

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 4
vs.)	
)	Sealed Proceedings, Pgs. 525
ALVARO RAFAEL SARAIVIA; and)	to 532, filed under Separate
DOES 1-10, inclusive,)	Cover
)	
Defendants.)	
)	
Fresno, California		Friday, August 27, 2004

REPORTER'S TRANSCRIPT OF PROCEEDINGS

vol. 4, pgs. 454 to 627, inclusive

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1 Friday, August 27, 2004 Fresno, California

2 9:00 a.m.

3 THE COURT: Good morning. I apologize for getting
4 started late. We had other cases we had to handle. We are
5 ready to continue with testimony.

6 Mr. Van Aelstyn, you may proceed.

7 MR. Van AELSTYN: Thank you, your Honor. Before we
8 begin with testimony, there is one small housekeeping matter I
9 would like to address, and I apologize, but when we went
10 through the series of exhibits from the Canonization Office
11 yesterday from Ms. Hernández and we had that whole series of
12 exhibits, I apologize, it was my mistake, the last five in the
13 series were not actually from the Canonization Office. Those
14 were documents obtained from Diario de Hoy, the newspaper
15 archives that Professor Karl had found.

16 They were similar in a sense that they contained
17 threat documents, but they were from the archives of the
18 newspaper.

19 THE COURT: Well, let's reserve the ruling, then,
20 until Professor Karl resumes the stand.

21 MR. Van AELSTYN: Thank you, your Honor. I
22 apologize.

23 MR. COHEN: Good morning, your Honor. We would like
24 to call as our next witness Ms. Esther Chavez.

25 ESTHER CHAVEZ,
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1 called as a witness on behalf of the Plaintiff, having been
2 first duly sworn, testified as follows:

3 THE CLERK: Please state your name for the record.
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4 THE WITNESS: Esther Chavez.

5 THE CLERK: Thank you. You may take the stand.

6 THE COURT: You may proceed.

7 DIRECT EXAMINATION

8 BY MR. COHEN:

9 Q. Good morning, Ms. Chavez.

10 A. Good morning.

11 Q. Can you tell me where you were born?

12 A. In San Salvador.

13 Q. Where do you live now?

14 A. I live Elizabeth, New Jersey.

15 Q. When were you born?

16 A. January 2nd, 1954.

17 Q. Can you tell us something about your family, how many
18 brothers and sisters?

19 A. I came from a big family. I have six brothers and one
20 sister, and they are very Catholic.

21 Q. And among your brothers and sisters, where do you fall?

22 A. I am the oldest of the eight.

23 Q. You mentioned that your family is very Catholic. Were you
24 raised in a religious environment?

25 A. Yes, I was raised Catholic and I went to Catholic school.

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1 Q. And after your Catholic education, did you do any
2 university education?

3 A. Yes, I do. I went to the National University in San
4 Salvador for -- the first major was sociology and then later
5 on, education.

6 Q. And did you complete a degree at the National University?

7 A. No, I was not able to complete my education because of the
8 political situation during the 70s. The university was closed
9 very often, and that's why I was not able to finish one of
10 those degrees.

11 Q. While you were attending the National University, were you
12 working as well?

13 A. Yes, I was. I was working, first, at the Health
14 Department of San Salvador, and then later on, as a teacher.

15 Q. And where were you working as a teacher?

16 A. I had my own day care center in San Salvador.

17 Q. And prior to that, did you work in any religious schools?

18 A. Yes, I did. I went to school at the Colegio La Ascención
19 in San Salvador and in 1978, I also worked there as a
20 librarian.

21 Q. You worked there as a librarian?

22 A. Yes.

23 Q. And who was it that you were working with at the Colegio
24 La Ascención?

25 A. I was working with a Sister Ines. I was working with her.

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1 Q. And what can you tell us about Sister Ines?

2 A. I would say that she is my mentor and she is the reason I
3 would say I am here because, through her, I was able to meet
4 Monseñor Romero.

5 Q. And where is Sister Ines today?

6 A. She is in Spain.

7 Q. Let me ask you, when you were growing up, did you
8 personally observe any changes in the Catholic Church?

9 A. Yes. First, when I was a child, a young person, the
10 Masses were in Latin, and then later on, when Vaticano

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11 Segundo -- Vatican Second, came about, the Church changed and
12 the Mass was no longer in Latin, it was now in Spanish, and
13 people, the lay persons were able to participate.

14 Q. As you were growing up, how did you feel about the changes
15 in the Church from the Latin Mass to a Spanish Mass?

16 A. I would say that that gave me the opportunity to
17 participate more directly and also to be involved with the
18 changes that happened in the Church.

19 Q. And were there other changes going on aside from the Mass
20 being conducted in Spanish?

21 A. Yes, later on, after Vaticano Segundo, that was in the
22 60s, in the 70s, there was the change in Medellin, and that
23 was the Theologia de la Liberación --

24 THE REPORTER: I'm sorry, you'll have to --

25 BY MR. COHEN:

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1 Q. "Liberation theology," in English?

2 A. Yes.

3 Q. And what sorts of changes did that bring about in the
4 Church?

5 A. First, I will say that I was able to participate in one of
6 the base communities that developed in the neighborhood that I
7 was living in San Salvador, and this gave me the opportunity
8 not only to learn the changes, but also to practice the
9 changes in the Church.

10 Q. You mentioned base communities. Can you describe that for
11 us?

12 A. Base communities were developed and not only in the
13 countryside, but also in the poor neighborhoods in San

14 Salvador. And I was living near by one of the poor
15 neighborhoods in San Salvador that is called Colonia Morazan.

16 Q. And could you tell me what the purpose or objective of
17 these base communities was?

18 A. It was not only to learn the change in the Church and also
19 to learn what the documents were saying, but also to practice
20 what the changes were in the Church. That it was -- it is not
21 only what the priests and others in the Church were saying,
22 but also to live what the documents and Vaticano Segundo and
23 Medellin were saying, to be and work with the poor.

24 Q. Maybe you can tell us a little bit about how these
25 communities came to be formed. Who helped to organize them?

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1 A. Because it was not that many priests during that time that
2 were able to be in each parish, the changes were that lay
3 people were able to do and practice some of the service, and
4 we have what is called in Spanish, "celebracion de la
5 palabra" and -- "celebration of the work." And that's how we
6 were able to get together.

7 And the base communities were sharing the need of the
8 community. Like an example, I'm going to give it, is that in
9 the group that we have, in our community was a lot of single
10 mothers. Some of them were not able to go to work because
11 they didn't have anybody to take care of their children. Then
12 the elders of the community, other women, were willing to help
13 those young women to go to work and take care of their
14 children.

15 Q. So it sounds as if the base Christian community wasn't
16 just involved in carrying out religious ceremonies?

17 A. Yes. It's not only to carry out the Christian, but also
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18 to practice what the Christian documents were saying, that it
19 was help each other.

20 Q. In terms of practicing what the Christian documents said,
21 how exactly did you do that?

22 A. I was one of the persons who had an education. Most of
23 the other people didn't have the opportunity to go to school.
24 And I was helping them in reading some of the documents that
25 they received and also trying to help them.

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1 And in 1978, when I met Monseñor Romero directly, I
2 was able to develop and go and serve the communities around
3 and see what was the need.

4 And the need there was to have a day care center.
5 And that's why, in 1979, I opened a day care center in the
6 area of Morazan.

7 Q. Ms. Chavez, I want to ask you more questions about the day
8 care. But first let me ask you a little bit more about how
9 the base communities came together for religious ceremonies.

10 A. They, as I said earlier, because of the need, that we
11 don't have that many priests, people got together and began to
12 work together. And that was in the 70s.

13 And one of the reasons that people were able to get
14 together, it was not only because the need of the -- that
15 there was not that many priests, but also the situation.
16 People want to help each other.

17 Q. So were some of the members of the communities carrying
18 out some of the responsibilities that used to be only carried
19 out by the priests?

20 A. In some ways, yes.

21 Q. Let's talk about your first contact with Monseñor Romero.

22 A. Okay. The first contact with Monseñor Romero was in '78,
23 and it was not directly with him, it was not person to person.
24 My first contact was through one of the homilies. In the
25 middle of the year, YSAX, the radio station, the Catholic

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1 radio station that transmitted Monseñor Romero's message, was
2 bombed.

3 And I was asked by Sister Ines to transcript one of
4 the homilies of that Sunday. And typing the homily, listening
5 to him directly, and it was only, like I say, me and him, I
6 got a message that was very powerful.

7 And since then, I was volunteer with Monseñor
8 Maldenez (phonetic) to help in any way that I can. And
9 because of the situation was very danger, the congregation
10 decide to send Sister Ines back to Spain. And I was not happy
11 with that idea, and I felt at that time that it was not right
12 for the congregation to send someone back because of her
13 support to Monseñor Romero's work.

14 And I went and complained not only to the director of
15 the school, but also to the supervisor of the congregation. I
16 said that that was not right. "You are not practice what you
17 are preaching."

18 And they -- I was also working at the school, and
19 they say, "Okay, if you are not happy, then you are going to
20 be laid off." And they laid off me.

21 And after that, I called Monseñor and asked for a
22 meeting with him. And that was the first direct contact,
23 almost November 1978.

24 And he was a very open and a humble man, and very --
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25 a person with his feet on the ground. And he asked me what I
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1 want to do.

2 And I told him that I was -- I want to continue the
3 part of the work that I was doing, but at the same time, I was
4 a little bit lost because Sister Ines, who was, as I say, my
5 mentor, was leaving.

6 Monseñor told me you have to see what you want to do
7 and also see around you what is the need. You should go back
8 to your community, to the area where you are living, and see
9 what you can do. What is the need there.

10 And I went back. I asked one of my brothers if he
11 was willing to help me to do a survey in the community, in the
12 area, and he helped me. And we went around; the most need at
13 that time, it was a day care center.

14 And I told Monseñor again, and that was getting close
15 to Christmas, and he said to me, "Okay, then, you have your
16 answer. If you really want to work with the poor, that's what
17 you should do. You go and have the day care center."

18 And I explained to him that my grandmother had land
19 in that area and also a building, that she was willing to give
20 me the building to have the day care center.

21 And he said, "Okay. When you have the day care
22 center working, on one of my visits to Morazan, I would like
23 to go and visit the day care center."

24 And in January of 1979, we begin with just the
25 children and two other people helped me, my brother and

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1 another friend, who also was a student at the university, and
2 part of the work that we did in the day care center was not
3 only to take care of the children, but also to develop a
4 relationship with the parents of the children. The majority
5 of them were single.

6 Q. How did you do that, Ms. Chavez? How did you develop a
7 relationship with the parents?

8 A. Because, first, they knew me when I went to survey them,
9 and they choose to register the children in the day care
10 center. And I wanted them to feel that they were contributing
11 also to their children's education. And we talked about how
12 much people were able to pay for. It was not a free day care
13 center. And it was something that they were paying. And I
14 charged five colones. That is less than 50 cents a month.

15 And they also participated in the different
16 activities to try to raise the money for the day care center
17 because the other -- we have a stipend, I would say. It was
18 not a salary.

19 Q. You said five colones a month. How much is that in U.S.
20 dollars?

21 A. Less than 50 cents.

22 Q. A month?

23 A. A month, uh-huh.

24 Q. So in addition to running the day care center, what other
25 activities were you involved in in your community?

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1 A. I continued to be a part of the base community and also
2 going to the university.

3 Q. Did there come a time in your base community when you

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4 could no longer have your meetings openly?

5 A. Yes. It was when the President passed a law that it was
6 illegal to have meetings or gatherings or demonstrations, that
7 the base community has to continue our meetings in different
8 houses. And it was no longer that open meeting, because it
9 was not safe.

10 Q. And how did you go about meeting after that, or did you
11 stop?

12 A. We continued to meet, but it was in private, different
13 people's homes. It was not like when we have it in the
14 school, anyone who wanted, well, they were welcome to come,
15 but it was not safe for us during those days to have open
16 meetings.

17 Q. And what sorts of issues were being discussed at these
18 meetings that the President had banned?

19 A. We were sharing daily life, the dangers, and during those
20 time, and the persecution was getting more and people were
21 afraid. All the peoples in different base communities were
22 captured and disappeared. And we were afraid that something
23 like that could happen to one of us.

24 Q. Were there any religious ceremonies as well?

25 A. Yes, we have Mass, when the priest was able to come, we

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1 have it.

2 Q. Now, do you consider that these activities that you were
3 involved in in your community were political activities?

4 A. Not at all. I was doing what the Christian is supposed to
5 be doing. I never thought that that was political.

6 Q. Ms. Chavez, for how long did you run the day care center?

7 A. Only for a year and a half. Because in 1980, after
8 Monseñor Romero was killed, in August, the popular movement
9 called for a national strike, and two gentlemen were killed on
10 the day care center's property.

11 Q. Can you tell us how it came to be that two men were killed
12 on the day care center property?

13 A. They were looking for a safe place, and they saw that they
14 might be able to be safe on the day care. But this was a big
15 building, but it was not a concrete building. It was made by
16 wood. And then early the day of the national strike, the
17 helicopter and the army went to different neighborhoods in San
18 salvador. And this is how these people were killed.

19 Q. Were you involved in the strike?

20 A. No. What happened is that when they announced, we had a
21 meeting with the parents and the teachers at the day care
22 center, and we decided it was not -- the day care center was
23 not really a safe place.

24 Then it was not that we were supporting the strike,
25 it was for safety reasons that we decide to close. And we say

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1 that we are going to close the first day, because we expect
2 that it was going to be one day, but after the first day,
3 because what happened, the day care center, we were forced to
4 close.

5 Q. And the men who were killed on the property, were they
6 involved in the strike?

7 A. Yes, they were.

8 Q. And what were they doing?

9 A. They were carrying some arms and shooting to the
10 helicopter that it was -- that followed them. And I think

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11 that's why they got killed.

12 Q. And did you allow them to come into the day care center?

13 A. No, I was not in the day care center. My parents had a
14 house a few blocks from where the day care center was and
15 that's their house, and I was there. I was not at the day
16 care center.

17 Q. Were you aware of anybody else being killed on that day?

18 A. Yes. Four more mens were killed inside my family's land
19 in one of the hills. Four men were killed there too.

20 Q. And you said the day care center did not open again after
21 that day?

22 A. Yes. Because when the Treasury Police came to the day
23 care center around 2:00 o'clock that day to recognize the
24 parents, they were asking who was the owner of the day care
25 center. And because we were not there, someone went to my

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1 parent's house and told us that the Treasury Police were
2 asking who was the owner.

3 And my father went to the place and told them that he
4 was the owner. He was captured that day and taken to the
5 headquarters and he was captured for three days.

6 He was released on the condition that I have to
7 testify saying that it was not true that my name was in the
8 list that the government had. And my father was told that
9 they were not looking for him, they were looking for me.

10 And --

11 Q. Can you explain to us why you believe the Treasury Police
12 or why you understand the Treasury Police were looking for
13 you?

14 A. It's not only what I understand, it's what my father was
15 told by the National Police. Because after he was transferred
16 to the National Police, and the National Police told him that
17 I was teaching children to be guerillas, and I had been
18 working with Monseñor Romero. And that's -- was the reason
19 that they were looking for me.

20 And my father was able to be released because at that
21 time, my family had some economic resources. They were able
22 to pay for a lawyer and also the connection that my family had
23 with the Church. Monseñor Rivera y Damas was able to
24 participate in my father's release. And also a lawyer were
25 representing the family. But I say I'm glad that he's still

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1 alive.

2 Q. And once you found that that they were looking for you,
3 what did you do?

4 A. The day that they captured my father, I have to (The
5 witness became emotional) leave my children behind with my
6 family and went in hiding. And first, in San Salvador for a
7 few days, and then when my father were released, my family
8 send me to Guatemala, to a friend's house that was in
9 Guatemala, and I was there until my family was able to obtain
10 a tourist visa for me and my children. And I left the country
11 in 1980, in October of 1980.

12 Q. And when, at that time, did you think you would go back?

13 A. When I left, I have mixed feeling regarding that I was in
14 some way betraying my community. Because of my family's
15 condition, I was able to leave the country. But the majority
16 of the people that was involved, they didn't have that chance.
17 And that's why I felt that I was betraying my community and my

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18 belief.

19 And I was hoping that in two years, I would be able
20 to go back and continue to work. But two years came to be
21 four, six, and many years. I was not able to go back to
22 El Salvador until 1987.

23 And I went to get my green card and because I didn't
24 have a legal status, I applied for political asylum when I
25 arrived, but two years later, it was denied.

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1 In '87, I was able to go back through a labor
2 certificate that I was working a day care center in Groway
3 (phonetic), that was the city that I arrived in 1980, and they
4 helped me in getting my immigration into a labor certificate.

5 And I went there only for two weeks, because in '87,
6 the situation was, I would say, worse than when I left in
7 1980. And my family didn't feel that it was safe for me for
8 them to be there longer than what I need to be.

9 Q. So when you returned to El Salvador, you were there only
10 two weeks?

11 A. Yes. Only two weeks.

12 Q. Have you been back since?

13 A. Yes. Because one of the ways that I continue to be
14 involved with El Salvador was through, first, trying to stop
15 the military aid to El Salvador and also with a national
16 network of U.S. and Salvador sister city, I am a part of that.

