriors Union,
15 which is the death squad I talked about that specializes in
16 killing clergy.

17 It is a very important killing because Father Rutilio
18 Grande was the person who had given the Eucharist to
19 Archbishop Romero and he was a very close friend of Archbishop
20 Romero's.

21 And Archbishop Romero knew that Father Rutilio Grande
22 was not a Communist. Archbishop Romero was a conservative,
23 remember, relatively conservative. He was actually a quite
24 timid and not outspoken person.

25 And from a -- others will probably describe this

1 better since I never met Archbishop Romero. But from a
2 political point of view, when you analyze Archbishop Romero's
3 statements and homilies, there is a very important change that
4 occurs. Because he begins to understand that there is a
5 fanatic Right out there that is not going to allow any reform
6 and that is going to kill priests and is going to call them
7 Communists.

8 BY MR. Van AELSTYN:

9 Q. If I may, Professor Karl, I don't think you finished with
10 your discussion of the pattern and practice concerning the
11 death squads targeting of priests. Could we perhaps go back
12 to that?

13 A. Yes.

14 Q. Is there another exhibit, number 137?

15 A. 137 is -- we can see 137. This is just to show you the
16 impact in El Salvador. These are some of the newspaper
17 headlines and some of the memorials to Father Rutilio Grande.

18 They say that the priest and two others were
19 assassinated in Aguilares. This is a big, big story, because
20 priests aren't assassinated.

21 And the other pattern and practice in this is, when
22 you analyze the accounts at the time, these are initially --
23 these killings are initially blamed by the military on the
24 Left. They are always saying, "It's the Communists who are
25 killing."

1 So even though this is a killing that is a death
2 squad killing and that the White Warriors Union claims credit
3 for eventually, it is initially blamed as a killing on the
4 Left.

5 Q. Could we see Exhibit 140?

6 A. As I said, there are many of these. This one is something
7 I wanted to show you because this shows that the devil makes
8 these two travel together. It's a "fellow travelers" kind of
9 story. And what you see is on my left it says, "traitorous
10 priests" or "priests that are traitors" and then on the right
11 is a Communist.

12 So what it's essentially saying, it says, "In the
13 time of Christ," underneath, "there was a Judas. Today, our
14 Judas has multiplied, and constitutes a nucleus of Marxist
15 priests inside the Church."

16 So the idea is to associate priests, particularly
17 priests who believe in what is called the "preferential option
18 for the poor," or ministering to the poor, to associate them
19 with Communism, to put them together, and to constantly
20 identify them as Communists.

21 There are, by the way, lots and lots of examples of
22 these. This is not a unique document by any means.

23 Q. And do these kinds of threats against priests start to be
24 targeted against Archbishop Romero as well?

25 A. Yes, they do. Initially, they are not. So what happens

1 is as pressures -- and you can track this politically. As
2 pressure for land reform builds up very strongly in 1977,
3 leading to the replacement of Colonel Molina by Colonel
4 Romero, who is an even hardliner, if I can put it that way, as
5 that builds up, so does the threats against priests, because
6 this is a reflection of the fear of land reform, let me put it
7 that way.

8 THE COURT: What do the two statements below the
9 text, "Por La Conversion De Estos" --

10 THE WITNESS: It says, "We pray to you, Lord, that
11 these priests will be converted," that they will convert back
12 into priests, essentially.

13 THE COURT: Who is Señor --

14 THE WITNESS: Señor is God. "Señor, please hear us."

15 So this is a July 1977 document that says -- and,
16 again, in the ideology, I heard this so many times in my
17 interviews: These were once priests. They are now converted
18 into something else, so would you please convert them back.

19 That's -- if you could blow that up again at the
20 bottom. That what it is is essentially saying, "We are
21 praying do you, dear Lord, that you will convert these
22 traitors."

23 So this is not a death threat per se. It is an
24 association of the way that priests were portrayed as fellow
25 travelers of Communists, and that once you became a fellow

1 traveler of a Communist, you were no longer a priest, even
2 though, again, you were a priest, but in the eyes of these
3 people, you were no longer a priest.

4 And I want to emphasize again -- if you want, we can
5 look at them, we have, I think, 20 or 30 death threats in --

6 BY MR. Van AELSTYN:

7 Q. Let's take a look at a couple. Could we have Exhibit 141,
8 please.

9 A. Now, this one is important, because this is the first one
10 that I have been able to find. It does not mean it is the
11 first one, but it is certainly the first one I have been able
12 to find which actually targets Archbishop Romero, but not for
13 death. This is the first one that associates him with
14 Communists.

15 And I need to explain it. It says -- the picture
16 there is a young person with a gun; as you see, it is
17 guerilla. It's what the army would have called the guerillas.
18 It would be the Left opposition, the Left armed opposition,
19 which, again, as I said, was very, very small at this time.

20 And you see the figure on the right is Archbishop
21 Romero. And what he is saying, and under that, the line at
22 the bottom says, "Humilde Catequista." That means "humble
23 catechist." And you see "How can my innocent boys be
24 guerillas?" What it is saying is Archbishop Romero is naive, he
25 doesn't get it. He doesn't get that the people that he is

1 working with are guerillas. They are really guerillas, they
2 are really Communists.

3 Q. And do threats against Romero start to develop?

4 A. It's not just threats against Romero. And again,
5 remember, he is an Archbishop. And there has never been an
6 Archbishop killed, I believe, in the history of Latin America.
7 So he is untouchable at this time. If you go back to 1977, it
8 would have been inconceivable that an Archbishop would be
9 murdered. Inconceivable.

10 So this is a statement that he is being used. It's
11 not really a death threat, in that sense. But what does
12 happen at this time, is there are, in 1977, a series of other
13 threats, and in particular, in the middle of 1977, a series of
14 death threats come out. In particular, one that gives all
15 Jesuits 30 days to leave the country or they will all be
16 murdered. So there is a threat. It is written everywhere.
17 You could actually see graffiti that said "Be a patriot. Kill
18 a priest."

19 There was a written threat, a series of written
20 threats that gave Jesuits 30 days to leave the country. So
21 there is this tremendous buildup, not against Archbishop
22 Romero in particular, but against the Jesuits, which is the
23 dominant order in El Salvador.

24 And what you see in this period of time is it's so
25 strong with this "30 days or we murder you," and it is again

1 this pattern. You get a warning. You don't just die, you get
2 a warning. But these warnings are very serious, and they have
3 already killed somebody, and this warning comes after having
4 killed, I believe, two priests, so this is a sense that this
5 is a very, very serious warning.

6 Q. And this is in mid '77?

7 A. This is in 1977. I should say that the United States took
8 this as a tremendously serious warning. And so there were
9 Congressional hearings in 1977 on the -- on religious
10 persecution in El Salvador, in which much of the documentation
11 that I have from this period was also presented to the U.S.
12 Congress and is in the Congressional record, including the
13 death threats against the Jesuits.

14 At the time -- and I think this is very important,
15 because in my own opinion, I believe that if this had
16 continued this way, Archbishop Romero would have been murdered
17 much earlier. But in 1977, with the Congressional hearings on
18 religious persecution, it was the Carter Administration, and
19 the Carter Administration, was the very first administration
20 in the history of the United States, to make human rights a
21 priority of national -- of our foreign policy, of U.S. foreign
22 policy.

23 So when he did that, and when this religious
24 persecution of priests, particularly the death threats against
25 a whole Order, there were these hearings in the United States,

1 and the United States took a very hard line on the military
2 government of El Salvador.

3 They sent high representatives of the U.S. government
4 to El Salvador to warn them that if anything happened to these
5 priests, a major outstanding loan that El Salvador had, which
6 I believe was \$90 million, which I must say, at that time was
7 a very big loan, it was a very important loan, they said if
8 anything happened to any of these priests, that the United
9 States would withdraw its ambassadors from El Salvador and the
10 loan would not go through.

11 And so what you see at this time is that the level of
12 threats against Jesuits, as an entire Order, disappears. In
13 other words, the 30-day deadline goes by. None of the Jesuits
14 leave.

15 I should say also this is a very big story not only
16 in El Salvador, but in the United States. It's in the
17 headlines of all our major newspapers because it's a death
18 threat against a major Catholic Order.

19 And so the threats actually subside in 1977, and even
20 though other priests are murdered at that time, they don't
21 really reappear again until 1979.

22 Q. That tension does subside a bit until 1979 --

23 Perhaps before we get to 1979, maybe this would be a
24 good time to have the lunch break.

25 THE COURT: Yes, we are going to take the noon recess

1 at this time. We will stand in recess until 1:30 p.m.

2 (The lunch recess was taken.)

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1 AFTERNOON SESSION

2 1:30 p.m.

3 THE COURT: Back on the record in Doe versus Saravia.
4 You may call your next witness.

5 MR. EISENBRANDT: Thank you, your Honor. Plaintiff
6 calls Father Jon Cortina.

7 THE COURT: Let me note for the record that upon
8 agreement with counsel, because of the urgency of time and the
9 schedules of certain of the witnesses who have travel issues,
10 we are going to interrupt the testimony of Dr. Karl, and we
11 are going to take some additional witnesses out of order at
12 this time.

13 Please come forward, Father.

14 JON CORTINA,
15 called as a witness on behalf of the Plaintiff, having been
16 first duly sworn, testified as follows:

17 THE CLERK: Please state your name for the record.

18 THE WITNESS: Jon Cortina.

19 THE COURT: You may proceed.

20 MR. EISENBRANDT: Thank you, your Honor.

21 DIRECT EXAMINATION

22 BY MR. EISENBRANDT:

23 Q. Father Cortina, I take it from your clothing that you are
24 a priest?

25 A. I think, I am. Yeah.

1 Q. What order do you belong to?

2 A. I am a Jesuit.

3 Q. Where do you live?

4 A. I live in San Salvador at the residence of the Jesuits
5 that work at the Central American University, PUCA, P-U-C-A.

6 Q. Where were you born?

7 A. I was born in Bilbao, in Spain, and I was sent by the
8 Jesuits -- as I began my life as a Jesuit, I was sent to
9 El Salvador in 1955. And I have been living in El Salvador
10 ever since, although every now and then, I was also out of
11 El Salvador for studies.

12 Q. Can you briefly tell me about your education background?

13 A. My education, university education, I am an engineer. I
14 have a license in Philosophy, in Humanities, and a Ph.D. in
15 engineering.

16 Q. Have you been able to use your engineering at all in
17 El Salvador?

18 A. Yeah, before I was in El Salvador, I used it as a means of
19 getting -- the possibility of continuing studying my studies.
20 But being in El Salvador, on several occasions, by building
21 some bridges, as I was living in Chalatenango or doing some
22 housing developments, as I was living also in Chalatenango
23 with the poor families, also in Aguilares, A-G-U-I-L-A-R-E-S,
24 some water supply for the communities.

25 Q. Were you in El Salvador in 1976?

1 A. '76, yes.

2 Q. Was it dangerous to be a Jesuit in El Salvador in 1976?

3 A. Well, it was dangerous to be a priest, because according
4 to the slogan that was popular and given, they said "Be a
5 patriot, kill a priest."

6 It was dangerous to be a Jesuit. They gave us a
7 month to leave the country and they said that we would be
8 military targets. Our house would be a military target. And
9 to scare the possible ones that could give us shelter, they
10 said that the houses of all those who gave us shelter would
11 also be military targets.

12 Q. When you say "they, who do you mean?"

13 A. Well, I heard the news on the radio, and it was the death
14 squads. It was the Union Guerrero Blanca.

15 Q. What does that mean in English?

16 A. The Union -- the -- the White Warrior Union.

17 Q. Did you leave El Salvador after that threat?

18 A. No, we did not. Actually, we were given the possibility
19 either of staying or of leaving. And all but one decided to
20 stay within El Salvador, so we never left.

21 THE COURT: How much were there? How many priests?

22 THE WITNESS: Jesuits, altogether, there would be
23 some like 25.

24 THE COURT: Thank you.

25 BY MR. EISENBRANDT:

1 Q. Did you know Oscar Romero?

2 A. Yes, I did.

3 Q. When did you first meet him?

4 A. Well, I am -- I just met him on the 9th of March, 1977.

5 This was Monseñor Romero had been appointed Archbishop on the

6 5th of February, 1977. He took possession of his office on

7 the 22nd of February, 1977.

8 And on the 9th of March, 1977, he called us for a

9 meeting of all the clergy plus all the Sisters so to discuss

10 the problem of having persecution to the Church. We priests,

11 after the many experiences we have had, we are, all of us, we

12 said there was persecution.

13 Monseñor was a bit shy saying that, and actually he

14 did like that with his finger in his collar (gesturing) and he

15 never accepted fully.