17 And I was able to go back more, I would say, with
18 less fears in 1990. And I traveled to Chalatenango and were
19 looking for communities to develop a sister relation between
20 our city and Chalatenango. And I was able to go with another

21 person, with a U.S. citizen, a North American, and that's why
22 I felt that I was more safe for me to go.

23 Q. Can you tell me a little bit more about your work in the
24 United States with Salvadorans?

25 A. I worked for American Friends Service Committee, a Quaker

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1 organization. And I am a community organizer and legal
2 assistant. And I have been working with the immigrant
3 community.

4 At the beginning, I was more focused with the
5 Salvadoran community, but later on, between 1988 to 1994, I
6 was the Director of the Refugee Center in Plainfield, New
7 Jersey, and given the opportunity to provide legal service not
8 only for Salvadorans, but at that time other Central Americans
9 also who need the service.

10 And part of the work that I do now is organizing the
11 immigrant community in New Jersey.

12 Q. What is the impact on you in your life here in the United
13 States now of your connection with Monseñor Romero?

14 A. I said it was an honor, but also a responsibility, to know
15 Monseñor Romero, because he teach us to work with those that
16 don't have voice and also to work for justice. It doesn't
17 matter where you are.

18 And that's what I am trying to continue to do. And
19 try to live -- keep his legacy alive. And every year, I been
20 having a service to commemorate his death. And it is a
21 responsibility that I'm trying to keep and live with that,
22 helping those who need help in the United States in the
23 immigrant community.

24 Q. Having helped the immigrant community in the United

25 States, how does it make you feel that Alvaro Saravia has
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1 lived in the United States since 1986?

2 A. I get angry. And I think that it is a big injustice going
3 on, when those who are leaving the country, trying to provide
4 for their families, trying to help their families are -- and
5 continue to apply to the United States for legal status, and
6 someone who have committed or help commit a crime have a
7 protection, is living in this country, is really a big
8 injustice, I would say, and something that -- it is hard for
9 me to see families divided and trying to be together and this
10 immigration system doesn't give them the opportunity to be the
11 family together. And people who don't deserve have protection
12 and status. And it is hard.

13 MR. COHEN: Thank you, Ms. Chavez. I have no further
14 questions.

15 THE COURT: Thank you very much, Ms. Chavez. You may
16 step down.

17 THE WITNESS: Thank you.

18 THE COURT: You may call your next witness.

19 MR. COHEN: We would like to call Dr. Francisco
20 Acosta.

21 FRANCISCO ACOSTA,
22 called as a witness on behalf of the Plaintiff, having been
23 first duly sworn, testified as follows:

24 THE COURT: Please take the witness stand and state
25 your full name.

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1 THE WITNESS: My name is Francisco Acosta Arevalo.

2 THE COURT: Can you spell your last name, please.

3 THE WITNESS: Acosta, A-C-O-S-T-A.

4 THE COURT: Thank you. You may proceed.

5 DIRECT EXAMINATION

6 BY MR. COHEN:

7 Q. Good morning, Dr. Acosta.

8 A. Good morning.

9 Q. Could you tell me where you live?

10 A. I live in Maryland, close to Washington D.C., and I have
11 been there for six years at this point.

12 Q. And where were you born?

13 A. I was born in the slope of a volcano called Guazapa
14 Volcano located in the northern part of El Salvador.

15 Q. Dr. Acosta, I would like to put a map of El Salvador on
16 the screen, if I may.

17 And your Honor, if I may approach the witness with a
18 pointer for the map?

19 THE COURT: Yes, you may.

20 MR. COHEN: Thank you.

21 THE WITNESS: Yes, I was born in the -- the slope of
22 a volcano located in this area around Suchitoto, Aguilares and
23 Quezaltepeque. Around that volcano are, I would say, six
24 municipalities, and we were living there, about 85,000 people
25 before the war. And I'm from a family of campesinos, farmers,

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1 from a Catholic family.

2 We were 14 brothers and sisters. Again, a Catholic
3 family. And it is quite wonderful to be a big family in the

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4 farm region because it's supposed to be -- a new baby is
5 supposed to be you have a godsend to support your family.

6 And so that's why we were a big family. I grew up
7 there, I was born there, and I live there to the point I have
8 to leave the region.

9 Q. Tell me about your education, Dr. Acosta.

10 A. Yes, I'm a sociologist. I was a graduate of sociology
11 from the Central American University run by the Jesuits. I
12 would say that, equivalent to the United States, would be like
13 a Master's Degree. Also I went to the National University and
14 studied psychology. Also I went to the seminary to study in
15 order to become a priest, Catholic priest, but I didn't
16 complete it.

17 Q. Can you tell me about your experience at the seminary when
18 you were growing up?

19 A. Yes. When I grew up, I had a strong feeling that I should
20 become a priest because I saw how welcome it was to be a
21 priest in the community. So I said I should be a priest, but
22 the fact is that one of my sisters is a Catholic nun and she
23 encouraged me to go to the seminary.

24 And for a long time, we were not able to afford even
25 to buy shoes. And so we have a small area, a farm, raising

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1 corn, beans, coffee, but it was so small for a big family,
2 that sometime I recall that we didn't have enough food from
3 one harvest to the next harvest.

4 And it was really difficult for us, especially
5 because in the surrounding areas of my community, were about
6 28 haciendas, farms, big farms owned by a few families. And

7 the other side, we were on the slope of a volcano and it was
8 difficult to live with.

9 So it was in 1965 that I planted a good tomato
10 harvest, tomato plantation. It got a good harvest. And from
11 that harvest, I bought my own shoes. With those shoes, I
12 went -- I was able to go to the seminary. The seminary was
13 like a high school system. And I was so happy to have my
14 first time ever, and my brothers, to have for the first time
15 ever a pair of shoes.

16 And I went to the seminary to San Vicente, a little
17 far away from where I was living before. And it was extremely
18 moving.

19 I went to the seminary during high school in San
20 Vicente. And in fact, it was the first time I met Bishop
21 Romero. And one of my classmates were some seminarians that
22 did belong to Bishop Romero's Diocese.

23 And I recall that he came in the first time, I was
24 probably 18 years old, and it didn't ring a bell to me about
25 who was he. But judging by what my classmates said, he was a

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1 humble person and an honorable person. And but it didn't
2 register more to me that I could be encountered with him for
3 the next 25 years.

4 Q. Can you tell me about your decision to leave the seminary?

5 A. Yes. Something that did bother me was that, among other
6 reasons, this is not the only reason, is that I saw
7 inconsistency between what my Bishop was saying and what he
8 was doing.

9 I will give a couple of cases, an idea. It was 1969,
10 that it was a big strike. The teachers put together a strike,

11 a national strike.

12 And the Bishop became -- start to speak against the
13 strike. And some of the teachers were my teachers, and so it
14 was quite clear that they were striking for a valid reason,
15 for the more -- during that strike, some of the teachers were
16 beaten by paramilitary forces, ORDEN. ORDEN was a
17 paramilitary force that started around 1969, I guess. And I
18 was really upset on that.

19 Because I did support the strike and I probably was
20 the only in the seminary who supported the strike. And I went
21 to rally in support of them, and that created some kind of
22 tension between me and the seminary authorities and the
23 Bishop.

24 Also, sometime during the vacation time, I stayed at
25 the house of the Bishop. And sometime I was present from the

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1 president who was a Colonel. Fernandez Sanchez was a military
2 person. And he was present on behalf of -- on behalf of the
3 Bishop. I was in his presence while the president was -- his
4 forces were repressing the teachers.

5 And I think this is completely inconsistent, plus the
6 fact that about that time was a meeting in Medellin, Columbia,
7 where the bishops from all over the country got together and
8 start to talk about something called the "preferential for the
9 poor" -- "the preferential option for the poor."

10 And that really rang a bell to me. Imagine somebody,
11 a teenager, that had trouble to have enough food in my family,
12 and I start to hear something about Church in favor of
13 supporting more the poor people than the rich people. And

14 that was extremely attractive to me.

15 Plus the fact that I had a couple teachers in the
16 seminary who were priests who, one of them, he went to
17 Argentina, Chile, and came back and said, "Changes are taking
18 place in Argentina and Chile," and I -- he shared that with
19 me, and I was extremely moved, extremely happy, to know that
20 it was the kind of society different than the one that we were
21 living in.

22 One of the professors, Father Francisco Palacios.
23 Francisco Rafael Palacios somehow became my mentor. During
24 the breaks between classes, I shared time with him. I would
25 say, "Would you tell me more about this." It really, really

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1 touched me. And so we went through favorite time and a lot of
2 time. Well, in that way, I said he was my mentor somehow.

3 So that kind of inconsistency, it did bother me. And
4 so I decided that I should not continue in this Diocese. And
5 I should go to another Diocese. And I went to the San
6 Salvador Diocese.

7 And I went and asked the director and vice director
8 of the seminary if I can join there. Plus the director was
9 Armando Lopez, Father Armando Lopez, a priest from Spain. And
10 I asked him, "Can I join here? Because I cannot live with
11 what I'm living with now."

12 And he said to me, "The Jesuits, we are in trouble
13 with the bishops, and we have it difficult now. If I say yes
14 to you now, I would be borrowing trouble. And let's do this.
15 Join -- go to -- join to register as a student at the Central
16 American University, and somehow we will resolve this matter."

17 And I said to him, "Okay. But I don't have a place

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18 to stay."

19 And he said, "We will figure out how to do this."

20 And Father Rutilio Grande, who was a disciple in the
21 seminary said, "Look, don't make too much noise. Stay here
22 and we will provide you room and board."

23 And so I was in the seminary for sometime, and later
24 I joined through the Central American University and I got a
25 scholarship from Father Ignacio Martin Amaro (phonetic), who

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1 was the director in that point of the school. And I went to
2 him and says -- I recall that I went to him and said, "Father,
3 thank you. Thank you so much for allowing me to have a
4 scholarship in this university."

5 And Father Martin Amaro told me, "Francisco" -- my
6 mother is an Indian, an Indian. And he told me, "Look, your
7 parents, your grandparents already pay for this."

8 And I said -- I'm amazed -- "Yes." And looking
9 through the history and the frame of the history that, "Yeah,
10 that's true."

11 And I was really pleased to have the chance, to have
12 the opportunity to go to Central American University.

13 Q. Now, after this time, can you tell us about your next
14 meeting with Monseñor Romero?

15 A. Yes, certainly. In the meantime, we put together -- it
16 was horrible, it was like a hurricane. And a lot of people
17 lost their houses because the river flood, the river that went
18 through the capital -- how you say, "flood"?

19 Q. Yes.

20 A. And many houses and shops that were around the river were

21 destroyed. So they came to us and said, "Can you guys put
22 together some help for us? And a group of people of us said,
23 "Yes, we can do that."

24 And we went with the city to donate a piece of land,
25 and we start to build houses together Saturday and Sundays.

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1 we start to put together -- working together. So very soon,
2 we finish 62 houses.

3 So I said, "Hey, how can we build from this other
4 place?" Many other people. "Can you help us?"

5 "Yes, sure."

6 So we legalized the organization. We put the name of
7 Fundación Salvadoreña (Unintelligible), House and Foundation
8 For Low-Income Families.

9 So, well, we were working there, working there, and
10 suddenly we put together another area of 630 houses. And sure
11 enough, Bishop Romero showed up. We asked him to come to
12 the -- nowadays, it was 630 houses.

13 He came, he celebrated Mass. And after that, we have
14 lunch. That, for me, was really moving. Imagine that
15 somebody from the Guazapa Volcano, from the slope there,
16 having an Archbishop? That was really amazing to me.

17 And he struck me as a very humble person of a very --
18 well, as a feeling that you have a Bishop, somebody with
19 authority, sharing food with you. That was really, really
20 somehow something life-changing there.

21 And it was a few weeks after, Rutilio Grande, Father
22 Rutilio Grande, the Jesuit, was killed in Aguilares. Because
23 I went to work with him in Aguilares, and one of my
24 assignments was to bring Communion to about 200 peasants in

25 his hometown, in Macinal (phonetic). So I did that several

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1 times. And I had a wonderful relation with Father Rutilio
2 Grande, who was a close friend of Bishop Romero.

3 It looked like the killing of Rutilio Grande, who was
4 a man of faith, a man of integrity, started to change Bishop
5 Romero quickly. And in fact to get to know Bishop Rutilio
6 Grande after he was at the seminary and after, when he was
7 working at the Aguilares place, had a strong impact on me.

8 Q. Dr. Acosta, let me go back to the foundation for one
9 moment. How many houses did you ultimately build there?

10 A. I was working there for about 11 years. And I think that
11 we put together about 18,000 houses in 11 years. And I became
12 the associate promoter, organizing people, working together.
13 This is on Saturday and Sunday, we would work together to
14 build the houses.

15 As a matter of fact, let me take the opportunity to
16 tell how Bishop Romero changed quickly -- changing quickly.
17 It became for us a big hope, because during that time,
18 basically, the media was under strong control by the
19 government. We had no other services but the Catholic radio
20 station or the periodical, Orientación, the Catholic
21 newspaper, to know something was taking place, or to listen to
22 Bishop Romero homilies during the sermon time.

23 And so what we begin, we brought the radio
24 transmitters while we were working, we were listening while it
25 was happening. And I recall one day, especially one day, when

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1 we were working. I was in charge at this time about 450
2 houses. And we put the radio transmitter all over the
3 property in order to listen to his homily.

4 And I recall that Bishop Romero said one day -- read
5 a letter to President Carter asking to stop sending weapons to
6 El Salvador, because it was that weapons were used to kill the
7 brothers and sisters of El Salvador.

8 And suddenly, suddenly, the whole 450, maybe more
9 families, stop and start to applaud what Bishop Romero said.
10 Oh, my goodness, I really remember that, how I had a feeling
11 that there are no other voice other than Bishop Romero here.

12 Q. Can you tell me, Dr. Acosta, was there ever a time that
13 you went to Monseñor Romero to seek personal assistance?

14 A. Yes, certainly. There was one specifically, but let me
15 tell you the framework in which this happened.

16 As I said, the media was under complete control of
17 the government.

18 So one day, one of my cousins had a -- she had a
19 store, a small store in her house. And she went to the
20 nearest city there to buy supplies for the store.

21 And on the way to back, she went to the Church and
22 she picked up some Orientación newspapers. On the way back to
23 her house, the police stopped her. And they -- she was 13
24 years old, by the way. And she had a canasta, her basket, she
25 brought some Orientación papers, newspapers.

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1 Q. That's the church newspaper?

2 A. The church newspaper, yes.

3 So they detained her. They took her to the police

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4 headquarters. My grandmother, Felicia Acosta (last name
5 phonetic), went to the police to see "what's going on with my
6 granddaughter?" She was also picked up and put in prison.

7 And we were really saying, "What's going on here."

8 Next day, they were released. My niece -- nephew --

9 Q. Your niece?

10 A. My niece, yes, was released along with my grandmother.
11 And they said to my grandmother, "Go home because you have a
12 lot of work to do there."

13 Q. Who said that to your grandmother?

14 A. The police told her, "Go home, because you have a lot of
15 work to do there."

16 They went home. Sure enough, my two aunts, Teresa
17 and an Elena were killed in their house and which they were
18 chopped -- chopped (gesturing) in pieces right there.

19 And the connection was right there. They said, "You
20 have work to do there."

21 And I always want to take the opportunity to honor
22 them because they are the kind of people that never had the
23 chance to buy a pair of shoes for themselves.

24 Later, one of my primos, cousins, Elias Acosta
25 Rivera, who was a labor organizer in different haciendas,

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1 farms around the region, was picked up by men in civilian
2 clothes in Aguilares.

3 Two days later, just -- let me go back to this.

4 Basically, most of the farm workers in the area were
5 earning about one dollar a day. A day. I will repeat that.
6 About one dollar a day, working in the sugar cane plantation,

7 cotton or picking coffee. For a family of six, one dollar a
8 day was nothing.

9 So my cousin was organizing people around there. So
10 he was kidnapped and, two days later, we found him. Some dogs
11 finding him in a place.

12 And we went to the Human Rights Commission run by
13 Marienella Garcia Villas, who was the President of the Human
14 Rights Commission, and said, "Help us to figure out what
15 happened here." He was taken out from the place that we found
16 it, and his tongue was cut. And it was really, really bad for
17 us.

18 Later, two of my cousins -- nephews, that's the
19 other, nephews nearby to my house were killed two doors away
20 from my house when a group of soldiers and men in civilian
21 clothes were going up to the hill, going out to the volcano
22 and they contact them and, without any interaction, they start
23 to shoot them right there.

24 So it was really, really difficult. And we, at this
25 point, we were not able to bring the bodies to bury them at

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1 the cemetery because it was extremely dangerous to go to the
2 city. So we buried them in the chapel, in the local chapel,
3 and they are there. Like this, I can tell you more and more
4 stories.

5 But one day, I was at the -- in a training center, a
6 labor training center, and at noon, during the lunchtime, we
7 turn on the TV, and Roberto D'Aubuisson, Major Roberto
8 D'Aubuisson was speaking there.

9 Q. Let me stop you and ask you what year this was. Do you
10 recall?

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11 A. Probably 19 -- February 1980.

12 Q. February 1980?

13 A. Yes. And Roberto D'Aubuisson was speaking there. Major
14 Roberto D'Aubuisson, who I -- I don't recall in what capacity
15 was he was saying that, but he said that my brother, Jorge
16 Alberto Acosta, the first one in the family, was the major --
17 the biggest subversive of the Northern Region of El Salvador.
18 So --

19 Q. How did you feel when you heard that?

20 A. Really bad, because we knew that once Roberto D'Aubuisson
21 say something, something would happen for sure.

22 So I was really uncomfortable. And I said what
23 should I do? We were living near the capital, and he was -- I
24 don't know where he was at that point.

25 But, sure enough, three days later, 4:00 o'clock in

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1 the morning, about 28 soldiers and men in civilian clothes
2 came to his house in the slope of the volcano and surrounded
3 his house, and they started to shoot at him. He was sleeping
4 in the corridor of the house. And the other kids were
5 sleeping inside the house.

6 well, none of the bullets went through him and not
7 through his baby either, the kid either. But we collected
8 seven caskets [sic] and 16 caskets [sic] right there. But
9 none of them were shot at him. I don't know exactly how to
10 say that at English. None went through him.

11 Q. He wasn't hit?

12 A. No, but he escaped through the hills, and like two miles
13 away, he fell down. And that was about 4:00 o'clock in the

14 morning. Around 5:00 in the morning, some workers on the way
15 to work found him there and went to my house to say what
16 happened with my brother.

17 So my mother went to see him and be with him for a
18 while. It was like he escaped without clothes. So my mother
19 brought him to my house -- to her house, because I was not
20 living with my father and mother's house any more.

21 And we found a mule and we took him from where he was
22 to a place where a car -- accessible to a car.

23 So from that point, he sent a message to me and said
24 if I can go to pick him up. That was really difficult,
25 because there were so many -- from that place to the capital

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1 were so many police checkpoints that you have to go through
2 and something could happen on the way.

3 So I asked my sister, who is a Catholic nun, "Could
4 you come with me? I am really afraid to go to pick him up."
5 So I had a car, and I went to pick up my sister. Said, "Let's
6 go together. Let's go to pick him up." We went together.

7 Since my sister had a Catholic nun uniform, nothing
8 happened on the way. I brought him to my house in San
9 Salvador. It was really tough. Because in front, was living
10 somebody from the Army, and they are all the time checking who
11 was where and doing what.

12 And we said he can't be here because that would be a
13 real, real problem for us, for our safety.

14 So I went to the university, the Tri-American
15 University (phonetic) and said to my professors, "Can you help
16 me?" I went to different people, to many of my professors and
17 said, "Can you help me? what should I do?" I didn't know

18 what to do.

19 Basically, almost everybody told me, "Look, almost
20 everybody is in the same situation here. We can't help you."
21 And that was really a bad feeling for me.

22 And among other reasons, because that week, the
23 Attorney General, Mario Zamora Rivas, was killed. And they
24 said that "If that happened to him, that could happen to us
25 too, so, therefore, I can't help you." So one, another,

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1 another, another professor were telling me the same story.

2 So my last attempt, I went to Bishop Romero's office
3 and I brought him there, and I said, Bishop -- "Monseñor
4 Romero, what should I do? I already -- all the possibilities
5 are closed. What should I do?"

6 And Monseñor Romero told me, "Look, I understand.
7 Leave him here at the seminary." His office was on the
8 seminary. And he said, "Leave him here. We will take care of
9 him. And I will assign your cousin," who was not a catechist
10 who was a seminarian, and I brought him to the seminary, by
11 the way, "so I will assign him to take care of him."

12 He did that like three weeks. And three weeks after,
13 he finally found a way to go to the Mexican Embassy and he
14 requested political asylum there -- and my brother asked for
15 political asylum at the Mexican Embassy and was provided the
16 political asylum and he came to Mexico.

17 That's ironic to me. I spoke with my brother two
18 days ago and he is in El Salvador now also organizing people.
19 The ironic part of Bishop Romero is -- also my other cousin,
20 who was a seminarian, he was killed during the time that he

21 was about to celebrate his first Mass in his community. He
22 was doing the residence in the community to celebrate the
23 first Mass after his "ordination," it was called.

24 And the death squads came and shot them, 13 of them
25 were killed, including my cousin. And his name is Romero

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1 Casares (phonetical spelling). And one school now in that
2 community, the school is in his name, honoring his name. And
3 I am really proud of that kind of thing happening.

4 So it's ironic, ironic to me that Bishop Romero was
5 killed at the church and my brother is right there still
6 organizing people. I really count my blessing when I see
7 that.

8 Q. Let me ask you about the steps you have taken to honor
9 Monseñor Romero.

10 A. Well, when Bishop Romero was killed -- I saw him three
11 days before driving a car at 10:00 o'clock at night driving by
12 himself.

13 I thought to myself, how this man, who has a death
14 threat, can be driving by himself 10:00 o'clock in the
15 evening? Sure enough, he was killed three days later.

16 I was at Tri-American University when that happened,
17 we were in class at the evening, around 6:00 o'clock. Teresa
18 Cuellar, one of my classmates, came to the classroom and said,
19 "Bishop Romero just have been killed." And everybody was in
20 shock. But Teresa was working with the Human Right Commission
21 and later she was killed herself too.

22 In a matter of 20 minutes, the whole university was
23 empty. Everybody left. And my feeling at this time is, oh,
24 my goodness, my goodness. If somebody like him can be killed,

25 the others, we are like a chicken.

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1 At this point, I start to -- I receive a little note
2 from one of the neighbors who said to me, "Francisco, do not
3 sleep in your house. Do not sleep in your house because they
4 will come for you."

5 I received that little note. I received it from one
6 of my neighbors, and I started to sleep in different houses.
7 I later became aware that I was putting at risk other people
8 who I was sleeping in their house.

9 So I start to sleep in a coffee plantation. Around
10 6:00, 7:00, I got a plastic bag and went to sleep at the
11 coffee plantation to -- in order to protect myself with a
12 plastic bag, because there were a lot of mosquitoes there. So
13 I went to sleep in the coffee plantation and came back in the
14 morning.

15 And I was doing that. And suddenly, I realized that
16 why am I doing that? We start to get together, other people
17 were doing the same thing and worse. Because some of them
18 brought their dogs and the dogs were fighting together, so
19 they were fighting where we were sleeping. So no way, we
20 cannot do that.

21 So one day I came back to my house and my house were
22 broken in. They came for me.

23 well, I said, "what should I do?" So some of the
24 Autodefensas Populares, popular self-defense, a group with
25 arms, came to me and said, "Join us."

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1 I said, no. I had a strong -- I knew already about
2 the nonviolence approach, and I said, "No, that is impossible,
3 because two wrong things doesn't make one right. So I can't
4 kill anybody. I am coming from a Catholic family, and coming
5 from a strong, nonviolent family, and how can I join the Army,
6 the (In Spanish)."

7 And this person told me, "Look, don't worry. Once
8 you kill the first ones, the other is easy." That really
9 shocked me.

10 So at this point, I have three alternatives. One
11 alternative was continue doing what I was doing, organizing
12 people.

13 The other alternative is to accept the offer that
14 came to me, and the other alternative is to leave the country.
15 But I never was before out of the country before, so why
16 should I go?

17 At this point I had -- I brought most of my relatives
18 to refugees camps, especially a group of my mother and father
19 and my brothers and sisters. I arranged them to go to Costa
20 Rica. And they organized the first refugee camp in Costa Rica
21 there.

22 So I went to my work and I asked my boss, "Look, I
23 can't continue doing what I am doing. But I don't have money
24 either. What should I do?"

25 And he said, "Okay, I will fire you. And I will fire

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1 you and I will give you some money." So I got some money with
2 that arrangement.

3 And -- but before this, I said, what should I do? I

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4 mean I am studying at the Catholic University. So I took some
5 of my books, I wrapped them in plastic bags and make a hole in
6 my house, in the back of my house, and make a hole there and I
7 buried them there.

8 And other books I brought to the Catholic University
9 and I went to the Father Segundo Montes (phonetic), who was
10 the Dean of the Economic Science Department, and I said,
11 "Father, could you please take care of my books? I will come
12 to pick them up after this mess is finished."

13 And he said, "Yes. Leave the books in my office and
14 later on, you will take care of them."

15 I said, "Sure enough."

16 I returned ten years later. I didn't find Father
17 Segundo Montes. I didn't find my books either. Six of my
18 former professors -- I think five of my former professors were
19 killed, the Jesuits. That was a shocking period for me.

20 So in the next time, a year ago, I left Mexico, and
21 during sometime I did education work in Mexico. I explained
22 people there what happened.

23 Especially, the shock of being in the Bishop Romero
24 funeral. I was there. And though we were scared to go to the
25 funeral, we -- we hear through the radio Catholic, YSAX, the

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1 radio station, they said: Don't worry. Many personalities,
2 many dignitaries are coming from other countries. It's safe
3 to come here. So including Cardinal Almada from Mexico
4 representing the Pope.

5 And you are, in your mind, says, if somebody
6 representing the Pope is going to be here, it is safe to go.

7 So neighbors and one of my niece says, "Let's go together" --

8 Q. Dr. Acosta, let me put up a picture and maybe you can
9 identify it for us.

10 A. Yes, that's a vivid -- and let me tell you something.
11 People in civilian clothes, but on the roof of different
12 buildings, that's the National Palace building.

13 Q. You are pointing to the building in the back on the top
14 right?

15 A. Yes, but also in back, just in front of the cathedral, it
16 was back there. On the roof of the buildings were people in
17 civilian clothes with weapons too. So --

18 Q. Can you point to that?

19 A. Yeah, yeah, yeah. So this is the National Palace
20 building. I remember the Banco Hipotecario here in this part
21 and there were other banks on this side too.

22 So we arrived there, but full of people. It was so
23 wonderful that so many people could be here.

24 And so when about -- the Mass was about to start
25 there, a bomb came out right in the corner there. Somebody

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1 throw a bomb. So everybody start to move in this direction,
2 running in this direction.

3 Q. Running away from the bomb?

4 A. Running away from the bomb. And suddenly, another bomb
5 was in the other corner and people start to move in the other
6 direction too. In this back and forth, some people fell down.
7 Especially seniors.

8 And at some point, I was -- really, picture it.
9 Really dramatic. I was above three seniors, different
10 seniors, and were under my knees, underneath, asking me, "Help

11 me, help me, help me."

12 And I had probably not in my life another frustrating
13 feeling, that you cannot do anything for others and you cannot
14 do for you anything either. That's -- that's frustration. It
15 is really hard, it was really frustrating not to be able to do
16 anything.

17 Suddenly, the shooting started. The ones who were at
18 the National Palace, they start to shoot. Others from the
19 banks. So shooting was crossing in this crowd.

20 So my niece and I, we were able to leave the region
21 through the Red Cross. The Red Cross helped us to get out of
22 there.

23 And my brother, Amadeo, who went with the
24 13-years-old daughter, he lost the daughter. He find her like
25 two days later. And that what really hard.

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1 So I would say that this was -- if I could say the
2 civil war started at some point, this was the day in which
3 people had a feeling that, everybody, this is a landmark here.
4 Something completely different would happen here. In fact,
5 did happen for the next 12 years.

6 So I left the country, and I explained to many people
7 what happened there, here in Mexico, while I was in Mexico for
8 two years. And later in Canada. I later came to the United
9 States. And it was probably about 20 states speaking at
10 universities, speaking in churches, speaking with people,
11 speaking with unions, trying to explain what's going on there
12 and the roots of the problem.

13 So about 19 -- after the Jesuits were killed, I was

14 asked by Congress people and the State Department, the State
15 Department, Congress people, the Salvadoran Embassy in
16 Washington and the military attache, the Salvadoran military
17 attache, to be the channel to convince the other side of the
18 people.

19 Q. The other side?

20 A. Was the FMLN. So I was trying to bring the forces
21 together. And once they were together, I said, "Okay, that's
22 enough for me. So the negotiations -- I had no more role to
23 play in this. I just helped to put together the forces at the
24 table and after that, the United Nations came in the process.
25 But, in reality, it took two years later to finish this

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1 process.

2 And but since it was quite clear to me that the war
3 was about to finish, because partially because the killing of
4 the Jesuits.

5 Q. And what year was the killing of the Jesuits?

6 A. 1990 -- '90 -- '89, I guess. '89.

7 So it was quite clear that the war was about to
8 finish. I said to my wife, "Okay. What should we do now?"
9 And I said to my wife, "Do you know what we are going to do?
10 Let's go back to El Salvador." At this point I was married.
11 My wife, her name is Barbara Toll (phonetic) from Hawaii. And
12 I said to her, "Let's go to El Salvador and let's put together
13 a new university on behalf of Bishop Romero."

14 She said to me, "Are you crazy? Universities are put
15 together by Jesuits or prominent people."

16 And I said, "Yes, but somebody has to do something
17 honoring Bishop Romero."

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18 Sure enough, two months later, we were on the way to
19 El Salvador, but we didn't realize it was two years before the
20 peace agreement was signed.

21 But we took advantage of the peace agreement, and we
22 brought the by-laws to the government, and we said, "We want
23 to create a new university on behalf of Bishop Romero in the
24 place that I was born."

25 So the peace agreement was -- provided a good mood at

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1 this point in the country. They didn't say no. So they
2 approved the Bishop Romero University as a legal entity.

3 In 1994, we started classes in Chalatenango. And at
4 this point, we have there the Oscar Romero University. Where
5 nothing was before, now is a university of about 800 students,
6 52 professors. In the center of the campus, who is there?
7 Bishop Romero.

8 Because really, really, this is the legacy. When
9 Bishop Romero said, "If something happen to me, I will rise
10 among the Salvadoran people," this is it. This is the
11 university. Honoring somebody that for me, means somebody
12 like Martin Luther King in the United States, Martin Luther
13 King in the United States, or Ghandi for India or that level.

14 In Latin America, we say that it's a process of
15 canonization of Bishop Romero, probably he will or probably he
16 won't, but for us, for the Salvadoran people, or for Latin
17 American people, he is our saint already.

18 Q. Dr. Acosta, is it a religious institution, the Romero
19 University?

20 A. Well, I did it together with the local Diocese in

21 Chalatenango, so they are part of the work, too, yeah.

22 But my approach to this is an ecumenical approach,
23 because "university" come from "universal," and university
24 should be universal thinking.

25 So basically, it's like we want you to portray this

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1 as a ecumenical effort due to the fact that many churches,
2 including the Episcopal Church in England, London, in the
3 cathedral in London, or in the National Cathedral in
4 Washington, is a Bishop Romero bust.

5 Among many Protestant churches, all know Bishop
6 Romero. Therefore, Bishop Romero doesn't belong only to the
7 Catholic Church, he belonged to a bigger frame. He belongs
8 to -- I would say, to the nonviolence thinking in the world.

9 That really, it is more than we believe, I think. As
10 we are here, soon it is going to be one park in Washington
11 D.C., is going to be nominated Bishop Romero Park. (In
12 Spanish). But the whole process is on the way that that park
13 is going to be nominated in his name.

14 And since I travel across the country, and different
15 countries, I see different Casa Romero, Casa Monseñor Romero,
16 Clínica Monseñor Romero. Many, many efforts, and I will say
17 not just in the United States or in Latin America, I would say
18 probably in the world. So this is a strong legacy.

19 I certainly don't know what the other witnesses said
20 here in this chair, but I can tell you what that means for me
21 and for my family and for my father, who died already. It has
22 a strong meaning.

23 Q. Let me just ask you, in closing, what you feel about being
24 involved in this case?

25 A. I really am pleased with being able to be in this chair in
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1 front of the judge, in front of a judge. Because this is a
2 strong effort against impunity. Those who do something at
3 least should recognize that they did something wrong.

4 To me, after 72 relatives were killed during 12 years
5 in a place in which everybody knew each other, in a place
6 where my father and my mother taught me that everybody, all
7 the time, 30 years, like my aunt and my uncle were strong
8 anthropological links, suddenly, we are in my immediate
9 family, we are now in six different countries. In my extended
10 family, we are in 14 different countries. Now, we speak nine
11 different languages as a consequence of this.

12 So in the last 25 years, I will say this, because
13 next year it is going to be the 25th anniversary of Bishop
14 Romero's assassination, I have been extremely -- we have been
15 dealing with this issue.

16 To me, personally, and I am for sure for the members
17 of my family, the point is: Should we forget? Should we
18 forgive? How can we move on?

19 Because this is heavy in misery for us. Extremely
20 heavy. The fact I was invited to be a witness in this time,
21 in this place, is a way to get a closure, saying, justice is
22 done. I can move on in my life.

23 And for the first time, I can say that different
24 names of people have nominated here that will make history for
25 me, because those names never came out during the Truth

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1 Commission. The Truth Commission under the United Nations
2 auspices came out prominent people.

3 The question is: Are my relatives prominent? This
4 is a way that I feel that bringing in front of the judge in a
5 federal court is a way to make them prominent from the bottom
6 up.

7 I think that it's time to move on. I think that
8 giving this testimony before a judge and before all of you is
9 a closure to me and my family.

10 MR. COHEN: Thank you very much.

11 THE COURT: Thank you, Dr. Acosta. You may step
12 down.

13 THE WITNESS: Thank you.

14 THE COURT: Let's take the morning recess. We will
15 stand in recess until ten minutes before 11:00.

16 (Recess)

17 MR. EISENBRANDT: May I take a moment to consult?

18 THE COURT: Yes, you may.

19 Back on the record in Doe versus Saravia.

20 Mr. Eisenbrandt.

21 MR. EISENBRANDT: Thank you, your Honor. The
22 plaintiff calls Walter Guerra.

23 WALTER GUERRA,
24 called as a witness on behalf of the Plaintiff, having been
25 first duly sworn, testified through the Certified Court

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1 Interpreter as follows:

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

3 THE WITNESS: My name is Walter Romero Guerra.
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4 THE CLERK: Thank you.