16 And then Rutilio Grande, who was a good friend of

17 Romero, he said, "Monseñor, I have many sheep, that they live

18 up in the hills. I have sent them up to the hills so that

19 they can be all right. So if you say that there is no

20 persecution, I'm going to call them down to the valley."

21 And Monseñor Romero said, "Well, no, no, it is better

22 that they stay up in the hills, where they stay hidden, still

23 hidden."

24 And that Rutilio answered again, "Then there is still

25 persecution?"

1 Romero said nothing. And the meeting ended that way.

2 I met Romero then on that 9th of March. The problem
3 is that three days afterwards, Rutilio Grande got killed.
4 They killed Rutilio Grande.

5 Q. Okay. Let me ask you, given that story, what did you
6 think about Romero when you first met him in March 1977?

7 A. Well, we thought -- we wanted the Archbishop to be
8 Rivera y Damas. We thought Romero was kind of a weaker man,
9 that Rivera y Damas was going to be a stronger man against all
10 of the problems we had at the moment.

11 My impression is that they elected, appointed,
12 Monseñor Romero, politically; they thought they could handle
13 him.

14 My impression is also that, humanly, you could have
15 some plans, and maybe the Holy Spirit has different plans.
16 And in this case, Romero became an extraordinary man.

17 When I first met him, I was a bit prejudistic, if you
18 wish, because we always thought of the man who was weaker as
19 Rivera y Damas, although we actually saw the possibility that
20 he could change, because he always said, "If you prove me that
21 there is this persecution, that it is so bad, then we will do
22 things in a different way. So we had the hope that he could
23 change.

24 THE COURT: Excuse me. I don't want to interrupt
25 your answer.

1 THE WITNESS: No, it is fine.

2 THE COURT: When you say politically they thought
3 they could handle him when he was appointed, was it not the
4 Church who appointed?

5 THE WITNESS: The Church appointed him, but the
6 President, they had to give some sort of an okay, which
7 presented the possibilities also through the papal nuncios,
8 they presented the possibilities of different bishops or
9 presented objections against certain candidates.

10 THE COURT: And so your answer referred to two
11 things. The appointing authority was the Church, but
12 politically, that was the President, when you said they
13 thought they could handle him?

14 THE WITNESS: Yes.

15 THE COURT: Thank you.

16 THE WITNESS: Yes.

17 BY MR. EISENBRANDT:

18 Q. How frequent was your contact with Monseñor Romero between
19 1977 and the time he died?

20 A. It was quite frequent. Mainly because at the time, as
21 Father Rutilio Grande got killed, I went to Aguilares to work.
22 At the beginning, only on Sundays, then on weekends, and at
23 the end, I spent in Aguilares every time I had a chance to
24 leave the university.

25 And being in Aguilares, it was a conflictive place,

1 and it was conflictive because of the level of organization
2 among the peasants. And that is why, quite often, I went to
3 ask Monseñor Romero what he thought on this point or the other
4 point, what I should be doing on that time.

5 I recall, for instance, the first time the campesinos
6 occupied the Church. They occupied the church, so I went to
7 see Romero. And we asked Monseñor Romero what he thought we
8 should do, either stay away from the Church or be with them,
9 not in the Church, but in the small house which was close to
10 the Church.

11 So Romero said, Monseñor Romero said, "I think the
12 most Christian thing is to be with people." So to accompany
13 the people. "That is the most Christian thing you could do."

14 So the three Sisters and myself, we immediately, we
15 went back to Aguilares and stayed with the community, with the
16 peasants, the organized peasants.

17 Q. Father, can you please look at that notebook in front of
18 you at Exhibit 4.

19 A. Yes.

20 Q. Can you tell me who the four prominent people are in that
21 picture?

22 A. Yeah. From left to right, Monseñor Luis Chavez y
23 Gonzales, he was the Archbishop, as I first arrived into
24 El Salvador. And the second person is Monseñor Oscar Arnulfo
25 Romero. The third person, the third Bishop is Monseñor Arturo

1 Rivera y Damas, and the fourth person is Father Rutilio
2 Grande.

3 Q. Do you know what this is a picture of?

4 A. This is in the ordination of Monseñor Romero as an
5 ordination of Archbishop. And for that occasion, Monseñor
6 Romero asked Father Rutilio Grande to be the master of
7 ceremonies because of the close friendship which existed
8 between Rutilio Grande and Monseñor Romero.

9 Q. So just to be clear, Rutilio Grande lived and worked in
10 Aguilares before he was killed; is that correct?

11 A. Yes, but before he went to Aguilares, he was at the
12 seminary, the major seminary, as a spiritual father of the
13 seminarians.

14 And there, there being the spiritual father of the
15 seminarians, Romero was living there also and they became very
16 good friends.

17 Q. Can you briefly describe the work that Rutilio Grande did
18 in Aguilares?

19 A. Well, for me, the most important thing Rutilio Grande did
20 was to be constantly with different communities, to accompany
21 all those communities, and to accompany them in the many
22 difficulties they had.

23 This accompaniment could crystallize, be
24 compartmentalized in sacramental work or in social work, human
25 rights work or whatever type or different activities as that

1 parish could have.

2 Q. So when you say "community," who were the community?

3 A. Well, the main community is the parish, but the parish in
4 Aguilares had 22 villages, so you could have 22 communities.

5 Now, within each of these main communities, 22 main
6 communities, through Rutilio's work, the work conformed what
7 they were called the "base communities."

8 And Rutilio worked, although not with the name, but
9 just in actually in the real practice with the base
10 communities, the Christian-based communities.

11 Q. And just very briefly, can you tell us what the base
12 communities did, what was the purpose for the base
13 communities?

14 A. Well, the main purpose of the base community is like to be
15 a ferment, when you put into the flour, if you are making
16 bread. So the flour --

17 AUDIENCE MEMBER: Yeast.

18 THE WITNESS: I'm sorry.

19 THE COURT: Let me indicate, just as a matter of
20 procedure, that we should let the witness answer himself. I
21 appreciate the audience would like to help, but let's let him
22 give his own answers. Thank you.

23 You may continue, Father.

24 THE WITNESS: Thank you. Well, the Mass, the
25 community will increase, will improve because of this small

1 community which is the yeast of the community. So
2 theoretically, say, speaking in very simple terms, that is
3 what that this implied.

4 Then within the base community, you are going to have
5 different aspects of work. You are going to have, say, health
6 work or social work or visiting the sick or doing these type
7 of things.

8 BY MR. EISENBRANDT:

9 Q. Thank you. Where is Aguilares located in El Salvador?

10 A. It is 32 kilometers away from San Salvador in the -- going
11 north, going to the -- well, you have Santa Ana, San Salvador,
12 and then Aguilares is up close to the small lake which is up
13 there. It's on the main road from San Salvador to
14 Chalatenango. Lower down to the left. There it is. There it
15 is. Aguilares.

16 Before it was an important village, because there are
17 three main sugar cane haciendas, and they are very big ones,
18 and most of the people there, they worked in the haciendas.
19 Also, because of their size, they had to pay some taxes. So
20 the village was, because of that, was relatively commercial
21 and rich.

22 Nevertheless, there were many -- the village wasn't
23 especially -- how could I say? They never had good habits of
24 life. They got drunk and they got into fights. So when
25 Rutilio Grande and the other fellows got into Aguilares, they

1 had to struggle with all that type of life they had, and that
2 is where they conform the base communities, which were 21 in
3 the hills plus four within the city.

4 So with the 25, the work was being done with the 25
5 Christian-based communities.

6 Q. So it sounds as though the Christian-based communities, am
7 I correct that those were organizations of the poor?

8 A. Everyone was up in the communities outside of Aguilares,
9 everyone was very poor. Because although the area was
10 wealthy, the inhabitants were very poor. They lived off what
11 they could -- I mean in the small land that was left without
12 sugar cane, they could cultivate a few things, a bit of corn,
13 beans and nothing else. And the salaries, when they cut the
14 sugar, were extremely low.

15 Q. And you mentioned before that it was very repressive in
16 Aguilares; is that correct?

17 A. The thing is that when -- there was no peasant
18 organization in Aguilares called FECCAS, the Federation of
19 Christian Campesinos. F-E-C-C-A-S. The organization was
20 quite dead, but with Rutilio, he wanted to give some life to
21 that type of organization, so he began to work with FECCAS and
22 the campesinos that conformed FECCAS, so all of a sudden,
23 FECCAS became alive.

24 And then, ORDEN, ORDEN, the paramilitary organization
25 of ORDEN, O-R-D-E-N, was very much developed in Aguilares to

1 control these peasants, and then there were conflicts between
2 ORDEN and the peasants.

3 There was also the National Guard had a very -- there
4 were 22 National Guards in a hacienda called -- it will come,
5 the name, I forgot the name of it for the moment. So there
6 were 22 of them. And the repression was quite heavy in all
7 that area.

8 I remember after '77, after killing Rutilio Grande,
9 on many occasions when I went out to the "cantones," they're
10 called, to the villages, we had to sleep out in the open air,
11 not in the houses, because to sleep in the houses was very
12 dangerous. So we always slept on the fields under a tree.

13 So that was the persecution, the first persecution
14 which, because of the organization of FECCAS, which was quite
15 heavy, say, in Aguilares.

16 Q. What order did Rutilio Grande belong to?

17 A. He was a Jesuit too.

18 Q. Was his work with the poor in the base communities based
19 on a type of religious thinking or theology?

20 A. Well, my impression is that the theology he had was the
21 same, although -- the same as the one he received in Spain.
22 He studied theology in Spain.

23 Now, his good quality was that he wanted the
24 campesinos to have a word to say within the church
25 organization. I would say that he was the first really

1 liberation theology worker in El Salvador, one of the first,
2 anyway. And he worked with liberation theology.

3 Liberation theology, as you know, began in Medellin
4 in 1968, Medellin in Columbia, where all the Bishops from
5 Latin America, they got together in Columbia, and they
6 decided -- well, they thought about the problematic in Latin
7 America, and they got a document which was actually signed by
8 the Pope, Paul VI, that went to Columbia, to Medellin, to sign
9 that document and to approve it officially.

10 That document was actually afterwards -- which is the
11 beginning of liberation theology, was afterwards considered as
12 a Communist type of document.

13 So without real -- I think that without realizing
14 that he was a pioneer within the liberation theology work,
15 Rutilio worked liberation theology. He gave the work to the
16 campesinos within the church.

17 Q. Was liberation theology different than what the Catholic
18 Church had historically followed in Latin America?

19 A. No. No, for me, the theology is the same. The theology
20 can only be one. The thing is that liberation theology can
21 emphasize certain points which, within the regular theology or
22 the conventional, let's call it, theology, are not so much
23 emphasized.

24 And the reason being that liberation theology demands
25 a greater commitment of the person within the gospel and with

1 the community.

2 The commitment with the Gospel should be the same in
3 every theology. The commitment with the community would be
4 different. You see, I would say that all of us, we are the
5 Church, but there are some that are more Church than others.

6 The hierarchy, the priests, we have had a tendency to
7 believe that we are the Church. And for many points, in some
8 way, we deny the possibility to the laity of saying something,
9 having a word to say within the Church.

10 Liberation theology gives that work to the laity and
11 demands from the priests, the pastors, a greater commitment to
12 the Gospel and to the life with the community. And that is
13 the main difference.

14 But actually, there is only one God, therefore, there
15 only can be one theology.

16 Q. Prior to Rutilio Grande's death, do you think that
17 Monseñor Romero followed that thinking prior to Rutilio
18 Grande's death?

19 A. I don't think so. I don't think so. I don't know his
20 theological thinking prior to Rutilio Grande's days. But I do
21 recall that he never agreed too much with Father John
22 Sobrino's theology. And on some occasions, Monseñor Romero
23 criticized Sobrino's theology saying, "You presented Jesus too
24 much as a man," and he forgot a little bit of the divinity.

25 About one, one and a half years afterwards, I heard

1 this conversation. I was sent to the Archbishop's place, the
2 house with Sobrino, with Father Sobrino. And Monseñor Romero
3 was there, and he called Father Sobrino and he began talking
4 to him, and I overheard the conversation.

5 And Romero was saying, "Excuse me, Father, for saying
6 what I said about your theology. Now I understand it better.
7 You were right with your Christology."

8 For me, that is an act of humility, which means that
9 he was able to change and to accept in some way what God told
10 him to do or to accept for me. This was a great virtue in
11 Monseñor Romero.

12 Q. Was Rutilio Grande's death important in that transition?

13 A. Yes. Yeah, because Rutilio Grande's death will be in the
14 time in which Romero had criticized John Sobrino's theology,
15 but hasn't had the experience of one year as Archbishop.