5 DIRECT EXAMINATION

6 BY MR. EISENBRANDT:

7 Q. Sir, what is your occupation?

8 A. I am a Catholic priest in the -- a parochial priest in San
9 Jose La Majado Sonsonate.

10 MR. EISENBRANDT: Your Honor, may I approach the
11 witness with a pointer?

12 THE COURT: You may.

13 BY MR. EISENBRANDT:

14 Q. Father, can you please show us on the map where that's
15 located?

16 A. How do you turn this on?

17 Q. Push down.

18 A. Now where is that thing?

19 Q. That's okay. Don't worry. From San Salvador, what
20 direction is your parish?

21 A. In the western part of the nation, Santa Ana, and it's a
22 little bit below Santa Ana, south of that.

23 Q. Okay. Thank you.

24 A. Sonsonate.

25 Q. Thank you. When did you become a priest?

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1 A. 35 years ago, 1969.

2 Q. What other parishes have you served in?

3 A. I was in Armenia, Sonsonate for three and a half years,
4 in --

5 THE REPORTER: I apologize, Mr. Garcia, that was a
6 little fast.

7 THE INTERPRETER: Yes, and I apologize. The
8 interpreter didn't want to forget.

9 THE WITNESS: San Antonio de Sonsonate for 20 years.
10 And the first years of my priestly life were in Santa Ana,
11 four years.

12 BY MR. EISENBRANDT:

13 Q. Are there any particular projects you are devoted to now?

14 A. Well, first of all, the work of a parish, which is
15 very -- which is great.

16 Second of all, I have a nonprofit organization, which
17 it's nonprofit, which is dedicated to fight malnutrition in
18 El Salvador. The program is called "Programa de Nutrición y
19 Soja," which is soybeans, the "Nutrition and Soybean Program."
20 This program has been in existence for 20 years. We have
21 given nutritional education to half a million El Salvadorans.
22 And we have been able to better the nutritional state of
23 10,000 malnourished children.

24 Another organization which I created eight years ago
25 was an organization for scholarships. We started eight years

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1 ago giving scholarships to 125 children. At this time, we are
2 giving scholarships to a thousand children. I have been
3 working for the last 16 years in Caritas, Caritas of
4 El Salvador organization, an international organization.
5 These are the most important of my activities.

6 Q. Did you know Oscar Romero?

7 A. I met him when I was at seminary. I met him approximately
8 in 1962.

9 Q. When Oscar Romero became Archbishop, where was your parish
10 at that time?

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11 A. At the same time that I became the parish priest in
12 Armenia, that's when I became the Archbishop, February of '77
13 until June of 1980. So while he was the Archbishop, I was a
14 parish priest in Armenia at the same time.

15 Q. What was life like in Armenia at that time?

16 A. The repression throughout the whole Department of
17 Sonsonate was horrible and Armenia was one of the towns that
18 was most beaten by the repression.

19 At the same time, the goals of the -- of the
20 repression was to eliminate all opposition within the country.
21 It was not possible to have any -- in existence any group that
22 was Apostolic or cultural. Only the Eucharistic celebrations,
23 or that is, the Holy Mass. Any other type of activity was
24 suspicious and dangerous according to the Army.

25 And as such, all the youths, the teachers, the --

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1 those that were working the land at that time, during that
2 three-year period, they are over -- they were over 500 people
3 that were killed.

4 Q. So were any of your parishioners killed?

5 A. I saw that many of them were killed brutally.

6 In front of my own house, the parish house, my best
7 friend was killed there. At 2:00 o'clock in the morning, the
8 death squad, they came, and they fired on my friend. Jorge,
9 that was his name. And they just blew his head apart, and
10 they left his mother dying there with him because she had
11 chosen to defend him. There was nothing we could do. All of
12 us were afraid.

13 And nevertheless, I got up at 4:00 o'clock that

14 morning, and what I did is I went out and I took Jorge's body,
15 and I brought it into the house, and I cleaned it off --
16 cleaned off all the blood. And then I was able to take his
17 mother to the hospital.

18 Many others that were members of the parish also
19 died, and I had the opportunity to celebrate the -- their
20 funerals. Life in the town at that time went up to 6:00 p.m.
21 After 6:00 o'clock in the afternoon, there was nobody on the
22 streets. It was like a cemetery.

23 During the last few months of life of Monseñor
24 Romero, none of us took our clothing off when we went to bed.
25 We would sleep with pants and a shirt on so that we would be

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1 able to flee at any moment that it was necessary.

2 Q. Was it common to see bodies in the streets?

3 A. Yes. It was quite frequent. Yes. I myself had to pick
4 up six young men that had been killed. The National Guard,
5 the death squads, what they had done, is they had killed these
6 and they had left them on the main highway going to San
7 Salvador. And what they had done is they had placed them
8 there in -- by order of their height and in nothing but their
9 underwear.

10 Q. Were you personally targeted?

11 A. Yes. Yes, I was captured, and I was in jail for 24 hours.
12 The mayor of Armenia, he was killed when I was accompanying
13 him. He was supposed to sign a document which was authorizing
14 a parish celebration. And as we were right in front of the
15 mayor's office, the guerillas, and there was a female
16 guerilla, she fired into him, into his back, right next to me.

17 I picked him up, I put him in my pickup and I took

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18 him to the hospital. The mayor died on the way. And when I
19 came back to the mayor's office in front of the mayor's
20 office, the National Guard, they picked me up, because they
21 had said that I had turned the mayor over to the guerillas.

22 At that time, the townspeople, they surrounded the
23 mayor's office so that I would not be taken from the town. If
24 they had taken me from the mayor's office, they would have
25 killed me.

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1 They weren't able to take me out, so then they put me
2 into jail. They tied my fingers during 12 hours with plastic.
3 And my fingers got so swollen, they got so fattened, that I
4 wasn't even able to undo my belt.

5 I was in jail. There were eight prisoners and I was
6 the ninth. And then the prisoners, they said, "Father, don't
7 worry, we will defend you."

8 And one of them told me, "Father, this is my bed,"
9 and he turned over a cardboard to me so that I was able to
10 sleep on the ground.

11 "If you hear any sounds at night, don't move. We
12 will see what's going on." A great solidarity.

13 The townspeople, they started sending cookies and
14 refreshments by different means. When we had gathered some
15 food, by 6:00 p.m., I invited all of the other prisoners to
16 eat. "Now we are going to have dinner," and we ate and we
17 also prayed "In Our Father."

18 Q. How were you released from jail?

19 A. The judge, the judge in the lower court of Armenia
20 received my written statement. Some attorneys, some attorneys

21 had been sent by Archbishop Romero's office, and also my
22 family had hired two attorneys. The attorneys pressured the
23 judge or they explained to the judge that there was no reason
24 for my being held. The judge decreed that I should be freed.
25 I still keep that release order.

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1 Q. So two of the lawyers were sent by Monseñor Romero?
2 A. At that time, Archbishop Romero was in Rome, but
3 telephonically, what he did is he informed them at the place
4 of legal custody, and also for Judicial Aid, which is part of
5 the Archbishop's office, he indicated that they should send
6 legal help for me.
7 Q. Do you remember the names of the two lawyers?
8 A. One was Roberto Cuellar. I do not remember the other one.
9 Q. Prior to Monseñor Romero's years as Archbishop, how well
10 did you know him before he became Archbishop?
11 A. Okay. Well, when he was an aide in San Salvador, it was
12 more the year, like 1970, '71, '72, around that time. I had
13 the opportunity to have many dealings with him.
14 Q. And then once he became Archbishop, was your parish in
15 Armenia part of the Archdiocese?
16 A. No, I was part of another Diocese, the Santa Ana Diocese.
17 Q. So you were not one of Monseñor Romero's priests?
18 A. I was not a priest in his Diocese, but he really took well
19 to me. He really trusted me because I was a teacher in the
20 seminary and also I was a teacher at the UCA, which is the
21 Central American University.
22 Q. What types of meetings would you go to with Monseñor
23 Romero?
24 A. We would have meetings of all the priests in the different

25 Dioceses so that we would be able to consider the situation,
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1 the totality of the situation in the country, which was very
2 difficult, and so that all of us together would be able to
3 come up with ways to be able to help the situation.

4 Q. And Monseñor Romero was at these meetings?

5 A. Monseñor Romero would attend these meetings regularly and
6 he would actively participate with all these priests.

7 Q. And how frequently were these meetings?

8 A. Normally, it was one time per month.

9 Q. What other types of activities did you engage in with
10 Monseñor Romero?

11 A. Well, at times, he invited me to go to preach at spiritual
12 retreats for priests from his Diocese. Well, I also
13 accompanied, when there were some negotiations having to do
14 with strikes, there were the strikes that were going on and we
15 were participating in the negotiations, and Monseñor Romero
16 invited me to go along with him, having to do -- to resolve
17 those strikes during the negotiations.

18 Q. Can you give us a few examples about these labor
19 negotiations?

20 A. Okay. In approximately -- it was in 1968, in June, that
21 there were the negotiations with the La Constancia, which is a
22 beer brewing company.

23 And the Mesa family, which are the owners of the
24 company, they agreed that Monseñor Romero would be the
25 mediator during the negotiations.

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1 The techniques that Monseñor Romero used were, first,
2 he would sit down and speak with the workers, and then he
3 would speak with the company administration, and then all
4 would sit together and come to negotiate.

5 He was very creative in having proposals that were,
6 let's say, doable. Also, he was very, very friendly in such a
7 way, oh, towards the administration of these companies, to the
8 executives, so that they would be able to see and to feel the
9 situation that the workers were going through, so that he was
10 able to get some concessions from them that were very
11 favorable to the workers. And because he knew quite well that
12 the administrators of these businesses were Catholic, and he
13 carried moral weight with them. Well, that was one strike.

14 Another strike having to do with the buses, it's the
15 buses used for transportation having to do with the owners of
16 the buses and also the workers related to that.

17 At that time, it was not an easy situation, because
18 the bus owners, they were other people. And also, well, the
19 bus owners, they were having difficulties with their units
20 because the buses were so old and they were having problems
21 with these, and it was very difficult for them to be able to
22 give more to their workers.

23 And one occasion, it was a Solomonic answer. He
24 said, "Okay, all of us, we -- you go together." And he told
25 both of them, that we all go together, both the bus owners and

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1 the workers, we all go to the national bank and what we do is
2 we get loans so that they could get better buses, better
3 units, and then they would be able to pay better wages.

4 Okay, on another occasion where I was able to work
5 along with Monseñor Romero, was in the writing of one of his
6 pastoral letters. Okay. I do remember my part in writing up
7 this letter. It was Faith and Politics, the Role of
8 Christians in Politics. It was very interesting. I think
9 it's one of the most meaningful letters of Monseñor Romero,
10 because the subject at that time, it was decisive for the life
11 of the Christians living at that time. Christians can
12 organize themselves politically. They can involve themselves
13 in the political structure of the nation.

14 And then Monseñor Romero, he answers with Church
15 doctrine, saying the people do have the right to become
16 involved in the politics of the nation. They do have the
17 right to organize themselves politically.

18 All of this reasoning, of course, with a lot of
19 Biblical reasoning.

20 Q. Did you also work with him on homilies?

21 A. Yes, during the last part of his life, yes, during the
22 last year of his life, after I had been captured and
23 imprisoned, that was in May of '79 until March of '80, I
24 attended the weekly meetings to prepare the homilies along
25 with Mr. Romero.

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1 We would meet in San Salvador in the morning. We
2 would meet, and then to prepare the homilies, and we would
3 have breakfast together and we would work on the homilies. We
4 would work from 7:30 until 11:00 in the morning.

5 Q. How did Monseñor Romero decide on the themes for his
6 homilies?

7 A. He would listen to the reports of the different -- of us
8 consultants who were there. He would listen to the different
9 reports that were presented to him, different reports that
10 were political, that were financial, that were social,
11 sociological, that were pastoral.

12 And he would take notes, and then he would ask us
13 questions, and then he would prepare the homilies, him, by
14 himself, on his own.

15 Q. So did you write homilies for him or did he write them
16 himself?

17 A. He would write them for himself because he typed quite
18 well.

19 Q. Did he talk about human rights in his homilies?

20 A. His homilies were actually a lighted torch for all the
21 peoples.

22 Because, first of all, he would biblically analyze
23 the homilies, biblically.

24 And then he would apply the biblical message to life.

25 And then, thirdly, a realistic look of what was

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1 taking place during the week.

2 Finally, the conclusions. And actually, he would
3 denounce all violations of human rights. He would give names,
4 he would give last names. He would give the names of the
5 places of all that had happened as far as the violation of the
6 rights of all humans.

7 He was the only person in all of El Salvador that was
8 able to say those things. At that time, to denounce all of
9 the abuses was to -- was equal to receiving a death sentence.
10 And at that time, we were saying he was "the voice of those

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11 that had no voice."

12 Sometimes during our Saturday morning meetings, he
13 would say to us, "Today, I have received three, four, death
14 warnings." But he would always tell us, "I am not afraid of
15 death. Death be welcome. Because I will be resurrected. The
16 day that I am killed, I will be resurrected among the
17 Salvadoran people."

18 The last homily, March 22nd -- I'm sorry, it was
19 Sunday, March 23rd, we told him that Saturday morning,
20 "Monseñor, it is not worth it for you to invite these soldiers
21 to disobedience." It was going to give the military the
22 opportunity for them to kill him. He wanted to denounce the
23 massacres of the army and that could just not continue.

24 He listened to our advice, but he kept silent. He
25 himself took that decision by himself, and Sunday, March 23rd,

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1 he invited all the soldiers not to obey the orders of death.
2 And you know how it concluded. One day later, he was
3 assassinated.

4 Q. How did you find out about the assassination?

5 A. I was in Santa Ana, the place of my birth. I was there
6 with my family. It's towards the west of the country. I
7 heard it on the local radio.

8 Q. What did you do at that time? How did it affect you?

9 A. Well, very sad and also full of anger. I felt like a
10 light had gone out.

11 Q. Did you attend his funeral?

12 A. The following day, Tuesday, I went to San Salvador and
13 then during the rest of the week, every day, I was visiting

14 the body of Monseñor Romero celebrating Masses and also with
15 prayer.

16 His body was in the church, the Basilica of the
17 Sacred Heart, about eight blocks north of the cathedral,
18 because the cathedral was under construction.

19 Q. Can I direct you to Exhibit 64, which is on the screen,
20 and it's in your small binder there.

21 A. Yes, this picture shows the burial of the body of Monseñor
22 Romero. He was present there in body.

23 what's the number?

24 Q. 64.

25 A. Oh, here it is, yes.

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1 Q. And you were there?

2 A. Yes. I was over here, on this side over here. Well,
3 because this picture was taken from the door of the cathedral.
4 Yes, because right there in front of the cathedral door, all
5 of us priests were right there, right there during the
6 celebration of the Mass and also the body of Monseñor Romero
7 was there.

8 Yes, I was one of those, along with six other
9 priests, that got to carry the body, the body of Monseñor
10 Romero from the altar over there to the main door, the door
11 that is in front of the main plaza.

12 At that time, there were 300 of us priests that were
13 from El Salvador, from Central America, South America, North
14 America. There were priests from all of the Americas and
15 there were some from Europe also.

16 Cardinal Corripio from Mexico is the one who
17 celebrated the Mass. When he preached, the first bomb was

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18 heard towards the end, towards the end where the National
19 Palace is.

20 And at that time, I saw them, that there were some
21 demonstrators, like there were people that were coming,
22 although there was a throng all around them, but yet there was
23 a stream of people coming this way, this way, like towards the
24 Monseñor.

25 The first demonstrators had already gotten here to

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1 the front. They could not get in because there were gates,
2 steel gates. They turned a bouquet of flowers over to us.

3 At that time, the bombs started going off and then
4 there was a rush of people going everywhere. And it was just
5 totally crazy. Everybody was running in great fear. Many
6 people, they were on the ground, and they were trampled by the
7 great multitudes.

8 And the -- we took -- all of us priests, we took
9 Monseñor Romero's body, and we put it back into the cathedral.
10 And the people, they knocked down these steel gates. They
11 knocked them down, and then they went into the cathedral.
12 There were at least 5,000 of us that were in the cathedral.

13 And those of us, the priests that carried his body,
14 we took him inside and then we immediately put it in the
15 burial vault, the one that had been prepared, because of the
16 danger that they would want to take Monseñor Romero's body.
17 And so then we put the body of Monseñor Romero into the burial
18 vault, and then we started to encourage people to sing.

19 This was approximately at 10:00 in the morning. At
20 12:00 noon, when the situation little by little had calmed

21 down, and us young priests that were there, we went out into
22 the square, into the main plaza, and we recovered 17 bodies.

23 Q. Can you look at Exhibit 65, please.

24 A. Yes, you can see that. You can see there, right there,
25 there is a priest, there is a cardinal, and what he is doing

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1 is giving the final blessing to some of the bodies that we
2 recovered that day.

3 And there is another, 66. (Referring to photo.)

4 We see there that was approximately at 4:00 in the
5 afternoon. All of the priests and the nuns, we were taken in
6 ambulances from the Red Cross and, obviously, with hands up.
7 The Army was quite scared because there were guerillas that
8 had taken the cathedral and they had placed armed people on
9 the four corners of the cathedral.

10 And thanks to these guerillas, the Army did not go
11 into the cathedral. And then the Church and civil
12 authorities, what they did, is they negotiated, and then they
13 talked with President Duarte so that they would not go into
14 the cathedral and they could leave from that area.

15 And then the Army was taken from there and then us,
16 those religious people, we managed to leave the cathedral by
17 4:30 in the afternoon.

18 Q. Can you look at Exhibit 63, please.

19 A. This, 63?

20 Q. Yes.

21 A. Oh.

22 Q. Do you recognize what that is?

23 A. These are the people -- I'm supposing, because I'm not
24 familiar with the faces of these people, but they were there

25 for the burial of the Monseñor.

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1 Q. Was the picture that's Exhibit 63, is that representative
2 of what you saw on that day?

3 A. I believe so, because you can see on their countenance,
4 you can see on their countenance, the sadness for the death of
5 Monseñor Romero.

6 MR. EISENBRANDT: Your Honor, I would move to admit
7 to evidence Exhibits 64 through 66 as they have been
8 identified by the witness and Exhibit 63 as demonstrative of
9 the people at the funeral that day.

10 THE COURT: All right. Let me ask one question of
11 Father Guerra.

12 THE WITNESS: Yes.

13 THE COURT: Were you able to observe the faces of
14 people at that kind of range during the funeral proceedings
15 throughout the day that we have just seen depicted in Exhibit
16 63?

17 THE WITNESS: Of course, because I was approximately
18 25 meters from the multitude.

19 THE COURT: And would the faces depicted in this
20 photograph be representative of what you observed the people's
21 countenances to be at that time?

22 THE WITNESS: I believe so.

23 THE COURT: All right. Exhibits 63 through 66 are
24 received in evidence.

25 (Plaintiff's Exhibits 63 through 66 were received.)

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1 BY MR. EISENBRANDT:

2 Q. Father, after the assassination, were there memorials,
3 marches for Monseñor Romero?

4 A. 24 years have passed by, and every year, as the years go
5 by, the activities are multiplying in relation to the death of
6 Monseñor Romero.

7 I believe he is the priest, the Archbishop in the
8 world -- well, in the Catholic world, he is the priest and the
9 Archbishop who is the most spoken about in the world.

10 And, as a matter of fact, the Anglicans, the Anglican
11 church, the Anglicans, they have placed a statue of Monseñor
12 Romero in Westminster Cathedral.

13 He is a martyr for the Anglican Church and, of
14 course, for us. The Pope himself, when he arrived in
15 El Salvador in 1983, he said, "Happy is the -- are the
16 Salvadoran people that had a shepherd, a Bishop and a martyr
17 as their guide."

18 Q. I'm going to show you a few photos and just ask you if you
19 can tell me if these are representative of the types of
20 memorials that you have seen. Can you please look at Exhibit
21 78.

22 A. 78?

23 Q. Yes. Is that representative of the type of memorial you
24 may see to Monseñor Romero?

25 A. Yes, it's quite frequent, the celebrations, where people

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1 come from different places, and they bring billboards. This
2 year I was in the east of El Salvador in the Morazan province.
3 There were approximately 25 of us parishes that held a

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4 celebration in honor of the Monseñor. And there were around
5 500 of us in the hall. And everybody was very happy with the
6 photographs of the Monseñor Romero in their hand.

7 Q. Can you look at Exhibit 79 and tell me if that also is
8 representative of the type of memorials?

9 A. Well, exactly. That's what I saw this year.

10 Q. And Exhibit 80, is that a typical scene of a type of
11 memorial?

12 A. Yes. I believe there is something important. That's the
13 tomb, isn't it, of -- Monseñor Romero's tomb? And you can
14 see, there are some small pictures on top of the tomb. And
15 those pictures are gratuities. What they are is they are
16 thankful -- notes of thanks from people for whom Monseñor
17 Romero has done miracles. Always on top of that tomb, there
18 are flowers, there are candles and people there who come to
19 pray there.

20 John Paul II himself, they changed the route, changed
21 the route. He arrived at the cathedral unexpectedly, and he
22 himself knelt to pray there.

23 Q. Can you also look at Exhibits 81 and 82 and tell me if
24 those are representative of the types of memorials you see?

25 A. Yes. I think those are just common, what you see, as far

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1 as the devotion to him, and throughout all El Salvador for
2 Monseñor Romero. And not just El Salvador, I have also seen
3 it in Mexico.

4 MR. EISENBRANDT: Your Honor, I would move to admit
5 into evidence Exhibits 78 through 82 as demonstrative of
6 memorials to Monseñor Romero.

7 THE COURT: Exhibits 78 through 82 are received in
8 evidence.

9 (Plaintiff's Exhibits 78 through 82 were received.)

10 BY MR. EISENBRANDT:

11 Q. Father, after the assassination of Archbishop Romero, did
12 you suffer any further persecution?

13 A. I went to Mexico in June or July, July of 1980. The
14 faithful people in Armenia would say to me, "Father, leave.
15 The people, they might kill you."

16 So I was in Mexico for two years. I returned in
17 August of 1982. And I went through the war, all the war in
18 El Salvador.

19 And during that time, I was personally threatened by
20 military personnel. The military head in Sonsonate, we were
21 in an administrative celebration, all of us together. And the
22 Colonel told me, "You are a guerilla. Leave the country.
23 Because -- or I will kill you or you will kill me." That was
24 when I had just barely been back in Salvador for six months.
25 But I had already made my decision that I was never going to

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1 leave El Salvador and I never wanted to leave.

2 I took some precautions, because I do believe that
3 the people need me to be alive. And the priests and the
4 churches, we have been, thanks be to God, a hope for the
5 people during all of the war. The churches are the ones that
6 have given protection and humanitarian aid. As such, it was
7 important to be in El Salvador. And now we just give thanks
8 to God that we are alive.

9 MR. EISENBRANDT: Your Honor, I have just a couple of
10 questions for the witness, and I wonder if we might be able to

11 do those in camera for reasons of security.

12 THE COURT: Yes. If you represent to the Court that
13 there are security concerns that would involve safety of the
14 witness, I will let you state those concerns, if they are of
15 such a sensitive nature that they can't be stated publicly,
16 upon your representation in good faith, that there is such a
17 danger, I will take the statements of justification in camera.

18 MR. EISENBRANDT: I will represent that to your
19 Honor, that, yes, there are legitimate security concerns.

20 THE COURT: All right, at this time, ladies and
21 gentlemen, who are assembled in the courtroom, we are going to
22 take the noon recess, and I will indicate that we are going to
23 take the testimony in camera at this time outside the presence
24 of the public.

25 And we would never close a public proceeding in the

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1 United States. The courts are open to the public. We do the
2 business of the nation as it is judicial in front of the
3 public. The First Amendment invites that you be able to
4 observe, that you be able to criticize, that you be able to
5 evaluate the quality of justice that is administered in this
6 nation, and the only time we would close a public courtroom is
7 upon a representation that there is such danger to a party or
8 a witness in the proceeding that that would justify closing
9 the proceeding.

10 I haven't heard the justification yet, but I will
11 accept the representation of counsel, as an officer of the
12 Court, in good faith. With that said, we are going to stand
13 in recess and we will close the courtroom to the public.

14 MR. EISENBRANDT: Thank you, your Honor.

15 THE COURT: We will resume in public session at 1:30
16 p.m.

17 (The courtroom was cleared.)

18 (Sealed proceedings follow on the next page without
19 interruption, but filed under separate cover and sealed by
20 order of the court.)

21

22

23

24

25

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1 AFTERNOON SESSION

2 1:30 p.m.

3 THE COURT: Back on the record in Doe versus Saravia.
4 Mr. van Aelstyn?

5 MR. Van AELSTYN: Good afternoon, your Honor.
6 Plaintiff Doe would like to recall to the stand Professor
7 Terry Lynn Karl.

8 THE COURT: Professor, you may resume the witness
9 stand.

10 TERRY LYNN KARL,
11 called as a witness on behalf of the Plaintiff, having been
12 previously duly sworn, resumed the stand and testified as
13 follows:

14 DIRECT EXAMINATION (Resumed)

15 BY MR. Van AELSTYN:

16 Q. Professor Karl, when we left off, I believe you were about
17 to begin a discussion of the coup of October 15, 1979, in

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18 El Salvador, and the members of the junta that came into power
19 as a result of that coup.

20 A. Yes. Just to recapitulate a moment, on October 15th,
21 1979, there was a coup in El Salvador led by a Colonel Majano.
22 And Colonel Majano was, on that day, a relatively unknown
23 commodity in the sense of thinking of the ultra right hardline
24 officers that I talked about earlier. In other words, they
25 knew he was not a hardliner, but they did not know what his

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1 own sympathies were.

2 And he showed them very quickly his sympathies by the
3 nature of the people he appointed as a governing junta. He
4 invited five members of the -- five people to join him in a
5 governing military civilian junta.

6 Q. Does that mean there was six members of the junta?

7 A. There are five members of the junta.

8 Q. Including Colonel Majano?

9 A. Including Colonel Majano, I believe.

10 Q. In addition to Colonel Majano, there were other military
11 representatives on the junta as well as other civilian
12 members?

13 A. That's right.

14 Q. What was the majority, military or civilian?

15 A. The majority -- he invited three civilians. And -- there
16 were three civilians and two military, I believe. The
17 civilians were important because they were representatives of
18 two political parties that had not previously been permitted
19 to govern El Salvador.

20 That included the Christian Democratic Party, which

21 had been denied its electoral victory in 1972, something that
22 I described, that was led by the Molina Group, and two
23 military Colonels. The Colonels are very important because
24 one of them is Colonel Gutierrez from the Molina Group.

25 So from the very beginning, there is a governing

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1 military civilian junta that has a representative of the
2 hardliners in it, not as a majority, but as an apparent
3 minority of the vote.

4 Q. This is the same Colonel Gutierrez that was a member of
5 the Molina Group and the same Colonel to whom, at that time,
6 Major Roberto D'Aubuisson answered?

7 A. That's right. And this is the same Colonel Gutierrez that
8 I testified earlier gave the orders to Roberto D'Aubuisson to
9 go to ANSESAL, which is the intelligence -- it was the
10 Salvadoran National Intelligence Agency, and to take the files
11 and to take them to the estado mayor, where he believed they
12 would be safe.

13 It is also, by the way, in reference to another
14 testimony, Colonel Gutierrez also worked in the Province of
15 Sonsonate, which is where Father Walter Guerra was from --
16 testifying about, not where he's from, excuse me. When he was
17 talking about the town of Armenia and the level of repression
18 there, which was extremely intense in the years 1977 to 1979,
19 it was before the October coup. Colonel Gutierrez was one of
20 the commanders in that area.

21 Q. I see. You previously testified to a strategy of the
22 Molina Group at this time that included an inside and outside
23 strategy. Could you please address that again.

24 A. Yes. The fear of the hardliners was, at this moment, as I

25 explained earlier, because of the revolution in Nicaragua,

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1 because of having reformers in the government for the first
2 time, having one person in particular, who was a member of a
3 Social Democratic Party in the government for the first time,
4 they were very nervous that they may in fact lose control of
5 the government and, in particular, lose control of the
6 majority of Salvadoran military soldiers; that they may lose
7 control of the command structure of the Army.

8 In that worry that they had, the strategy they
9 adopted was twofold: One was to make sure that key positions
10 in the October 1979 governing junta had their representatives
11 in it. And so, in addition to Colonel Gutierrez, who was
12 in -- who was in the junta, another Colonel, whose name is
13 Colonel Garcia, and who also was a member of the Molina Group,
14 was made Minister of Defense.

15 So in two very key places they have hardline military
16 officers. One of them is in the Ministry of Defense, which is
17 probably the most important command structure of the formal
18 military apparatus. The other one is inside the military --
19 excuse me, the junta.

20 The problem was that they, again, didn't know whether
21 they were going to be able to keep control over this.

22 Q. So was there an outside part of this strategy then in
23 addition to the inside part?

24 A. Right. There was a decision to establish an apparatus
25 outside the formal structure of the military, but deeply

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1 linked to it. And that is a decision to amplify the kinds of
2 death squads that previously existed in El Salvador, to make a
3 larger apparatus that would be headed by Roberto D'Aubuisson,
4 that would include squads of officers inside every one of the
5 formal armed forces structures.

6 So, for example, there was a very important death
7 squad located in the intelligence offices of the National
8 Police.

9 Q. Professor Karl, if I could, I would like to have you look
10 at a document.

11 And your Honor, this is one that we have not
12 previously marked as an exhibit. I believe the next in order
13 is 223.

14 I would ask to approach the witness to provide a
15 copy.

16 THE COURT: Yes, you may.

17 BY MR. Van AELSTYN:

18 Q. Professor Karl, what I have handed you is a document that
19 I believe will be tentatively marked as Exhibit 223. Can you
20 please tell us what this is.

21 A. Yes, and I need to describe some of the circumstances of
22 this document. This is a document that is being prepared in
23 October of 1983.

24 Q. By whom?

25 A. The -- it is being prepared for Secretary of State George

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1 Schultz for a visit that he has planned to take to
2 El Salvador, which is subsequently postponed. It is --

3 Q. Was it prepared by the Department of State, then?

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4 A. It is a briefing paper on right wing terrorism in
5 El Salvador prepared jointly by the CIA and the State
6 Department. It incorporates other --

7 Q. Professor Karl, I apologize. Before we get into what the
8 document contains, can you please describe to us how this came
9 into your possession.

10 A. This is one of the declassified documents that are
11 included in the documentation that I testified about earlier.

12 Q. The declassified documents that were declassified in 1993
13 as part of that process?

14 A. That's right. That's right.

15 Q. If you could, for the court reporter's sake, wait until I
16 finish asking questions, even if it is a long-winded one.

17 This is one of those documents that was declassified
18 by the United States government in 1993?

19 A. That's right.

20 Q. And I believe you testified earlier that these documents
21 are maintained not only by the private entity, the National
22 Security Archive, but also by what branch of the U.S.
23 government?

24 A. Because these are declassified, they are available through
25 the Library of Congress and they are available, for example,

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1 in the Library at Stanford University.

2 Q. And are you confident that this is what it purports to be,
3 one of these documents that was declassified in 1993?

4 A. Yes, I am.

5 MR. Van AELSTYN: Your Honor, I would like to move
6 into evidence Exhibit Number 223 that has been tentatively

7 marked as 223.

8 THE COURT: I will admit the exhibit. It appears to
9 be an official public record.

10 (Plaintiff's Exhibit 223 was received.)

11 THE COURT: Is it possible to say, Professor Karl,
12 whether there is -- I know you are not the custodian, but is
13 there a regularly constituted document retention procedure
14 for -- I guess this would be an Executive Branch memorandum
15 for the Secretary of State?

16 THE WITNESS: I'm confident that that is the case.

17 THE COURT: So the procedures of declassifications,
18 when that occurs, do you know how that is implemented, when,
19 as a matter of course, the declassifications either temporally
20 occurs automatically or some action is affirmatively taken to
21 declassify a document?

22 THE WITNESS: In the case of these documents, these
23 are declassified because of the affirmative action of the
24 Clinton Administration, so these are not documents that have
25 come to public light in the normal course of a temporal event.

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1 These were requested, as I explained earlier, in the
2 period of time of the peace agreements. President Clinton
3 gave an Executive Order. The documents were then all read,
4 and, as you can see in your copy, they are redacted. The
5 black redaction is by the U.S. government. It is not by any
6 other agency.

7 And then they are brought to public attention in the
8 form in which the U.S. government decides to release them.
9 The government may also decide not to release some documents.

10 so the full documentation on this period of

11 El Salvador is still not public. These are approximately
12 10,000 documents that were released as a result of the Freedom
13 of Information request and the Clinton Administration's
14 Executive Order.

15 THE COURT: All right. Then I'm going to find that
16 there is a sufficient showing of authenticity that they are
17 public records regularly maintained, but there are opinions
18 and secondary matters in the documents that I'm not going to
19 accept necessarily for their truth, but rather, that this was
20 information that was available to the Secretary of State for
21 the purposes of conducting the business of State.

22 MR. Van AELSTYN: Understood, your Honor. Thank you.

23 BY MR. Van AELSTYN:

24 Q. Professor Karl, what does this document tell you about the
25 paramilitary organizations in El Salvador that were coming to

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1 the fore in 1979, late 1979?

2 A. Before I answer that, there is one other important point
3 about this document, which is actually a representative
4 document of a number of other documents about death squads
5 that are released in this period. This is because there is a
6 great deal of attention on death squads at this moment in the
7 months of October and November, 1983, in preparation for a
8 trip that Vice-president Bush takes to El Salvador to meet
9 with the High Command of the military in the end of 1983.

10 And so there is a great deal of attention in trying
11 to pull together the information that is reliable about how
12 death squads work and how they function.

13 So there are, in fact, a series of documents. I have

14 chosen this one as a representative, in part, because it is
15 used, as you can see, at the top, for an interagency briefing,
16 so that means it brings together information for a number of
17 agencies in preparation for the trip of Vice-president Bush,
18 and it makes the point right at the beginning of the
19 investigation of death squads and the information about them
20 is a particularly difficult task.