16 Since Monseñor Romero knew Rutilio very well, when
17 they killed Rutilio and they accused Father Rutilio Grande of
18 being a Communist, for Romero it was evident, that Rutilio
19 Grande was no Communist at all. So he thought if he has been
20 called a Communist, maybe some others are also called
21 Communists, and they are not.

22 And he said -- well, I don't know whether he said
23 that, but what he did is that he began going to the
24 communities every Sunday and quiet often during the week, as
25 can be seen in his diary. And we saw the ones that lived in

1 El Salvador, that he visited the communities, the poor
2 communities. And he was in touch with the communities. And
3 he always said, "I would like to be with them. Because I
4 learn so much from these communities."

5 I recall once in Aguilares, we had invited him for a
6 meeting with all the Catholic priests, and there was a problem
7 with some Evangelicals, and Romero asked, "What do you think
8 of the Evangelicals and why are we different from them, or are
9 we?"

10 And one of the fellows said, "Well, the main
11 difference is that when they pray, they go and they pray to
12 God like this, (Indicating with upraised hands) which means
13 it's going to be a personal relation with God. But we, as
14 Catholics, we have to go to embrace everyone. (Indicating
15 with arms outstretched) Because all of us, we have to go
16 together in this salvation, which has been offered to us."

17 So Romero was saying as we walked to the car, Romero
18 was saying, "Really, those campesinos are magnificent. I
19 learn so much from them every time I come to see them." So he
20 is a man who learned from the campesinos. And I would say
21 that or I know that Monseñor Romero evangelized the campesinos
22 and he evangelized us, but what I could also say was he was
23 evangelized by the campesinos, by the poor. He was very
24 heavily evangelized by the poor.

25 And I think that is what really impacted him: The

1 example, the teaching, the life, the faith, the hope of the
2 poor, and that changed Romero. And that began because Rutilio
3 Grande got killed and he wanted, like, to investigate why he
4 got killed.

5 Q. So did he visit you frequently in Aguilares?

6 A. Yes. It was even -- if I may say this. He got killed on
7 the 24th of March. That was a Monday. The 23rd was a Sunday,
8 the 16th was a Sunday. On the 16th of March, we asked him to
9 come to Aguilares to say the Mass for Rutilio Grande.

10 So the church in Aguilares was very big and very
11 long, and he liked to get dressed as a priest, as a Bishop, in
12 the back of the church and walk toward the front. And he was
13 walking toward the front, and the church was very much packed.

14 Many people presented him the children. He used to
15 bless them or touch them and make the sign of the cross after
16 touching them. So for the poor, Romero was a holy man. And
17 he was really, for every one of us who knew him, he was a holy
18 man.

19 Q. How did he manifest his views about the poor? For
20 example, can you tell me about his homilies and how he
21 integrated his views on the poor into his religious views?

22 A. Well, his homilies, for me, were like a theology class.
23 They were a theology class because he taught at a catechistic
24 time, because he took the main ideas of the Gospel and he
25 applied them to life. He put them into life.

1 And then he took the facts of the reality and he saw
2 them through the light of the Gospel or the readings he just
3 had read.

4 His homilies were very long. But, well, I think that
5 most everyone in El Salvador heard his homilies. His friends
6 and his detractors, his enemies.

7 I remember once I was driving in town and I was
8 listening to Romero on the radio in the car. And I got to a
9 street light and I stopped. And I saw the police was coming.
10 So I lowered the radio because I was afraid the police would
11 hear -- would realize that I was listening to the man. So
12 when the police got close to me, I was surprised, they were
13 also listening to Romero. So everyone listened to Monseñor
14 Romero.

15 Q. In what other ways, other than homilies, what other ways
16 did he manifest his views?

17 A. He was very much -- well, all his pastoral letters, he
18 wrote four pastoral letters which I have. Really are
19 magnificent teaching, magnificent, yeah, teaching as a Pastor.

20 He had many interventions on the radio. He was
21 invited to give conferences in many places. I mean his
22 activity, his whole life was actually teaching always.

23 And the example of his life, he said, they, the
24 government, told him that they were going to provide security
25 for him because he had suffered many threats. And he said,

1 "As long as my people, they do not have security, I do not
2 want to have -- I do not want," yeah, "to have security. If
3 my people live unsafe, I want to live like my people."

4 They offered him to build him a big palace for him to
5 live, and he was living in a small house in a hospital for
6 people with cancer in the last stages of the -- of their
7 cancer.

8 So he was an extraordinary man.

9 Q. From your experience, what did the poor people in
10 Aguilares think about Monseñor Romero?

11 A. Well, they saw him as a man of God, a man who spoke the
12 truth, a man that defended the poor. A man that was close to
13 them. So for them, I mean he was sent, he spoke the truth, he
14 was close to them.

15 Q. Was Romero a political person?

16 A. That has been a big argument many times in El Salvador. I
17 would say no. I mean all of us, when we talk, no matter
18 whether we say A or B, our speech is -- it has political
19 components.

20 Romero, in his sermons, in his homilies, evidently,
21 within his sermons were political components also.

22 If he accused injustice and accused those who carried
23 out the injustices, he was accusing on many occasions, to the
24 government. And many people say, well -- many people said,
25 well, he always accuses the government.

1 Actually, he accused everyone, because in some
2 occasions, he criticized very heavily to the political
3 organizations, when they went too far with their ideas of
4 organization, but he criticized the government also. But not
5 because of his politically minded sermon.

6 He was ethical. He was a man that he was fully
7 ethical and not political. And the problem is that in
8 El Salvador, the main problem, one problem we have is that we
9 have more politically minded and we are not ethically minded.
10 And Romero was ethically minded.

11 And, well, to say that, to tell the truth hurts, and
12 he told the truth, clearly. And that's what the campesinos
13 say, "Always, he was a man who told the truth, no matter
14 what."

15 Q. What effect did his transformation and thinking have on
16 the rich and on the military?

17 A. Well, not much, because they killed him. I would say that
18 for some, for some people, Romero was getting worse and worse
19 and worse. And for some others, he was better and better and
20 better.

21 The problem of the -- he always told, when Father
22 Alfonso Navarro, Father Navarro got killed, in the sermon, he
23 talked in a small tale, saying of a man or a Bedouin, one of
24 those that crosses the desert, he was with a group of people
25 through the desert, and they saw an oasis. And all the

1 people, they wanted to go to the oasis, and the Bedouin was
2 saying, "Not there. The oasis is not there. It is over
3 there." (Pointing in a different direction.)

4 So they continued going to the oasis and the Bedouin
5 continued saying, "You do not have to go in this direction,
6 you have to go in this other one."

7 At the end, the people, they killed the Bedouin
8 because they thought he was obnoxious.

9 And he said, "That is what is going to happen in this
10 country also for all those who tell the truth. You just tell
11 them where to go and they are going to get you because you are
12 talking the truth and telling the truth. And they would
13 rather see their own imagination and their own gods, their own
14 idols, and they do not follow the God of Jesus."

15 Q. How did you find out about Monseñor Romero's
16 assassination?

17 A. I was at the university, and I was called. I was phoned.
18 They phoned me, and they said -- they told me, I mean John
19 Sobrino phoned me and he told me, "Come fast, because
20 something tremendous has happened." Tremendous, horrible, has
21 happened.

22 So I went down as fast as I could. And they told me
23 they just have killed Monseñor Romero. So it's one of those
24 things you get the information and you do not know what to do.
25 You get all of a sudden like, without knowing anything,

1 without seeing anything, without feeling anything, you feel
2 like if you could be in an empty space.

3 And then what should we do? Let's go to the
4 Policlínica. And he had been taken there to prepare the
5 corpse because he was going to stay for a few days so that
6 different people could see him.

7 So we went to the Policlínica and there was Monseñor
8 Urioste, U-R-I-O-S-T-E. And they decided they were going to
9 have him in the cathedral for seven days, six days.

10 And the idea that the photographer, that he had been
11 in Mrs. Pinto's Mass could have shot him, it was an idea that
12 began going through the minds of -- I don't know who brought
13 the news. But so they asked, "Who is going to go," because
14 the photographer was kept by the sick people at the hospital.

15 Q. Just to be clear, there was a photographer at the Mass?

16 A. Yes, yeah. The photographer -- there was a photographer
17 at the Mass, that he was there to take maybe the pictures of
18 Monseñor Romero after the Mass.

19 So the crime took place and he took the pictures that
20 we know there. But as we were at the Policlínica, at the end,
21 what I said, I myself, I said I know something about
22 photography, and I could maybe go there and see whether the
23 camera has been prepared for -- to fire a shot or a bullet.

24 So I went and the camera was an ordinary one, a good
25 one, but an ordinary, you know, nothing strange. And he had

1 two cameras.

2 I went there with a priest, with Pastor of the
3 cathedral, Monseñor Modesto Lopez because I was afraid to go
4 by myself. The Hospitalito was the church where Monseñor got
5 shot was just crowded with soldiers and policemen and all
6 sorts of people.

7 So I got there. The photographer was brought down.
8 I saw the cameras. I told Modesto, Monseñor Modesto Lopez,
9 "Well, this cannot be because of the cameras."

10 Then the photographer said, "Well, then take me with
11 you." So from the Hospitalito, we went to the Diario de Hoy,
12 because she worked at the Diario --

13 THE REPORTER: Excuse --

14 THE WITNESS: Diario de Hoy. Diario, D-I-A-R-I-O,
15 and D-E, a different word, H-O-Y.

16 THE REPORTER: Thank you.

17 THE WITNESS: And they said, "Yeah, you can go."

18 Then I went with that man and we developed all the pictures
19 that were taken by the photographer at the moment of
20 Monseñor's Romero's killings.

21 BY MR. EISENBRANDT:

22 Q. Can you please look in the binder at Exhibit 22.

23 A. 22.

24 Q. Do you see it there?

25 A. Oh, that is the church, yeah.

1 Q. Is this one of the -- I'm sorry, this is the church --
2 A. No, this is not. No, I don't think this was developed by
3 us.
4 Q. Okay.
5 A. But in the binder.
6 Q. Do you recognize the church?
7 A. Yeah, the church is the Hospitalito, yes.
8 Q. Can you look on the next page on Exhibit 24?
9 A. Yeah.
10 Q. Do you recognize that photograph?
11 A. Yes, yeah. We developed it.
12 Q. That's one of the pictures?
13 A. Yes.
14 Q. And who is that who is lying on the ground?
15 A. Monseñor Romero.
16 Q. Can you look at Exhibit 25, please.
17 A. Yeah. Monseñor Romero also, and the Sisters. And some of
18 the sick people.
19 Q. Is that one of the pictures that you developed?
20 A. Yes.
21 Q. And Exhibit 26?
22 A. My impression is that this is -- no, I don't recall doing
23 this picture. This is a reproduction on how people were when
24 he got -- Monseñor got shot, although -- no, I don't recall
25 this picture.

1 Q. Can you look at Exhibit 27?

2 A. Yes, I do recognize this one.

3 Q. And 28?

4 A. Also, yes.

5 Q. Exhibit 29?

6 A. Also.

7 Q. 30?

8 A. Yes.

9 Q. The next page, Exhibit 33?

10 A. Yeah.

11 Q. And Exhibit 34?

12 A. Yeah.

13 THE COURT: Father, did I understand you to say that
14 you went to the church at the time these photographs were
15 taken?

16 THE WITNESS: No, I developed with the photographer
17 all these photographs that very night after coming out of this
18 church.

19 THE COURT: All right. When you went into the
20 church, do you have any idea what time it was, day or night?

21 THE WITNESS: It was night. It was night, could have
22 been 8:30 or 9:00 o'clock.

23 THE COURT: Was the Archbishop still in the church?

24 THE WITNESS: No. The Archbishop was already at the
25 Policlínica.

1 THE COURT: And you met the photographer in the
2 church?

3 THE WITNESS: No. I called the Sisters so that they
4 would bring the photographer, because the photographer had
5 been taken prisoner, say, until they knew whether he could
6 have fired at Monseñor Romero.

7 THE COURT: Do you know who took him prisoner?

8 THE WITNESS: The sick people, yeah, all the sick
9 people.

10 THE COURT: All right. And at around 8:30, did you
11 actually enter the church?

12 THE WITNESS: Maybe 8:00, yeah, it could be 8:00
13 o'clock, it could be, as I entered the church. And about
14 8:30, I left the church, went to Diario de Hoy, and I remember
15 I got out of Diario de Hoy something like 12:30, 1:00 o'clock
16 at nighttime time.

17 THE COURT: And when you were in the church, whatever
18 time that was between 8:00 and 8:30, did I hear you say you
19 saw police?

20 THE WITNESS: Yeah, there were many people with
21 uniforms.

22 THE COURT: Did you observe what they were doing?

23 THE WITNESS: No. They were actually there. I
24 didn't know what they were doing, actually. It was -- I was
25 afraid. And I wanted to go to the church and get out of the

1 way as soon as possible.

2 THE COURT: Yes. Do you know what kind of police
3 these were?

4 THE WITNESS: No. Uniformed men with camouflage type
5 of dressing, so some of them could have been soldiers and
6 National Police.

7 THE COURT: Were they armed?

8 THE WITNESS: Yes.

9 THE COURT: You saw them when you first entered the
10 church?

11 THE WITNESS: The church and the small garden around
12 the church.

13 THE COURT: And when you left the church, were the
14 military still there, the police or military, whatever they
15 were?

16 THE WITNESS: Yeah. I left the place and they stayed
17 there.

18 THE COURT: And you have no idea of what they were
19 doing, though?

20 THE WITNESS: No.

21 THE COURT: Thank you. You may continue.

22 MR. EISENBRANDT: Thank you, your Honor.

23 BY MR. EISENBRANDT:

24 Q. Just in finishing with the pictures, Father. Exhibits 35
25 and 36, do you recognize those as ones you helped develop?

1 A. Yes.

2 Q. And 38?

3 A. No, I don't recall this one. Could have been, because we
4 developed something like between 32 and 35. But I don't
5 recall of all of them. But some of the sick people at the
6 hospital, they were cleaning all the blood, the blood stains
7 on the floor, so this Exhibit 38, it is very much, that's what
8 this lady is doing. So it could be within the same sequence.

9 THE COURT: You saw them doing that?

10 THE WITNESS: No.

11 THE COURT: You did not?

12 THE WITNESS: No.

13 THE COURT: Thank you.

14 THE WITNESS: They told me that separately.

15 BY MR. EISENBRANDT:

16 Q. Finally, Exhibit 40, do you recognize that picture?

17 A. No. I have seen this picture. I do not recognize it.

18 Q. Okay. Let me ask you, Father, how were you personally
19 affected by Monseñor Romero's murder?

20 A. The first thing you imagine is if they are there to do
21 this with a Bishop, they can do it with anyone. So there
22 could be just a sequence of killings.

23 Secondly, the people, they are now without a defense.
24 They are not going to have anyone to defend their cause.

25 Third, the Church and the whole progress the Church

1 was doing could stop. Because of the absence of a leader like
2 Romero was.

3 And that's -- and then I felt humanly, myself, I felt
4 like with a big burden on top of me, like oppressed, like -- I
5 felt bad, really, I mean. I did not exactly know how it was,
6 but it was bad.

7 Q. What was the impact of his assassination on the people in
8 the communities in Aguilares?

9 A. In some way, they felt a little bit like who is going to
10 speak up the truth now if they have killed Monseñor Romero?
11 So in some way, they got depressed.

12 They kept Monseñor Romero six days, day and night,
13 people going through his coffin that was in the cathedral. In
14 no moment was his coffin alone. There were people all day and
15 all night long.

16 Each day, the community was in charge of preparing
17 all the acts that were taking place at the cathedral. And the
18 communities were actually fighting -- fighting in some way to
19 be able to be present and to lead the prayers and the songs
20 and all that.

21 So it was just the presence of so many people, people
22 that came from far away. And I remember also some peasant
23 said he had walked for three days to come and at the end he
24 said, "Don't be afraid of those that kill the body. Continue
25 your work." So those are the -- well, the courage you get

1 from the people.

2 For some people, this killing also said, well, we
3 have to fight even harder now because we have to -- we have to
4 do whatever Monseñor Romero used to -- helped us to do before,
5 we will have to do it alone, but we have to do it. We cannot
6 stop the work.

7 Q. What impact did his assassination have on the theology of
8 the Catholic Church in El Salvador?

9 A. Well, I would say the theology, the theology is a little
10 bit whatever the theologians want to provide. And the
11 theologians are the ones that are going to come because they
12 are invited, because in El Salvador, we do not have many. We
13 do have a few good theologians. Father Sobrino and Ellacuría.
14 E-L-L-A-C-U-R-I-A, were very good theologians, but we do not
15 have good theologians. So you have to invite them.

16 And this invitation, well, depends on whom you
17 invite. I have heard that recently -- not recently, but a few
18 years ago, all the liberation theology books were taken away
19 from the library at the seminary. That means that liberation
20 theology would not be taught there any more.

21 Well, depends on -- I would say that the Church,
22 there has been a convulsion in the Church. And in that
23 sense, the theology is also going to step back and to be less
24 and less a progressive theology.

25 And by progressive theology, I do not want to say

1 that we are going to do crazy things. I just want to say that
2 we are going to give the Word to the poor and we are going to
3 work for justice. We are going to work for peace. And we are
4 going to work with the poor, giving them attention, providing
5 them with whatever we have to give them.

6 And I don't think that -- that is going to suffer,
7 that attitude is going to suffer. Because their training,
8 say, at the seminary is going to be traditional, but
9 traditional in the bad sense of the word, because
10 "traditional" meaning that you are not going to take all these
11 aspects which are important, I would say, in this work of
12 accompaniment to the community.

13 So the Pastor at work has to be not just the work,
14 say of the sacramental work, it's very important, but you have
15 to have the human rights work and you have the social work and
16 the pastoral, the social work, say. The social pastoral work.

17 THE COURT: In giving your answer, that the books on
18 liberation theology were removed from the seminary --

19 THE WITNESS: Yes.

20 THE COURT: -- do you have any personal knowledge as
21 to who caused the removal of such works?

22 THE WITNESS: The Archbishop.

23 THE COURT: It came from the Church?

24 THE WITNESS: Yes.

25 THE COURT: And you believe from information and

1 knowledge that you had at the time that that was a direct
2 result of the assassination?

3 THE WITNESS: No. The removal -- the order for the
4 removal came today, I mean "today," two or three years ago.
5 And it came not as -- it came because the appointed person is
6 a person who doesn't follow Romero's line of work. So there
7 has been a step backwards within the Church.

8 THE COURT: And this was taken two to three years
9 ago?

10 THE WITNESS: About three years ago, yes.

11 THE COURT: All right. And earlier, when you talked
12 about the six days and nights --

13 THE WITNESS: Yeah.

14 THE COURT: -- that this was the Archbishop's body lay
15 in state?

16 THE WITNESS: Yes.

17 THE COURT: Were you ever present during that period
18 of time in that facility?

19 THE WITNESS: Yes.

20 THE COURT: Did you observe any police or military,
21 either in or about the facility?

22 THE WITNESS: No.

23 THE COURT: None?

24 THE WITNESS: Not in military clothes. Could have
25 been civilians that got into the place.

1 THE COURT: But you don't know?

2 THE WITNESS: But I don't know.

3 THE COURT: Thank you.

4 THE WITNESS: But as a result of the funeral of
5 Monseñor Romero, then there was a big problem, because bombs
6 were exploded from -- thrown from the National Palace. So
7 there were about at least 100,000 people attending the
8 funeral. And with the bombs, people began running and there
9 were some like 19 killed people, many of them killed because
10 they were stepped on by the ones that wanted to escape.

11 I was there. I saw the bombs.

12 THE COURT: Do you know the source of the origin of
13 the bombs?

14 THE WITNESS: Not the origin. I know the house, the
15 place, which was an official governmental house which is being
16 called a palace, a "palacio." Nobody could be there. But
17 officials from, say, governmental officials. I saw two bombs
18 being thrown.

19 THE COURT: Were these grenade type of bombs or
20 something different?

21 THE WITNESS: I saw the smoke.

22 THE COURT: I see. You don't know whether it was a
23 projectile that was fired from a weapon or whether it was a
24 hand-thrown explosive device?

25 THE WITNESS: I imagine it was a homemade type of

1 explosive.

2 THE COURT: And the place of origin you indicate as a
3 government palace that was not accessible to the public?

4 THE WITNESS: No, it was not accessible. And that
5 day it was closed because of the amount of people that were on
6 the plaza.

7 THE COURT: To your knowledge and understanding, has
8 there ever been any confirmation of who was responsible for
9 these bombs?

10 THE WITNESS: No.

11 THE COURT: Thank you. You may continue.

12 THE WITNESS: If I may say, in Exhibit 64, there is
13 this --

14 BY MR. EISENBRANDT:

15 Q. Is that an accurate representation of what you saw that
16 day?

17 A. Yes.

18 THE COURT: This is the crowd at the funeral?

19 THE WITNESS: Yes.

20 THE COURT: Can you see the palace in this picture?

21 THE WITNESS: Yes. It is at the right hand.

22 THE COURT: With the columns in front of it?

23 THE WITNESS: Yes, and beginning from the far end.

24 THE COURT: Toward the top of the picture in the
25 middle?

1 THE WITNESS: In the second window from the far end,
2 the bombs were thrown.

3 THE COURT: They came from the window of the palace?

4 THE WITNESS: Yeah.

5 THE COURT: All right. Thank you.

6 MR. EISENBRANDT: Your Honor, as the witness has
7 identified Exhibit 64, I would ask to submit that into
8 evidence.

9 THE COURT: Yes, Exhibit 64 will be received in
10 evidence.

11 (Plaintiff's Exhibit 64 was received.)

12 BY MR. EISENBRANDT:

13 Q. Okay. Father, just a few more questions. What is your
14 current job? Where do you currently work?

15 A. Well, now I do teach at the university. I work searching
16 the disappeared children, the children that were abducted
17 during the war and they were sold in adoption afterwards.

18 And on the weekends, I go out to the village, a
19 village, a small village in Chalatenango.

20 THE REPORTER: Believe it or not, I think I have that
21 one (referring to the spelling.)

22 THE COURT: I don't.

23 THE WITNESS: C-H-A-L-A-T-E-N-A-N-G-O.

24 THE COURT: Thank you.

25 BY MR. EISENBRANDT:

1 Q. Can you just explain to me, when you are talking about
2 children who were abducted and sold, who abducted those
3 children?

4 A. They were abducted in the vast majority of the cases we
5 have by the Army, and they were taken afterwards to orphanages
6 and from there -- I mean first of all to the barracks. From
7 the barracks, through the voluntary ladies of the Red Cross,
8 they were taken to the orphanages, and then sold in adoption.
9 We have had up to now 712 cases. So they have asked to look
10 for these 712 cases.

11 We have solved -- well, in 157 cases, we have had
12 re-encounter and reunification of the family. So we have
13 found the boy or the girl and they have met their natural
14 families. We do not demand them to stay with the natural
15 family. They are old enough now, they are over 20. And they
16 have to decide where they want to stay, but they want to know
17 their identity.

18 We have found 39 of them got killed. Got killed,
19 died. And we have 63, I guess, 63, 64 cases in which we know
20 where the boys or girls are and we are in touch with them and
21 the natural family is in touch with the adoptive family. And
22 we have found the children in 11 countries. We have found
23 them in Spain, France, Italy, Switzerland, Belgium, Holland,
24 the United Kingdom, the United States, Guatemala, Honduras and
25 El Salvador.

1 Q. And during what time period were these children stolen?

2 A. During the 80s. All the 80s. We have -- we have two of
3 '79 and two or three of '91.

4 Q. And when they were sold, who would receive the money?

5 A. Well, there are two types of problems there. They are
6 from the orphanages, as such, and from the orphanages, the
7 lawyers who did the adoption papers, they would receive the
8 money.

9 Now, there were what they call "de casas de gorda,"
10 "the fattening houses." These fattening houses were the
11 houses where the children were taken, their outlook was
12 improved and they were sold at the higher price. During the
13 war, there were over a hundred houses, over a hundred houses
14 that took care of children.

15 Right now, only the regular houses are the ones who
16 continue. In those fattening houses, we do have testimonies
17 of people that worked in them saying that military people took
18 the children to their houses where they took care of them,
19 where -- and in the meantime, a brother of the two militaries
20 who was a lawyer, prepared and fixed papers to take them away,
21 to give them into adoption.

22 We have found over 50, about 50 outside. And within
23 this 60 news, we haven't had the re-encounter, there are many
24 that are abroad.

25 MR. EISENBRANDT: Thank you, Father.

1 Your Honor, I have no further questions.

2 THE COURT: Thank you very much, Father. You may
3 step down.

4 THE WITNESS: Thank you, your Honor.

5 THE COURT: Do you have another witness?

6 MR. Van AELSTYN: Yes, your Honor, plaintiff calls
7 María Julia Hernández. We will have an interpreter for this
8 witness.