21 So they have tried to reach as far as possible in
22 this document to pull together all the information that the
23 United States has at this time.

24 The only other point I want to make about this
25 particular document is that some of the information is

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1 gathered from other declassified documents and put together in
2 this one. It's repeated, in other words, in this document,
3 but might have been first published in 1981.

4 So there is several paragraphs in here that appear in
5 declassified documents in 1981. It is a compilation of what
6 the United States feels confident that they can tell Secretary
7 of State Schultz, and it is later presented in other
8 declassified documents to prepare the Vice-president for his
9 trip.

10 The importance of this particular document, and I
11 think this is important, it is not talking about death squads
12 that operate out of the regular armed forces, and they make
13 that very clear in their definition. They are not talking
14 about a death squad in the National Police Force or the death
15 squad that operated out of the National Guard. They are
16 particularly concentrating on what they call "extra-official
17 paramilitary groups," meaning --

18 Q. This is at the top of page 2?

19 A. Page 2, yes. And so that this particular document is not
20 all of the information about death squads.

21 The reason I wanted to bring it to the attention of
22 the Court is that it is a description -- one of the parts --
23 one of the reasons of the documentation is it is a description
24 of how death squads actually work.

25 And there is a -- the first paragraph describes that

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1 there are generally between ten and 20 people that may make up
2 a death squad; that operations often involve as many as ten
3 people. So these are not tiny little groups that may go out,
4 they may, in fact, be groups of ten.

5 In my own research, and in the research of many
6 others that pulls together my knowledge of how death squads
7 function, there are usually at least ten people involved in a
8 particular action.

9 There are the people who make the decision about the
10 action, and there are the people who actually carry out the
11 action.

12 And there are usually -- there is usually a
13 differentiation between the two. In other words, it is
14 unlikely -- and in fact I have never encountered a case in
15 which a Colonel is directly involved in a death squad killing.

16 It is more likely that officers make a decision to
17 kill somebody and more -- very low level soldiers or civilians
18 who are more -- who have no standing are the ones who actually
19 carry it out. When I say "standing," meaning that they are
20 usually poorer, less educated, used as the actual squad.

21 So this is important, because it is unlikely if
22 you -- it is unlikely in the testimonies that I have seen over
23 the years, in a number of cases, when a witness says, "I saw
24 Colonel so and so do this," it is unlikely in fact that anyone
25 of a high level in the military is actually inside a death

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1 squad doing the actual killing. There are many degrees of
2 differentiation in that.

3 There are other reasons I wanted to bring this to the
4 attention to the Court. In paragraph 3, the bottom -- it's
5 not really the bottom, it's the -- almost bottom of page 2,
6 they are talking about different death squads, and they give
7 their names. In particular, the White Warriors Union, the
8 General Maximiliano Hernandez Martinez Anti-Communist Brigade,
9 the Secret Anti-Communist army. These are names that that are
10 mentioned. The White Warriors Union is one I mentioned
11 earlier.

12 Q. That's right. Professor Karl, if I could draw your
13 attention to page 3, towards the bottom, there is a heading
14 called "Rightist Death Squads."

15 A. That's right.

16 Q. Now, which is the first of the Rightist death squads that
17 is discussed in the document?

18 A. They said -- and again, I want to be clear about this.
19 This is a 1983 document, so this document is describing events
20 after the murder of Archbishop Romero.

21 The squad that it is particularly concerned about at
22 the time is actually the focus of this document, and that is a
23 death squad which it called the ARENA Death Squad. That is
24 the death squad of the governing party of El Salvador today,

25 which it says, is organized, I'm reading from that paragraph,

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1 "The group was organized and directed by Dr. Pedro Regalado
2 Cuellar. Regalado, a former dentist, is the Chief of Security
3 at the Constituent Assembly."

4 He was, in fact -- excuse me, this is my interjection
5 here, he was, in fact, the Chief of Security of Roberto
6 D'Aubuisson, who replaced Alvaro Saravia after the
7 assassination of Archbishop Romero.

8 Q. Replaced Saravia with Regalado?

9 A. In 1983, he had the position that Alvaro Saravia had in
10 1980. It goes on to say that:

11 "The group's activities are undertaken with the
12 knowledge and approval of ARENA leader and
13 Constituent Assembly President Roberto D'Aubuisson."
14 This squad has most recently used the name Secret
15 Anti-Communist Party," and in fact, they probably
16 mean Army because the real name is "ESA," which means
17 "Secret Anti-Communist Army."

18 "In order to have a public front for issuing
19 communiques and threatening people, while covering
20 the true source of the violence. The ESA, the death
21 squad, even attacked" -- wait a minute. I'm sorry.
22 I can't read my own copy here -- "even attacked
23 D'Aubuisson in one of its communiques."

24 So they are pointing out a kind of disinformation
25 that the death squad operating out of the Constituent Assembly

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1 is engaging in.

2 Q. Professor Karl, as you mentioned, this document dates from
3 October 1983. What does it tell us about the death squads
4 that were established in or around 1979 with Roberto
5 D'Aubuisson?

6 A. I want to point to some of that, and without going through
7 the entire document, I just want to highlight several parts of
8 it.

9 The first is on page --

10 Q. If I could draw your attention, on page 4, I believe it
11 is. Yes, page 4, the second full paragraph begins:

12 "A less than comprehensive list of actions taken by
13 the ARENA Death Squad, or a predecessor organization,
14 since this squad may not have existed prior to the
15 formation of ARENA in October 1981, includes the
16 following," and it goes on?

17 A. That's right, and I think, in particular, the first line
18 is important, "The assassination of" -- "PDC" means Christian
19 Democratic Party -- "The assassination of Christian Democratic
20 Party's mayors," an example of which Father Walter Guerra
21 reported.

22 Q. In your research, Dr. Karl, is it consistent that the
23 ARENA Death Squad discussed here traces its roots back to at
24 least 1979?

25 A. And it has been my testimony the other day that it traces

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1 its roots back to 1977, actually. That this is the same group
2 of people who began to organize as the White Warriors Union,
3 who -- which was the death squad that I testified was the

4 death squad that targeted priests, in particular, and that
5 also was responsible for what are called "politically
6 sensitive assassinations," or in the words of Roberto
7 D'Aubuisson, "the neurological points of the enemy."

8 So this was the origin of this -- this death squad
9 that is being reported here is in fact, it is by 1983, it is a
10 much larger apparatus than it was in the period of time that I
11 have testified to previously, but its origins were in
12 certainly that.

13 If you look at the bottom of the paragraph, the
14 bottom of the paragraph you were reading, it does say that
15 "ARENA Leader D'Aubuisson is reported to have been involved in
16 approving the March 24th, 1980 assassination of Archbishop
17 Oscar Arnulfo Romero."

18 Q. I'm sorry, where is that in the documents?

19 A. That is on page -- the top of page 5. The last paragraph.
20 Excuse me, the first paragraph, last sentence.

21 Q. Could you read that again for us, please, Professor Karl.

22 A. Yes. There are actually a number of references to the
23 assassination in this document. The first one is when they
24 are describing the ARENA paramilitary group, and remember,
25 they are describing a group that is acting out of the offices

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1 of the legislature of the government of El Salvador. They are
2 saying, in identifying for President -- Vice-president Bush
3 who everyone is, they are saying that "ARENA leader
4 D'Aubuisson is reported to have been involved in approving the
5 March 24th, 1980, assassination of Archbishop Oscar Arnulfo
6 Romero."

7 There is another reference to the Archbishop's
8 assassination, which is also very important on this document,
9 if I may?

10 Q. Yes, where is that?

11 A. This is on the same page, where it says "National Police."

12 And it begins, "A death squad which tends to avoid
13 high profile operations," and now, by the way, this
14 is important that this is being given in '83 because
15 this was not the case in 1980, "which tends to avoid
16 high profile operations has existed within the
17 National Police since at least late 1979. It is this
18 squad which is believed to have been responsible for
19 the assassination of Archbishop Romero."

20 And they then go on to say, "The leader of the squad
21 at that time was Captain Amilcar Molina Panameno."

22 And then later in the document -- this is the rest of
23 the document -- describes the death squad operating out of the
24 National Police. It goes on to describe the death squad
25 operating out of the National Guard.

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1 And later in the document -- excuse me. I'm sorry, I
2 can't find it, but it is in this document -- it goes on to say
3 that the death squad of ARENA works very, very closely with
4 the death squad of the National Police.

5 And the document explains that death squads are
6 fluid. In other words, that people who belong to the National
7 Police may be in the same death squad as the -- what they are
8 now referring to in this document as the "ARENA document," as
9 the ARENA Death Squad.

10 Q. What types of actions were these paramilitary

11 organizations engaged in?

12 A. Well, this does document some of those actions, and I
13 think we have heard about others, but what I would like to do,
14 if we can, is go back to an exhibit that you showed in
15 conjunction with Ms. Hernández' testimony. I believe it's
16 Exhibit 69.

17 MR. Van AELSTYN: Could we have Exhibit 69, please.

18 THE WITNESS: I wanted to identify this spot since I
19 have been there and I recognized it immediately in the
20 photograph.

21 BY MR. Van AELSTYN:

22 Q. What spot is it, Dr. Karl?

23 A. The name of it is El Playon. It is a body dump area. It
24 is important to note that there is only one way to get to El
25 Playon. There is only one road leading to it and that road

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1 has a military guardhouse at the front of it. In other words,
2 you cannot go to this area unless you pass through a military
3 guard. So in order to get to this spot, you must go through a
4 military checkpoint.

5 I, the day I went to El Playon -- this is not a
6 picture of the day I was there. The day I was there, I saw
7 nine bodies. And I saw -- they were in a pile, so they were
8 not laid out as they are here, but they were actually thrown
9 in a pile, so I could not describe every body.

10 But the top body was a woman who had had her left
11 breast cut off, and was naked. There were other bodies that I
12 could tell that their faces were destroyed and I saw signs of
13 torture on the bodies.

14 So this is a representation to the kind of work that
15 I personally witnessed that death squads did. There are a
16 number of marks of these. One of them, I believe, is in
17 Exhibit 67 that you showed previously, and I would like to
18 point it out since, in my experience, from the bodies that I
19 personally witnessed, this is very common.

20 The way those hands are tied, until 19 -- the end of
21 1983, money was still an issue for the Salvadoran military.
22 They were not receiving very large amounts of aid until later
23 on.

24 So when this picture -- when these -- when you see
25 these pictures of people with their thumbs tied together, this

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1 is in part because of the early days of the war -- excuse me,
2 the early days of the repression, this is before the war.
3 There wasn't access to handcuffs, so the way that the military
4 and security forces would tie people up is that they would tie
5 their thumbs together, and that is what you see in that
6 picture. That is a representation of that form.

7 Q. Is that consistent with what Father Guerra was describing
8 earlier when he testified he was arrested and his thumbs were
9 tied together?

10 A. That's correct. That is a classic way of arresting people
11 by the armed forces or police, and when I say armed forces and
12 military, I'm including the security forces and the police as
13 well. So that is a particular practice that you see.

14 The memo that we were going over distinguishes
15 between publicity-seeking death squads and death squads that
16 don't sign their work, if I can put it that way.

17 Q. Earlier, Dr. Karl, you had testified about the kinds of
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18 warnings that death squads might issue before engaging in the
19 actual killing.

20 Are you aware of any such threats or warnings made to
21 Monseñor Oscar Romero?

22 A. Yes, I am.

23 Q. Could we have Exhibit 145, please. Professor Karl, if I
24 could have you look at Exhibit 145.

25 while Professor Karl is looking for it --

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1 A. I have it.

2 Q. -- that Exhibit 145 is one of those that have been
3 admitted into evidence based on the testimony of
4 Ms. Hernández, but this was one of those documents that was
5 stamped as received by the Archbishop's office, and then
6 placed into the archives of the Archbishop's office, and then
7 later transferred to the Canonization Office of the
8 Archdiocese?

9 A. There are a number of death threats against Archbishop
10 Romero. This one is chosen for -- I chose this for a
11 particular reason. It -- when it shows the swastika -- and by
12 the way, that is not an uncommon symbol.

13 I was talking about symbols that are used and if I
14 can say just one thing about that, the death squads, some of
15 them were -- had been educated in the symbolism of terror.
16 This is quite important.

17 So, for example, if you killed somebody and that you
18 were killing them because they were a land reform proponent,
19 you would often find that person with dirt and leaves stuffed
20 in his mouth because the symbol was that this was about land.

21 If you were trying to build up a sense of terror, you
22 might use a Nazi symbol. You might use a white hand, you
23 might sign the initials of the Union Guerrero Blanca, the
24 white warriors Union, and have the initials, et cetera. So
25 these kinds of symbols are not unusual, and this makes

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1 El Salvador very different than other forms of terror
2 elsewhere. It was important in terms of terrorizing the
3 population.

4 And if I can just say, that in other forms of terror,
5 the way to terrorize a population may be to disappear a lot of
6 people. For example, the case of Argentina. So they
7 disappear and there isn't any public visible terror.

8 In the case of El Salvador, the terror was very
9 different. It was visible. You could see it all the time.
10 If you were walking around the streets, you could find, as I
11 did, in the McDonald's parking lot, in the parking lot of a
12 major hotel in downtown San Salvador.

13 So the very public nature of the threats is one of
14 the characteristics and it is certainly one of the
15 characteristics that led up to the death of Archbishop Romero,
16 a very public series of threats not hiding what a group was
17 planning to do.

18 Q. If I could, please, we will return to this one, but I
19 would like to show Exhibit 215. Do you need to see it in the
20 book? I can show you in the upper right hand here, it's El
21 Diario de Hoy, Lunes de Mayo 1977, I believe that is May 9,
22 1977.

23 You were talking about the public nature of threats.
24 What is El Diario de Hoy?

25 A. El Diario de Hoy is a leading, if not the leading,

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1 newspaper of El Salvador. It is owned by an extremely
2 conservative landowner, who had an editorial policy that
3 favored the hardliners in the story that I have been telling.

4 This is a, what is called a "paid ad" in Spanish.
5 It's a "campo pagado." That means a group puts a full page ad
6 in the paper saying something that is important to them.

7 This particular ad, when I testified the other day, I
8 said that the Archbishop was targeted actually for the first
9 time in 1977. And I talked about how there was a U.S.
10 response that was very strong in the Congressional hearings,
11 et cetera.

12 This particular ad is May 9th, 1977, found by me and
13 my research assistants in El Diario de Hoy. It comes from the
14 microfilm of El Diario de Hoy that we requested from the
15 Congress of the United States. And this is an ad addressed to
16 the Archbishop.

17 Q. Without reading the entirety of the text, which is rather
18 long, can you give us the gist of this ad addressed to
19 Monseñor Romero?

20 A. This is an ad, this particular ad -- this is a particular
21 ad that is run in the newspaper to answer the charge that
22 priests and religious people, lay people and religious people
23 are being persecuted in El Salvador.

24 They are claiming that this is not the case. And
25 this is important, because, as I said, the United States

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1 becomes involved in this particular issue. They are claiming
2 that this is not the case, that the Church isn't really being
3 persecuted, but that the Church, instead, is taking positions
4 that mean they are no longer religious clerics.

5 And it's a sense of saying to the Archbishop that he
6 needs to rein in the church. There is specific names of
7 priests and of Jesuits in here, and it says -- it asks the
8 Archbishop specifically to control subversives in the country,
9 especially very dangerous ones. And they list a particular
10 place and they ask him to rein in the Church and to return to
11 the role that the Church was in before.

12 MR. Van AELSTYN: If I may return briefly to the
13 housekeeping matter that I raised this morning. This is one
14 of those five documents that had been mistakenly admitted into
15 evidence as having come from the Canonization Office, and in
16 fact, it comes from the -- the witness has testified, from the
17 microfilm archives in the Library of Congress of the newspaper
18 El Diario de Hoy.

19 We would like to move into evidence Exhibit 215, as
20 well as 211 through 214, not for the truth of the matters in
21 these documents but rather as documents that are
22 representative of those upon which Professor Karl has based
23 her opinion in this case. And on the basis of the description
24 of how these documents were maintained in the Library of
25 Congress and obtained by Professor Karl and his research

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1 assistant.

2 THE COURT: All right, these documents, which are
3 Exhibits 211 through 215, according to Dr. Karl's testimony,

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4 were obtained microfilm copies of El Salvadoran newspapers
5 that are recorded and kept at the Library of Congress. And so
6 I will find that the authentication requirement is satisfied.

7 And since an expert may rely on hearsay and other
8 information not admissible in evidence, and I emphasize the
9 "not admissible in evidence," I will introduce these -- I
10 should say permit the introduction of these exhibits, not for
11 the truth of the underlying information, but rather, for the
12 fact that it is information, it was being published, that it
13 is, whether they were articles, whether they are messages,
14 whether they were editorial opinions or some other forms of
15 opinions, it is public dialogue that was available to the
16 populous in the newspapers; and, therefore, Dr. Karl can
17 review and analyze it, but it doesn't make what's stated true,
18 necessarily.

19 So for those limited purposes, Exhibits 211 through
20 215 are received in evidence.

21 (Plaintiff's Exhibits 211 through 215 were received.)

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

23 BY MR. Van AELSTYN:

24 Q. Dr. Karl, I would like to turn back to the more targeted
25 kinds of threats rather than the public threats.

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1 If we could return to Exhibit 145. And we were
2 discussing, this was received by the Archdiocese by Monseñor
3 Romero?

4 A. If I may clarify, what I did in preparation for this case,
5 specifically, was I pulled all the death threats that I had in
6 my personal possession from my years of research, the death

7 threats that I could -- they were made available to me through
8 the Archdiocese that you have presented here, and I also went
9 through the newspapers of El Salvador that were available at
10 the time in this period of time. And I identified a pattern
11 and practice of threat that I actually knew very well from my
12 years working in El Salvador, which is -- and I had shown some
13 of this in the 1977 period just to recapitulate.

14 It is, first of all, to give someone the benefit of
15 the doubt. Maybe you are naive, maybe you don't realize you
16 are a fellow traveler with Communists.

17 It is then to say you should stop these things and
18 give a deadline.

19 And then it is, finally, to threaten death.

20 What is important in this particular one, which is
21 dated in 1979, is -- several things are important about this
22 particular threat.

23 The first is the first line which says, "The swastika
24 symbol of the bitter enemy of Communism is our emblem." The
25 translation says that.

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1 This is an important statement because, as I
2 testified earlier, Roberto D'Aubuisson, through his
3 connections with the World Anti-Communist League and the
4 Confederation of Latin American Anti-Communists, actually
5 designed a model of repression that was explicitly modeled
6 after what we call "Fascist models." And I mean that not in
7 terms of the epithet, but in terms of the actual way
8 repression worked. So they are in fact claiming this as part
9 of their tradition.

10 The threat goes on to say:

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11 "We have a long list of priests, professors, workers,
12 students and employees, who we are going to be
13 eliminating. You, Monseñor, are at the head, among
14 the group of priests that at any moment will receive
15 30 missiles in the face and in the chest. However,
16 we want to save you if you obey the following
17 instructions."

18 Again, this is a way of saying, "If you change your
19 ways, maybe you can live."

20 "At least for one month, in all of your homilies, in
21 your conversations, inside and outside the Holy
22 Church, you will severely combat Communism and the
23 Communists; on Friday of every week, you will give a
24 Mass for the aid of the soul of each person killed by
25 those from the BPR, FPL, ERP and the subversive

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1 killers; mayors, judges, members of ORDEN and
2 security agents, condemning and cursing the authors
3 of such horrendous crimes. You will condemn and will
4 curse the fire-raisers. You will publicly order your
5 clergy to move away from political activities. And
6 finally, the newspaper Orientation," that is the of
7 the Archdiocese, and "YSAX should energetically
8 combat Communism. All these activities that can save
9 you from a horrible death will begin Friday, the 10th
10 of June. We will be watching."

11 Just to clarify what those organizations are, so that
12 the content of this is clear, this organization is asking the
13 Archbishop to stop giving Mass for victims that it identifies

14 as victims who are enemies of the government and to make
15 affirmative efforts to give Mass for people who are in fact in
16 the government, mayors, judges, members of ORDEN and security
17 agents.

18 So they are asking him to change his behavior, to
19 change the content of the publications of his homilies and of
20 the newspapers and radio transmissions of the Church.

21 Q. Could we have Exhibit 146, please.

22 THE COURT: Let me ask before you do that.

23 MR. Van AELSTYN: Yes.

24 THE COURT: What is La Falange?

25 THE WITNESS: La Falange is a death squad name that

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1 also dates originally from 1977, which is where we find these
2 first death squad activities. La Falange and the Union of
3 white warriors is actually the same group and it changes its
4 name at some point.

5 So the important thing at this moment -- this change
6 is later -- but at this moment in history, death squads are
7 fluid and they are trying to give the impression that there
8 are a lot of them.

9 So the same group of people may go out one day with
10 the name La Falange. They may go out another day with the
11 name of the white warriors Union. There is a lot of
12 interaction between these. Later this becomes a much more
13 structured apparatus, but still, at this moment, this is not
14 the case.

15 THE COURT: Are these groups, BPR, FPL and ERP, those
16 are resistance or guerilla organizations?

17 THE WITNESS: well, the ERP is an armed Left
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18 organization. The BPR is a mass organization, a nonviolent
19 mass organization. All of these are opposition organizations.

20 BY MR. Van AELSTYN:

21 Q. Is there any significance to the selection of the term "La
22 Falange"?

23 A. Well, the "Falange" is, again, of Fascist origin. A lot
24 of the terminology in a number of these -- well, and actually
25 in the whole body of the death squads, there are a number of

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1 terminologies that constantly reappear.

2 So you will see, for example, the swastika. You will
3 see the Falange. These are all part of the Fascist tradition.
4 You will see the same language, in particular, at some point,
5 the language of "ayatollah," to discredit the Archbishop. And
6 if you --

7 Q. Could we have Exhibit 146, please.

8 A. This is an exhibit that shows a language that is important
9 because the language "ayatollah" is not something that you
10 would hear normally in El Salvador. So the fact that it
11 appears here was particularly interesting to me, because in my
12 interviews with Roberto D'Aubuisson, he called Monseñor Romero
13 "ayatollah" a number of times.

14 So when I saw this, I had not seen this death
15 squad -- this particular document for a long time --

16 Q. Why would somebody be referring to "ayatollah" in 1979?

17 A. Well, there was a problem in Iran in 1979. An ayatollah
18 was considered a -- the Iranian government was run by
19 ayatollahs, run by ayatollahs.

20 And this was considered a religious -- the intent of

21 it is to say that you are a religious person who wants to
22 govern as well.

23 That "Salvadoran ayatollahs with Monseñor Romero at
24 the head," they go on to say, "are directly
25 responsible for all the tragedies that have occurred

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1 in the country recently, since with their poisonous
2 preaching, visibly intended to provoke the hatred of
3 brothers against brothers, class hatred and conflict,
4 they have been able to polarize the negative and
5 morally corrupt social forces against the Democratic
6 system."

7 So we are starting to see the actual language of "you
8 are responsible. You are directly responsible for what's
9 happening here." And you have a shift from "you may be naive"
10 to now "you are responsible."

11 That language continues to build and it ends in a
12 direct threat to the life of Archbishop Romero.

13 I'm sorry, I don't have the number, but it is the one
14 of the women's League threat. I apologize, but it will show
15 the pattern of how this works.

16 Q. While you are looking for that, could we please have 149.

17 A. Yes, thank you.

18 Q. This was a handwritten one obtained from the Canonization
19 Office that appears to be signed "UGB"?

20 A. Right. We don't have to see the other one, it is in
21 evidence. The other one says very directly several days
22 before Archbishop Romero dies, that "you, in fact, are
23 targeted."

24 And this one, in the translation says, "For being a
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25 traitor to the homeland and for rousing the people against

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1 their legitimate government, this patriotic Union condemns you
2 to death just as we have killed so many other Communist
3 priests."

4 So we have now moved from warnings to an actual
5 condemnation to death. This is a handwritten death threat and
6 it is signed the "White warriors Union."

7 Q. Could we have Exhibit 152 briefly, as well.

8 A. Right. This is another one. And I should say that all of
9 these are front organizations. These are organizations that
10 you actually can't find if you go to El Salvador.

11 And this one, the last line of this is especially
12 telling:

13 "But the worst is that you are facilitating the
14 spilling of blood among our brothers with
15 demagoguery, blood that will not stop with staining
16 your cassock, for it has penetrated your soul,
17 stained with red Communism."

18 I should also say that in my interviews with Roberto
19 D'Aubuisson, he told me that the Archbishop had stopped being
20 a priest, that his soul, and he used the language "soul," was
21 Communist, and that once your soul was Communist, you were no
22 longer a priest, so you had formerly been a priest, but you
23 were no longer a priest.

24 Q. Dr. Karl, I would like to turn from your analysis of death
25 squads and their pattern and practice to your expertise as a

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1 political scientist.

2 In your view, was Oscar Romero, in addition to being
3 a theological figure, a political figure in El Salvador during
4 the time that he was Archbishop, and particularly in 1979,
5 1980?

6 A. I think he was a very important political figure, but I
7 need to clarify that I don't believe he saw himself that way.
8 And I base my opinion on how he saw himself from a reading of
9 his homilies, his diary, from conversations with many people
10 who knew him.

11 But our job, my job as a political scientist, is to
12 analyze the political impact of someone as opposed to their
13 religious impact and as opposed to the way they may personally
14 describe themselves.

15 He was -- he had an extraordinary political impact in
16 these months. And these are the months between the October
17 1979 coup and his death in March.

18 These are very, very important months in El Salvador.
19 Everything is extremely fluid in the country in this period of
20 time. And it is the period of time where there is a very good
21 possibility of avoiding war.

22 And when I say that, we study preventing deadly
23 conflict and we try to identify key moments where something
24 could have happened in a different way.

25 Q. Professor Karl, did you hear the testimony of Ambassador

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1 Robert White?

2 A. Yes, I did.

3 Q. He touched on this theme. Do you recall his testimony in
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4 that regard?

5 A. Well, I also know Robert White quite well, and have
6 interviewed him extensively, so I know that we coincide in our
7 view that Archbishop Romero was a very important bridge at
8 this moment.

9 And when I say that, I say that not only because of
10 his ability to be able to listen well to different sides and
11 come up with creative conclusions, which is something that he
12 clearly, from my own studies of him, he was very good at that.
13 He was well liked up to a certain point by most people in the
14 country, personally liked. So he was able to mediate between
15 strikes. We have heard examples of that. He was able to
16 mediate in conflicts, situations.

17 He was able to talk well with the U.S. Embassy, which
18 these were very difficult periods and the relationship with
19 the United States were also difficult. And that was another
20 political skill of his. Again, I don't think he would have
21 described himself that way, but that is how I see him, as an
22 extremely important bridge.

23 And but not only as a bridge, I think that's been
24 emphasized by Ambassador White, but also, in order to resolve
25 anything, you need information. Information is tremendously

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1 important. And the homilies, his gathering of information
2 about patterns of violence, are still the most important --
3 it's still the most important information that we have about
4 what happened in El Salvador in these years.

5 And when I say that, this is because even reporting
6 human rights violations could threaten you with death. I have

7 investigated a case, for example, in which in a serial way,
8 the people who reported human rights violations to -- in one
9 town, the religious worker who was in charge of reporting
10 violations to the Archbishop was murdered. Another person
11 takes her place and continues to report violations, and she is
12 murdered. And then a third person does that and she is
13 murdered. This is a particular case that I have investigated.

14 And what is important about this is that the flow of
15 information was extraordinarily difficult in this time. It
16 was very difficult to find out what was happening.

17 So that the Archbishop's ability, because this is a
18 Catholic country, to reach into all corners of El Salvador,
19 it's a very tiny country, but it was still very hard to find
20 out anything. And to collect information and disseminate it
21 in this way also was, in that sense, a political act, because
22 the information was so important for everyone trying to find
23 out what was happening.

24 The United States Embassy relied on his homilies to
25 find out what was going on. Because if you were trying to

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1 find out levels of violence, which was my own work at the
2 time, you could not go by what was reported in the newspaper.
3 The newspaper would only report bodies that were found visibly
4 and publicly in the city of San Salvador. So it was almost
5 impossible to find out what was happening in the rest of the
6 country.

7 And the Archbishop, in this sense, not only as a
8 bridge and as a person that might have been able to avoid the
9 terrible violence that happened in El Salvador, but also as
10 someone who could provide information so that everyone

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11 involved knew what was happening in the country, was an
12 extraordinarily important figure.

13 Q. Dr. Karl, you mentioned Oscar Romero's ability to
14 communicate with the United States and the U.S. Embassy.

15 Could we have Exhibit 148, please.

16 while we are waiting, could I ask you to move the
17 microphone a little bit closer?

18 A. Sure, sorry.

19 Q. 148 appears to be a copy of the February 17, 1980, letter
20 from Monseñor Oscar Romero addressed to President Jimmy
21 Carter. We have heard testimony about this letter previously
22 in this proceeding.

23 Are you familiar with this document, Dr. Karl?

24 A. Yes, I am.

25 Q. In your view as a political scientist, what was the

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1 significance of this letter?

2 A. Again, and let me hone in on what was happening exactly at
3 this moment. In, as I said, in October 1979, there was a
4 civil military junta.

5 what happens after that is a series of pressures to
6 replace the reformers inside the government with people who
7 are more hardline and who will not favor a civilian Democratic
8 system or a land reform.

9 And so the months beginning in January, when some
10 members of the first governing junta resign in protest over
11 the extraordinary amount of violence, and the refusal of the
12 armed forces to stop the violence, they resign in protest.

13 A second junta is founded in January 1980 and new

14 members come in. Now, the reason I'm explaining that is there
15 is a tremendous debate among I would call the "peaceful
16 Democratic forces." I'm not talking about small armed groups
17 now, but I'm talking about what was at that time the
18 possibility for a moderate peaceful solution in El Salvador.

19 There was a big debate going on about whether they
20 should cooperate in the government or whether they should stay
21 outside the government.

22 And the reason for that was that they were afraid
23 they were being used by the hardliners to make the government
24 look moderate, but since they had no control over the armed
25 forces, and since they couldn't stop the violence, they

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1 were -- the language they used was that "they were afraid they
2 were becoming a cover for violence."

3 So the big debate inside the Christian Democratic
4 Party was, do you stay in the government or do you refuse to
5 be in this government, because of the amount of oppression
6 that is occurring, mostly on the part of the armed forces and
7 these death squads, and which is not being controlled by the
8 Minister of Defense Garcia, nor by, it seems that it cannot be
9 controlled by the Colonels who are in the governing junta.

10 The reason I say all that is that the United States
11 believed as a strategy that it was very important to work with
12 the Christian Democratic Party and to keep them in the
13 government.

14 And the Christian Democratic Party splits over this
15 question, it actually splits in two over this question. And
16 the key issue at this time is how would someone like
17 Archbishop Romero come down on this question. How would he --

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18 what position would he take about whether this government
19 should receive military aid, number one, and whether Christian
20 Democrats should stay in the government or should leave to
21 show how oppressive the government really is.

22 So two things happen at this time, and this is why,
23 again, I say that he is a political figure, even though he
24 didn't see himself in that way.

25 Around -- right around this period of time, he

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1 does -- he takes two actions. He writes an open public letter
2 to President Carter, asking him not to give military aid to
3 this government because military aid is being used to kill
4 Salvadorans. And that is what this letter says.

5 The second thing he does is he starts to publicly say
6 that the Christian Democratic Party should not stay in the
7 government because it is in fact providing a cover for
8 repression, it is making the government look as if it has
9 civilians, look as if it is going to be able to democratize,
10 but in fact, that is not what is happening. What is really
11 happening is a rise in repression.

12 Q. Dr. Karl, do you know where this copy of Oscar Romero's
13 letter was obtained?

14 A. This particular copy came from the El Salvador Human
15 Rights Special Project. It is available, however, in just
16 about every book in English that is published about
17 El Salvador. And it has been widely, widely circulated and
18 this is the content of that letter.

19 Q. If we look at the first page, is this one of those
20 documents that was released as part of that special

21 declassifications?

22 A. Yes, it is. Yes, it is. I should say, however, that this
23 letter has been out long before that. It was a public letter,
24 and it has been reproduced, as I said, in textbooks about
25 El Salvador, et cetera.

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1 Q. All right.

2 Your Honor, we would like to move into evidence
3 Exhibit 148 on the basis of Dr. Karl's description of where it
4 was obtained. Again, not for the truth of the matter, but
5 rather --

6 THE COURT: All right. The same ruling on this.
7 That it would be a regularly maintained record of the United
8 States concerning an Executive communication.

9 (Plaintiff's Exhibit 148 was received.)

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

11 Could we have Exhibit 132, please.

12 BY MR. Van AELSTYN:

13 Q. Exhibit 132 is a document that was previously admitted
14 into evidence, a cable from Ambassador Robert White, dated
15 November 19 -- excuse me, March 19, 1980, to the Secretary of
16 State.

17 And Dr. Karl, you testified earlier that you had
18 heard the testimony of Ambassador White. Are you familiar
19 with this particular cable of March 19, 1980?

20 A. Yes, I am.

21 Q. And is there anything of significance in this document for
22 you, as a political scientist?

23 A. Well, I think that it is further evidence of the feeling
24 that things are about to be lost in El Salvador. And that if

25 the United States can help build bridges, that there is a

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1 possibility of success, and by that, it means the avoidance of
2 further violence and war.

3 There is an analysis of the Salvadoran situation and
4 of the key players involved, and he has already said -- you
5 have already seen him state that Archbishop Romero is an
6 absolutely central player in order to try to avoid any kind of
7 descent into further violence.

8 He is very clear in the cable that if there is not
9 huge pressure in cooperation with the Archbishop, something
10 much worse will come. That is the content of the cable.

11 And finally, he says in a very important warning,
12 "What can we do to avoid this calamity and bring our resources
13 to bear in such a way that this government can succeed?"

14 And then he says, "First, it is vital to understand
15 that no moderate government can succeed without the support of
16 Archbishop Romero and the Church."

17 And by the way, I think that, in a nutshell, says
18 better than anything else why Archbishop Romero and the Church
19 were targeted, because, in fact, it was true, that no moderate
20 government could ever succeed without that support.

21 And as I have explained, it's my strong opinion,
22 based on my interviews not only with Roberto D'Aubuisson, but
23 with a number of other members in the High Command involved at
24 this time, that this is why they thought the moderates were so
25 dangerous, that in fact there was not going to be a transition

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1 to a more Democratic rule or more reform without the support
2 of the Church, and particularly without the support of the
3 Archbishop.