9 MARÍA JULIA HERNÁNDEZ CHAVARRÍA,
10 called as a witness on behalf of the Plaintiff, having been
11 first duly sworn, testified with the aid of the Certified
12 Court Interpreter as follows:

13 THE CLERK: Please state your name.

14 THE WITNESS: My name is María Julia Hernández
15 Chavarria.

16 DIRECT EXAMINATION

17 BY MR. Van AELSTYN:

18 Q. Good afternoon, Ms. Hernández.

19 A. Good afternoon.

20 MR. Van AELSTYN: Your Honor, we are not offering
21 Ms. Hernández as an expert; however, I do have copies of her
22 resume so we might all get an understanding of who she is.

23 THE COURT: Thank you.

24 BY MR. Van AELSTYN:

25 Q. Ms. Hernández, is what I have just handed you a copy of

1 your curriculum vitae?

2 A. Yes, it is.

3 MR. Van AELSTYN: I would like to ask this be
4 admitted into evidence as the next exhibit in order.

5 THE COURT: This will be marked, the curriculum vitae
6 of the witness, as Exhibit 222 and received in evidence.

7 (Plaintiff's Exhibit 222 was received.)

8 BY MR. Van AELSTYN:

9 Q. What is your current employment position?

10 A. I work as the legal tutelage to the Archbishop in San
11 Salvador in the human rights. The Legal Aid Office -- Legal
12 Aid Office of the Archbishop. I work in human rights.

13 Q. Ms. Hernández, are you the director of Tutela Legal?

14 A. I am the Director of the Legal Aid for the Archbishop.

15 Q. And how long have you held that position?

16 A. Since the Archbishop of San Salvador established their
17 office on May 3rd, 1982.

18 Q. And what is the primary work of Tutela Legal?

19 A. We work both defending and also increasing the awareness
20 of the human rights, civil rights, political rights, economic
21 and social rights, all the human rights.

22 Q. Does part of the work of Tutela Legal include documenting
23 human rights abuses in El Salvador?

24 A. Yes. We investigate, we document, and we also have
25 judicial proceedings in the -- all cases of violation of human

1 rights.

2 Q. To where is Tutela Legal located?

3 A. In the city of San Salvador.

4 Q. Is it part of the Archdiocese?

5 A. It is part of the Archbishop -- it is in the offices of
6 the Archbishop.

7 Q. Does Tutela Legal investigate human rights abuses
8 conducted by the government forces only?

9 A. We investigate all cases of violations against persons or
10 human beings. It does not matter where they stem from or
11 where they come from.

12 Q. Was that true during the period of the civil war as well?

13 A. Yes, correct, exactly.

14 Q. When Tutela Legal has documented a particular violation of
15 human rights, what would it do with the case?

16 A. First, it is the -- it is denounced or an accusation is
17 made, and then it's sent over to the judicial system, but this
18 really depends on what period of time we are talking about.
19 Because there is the period of time, war time. And then there
20 is the period of time post the pact of peace. Peace pact.

21 (In English) Peace accord.

22 Q. How about during the war years? What would be done with a
23 case?

24 A. First, we document the case. Immediately after, it is --
25 the accusation is made or it's denouncement.

1 (In English) Denouncement.

2 And after that, immediately we go to the people in
3 charge of security, someone in the high ranking or the
4 military forces.

5 (In English) National Police, National Guard,
6 Treasury Police, the headquarters. And so it depends. Then
7 to the judicial system.

8 Q. I believe you stated that Tutela Legal investigates
9 violations regardless of who committed the violation?

10 A. Yes.

11 (The witness indicated a preference to speak in
12 English retaining the option to consult the Interpreter.)

13 THE COURT: Let's take the afternoon recess at this
14 time. We will stand in recess in --

15 THE WITNESS: I speak a little bit English. I am
16 going to ask for her help if I can't express myself.

17 THE COURT: Yes. You may complete your answer. Then
18 we will take the recess.

19 THE WITNESS: If the case belongs to the FMLN by
20 relation, so we document the case. And we keep that case in
21 order to wait a meeting in Mexico City, that in order to
22 encounter the men -- the -- the delegation of the FMLN waiting
23 for us in Mexico City for their own cases. Because we
24 couldn't do that in El Salvador. It was not possible to reach
25 them.

1 But the Archbishop of San Salvador open a channel
2 with the High Command of the FMLN in order that to send me to
3 Mexico to present them the violations of human rights of the
4 FMLN and they take these cases and they send by their own
5 channel to El Salvador, and they send again to Mexico City.
6 And I went again to Mexico City for the case. It was a very
7 complicated mechanism, but was the only channels to present to
8 them the violations.

9 THE COURT: If I understood your answer, you took the
10 human rights cases to Mexico?

11 THE WITNESS: Yes, sir.

12 THE COURT: Is there a reason that you did that?

13 THE WITNESS: Yes, because in El Salvador, in times
14 of war, it was impossible to get in contact with an official
15 structure of the FMLN. They were clandestine forces.

16 And but under the second -- the Convention of Human
17 Rights of the Geneva -- the Second Protocol of the Geneva
18 Convention, the FMLN, by the United Nations, was recognized as
19 a subject of people that would commit a violation of human
20 rights, so they were submitted to that convention of human
21 rights. And the Archbishop of San Salvador judged that we
22 should intervene in violation of human rights of every one, no
23 matter who they were. If the violations were committed by the
24 FMLN, he found a channel in Mexico to present in an official
25 way the violation of human rights to them. It was a secret

1 channel.

2 And in El Salvador, if the violations belongs to
3 the -- any National Guard, Treasury Police, National Police,
4 or the Army, or even death squads, we immediately would
5 present our demands to the military authorities. They have
6 authority to do many things.

7 So -- and then to the judicial systems in order that
8 these cases be registered as violations of human rights,
9 because the judges, they didn't do anything on the cases.
10 They didn't want to work in that way of investigating the case
11 or do something. Even the Supreme Court didn't work with the
12 habeas corpus, and the -- nothing worked in El Salvador, but
13 we should present to them the case.

14 THE COURT: How many years were cases presented and
15 there was no response from the Salvadoran judicial system?

16 THE WITNESS: Thousands, your Honor. Thousands of
17 cases. For example, I remember that in one year, in 1982, the
18 first year that we began to present demands to work, the
19 judicial system didn't answer us. At least 200 habeas corpus.
20 They never answered us.

21 THE COURT: And for how many years?

22 THE WITNESS: Since the first time we work, since
23 1982 to 16 of January of 1992, that were the peace accord, in
24 this time, we manage more than 24,000 cases.

25 THE COURT: All right. And none of those cases were

1 accepted by the El Salvadoran judicial system?

2 THE WITNESS: No. No. We entered many cases, and we
3 made a scientific investigation, et cetera. They began to --
4 they have -- they functioned in five or six cases, but these,
5 all these cases were closed by the judges when they -- the 20
6 of March of 1993, the National Assembly gave the amnesty law.
7 All these were closed in the tribunals.

8 THE COURT: So the persons who were accused of the
9 human rights violations in the cases to the time March 20th of
10 1993, were given amnesty by the courts?

11 THE WITNESS: Yes, all of them received amnesty. For
12 example, I remember some cases immediately was closed.

13 The Jesuits case, when they gave the amnesty law,
14 immediately, the military, without waiting, the official
15 publication of the amnesty law, in the official gazette, the
16 diary, they run to the prison to take out of prison the
17 military that were -- Colonel Benevidez and two people in the
18 Jesuits case. They immediately run to free them.

19 THE COURT: And I'm going to ask one more question
20 and I'm going to take the recess.

21 Starting in 1982, did your organization endeavor to
22 present the case of Archbishop Romero?

23 THE WITNESS: No. We -- the -- in 1982, when we
24 began to work, we have so many cases of violations of human
25 rights that we didn't have time to put attention to the

1 Monseñor Romero case in this moment. Because we have
2 immediately are so many people, people that was killing by
3 death squads, people that were in jail. So we have so amount
4 of cases that, for us, it was impossible to manage that case
5 in that moment.

6 THE COURT: Your organization did not have the
7 resources to pursue that case?

8 THE WITNESS: When we want to enter to see that case,
9 to investigate the case of Monseñor Romero, I talked with two
10 penalist lawyers and they refused to take the case of Monseñor
11 Romero because they were afraid. They told me, "No, no, this
12 case, not this important one."

13 It was -- they have -- they were afraid of to take
14 the case in order to investigate, to be a spark in the
15 judicial case.

16 THE COURT: Let's take the recess. We will stand in
17 recess until 25 minutes after 3:00.

18 MR. Van AELSTYN: Thank you, your Honor.

19 THE COURT: Back on the record in Doe versus Saravia.

20 We will continue the testimony of Ms. Hernández.

21 You may proceed.

22 MR. Van AELSTYN: Thank you. I would like to show
23 the witness Exhibit Number 98.

24 BY MR. Van AELSTYN:

25 Q. It's up on the screen. Ms. Hernández, are you familiar

1 with the United Nations Truth Commission reports?

2 A. Yes.

3 Q. Take a look at Exhibit Number 98 on the screen here. It's
4 in English, but do you recognize it?

5 A. Yes, I recognize.

6 Q. What is the date that the Truth Commission, the -- well,
7 the UN Commission on the Truth for El Salvador issued its
8 report?

9 A. The date was the 15 of March of 1993.

10 Q. And what was the date of the amnesty law that you
11 mentioned earlier before the break?

12 A. It was the 20 of March of 1993.

13 Q. Five days later?

14 A. Yes. Yes.

15 Q. Thank you.

16 A. It was in the peace accord, it was a fact that the names
17 and cases that were named by the Truth Commission were going
18 to bring to the tribunals to be judged, those cases. And it
19 was a fact too that the National Assembly was going to help
20 during six months in order to bring to a trial and to
21 administer justice after the Truth Commission Report was
22 known.

23 But President Christiani immediately, the same day
24 that the Truth Commission gave their report, asked the
25 National Assembly, the amnesty law, breaking all the peace

1 accord, according to human rights.

2 Q. What party was in power in El Salvador at that time?

3 A. All parties, ARENA Party, "PCN", "PDP" --

4 THE INTERPRETER: "PCN"?

5 THE WITNESS: Sí.

6 THE INTERPRETER: PCN.

7 THE WITNESS: The ARENA Party is the official party.
8 PCN Party, Partido de Conciliación Nacional, PCN Party. The
9 Christian Democrat Party, PDC. And minor party that I don't
10 remember was in this moment, was not FMLN or guerilla party,
11 political party in the National Assembly, it was not there.

12 Q. Was ARENA in the majority in the National Assembly at that
13 time?

14 A. Yes, ARENA Party had the majority of votes in the
15 Congress.

16 Q. You testified before the break that you had approached two
17 penal lawyers, I believe you said, concerning the case of
18 Monseñor Romero. Are these criminal lawyers?

19 A. The one that I asked, yes. They were -- they are penal
20 criminal lawyers.

21 Q. And was this the -- for the purpose of their serving as
22 private prosecutor?

23 A. Yes. I asked -- I personally asked them in the name of
24 the Church to take this case of Monseñor Romero as a private
25 accusation and to get the case of Monseñor Romero and they did

1 not.

2 Q. Did you ask that they bring the case on behalf of the
3 Church?

4 A. Yes, in the name of the Church and the families.

5 Q. The family of Monseñor Romero?

6 A. Yes, yes.

7 Q. Are you in touch with the family of Monseñor Romero?

8 A. Yes, yes.

9 Q. When approximately was that?

10 A. In 1984 or '85. I don't remember really. But more or
11 less that time.

12 Q. Did you approach any other lawyers to act as a private
13 prosecutor after that time?

14 A. No, because I know that all lawyers are going to tell me
15 that they are not going to take this case, even now.

16 For the reason we went to the -- because of -- of
17 this reason, and because of the amnesty law, we went to the
18 Human Rights Commission of the OA -- OEA [sic] the Human
19 Rights Commission of the American States.

20 They take the case, and they condemn El Salvador, the
21 state of El Salvador of not investigating that case, and they
22 asked the state of El Salvador that because the Truth
23 Commission has found that the -- Major D'Aubuisson ordered
24 Alvaro Saravia to make the operation to kill Monseñor Romero,
25 they asked the State of El Salvador to investigate in the

1 judicial system that case. And immediately --

2 Q. And Ms. Hernández, could I show the witness, please,
3 Exhibit number 99?

4 THE COURT: Yes, you may.

5 THE WITNESS: Yes.

6 MR. Van AELSTYN: If we could flip through to the
7 decision. Yes. This one. Is this the decision that you have
8 been referring to?

9 THE WITNESS: Yes, yes. And they asked the -- yes.
10 They asked the State of El Salvador to investigate that case.

11 Immediately, when the -- the president in that moment
12 in El Salvador that was President Flores hear about the
13 sentence of the -- of this Commission, they, in public, in the
14 press conferences, that he was not going to investigate the
15 case of Monseñor Romero in the name of the state, he say that
16 he was not going to investigate that case and he was not going
17 to open the case of Monseñor Romero.

18 Q. What political party was President Flores with?

19 A. He belongs to the ARENA Party.

20 Q. Thank you. Let me bring your attention back to the time
21 of Monseñor Romero. Did you know Monseñor Romero?

22 A. Yes. I know very much.

23 Q. This was before Tutela Legal was founded. What was your
24 work at that time?

25 A. I was a voluntary collaborator to him. In that moment, I

1 was a teacher of philosophy in the National University in the
2 School of Law. And all my free time, all my time that I
3 dedicated to help Monseñor Romero, in all his works that he
4 has to do. For this reason, I knew him very much.

5 Q. Did you work with him in his office?

6 A. Yes, I worked in his office. And he has an open office
7 that many people went to do many things, to talk with him or
8 to ask for help or to watch for some problems, et cetera, or
9 pastoral work or church work. And we were persons that we
10 were helping Monseñor Romero in everything that he asked.

11 Q. Did you have opportunity to see some of the correspondence
12 that Monseñor Romero received?

13 A. Yes. He has a private office, their own office.

14 And his secretary and helper of the secretary get
15 sick. For this reason, they asked us to help read some
16 correspondence, because there were a lot of correspondence
17 that arrived. And I received a great package of letters. And
18 I opened the letters.

19 Q. Did you ever see any death threats amongst the letters
20 that were addressed to Monseñor Romero?

21 A. In that package, no. In that package, many people asked
22 for the homilies. They wanted to have the homilies, but when
23 I went -- in another moment, I have to go to his private
24 office to bring some papers.

25 And the secretary, his secretary told me that he

1 receive a -- many threats to death to Monseñor Romero. And
2 she told me, "I throw away because we don't want to worry
3 Monseñor Romero," and they threw in the trash, the trash, some
4 of them that they threw away. Some others, I know that they
5 received and they put in the archives. But those I saw, they
6 threw away.

7 Q. Do you recall what they looked like, the ones that were in
8 the trash can?

9 A. Yes. I remember one of -- some has some letters, some
10 writings. But I remember one of them that has a stamp
11 white -- how do you say? The palm, in one paper, in that
12 paper, it was a white hand.

13 Q. A white hand on dark paper?

14 A. Yes, yes, yes.

15 Q. What did you understand that to be?

16 A. In El Salvador in that time, it was the sign of the
17 threats to death (conferred with the Interpreter) in order to
18 say to the people, You are going to be killed. And this sign
19 was -- it was put on some doors or some papers to the people
20 that they wanted to be killed.

21 Q. I believe you testified a moment ago that the
22 correspondence would be stamped and received by Monseñor
23 Romero's staff; is that right?

24 A. Yes. The secretary, they received the correspondence
25 to -- the correspondence of Monseñor Romero.

1 Q. And what was done with it after it was stamped and
2 received?

3 A. They stamp the correspondence, and they write in a book
4 that what they received, and they pass to Monseñor Romero.

5 Q. And what would be done with the correspondence after
6 Monseñor Romero had reviewed it?

7 A. He command to answer the correspondence to be done. He
8 was very strict in that. He always responds all the letters
9 that arrive to him.

10 Q. Were the letters then saved in any way after Monseñor
11 Romero had written them?

12 A. Yes. In his archives.

13 Q. So the correspondence would be saved in the archives of
14 the Archdiocese?

15 A. Yes, yes.

16 MR. Van AELSTYN: Could I have Exhibit 151, please.

17 Let's have 152.

18 BY MR. Van AELSTYN:

19 Q. In the lower right-hand corner, Ms. Hernández, is a stamp
20 that says "Recibido"?

21 A. Yes, this is the seal of the secretary.

22 Q. And then on the center in the bottom is another stamp, it
23 says "Avchivo del Arzobispado"?

24 A. This is when they put in the archives the correspondence.

25 Q. Did you ever gather any documents from the Archdiocese to

1 deliver to counsel for this -- for plaintiff?

2 A. Yes. Because the archives of Monseñor Romero were given
3 to the Beatification Office, all the accounts of the Monseñor
4 passed to the Beatification Office, and I took the papers of
5 the Beatification Office in order to send to you.

6 Q. Not all of them, but some of them?

7 A. No, not all of them. Some.

8 Q. And where is the Beatification Office located?

9 A. In the Archbishop's office.

10 Q. Have they been maintained there regularly since the
11 Beatification Office was opened?

12 A. Yes.

13 MR. Van AELSTYN: Your Honor, we have identified
14 numerous of these exhibits Ms. Hernández obtained from the
15 canonization or Beatification Office --

16 THE WITNESS: I'm sorry. Canonization Office.

17 MR. Van AELSTYN: And for the -- with the concern for
18 the time, I would like to suggest, if it's acceptable to the
19 Court, to move them into evidence as exhibits, based on
20 Ms. Hernández' testimony collectively rather than one at a
21 time, if I could identify them, or we could go through and
22 have her identify each of them.

23 THE COURT: I think that the first issue, before we
24 get to the individual ones, is that she, of course, is not the
25 custodian at the Canonization Office. That is the Church.

1 And I have understood that she has some personal knowledge,
2 having observed what the secretary -- although, I don't know.
3 I thought the Archbishop's personal secretary -- I don't know
4 if it's the same secretary who is in charge of the
5 Canonization Office.

6 But, ordinarily, for this foundation, it has to be a
7 person who either maintains or has at least the responsibility
8 to maintain the records in the ordinary course as they are
9 recording events that are recent. The recording process has
10 to be accurate and the -- has to be regular maintenance, quite
11 frankly, of the recordkeeping system. I don't know whether
12 this witness can attest to that.

13 MR. Van AELSTYN: It may be possible to establish
14 that foundation, your Honor. Just a moment.

15 BY MR. Van AELSTYN:

16 Q. Ms. Hernández, where exactly is Tutela Legal's office?

17 A. In the Archbishop's office. It's a big building with
18 different offices. One of the offices is the Human Rights
19 Office that the Tutela Legal is --

20 Q. Where is the Canonization Office located?

21 A. Our office is in the first floor of that building. The
22 Canonization Office is in the third floor. It's another
23 office of the same building, the building of the Archbishop.

24 Q. Are both offices part of the same institutions, the
25 Archdiocese?

1 A. Yes, both of them belongs to the Archdiocese.

2 Q. And are you familiar with the process by which documents
3 are maintained within the Archdiocese?

4 A. Of my office, totally.

5 Q. And of the other offices?

6 A. Yes, yes, more or less, yes.

7 Q. More or less?

8 A. Yes.

9 Q. Do you know how documents -- strike that.

10 Are you familiar with the archives of the
11 Archdiocese?

12 A. Yes, yes.

13 Q. And are those separate from the Canonization Office?

14 A. Of course, yes. All -- everything is separated. And it
15 is under all authority, all offices, it's not the same
16 authority. The only authority common is the Archbishop. The
17 Archbishop is the authority of all. But all offices have
18 their own authority named by the Archbishop.

19 Q. Can anybody have access to the documents maintained by the
20 Canonization Office?

21 A. No, absolutely nobody can have any access. Only those
22 persons that receive directly authorization. For example, in
23 the Canonization Office, the authority is Monseñor Urrutia,
24 U-R-R-I-U-T-A-R-A, Rafael Urrutia; he is the authority.

25 THE COURT: Let me refer, Mr. Van Aelstyn, to the

1 law. And I think we are talking about two different things
2 here.

3 Because under 803 sub 6, "The record to be admitted
4 must be a memorandum, report, record or data
5 compilation in any form of acts, events, conditions,
6 opinions or diagnoses made at or near the time by or
7 from information transmitted by a person with
8 knowledge, if kept in the course of a regularly
9 conducted business activity, and if it was the
10 regular practice of that business activity, to make
11 the memorandum, record, report or data compilation,
12 all as shown by the testimony of the custodian or
13 other qualified witness."

14 And so, as I understand it, these are various
15 communications, they might be letters, they might be other
16 kinds of documents, and those, of course, may be received, but
17 they aren't recorded pursuant to a regularly established
18 practice where there is a duty to report or reports are made.

19 And so although we can accept that these came from
20 the Canonization Office, I think this is a qualified person
21 because she works for the Archbishop, and those are the
22 Archbishop records in the Canonization Office that would
23 essentially authenticate those documents. But I don't think
24 it makes them admissible, necessarily, as business records.

25 MR. Van AELSTYN: All right. I appreciate that, your

1 Honor. I do believe there is an additional grounds for their
2 admissibility, which is as ancient documents under 803(16), as
3 these all date from 1980 or earlier. And I believe the
4 witness has testified they have been maintained by the
5 Archdiocese since that time.

6 THE COURT: Here's the difficulty, without going one
7 by one. Without knowing the contents, we are back to that
8 same issue of do they contain opinions, do they contain other
9 kinds of tertiary or even a higher level degrees of hearsay
10 and run into other levels of evidence, and so for what each
11 one is being offered and for what they are sought to
12 establish, I pretty much need to --

13 MR. Van AELSTYN: Your Honor, perhaps if I can
14 address that one point. We are not seeking to have them
15 admitted into evidence for the truth of the contents of any of
16 the documents. We are only seeking to admit them into
17 evidence for the fact of their receipt by the Archbishop and
18 the Archdiocese.

19 THE COURT: All right. For that purpose, then, under
20 803(16), I will admit this series of exhibits if the witness
21 can provide the foundation that all of these documents under
22 her authority as a qualified person at the Archbishop's
23 offices in San Salvador, that she obtained all of them under
24 the auspices of their recordkeeping procedures.

25 BY MR. Van AELSTYN:

1 Q. Ms. Hernández, how did you obtain the documents from the
2 Canonization Office that you provided to counsel for plaintiff
3 in this case?

4 A. I asked the authorization to Monseñor Rafael Urrutia,
5 asking his authorization to obtain the document. He give me
6 his authorization to obtain that document. And we went to the
7 archives and we obtained the documents.

8 THE COURT: How did you obtain them?

9 THE WITNESS: Because he has his assistant, his
10 assistant. And he told him that be with me to -- and I
11 appoint the documents that I needed.

12 THE COURT: You showed him which documents from the
13 archives?

14 THE WITNESS: Yes, yes.

15 THE COURT: And then the assistant got the documents
16 for you?

17 THE WITNESS: Yes.

18 THE COURT: Were these the original documents or the
19 documents copied?

20 THE WITNESS: No. We take the original document and
21 we went to the photocopy and I made the photocopy.

22 THE COURT: All right. And can you testify under
23 oath that accurate and complete photocopies of the original
24 documents from the archives --

25 THE WITNESS: Yes, yes.

1 THE COURT: -- were made by you?

2 THE WITNESS: Yes, yes, sir.

3 THE COURT: All right. I will find that the
4 foundation for the admissibility, not for their truth, but for
5 the fact that this series of documents was in the Bishop's
6 archives for the Canonization Office, and that they are true
7 copies of the authentic records of what was filed there in the
8 ordinary and regular course of business of whatever
9 correspondence or other documents came in to the church
10 offices concerning Archbishop Romero's activities.

11 MR. Van AELSTYN: Thank you, your Honor. Then for
12 the record, I will identify the series of documents by number.

13 THE COURT: Yes.

14 MR. Van AELSTYN: They are Exhibit Numbers 136, 137,
15 138, 140, 141, 145, 146, 147, 149, 150, 151, 152, and a
16 continuous series, exhibits numbers 194 through 215.

17 THE COURT: All right. For the limited purpose
18 stated, to show the fact of the receipt and that they were
19 maintained continuously as business records of the
20 Archbishop's office in San Salvador, Exhibits 136 to 138, 140,
21 141, 145 through 147, 149 through 152 and 194 through 215 are
22 received in evidence.

23 (Plaintiff's Exhibits 136 to 138, 140, 141, 145
24 through 147, 149 through 152 and 194 through 215 were
25 received.)

1 MR. Van AELSTYN: Thank you, your Honor.

2 BY MR. Van AELSTYN:

3 Q. Ms. Hernández, you testified earlier that some of the
4 correspondence that you reviewed that Monseñor Romero had
5 received contained requests for homilies; is that right?

6 A. Yes, that's right.

7 Q. What did you do with that correspondence?

8 A. Well, since the beginning, the homilies were so wonderful
9 in their message that I asked him to public -- to publish the
10 homilies, and he rejected. And from that time, I wanted to be
11 published, but he always said to me, No, no, no.

12 But that day that I opened the letters, and all the
13 people asked for the homilies, I took the whole package and I
14 went to his office, and I found him writing in his escritorio,
15 at his desk, and I told him, "Monseñor, I am not asking for
16 the homilies. It's your people who is asking for the
17 homilies."

18 For the first time, I saw him, that he was
19 doubting -- he was changing. And some weeks later, he told
20 me, "When people ask the homilies, we are going to answer them
21 with the homilies."

22 And it was at Advent time, liturgy time, Advent time,
23 and he told me, "We are going to send as Christmas writings."
24 And we begin in that.

25 Q. Do you remember approximately when that was?

1 A. To transcribe the homilies, and to send to those people
2 that ask for the homilies.

3 Q. Did you record the homilies?

4 A. I always, since the beginning, I record all the homilies,
5 Sunday homilies of the Monseñor Romero.

6 Q. You personally did?

7 A. Personally, I recorded them.

8 Q. Did you record the homily that was given on March 23,
9 1980?

10 A. Yes, I recorded that homily of Sunday, 23 of 1980.

11 Q. What did you do with the -- strike that.

12 Where is the recording of that homily maintained?

13 A. I gave all the recordings to the Canonization Office.

14 Q. And did you also record the homily given on March 24,
15 1980?

16 A. No. I didn't record it because it was not Sunday. I
17 didn't attend that Mass.

18 Q. Do you know how an audio recording of that homily came to
19 be available?

20 A. I know that some person that attend the Mass recorded that
21 homily, and gave immediately to the people that help Monseñor
22 Urioste and they transcribe it immediately in order to be
23 known by everybody.

24 Afterwards, I have a recorder, and I was talking with
25 some nuns of the hospital, they told me that they hear that

1 homily. They were at that moment with -- in that homily, in
2 that Mass.

3 Q. You played the recording for those nuns?

4 A. Yes, yes.

5 Q. And they confirmed that it was --

6 A. Yes, yes, yes.

7 Q. And where is that audio recording maintained?

8 A. In the Canonization Office.

9 Q. And did you provide copies of those recordings to counsel
10 for plaintiff in this case?

11 A. Exactly. Exactly.

12 MR. Van AELSTYN: Your Honor, on the same basis as
13 the others, we move to admit into evidence Exhibit Numbers 90,
14 92, 93, which are portions of the March 23, 1980 Homily, and
15 Exhibits 91 and 94, which are the March 24, 1980 homily.

16 THE COURT: All right. The motion to admit Exhibits
17 90, 92 and 93 because this witness recorded them is granted.
18 Those exhibits are received in evidence.

19 (Plaintiff's Exhibits 90, 92 and 93 were received.)

20 THE COURT: As to Exhibits 91 and 94, if I heard the
21 witness' testimony correctly, she went to the Canonization
22 Office. She found the recording for the 24th. And then she
23 recorded what was in that office and that's the tape that you
24 have.

25 MR. Van AELSTYN: Yes, your Honor. She made a copy

1 of the recording of March 24 and provided it to us.

2 THE COURT: And do you know if the recording you made
3 is complete and accurate? Is it a faithful reproduction of
4 what is on the tape you heard in the Canonization Office for
5 the 24th of -- those homilies that are on it?

6 THE WITNESS: Yes. Yes, your Honor.

7 THE COURT: All right. Again, for the limited
8 purpose, not for the truth of the contents, but the fact that
9 this is a recording of words that were spoken on the 24th, and
10 for the fact that that was the sermon that was given, or part
11 of it, by Archbishop Romero at the time of his assassination,
12 Exhibits 91 and 94 are received for that limited purpose.

13 MR. Van AELSTYN: Thank you, your Honor.

14 (Plaintiff's Exhibits 91 and 94 were received.)

15 BY MR. Van AELSTYN:

16 Q. Ms. Hernández, where were you on the evening of March 24,
17 1980?

18 A. I was in my home correcting the homily of the day before,
19 because I have to bring the correct text to the printer -- to
20 the printer in order that they publish the homily in the diary
21 of the Diocese Weekly News. They -- and I have to correct all
22 the text in order to bring that.

23 When some friend call me by phone, that the Monseñor
24 Romero was shot, and I said -- I thought, no, it's not
25 possible.

1 And I went to the telephone and I asked to the
2 hospital if it was truth. And one nun told me that it was
3 true. So I went immediately to the hospital, Policlínica, and
4 I saw -- I could reach Monseñor Romero, it was a lot of
5 people, and I saw before the autopsy, I could see him.

6 Q. Could I have Exhibit number 42, please. Do you recognize
7 what this photo is?

8 A. It is Monseñor Romero. It is Monseñor Romero.

9 Q. At the time of the autopsy?

10 A. No. I don't know at which moment was that, because at the
11 time of the autopsy, in that moment, many people was out and I
12 was of the last people that came out before the forensic began
13 the autopsy. I was not present in the autopsy. I left.

14 Q. Do you recognize the man standing in the middle with a
15 tie?

16 A. Yes. It's a lawyer, his name is Florentin Melendez.

17 Q. Was he a lawyer with any particular agency or law firm?

18 A. In that time, he worked for the Socorro Jurídico.

19 Q. And what was Socorro Jurídico?

20 A. Socorro Jurídico was the office of human rights that
21 worked with Monseñor Romero. And they helped Monseñor Romero
22 in the judicial way of all violation of human rights of people
23 that ask Monseñor Romero to help them.

24 Q. Do you know what Mr. Melendez did in the months following
25 the assassination of Monseñor Romero?

1 A. About the members of the Socorro Jurídico? What was your
2 question?

3 Q. Strike that. Mr. Melendez is a lawyer for Socorro
4 Jurídico?

5 A. Yes.

6 Q. Do you know if he made any efforts to investigate the
7 assassination of Monseñor Romero?

8 A. Oh, well, in that time, the only thing that I know is that
9 they tried to investigate and document the case of Monseñor
10 Romero. But afterwards, they were threatened to death and the
11 director of the Socorro Jurídico, Roberto Cuellar, had to
12 leave the country, and to leave -- to leave the country. And
13 Florentin Melendez, they leave the country too. Because they
14 had to go out of the country because they were threatened to
15 death.

16 Q. Roberto Cuellar was the director of Socorro Jurídico?

17 A. Yes.

18 Q. And he fled the country because of threats to his life?

19 A. Yes.

20 Q. When?

21 A. Immediately after the assassination of Monseñor Romero.

22 Q. And Mr. Melendez --

23 A. Also.

24 Q. -- received death threats and left the country?

25 A. Yes.

1 Q. Approximately what time?

2 A. Well, first it was Roberto Cuellar. More or less, some
3 weeks after the assassination. Because Roberto Cuellar saved
4 his life hiding in the seminary of San Salvador. After some
5 many weeks, two or weeks, he left the country.

6 Q. Do you know why he was hiding in the seminary?

7 A. Because probably they would be killed if they found him.

8 Q. Do you know if Socorro Jurídico had obtained any files
9 relating to the investigation of the assassination of Monseñor
10 Romero?

11 A. Yes. It was the beginning of the investigation of them.
12 And they kept this file in Socorro Jurídico, but I know
13 that -- months, two or three months later, the National Police
14 arrived to the Socorro Jurídico, take the file, and disappear.

15 Q. The National Police?

16 A. Yes.

17 Q. Took the files?

18 A. Yes.

19 Q. And when was that?

20 A. Some months later. I don't remember exactly that date.

21 Q. How do you know that they were National Police?

22 A. Because one lawyer of the Socorro Jurídico told me.

23 Q. Did he see them?

24 A. Excuse me?

25 Q. Did he see them?

1 A. Yes, yes, yes.

2 Q. Did he say that they were in uniform?

3 A. Yes, yes, yes. Is was -- we call "cateo." I don't know
4 how to say in English. "Search." Search of the National
5 Police.

6 THE COURT: Did you see the National Police on that
7 occasion?

8 THE WITNESS: National Police went --
9 (The witness conferred with the Interpreter.)

10 THE WITNESS: No.

11 THE COURT: You didn't see them?

12 THE WITNESS: No.

13 THE COURT: You heard about them?

14 THE WITNESS: I heard the lawyer of Socorro Jurídico,
15 that he told me that they received a search of the National
16 Police, and they took the -- some files. Among them, Monseñor
17 Romero's file.

18 THE COURT: Thank you.

19 MR. Van AELSTYN: Could I have Exhibit Number 34,
20 please.

21 BY MR. Van AELSTYN:

22 Q. Do you recognize this photo, Ms. Hernández?

23 A. Yes, I do.

24 Q. What is it?

25 A. It's when they are taking the body of Monseñor Romero to

1 the hospital. It's outside of the chapel. There is some
2 person that took Monseñor Romero.

3 Q. Do you recognize any of the people in this photograph?

4 A. Yes, the first man to my right is a man that disappeared.

5 The other old man is a father of some nun, a nun. A
6 nun. And the others, well, to those, I recognize.

7 Q. The man with the tie, you say, was disappeared?

8 A. Yes, yes.

9 Q. Do you know how -- how do you know that?

10 A. Because the people said that he disappear and they
11 never -- he was never found again.

12 THE COURT: Were you present when this --

13 THE WITNESS: No, I was not present. I was not
14 present.

15 THE COURT: How do you know that that is the
16 Archbishop?

17 THE WITNESS: Because I recognize the chapel. I
18 recognize Monseñor Romero, and it's him that is in that
19 chapel.

20 BY MR. Van AELSTYN:

21 Q. Ms. Hernández, we have seen, and I believe you were in
22 court when Padre Cortina was shown a series of photographs
23 from the shooting. Have you seen that series of photographs
24 yourself?

25 A. Yes, I have been seeing them, yes.

1 Q. Where have you seen them?

2 A. Well, at the beginning, in the office of the Archbishopry.
3 We have the pictures. Later on, because the photographer, his
4 name is Eulalio Garcia, came to my office, and he told me that
5 he wanted to sell the negatives.

6 And I asked him how much. I don't remember the
7 amount, but I called Monseñor Urioste and I told him, "Please,
8 we need this amount in order to pay the photographer in order
9 to obtain the negatives," and he told me yes. He gave me the
10 amount and we obtained -- I obtained the negatives.

11 I have for some time the negatives, but when the
12 Canonization Office was opened, I gave the negatives to the
13 Canonization Office.

14 Q. And did you later provide copies of those photographs to
15 counsel for plaintiff in this case?

16 A. Yes. I asked the photograph in order to send to you.

17 Q. Could we have Exhibit Number 22, please.

18 Ms. Hernández, do you recognize this photograph as
19 being the --

20 A. Yes, I recognize.

21 Q. Was this one of those included amongst the negatives that
22 you purchased?

23 A. Yes, yes. And the photograph, the photographer told me
24 that he was his first picture. When he hear the shooting, he
25 immediately stand up and begin to take pictures, to take

1 pictures. And he was -- he was -- this was his first picture
2 that he took.

3 Q. Could we have Exhibit Number 6, please. Exhibit 28, I
4 apologize.

5 Ms. Hernández, do you recognize this photograph --

6 A. Yes, I recognize.

7 Q. -- as being amongst the series of negatives?

8 A. Yes, it is one of the negatives, yes.

9 Q. And may I please have Exhibit Number 26.

10 A. This was the picture immediately after the first one,
11 because the people threw themselves on the floor. All the
12 people is on the floor in this moment.

13 Q. Could we go back to Exhibit 22, please.

14 A. This was the first picture that the photographer take.

15 Q. And then Exhibit 26?

16 A. The next one is when all the people threw on the floor.

17 Q. I see. So the people that were seen standing in Exhibit
18 22 are now behind the pews?

19 A. Yes, yes.

20 Q. Could we now have Exhibit 35, please.

21 A. In this picture, the people is taking the blood of
22 Monseñor Romero and they put in little jars, and some of them,
23 the sister of Monseñor Romero, she died two years ago, I
24 think, even she has blood of Monseñor Romero in a liquid way.

25 Q. And was this photograph amongst the negatives that you

1 purchased?

2 A. I have the negative, yes.

3 Q. Could we have Exhibit 36, please.

4 A. This is the station wagon that they put Monseñor Romero to
5 took to the hospital, Policlínica.

6 Q. And was this amongst the negatives that you purchased?

7 A. Yes, yes.

8 Q. May I have Exhibit 40, please.

9 A. This is the picture in -- of the family of Jorge Pinto is
10 there.

11 Q. Which one is Jorge Pinto?

12 A. This man --

13 Q. With the tie?

14 A. -- is Jorge Pinto after -- in those moments.

15 Q. And was this photograph amongst the negatives that you
16 purchased?

17 A. Yes, yes.

18 MR. Van AELSTYN: Your Honor, I would like to move
19 into evidence Exhibit Numbers 22, 26, 36, 38 and 40 on the
20 basis that they are amongst the negatives that the witness
21 purchased and has been maintained in the Canonization Office.

22 THE COURT: All right. I'm going to find that under
23 the catch-all exception and the recognition of the
24 circumstances and events and being with the other negatives
25 that there is a sufficient reliability to justify the

1 admissibility of these exhibits and will, therefore, admit
2 them to evidence, 22, 26, 35, 36, 38 and 40.

3 (Plaintiff's Exhibits 22, 26, 35, 36, 38 and 40 were
4 received.)

5 MR. Van AELSTYN: Your Honor, I'm sorry, if I may
6 include as well the other ones that Padre Cortina identified.
7 We would like to move those in evidence, although they are
8 included amongst the same set of negatives.

9 THE COURT: Let me get to that portion of my notes.
10 We have 22, 24 -- that's the picture of the --

11 MR. Van AELSTYN: 24 was previously admitted into
12 evidence.

13 THE COURT: That's in.

14 MR. Van AELSTYN: That's in under Father Wipfler.

15 THE COURT: 22, 26, 35, 36, 38 and 40, he recognized
16 34 is in. 35, he could not recognize. 38, he could not
17 recognize. 40, he could not recognize. 36 is in. He did
18 recognize. And 38, I believe we just admitted. He does -- he
19 did not recognize that. So there is no foundation for that
20 one through Father Cortina. So those that he recognized I
21 just read the numbers of are admitted in evidence.

22 MR. Van AELSTYN: Thank you, your Honor.

23 (Plaintiff's Exhibits 22, 26, 35, 36, 38 and 40 was
24 received.)

25 MR. Van AELSTYN: And 30, I believe we have already

1 admitted into evidence on the basis of Father Wipfler's
2 recognition.

3 THE COURT: Bear with me and I will find Father
4 Wipfler.

5 MR. Van AELSTYN: We show Exhibit 30.

6 BY MR. Van AELSTYN:

7 Q. Ms. Hernández, do you recognize Exhibit 30?

8 A. Yes, I recognize.

9 Q. One of the negatives you purchased?

10 A. Yes.

11 THE COURT: All right. I'm going to find that for
12 the same reasons under the catch-all exception, there is
13 sufficient reliability to admit this photograph as being one
14 of the series of negatives purchased from the photographer who
15 actually took it by the church.

16 (Plaintiff's Exhibit 30 was received.)

17 MR. Van AELSTYN: Thank you, your Honor.

18 THE COURT: It's admitted in evidence. It's Exhibit
19 30?

20 MR. Van AELSTYN: Yes, your Honor.

21 THE COURT: All right.

22 MR. Van AELSTYN: Thank you.

23 BY MR. Van AELSTYN:

24 Q. Ms. Hernández, you have mentioned the Canonization Office.
25 Do you know what its purpose is?

1 A. The Canonization Office, the purpose is to have all things
2 of Monseñor Romero, his records, his writings, his archives,
3 in order to study them to make the process, first, in the
4 Diocese -- the process in order to beatify him, and later on,
5 to canonize him.

6 Rome has two processes. The first process is in the
7 own Diocese in San Salvador. And the second one is in the
8 Vatican in the -- in the Vatican.

9 Q. Has the first process within the Diocese within San
10 Salvador?

11 A. It is finished. And now it is in the Vatican in Rome, his
12 process.

13 Q. Do you know, if you know, what the issues are that the
14 Vatican is trying to determine in order to make a decision?

15 A. Yes. He is -- he has several kinds of history. He has a
16 theologian history, about his writings and everything. His
17 history in the cause of who killed him, why he was killed, the
18 circumstances. That historical elements. And to see what the
19 people -- what the people knew about Monseñor Romero and what
20 sense the people and what he knew of Monseñor Romero.

21 Q. The second of those, if I understood your answer, was that
22 the Vatican is investigating the nature of his killing?

23 A. Yes, because it is very important in order to declare him
24 a martyr, he has -- they have to find out who killed him, why
25 he was killed, for what -- why they kill him.

1 Q. Do you know if the Vatican has conducted any
2 investigation?

3 A. Well, the first investigation is made by the Diocese in
4 San Salvador. This was then to Rome, and so Rome, I suppose,
5 they are doing their own things.

6 THE COURT: Do you know?

7 THE WITNESS: Not exactly.

8 THE COURT: Thank you.

9 Don't speculate.

10 BY MR. Van AELSTYN:

11 Q. Ms. Hernández, if we could go back to your work at Tutela
12 Legal, and I believe you testified that one of the things that
13 Tutela Legal does to document human rights abuses; is that
14 right?

15 A. Yes.

16 Q. I want to show you a few more photographs, and ask you
17 to -- if you recognize them. Exhibit 67, please.

18 A. Yes.

19 Q. Do you recognize this photograph?

20 A. Yes.

21 Q. Is this -- do you recognize it or do you recognize it as
22 one of similar photographs?

23 A. I recognize the -- this was a typical assassination of
24 death squads. They want to send a message to the people, a
25 terror message in order to control the people, in order to

1 tell them that if they were doing things against the
2 government, they are going to be there, if they are
3 subversive, they call everybody that work for the poor people
4 or they claim for their own reeducation, like work, like
5 education, health, they were going to finish in that way.
6 That was a typical execution. We call this "ejucación
7 sumaria." In Spanish is "ejucación sumaria."

8 THE COURT: Summary? Summary executions?

9 THE WITNESS: Yes, yes, yes.

10 MR. Van AELSTYN: Can we have Exhibit 69, please.

11 THE WITNESS: This was the people that was taken from
12 their home and they -- and as you may observe, the faces is
13 completely destroyed in order that the families would not
14 recognize them.

15 These are the death squads and the army and all the
16 National Police, the National Guard, the Treasury Police.
17 They have certain sites that we call "trash of bodies." They
18 were thrown, the bodies, to those points in order to send
19 another message of executions, summary executions.

20 BY MR. Van AELSTYN:

21 Q. And Exhibit 70, please, and 71.

22 A. This is the National Police.

23 Q. And 72?

24 A. These are bodies.

25 Q. Do you recognize the last five exhibits that we have

1 looked at as representative of the kinds of human rights
2 violations that Tutela Legal has documented?

3 A. Yes, yes.

4 MR. Van AELSTYN: Your Honor, I would move these into
5 evidence as representative exhibits, as essentially
6 demonstrative exhibits as the kinds of evidence that Tutela
7 Legal has documented.

8 THE COURT: All right. And as to these exhibits, you
9 have testified that in your mission to document human rights
10 violations, that in the gathering of evidence, these kinds of
11 photographs are part of the evidence that is required. And
12 then these are used for official purposes to show that such
13 political killings were occurring at the time that they
14 happened.

15 THE WITNESS: Yes, yes. And this is important in
16 human rights, because it shows how violations happen,
17 violation of human rights happen. And many of these bodies
18 were not recognized, but it shows that people was killed,
19 because the government says nothing happened in El Salvador
20 for the outsiders. But for insiders, he wanted to send a
21 message to the people.

22 THE COURT: And do you have any knowledge, is there
23 any way to put a time period on when these events that are
24 depicted occurred?

25 THE WITNESS: Well, these -- in the 80s, in the 80s.

1 Of course, that I know that there are more in the 70s, but
2 these are in the 80s.

3 THE COURT: You were collecting such evidence in
4 1980, the year of the assassination?

5 THE WITNESS: Yes, until now, your Honor.

6 THE COURT: And the scenes that are depicted in these
7 five photographs are accurate depictions of the kinds of
8 political killings that were occurring then?

9 THE WITNESS: Yes, yes.

10 THE COURT: All right. I will admit Exhibits 67
11 through 72 for the limited purpose of these are demonstrative,
12 as just stated by the witness, to show that these kinds of
13 human rights violations through political killings were
14 occurring, and that's the only purpose for which they are
15 admitted.

16 (Plaintiff's Exhibits 67 to 72 were received.)

17 MR. Van AELSTYN: Understood, your Honor. Thank you.
18 I have just a little bit more.

19 THE COURT: All right.

20 BY MR. Van AELSTYN:

21 Q. Ms. Hernández, in your work with Tutela Legal, which I
22 believe began in 1982?

23 A. Yes.

24 Q. You have been documenting human rights violations?

25 A. Yes.

1 Q. In your experience, did the rate of human rights
2 violations decrease, increase or stay the same after Monseñor
3 Romero was assassinated?

4 A. It -- the numbers went up totally (gesturing) totally
5 after the killing of Monseñor Romero. The worst years of the
6 history of violations of human rights in El Salvador are '80,
7 '81, '82, '83, '84. Totally, it was terrible. Really, terror
8 in El Salvador.

9 I remember, for example, after the death of Monseñor
10 Romero, in June was killed Father Espe Soto, of 1980. In
11 June, was killed Osvaldo Caceres, a seminarian that was going
12 to become priest the next month.

13 In the months after, the beginning months, there was
14 killed Father Marcial Serrano. Marcial Serrano.

15 Immediately in December were killed the four American
16 nuns, and in the same month disappeared Father Ábrego. And
17 many and -- and thousands, hundreds of catechistas.

18 Q. Catechistas are lay people?

19 A. Lay people that give the speech, the doctrine -- the Holy
20 Bible.

21 Q. Lay people that teach in the Church?

22 A. Many hundred of them were killed. Catechistas, lay people
23 that belongs to the Church, in that same year of Monseñor
24 Romero.

25 Q. Were these all of the kinds of individual killings that

1 these pictures depicted or were there other kinds of killings?

2 A. Some kind in that way and in another way.

3 Q. What other way?

4 A. Well, Father Espe Soto was killed in their own church.

5 Q. Were there any large scale massacres during this time as
6 well?

7 A. Yes. The first massacre was in May of 1980. The massacre
8 is the Rio Sumpul Massacre, was in May. That we didn't know
9 about massacres in a large -- they would kill more than 800
10 people, campesino people.

11 Q. Had there been any large scale massacres like that prior
12 to Monseñor Romero's assassination?

13 A. Small ones, but not that amount of people.

14 Q. Ms. Hernández, is there today any memorial to the many
15 victims of these human rights violations in El Salvador?

16 A. The official figures are 5 -- 85,000 victims, but it's
17 double, because the majority were not announced, not recorded,
18 no -- it's terrible.

19 Q. Is there any memorial or monument to the victims?

20 A. Yes, yes. We create a commission pro movement, to open a
21 space to memorize -- to prepare in a memorial way the victims,
22 because they deserve that reparation, first, and second, the
23 same Truth Commission recommended to the government to build a
24 monument to the victims and the government says, no, we are
25 not going to do that.

1 So we get together human rights organizations, all
2 people that wanted to help, many people, and we build a
3 monument to the victims in Cucsatlan Park in San Salvador.
4 That this is almost hundred meters, 90 meters long, almost
5 three meters high, and we have thousands of names of missing
6 people, of executed people to death, and massacres. They are
7 all the wall, in order that the victims have some space to go
8 to remember the victims, the families, to pray or to stay with
9 them.

10 Because the disappearing people, many people came to
11 my office and told me, "Where I am going to put some flowers
12 to my son, to my father, to my wife?" There is no place, so
13 here you are going to have someplace to remember.

14 Q. Is the monument a marble wall then?

15 A. It's a marble wall, yes.

16 Q. And the names of the victims are etched, engraved on the
17 wall?

18 A. Yes, engraved.

19 Q. How many names are engraved?

20 A. Well, in that monument, we have 23,000 names.

21 Q. You testified earlier that the estimated number of victims
22 was 85,000 or more?

23 A. Or more. More victims, yes.

24 Q. Why only 23,000 recorded on the wall?

25 A. Well, because this was recorded in our office and another

1 office. But there are a lot of more.

2 Q. So these are the names of those that you have been able to
3 document as victims?

4 A. Yes. Because remember that we find many, many bodies that
5 nobody recognizes. So these bodies doesn't have names. We
6 don't know who they are. The only thing that we know, that
7 they were tortured, they were executed, because of the
8 forensic studies, and they belonged to or they are masculino
9 or femenino -- how do you say? Masculine or female. More or
10 less the age, but we don't know any more of them.

11 Q. Is the name of Monseñor Romero recorded on the wall?

12 A. Yes, it is on the wall, yes.

13 MR. Van AELSTYN: I have no further questions.

14 THE COURT: Thank you very much, Ms. Hernández.

15 THE WITNESS: Thank you. Thank you, your Honor.

16 THE COURT: You may step down. All right. At this
17 time, we are going to take the evening recess. We will resume
18 the evidence at 9:00 a.m. tomorrow morning.

19 MR. Van AELSTYN: Thank you, your Honor.

20 (The proceedings were adjourned at 4:45 p.m.)

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