4 Q. You mentioned Roberto D'Aubuisson. Did he make any public
5 comments with regard to Archbishop Romero around this time?

6 A. Yes, he did. Other people have testified, and I believe I
7 testified earlier, that Roberto D'Aubuisson took the files
8 from ANSESAL and used them, used his own -- the set that he
9 kept, to denounce people on television.

10 Q. On television?

11 A. On television. And I might add that I have seen these
12 denunciations on television. I have seen a number of them.

13 The first one I saw, I actually saw because I turned
14 on the television in El Salvador. I had never seen anything
15 like this before, but I turned on the television in
16 El Salvador, this was in 1983, and there was a program on, the
17 history of rock and roll at the time.

18 That was because there was very little news. We were
19 in the middle of a state of siege and all they did was show
20 things like this. There was very little news. Since it was a
21 state of siege, I couldn't go out, and I was stuck in my room
22 and I was watching this program.

23 And it faded off the screen. The program stopped,
24 faded off the screen and instead, what was clearly a homemade
25 video came on, and a man said, "Me llamo Santiago Hernandez."

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1 "My name is Santiago Hernandez."

2 You could see him from the chest up. He said, "Soy
3 comunista." "I'm a Communist."

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4 He proceeded to say that he had fallen into the hands
5 of the people's justice and that he awaited the fate of the
6 people's justice. He confessed on television that he was a
7 Communist. Three other people confessed on television that
8 they were Communists.

9 The next day I went with some reporters to a house
10 and I saw all four of those people dead. And Santiago
11 Hernandez, who was the first person to talk, had written
12 across his chest, "por se comunista," "for being a Communist."

13 what was extraordinary to me at the time is that this
14 was actually on television. At that point, I was, frankly, so
15 shocked by something like this and having seen it on
16 television, I then started investigating how this could have
17 happened and been on television. And at that time, I went to
18 see people who were members of -- representatives of the
19 intelligence agencies from two other countries.

20 And they showed me inside their embassies death squad
21 confessions and they also showed me some of the denunciations
22 by Roberto D'Aubuisson.

23 I then went to the U.S. Embassy and asked the same
24 question and I was shown by members of the embassy their
25 recorded copies of D'Aubuisson denouncing people on

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1 television.

2 Q. Did Roberto D'Aubuisson denounce Monseñor Romero on
3 television as well?

4 A. Yes, he did. He said right before Archbishop Romero died,
5 that the Archbishop had one last chance to change his ways.

6 Q. As a political scientist, what significance do you give to

7 Monseñor Romero's homily of March 23, 1980?

8 A. Well, again -- and I think Ambassador White in his
9 declaration and Father Walter Guerra, in his declaration, both
10 said that -- in fact, Father Guerra testified that they had
11 tried to counsel Archbishop Romero not to ask the military to
12 disobey their officers.

13 The reason for that, and the reason Robert White says
14 that he was not very happy listening to that, is that in the
15 context of El Salvador, when the key fear of hardline officers
16 was that they were going to lose the army, or the armed
17 forces, their control over the armed forces, having an
18 authority of the prominence of Archbishop Romero, with the
19 importance that he had in this country, say, "I beg you, I
20 implore you, I order you, stop the repression. Don't obey
21 your officers when they tell you to kill," there was simply
22 nothing else he could have said that would have been more
23 upsetting to these hardline military officers.

24 Q. Dr. Karl, you have testified previously that it was your
25 view that Alvaro Saravia was, in effect, Major Roberto

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1 D'Aubuisson's Chief of Security?

2 A. That's right.

3 Q. Do you have an opinion as to Alvaro Saravia's role in the
4 assassination of Archbishop Oscar Romero?

5 A. I do.

6 Q. What is that opinion?

7 THE COURT: Let me say this. I'm going to accept
8 this opinion not for the legal conclusion to establish the
9 cause of death, but rather, I will listen to the opinion --
10 and I have heard the preceding testimony as to the support for

11 the opinions -- and then decide what weight it is entitled to.

12 MR. Van AELSTYN: Understood, your Honor. Perhaps if
13 I could clarify something that we touched on earlier at the
14 time that Dr. Karl testified to her qualifications and the
15 bases of her opinions here.

16 We are seeking to qualify Dr. Karl as an expert in
17 political science, in particular, in the government and
18 military of El Salvador, and in addition, as an expert on
19 paramilitary organizations, also known as "death squads," in
20 El Salvador.

21 We are not seeking to qualify her, by any stretch of
22 the imagination, as a legal expert or as a finder of fact in a
23 legal sense.

24 THE COURT: All right. And that is my understanding.
25 I have found her to be qualified as a political scientist and

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1 she may express not only her opinions, but she can educate the
2 Court as an expert in matters of government, the military,
3 whether it's structure of government or organization, whether
4 it's doctrine or whether it is the conditions that then
5 pertained.

6 But in the prior question that you asked, you asked
7 it in the form of eliciting an opinion.

8 And so that I can understand the basis for it, was
9 the opinion you just gave, the one I'm talking about is that
10 Captain Saravia was the Chief of Security for Major
11 D'Aubuisson at the time of the assassination, was that
12 something that would be generally known and indisputable in
13 the community in El Salvador or would it require some form of

14 analysis? would it require drawing inferences, would it
15 require legal analysis?

16 THE WITNESS: It would not require legal analysis.
17 It would be generally known among, I would say, elites of
18 El Salvador.

19 It wouldn't be generally known in the country in
20 terms of peasants or poorer people who are remote from this.
21 But it would in fact -- I think this is an uncontestable fact.
22 This isn't my opinion, in a sense -- I'm not sure I can use
23 that language -- but it is generally known, among the army,
24 the academics in El Salvador, the security forces, all of whom
25 I have interviewed, the U.S. declassified documents which

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1 repeatedly locate him there, the testimonies of others, the
2 testimonies -- his own testimonies, by the way, which I have
3 been privy to in other settings, that he was in fact Chief of
4 Security of Roberto D'Aubuisson at this time.

5 THE COURT: And the kind of information upon which
6 this is based, would this be information that would be
7 published in a newspaper of general circulation to be of that
8 kind of notoriety?

9 THE WITNESS: In this country or in El Salvador?

10 THE COURT: No, in El Salvador at the time.

11 THE WITNESS: The newspapers in El Salvador generally
12 covered the activities of Colonels and higher officers. The
13 pages are always about people higher up. It didn't
14 necessarily start to cover the situations of people at the
15 level of Captain. In other words, you wouldn't see constant
16 references the way you would to a Major or a Colonel.

17 But I think there is no question that Captain

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18 Saravia's position as Chief of Security was widely known among
19 people who could read in El Salvador.

20 THE COURT: Well, the purpose of my question --

21 THE WITNESS: And the newspapers, they didn't quite
22 operate in the way our newspapers do.

23 THE COURT: In 1980, if my memory serves me, Captain
24 Saravia had, in effect, resigned his position?

25 THE WITNESS: That's right.

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1 THE COURT: Resigned his commission?

2 THE WITNESS: That's right.

3 THE COURT: This happened maybe a year, maybe more,
4 earlier?

5 THE WITNESS: Captain Saravia -- are you referring to
6 Major D'Aubuisson or Captain Saravia in your question?

7 THE COURT: Captain Saravia.

8 THE WITNESS: Captain Saravia. It's just -- in terms
9 of the newspapers, it's just not the kind of thing that they
10 would cover.

11 THE COURT: Understood. I'm now asking for the
12 historical knowledge you have --

13 THE WITNESS: Right.

14 THE COURT: -- from sources of information that could
15 not be questioned.

16 THE WITNESS: Right, okay.

17 THE COURT: In other words, when he left, meaning
18 Saravia, left the military, that was approximately what time,
19 time period?

20 THE WITNESS: The date he actually formally left the

21 military, I'm not sure I can remember at this moment, I may
22 need to refresh my memory. But his position as Chief of
23 Security was widely published in U.S. newspapers. It was
24 published in the Albuquerque Journal. It was published in the
25 New York Times. It was published in most articles that dealt

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1 with D'Aubuisson.

2 So it has been widely published in this one. It is
3 present and repeated in the declassified documents. It is
4 widely known, I would say, among military and circles of
5 people who read, widely known in the universities.

6 THE COURT: And to put a time frame on it --

7 THE WITNESS: The period of time in which he becomes
8 Chief of Security is from sometime in October 1979 to -- I'm
9 not sure the end date, because he -- but it is after May --

10 THE COURT: Well, May when the raid occurs.

11 THE WITNESS: Right, exactly. What happens, he is
12 taken into custody in May. He goes to Guatemala. He comes
13 with D'Aubuisson. He comes back from Guatemala. And what
14 happens then is there is clearly a period of distancing.

15 I believe the experience in getting arrested scared
16 him very much and he distanced himself and, eventually, he was
17 actually formally replaced by Hector Regalado.

18 The actual date that that replacement happens is -- I
19 do not know. I don't know that anyone knows. But I can say
20 for certain that from late October 1979 through at least the
21 end of May 1979, he was Chief of Security for Roberto
22 D'Aubuisson.

23 THE COURT: And what I want to understand also is
24 that when D'Aubuisson resigned to become, in effect, the --

25 and I thought it to be a sub rosa head of it, if you will,

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1 head of the formation of death squads and become, in effect,
2 the leader or at least the strategist, the major strategist
3 for the paramilitary forces that were being assembled in the
4 form of these different squads or groups, in thinking in
5 traditional terms, you wouldn't normally associate someone who
6 is acting, I'm going to use the word "undercover" for lack of
7 a better term, as having a Chief of Security.

8 You could have, for instance, a bodyguard or somebody
9 who is like in the criminal organizations in the United
10 States, they have different terms for them, but they are in
11 the chain of command of the criminal organization, and they
12 perform roles for the boss.

13 THE WITNESS: And if I may, your Honor, although it
14 was formally given out that Roberto D'Aubuisson had resigned,
15 he remained on the military payroll.

16 THE COURT: That's right.

17 THE WITNESS: He received money from a secret
18 intelligence fund. He was on the list of active duty military
19 officers after the assassination of Archbishop Romero.

20 When Ambassador White, upset about his role, goes to
21 see the Minister of the Defense, and the Minister of Defense
22 says to him, to the Ambassador in El Salvador, you never say
23 directly "no" to an Ambassador, he says, "well, if you are
24 worried about Roberto D'Aubuisson, we could send him as
25 military attache to Taiwan," that means he is on the active

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1 duty list, because you could not send a military attache
2 otherwise.

3 Because the other point I would like to point out is
4 that Mr. Garay, in all of his testimonies that I have either
5 read in declarations or heard, has referred to Major
6 D'Aubuisson as "Colonel" D'Aubuisson. It is also clear that
7 Saravia, Mr. Saravia related to him as a commanding officer
8 from the kind of language that is used in his own testimony as
9 well.

10 So the only thing I am not certain of is the actual
11 rank of Mr. D'Aubuisson at this time.

12 THE COURT: One more question, if you know. In that
13 period of time, let's just take October through the
14 assassination, if he was being compensated, who was Saravia
15 compensated by?

16 THE WITNESS: The money that -- this is -- it's a
17 question that there has been a great deal of attention on.
18 Because the United States, and in these declassified
19 documents, and actually in the one I presented today you will
20 find some information, the issue of who is paying for all of
21 this is a significant issue throughout this period. And the
22 answer to this is, I believe, several fold, based on my
23 extensive research on this question.

24 First of all, there are a group of wealthy
25 Salvadorans located in El Salvador, in Miami and in Guatemala

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1 who are helping to finance the activities, these activities,
2 although that financing goes directly to Roberto D'Aubuisson,
3 who subsequently pays it out.

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4 And you will see shortly from an exhibit that I would
5 like to present that Mr. Saravia then becomes in fact the
6 record keeper and paymaster. And we will be able to, I
7 believe, substantiate that in a moment.

8 The other source of income -- there are several other
9 sources of income. There is clearly money coming from the
10 military High Command, but again, I want to emphasize that
11 this is early days. So it is not the days when a million
12 dollars a day is coming in. This is the day of very low
13 levels of U.S. aid, and this is a very poor country. So huge
14 amounts of money are not flowing through this apparatus yet.

15 The third way that -- and this has been documented
16 and has actually resulted in convictions, the military, and
17 particularly this group of military officers, formed a
18 kidnapping-for-profit ring.

19 That ring kidnapped the children of -- the
20 children -- either children or adult children of very, very
21 wealthy landowners, held them for ransom, and pretended that
22 they were of the Left. This has subsequently resulted in the
23 only convictions of military officers who operated during this
24 time, and the ring was eventually broken up, and there are
25 people who have been convicted of this.

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1 THE COURT: And so as to --

2 THE WITNESS: Excuse me, there is one more source of
3 mine --

4 THE COURT: All right.

5 THE WITNESS: -- which appears constantly in the
6 declassifieds. I can only report it. I have no other

7 verification of this.

8 But the U.S. declassified documents persistently
9 refer to narco trafficking by and to money coming from
10 narcotics trafficking and going into the D'Aubuisson
11 apparatus.

12 THE COURT: And from this, I infer that the best
13 information you have is that the money went to D'Aubuisson
14 from either the landowners, I will call it, the oligarchy, or
15 the military High Command, and there is evidence that Saravia
16 was then compensated by D'Aubuisson?

17 THE WITNESS: That's right.

18 THE COURT: All right. Let's take the afternoon
19 recess at this time. We will stand in recess until 15 minutes
20 after 3:00.

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

22 (Recess)

23 THE COURT: Back on the record in Doe versus Saravia.
24 We are going to resume the testimony of Professor
25 Karl.

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

2 BY MR. Van AELSTYN:

3 Q. Dr. Karl, I would like to turn your attention now to the
4 actual assassination of Archbishop Oscar Romero on March 24,
5 1980.

6 Let's begin our discussion with Exhibit 34. Exhibit
7 34 has previously been admitted into evidence. It is one of
8 the photographs taken from the night of the shooting.

9 And Dr. Karl, what do you see in this photograph of
10 significance?

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11 A. What's significant to me in -- and I believe that
12 Ms. Hernández testified to this in her own testimony, the man
13 wearing the tie was one of the witnesses to the assassination,
14 and he is carrying out the body. And she had testified that
15 he was disappeared. His name is Nelson Martinez, and he was
16 disappeared as -- at the same time that the National Police
17 was -- or National Police Intelligence Unit was conducting an
18 investigation of the murder of Archbishop Romero, an
19 investigation that they stopped in May 1980.

20 And as I have testified previously, this is an area
21 of the National Police where the death squad apparatus is
22 actually located.

23 Q. Professor Karl, just very briefly, you used the word
24 "disappeared" as a verb. What does that mean, in your
25 professional experience?

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1 A. The way -- I use it as a verb because it is a verb in
2 Spanish, and when someone is "disappeared," it means they are
3 taken and they never appear again. There is no body ever
4 found.

5 There, in the case of El Salvador, we don't know how
6 many disappeared there are, although it is up in the
7 thousands, and I should say that they are not counted as
8 victims. Victims and in the number of deaths that are given
9 in statistics, depend on bodies, on the actual presence of a
10 body.

11 Death squads had a practice, although it was not as
12 common in El Salvador as it was in other countries, of
13 disappearing people, which means that their bodies would

14 subsequently never be found or at least could not be
15 identified.

16 So what we know about the case of Nelson Martinez is
17 that he was kidnapped by men in civilian clothes and he was
18 never seen again.

19 Q. Thank you. Dr. Karl, were you here for the testimony of
20 Father Cortina?

21 A. Yes, I was.

22 Q. Did you hear his testimony about the photographer and the
23 flash?

24 A. Yes, I did.

25 Q. Did that have any significance for you?

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1 A. Yes, it did. The murder of Archbishop Romero was widely
2 reported immediately around the world, and the circumstances
3 of that murder were very unclear at the beginning. All people
4 knew on the October 15th reports was that the Archbishop had
5 been shot.

6 So the first rumors and stories that are reported is
7 the story that someone walked down the aisle and shot him with
8 the camera. In fact that was the reporter from El Diario de
9 Hoy taking pictures after Monseñor Romero was shot. And that
10 story, which appeared, I believe, in the Washington Post, and
11 certainly other leading newspapers, was quickly found not to
12 be the case.

13 So it was reported in the moment of the
14 assassination, and subsequent reports never use that
15 description at all. It is not considered any reliable
16 description of what happened to Archbishop Romero.

17 Q. What kind of methodology do you employ as a political

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18 scientist studying death squad killings to differentiate
19 between those kinds of stories and others that you believe
20 that you can rely upon, again, in your academic expertise?
21 A. Well, I only use the information that I can verify from
22 more than one source. Particularly, in a situation like
23 El Salvador, you hear many things. And you need -- one needs
24 to see, when you hear something, if you can find some
25 verification for it.

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1 The -- or if that's not possible, for example, I have
2 interviewed -- well, I can't give you a number, but
3 interviewed a number of people who were involved in death
4 squads, including one who testified in front of the U.S.
5 Congress, and what I then looked for, that those people, you
6 are not likely to be able to verify their testimony by a
7 second source.

8 That is because -- and actually, I think Mr. Garay's
9 testimony is an illumination of this. When you got involved
10 in a death squad, it is the practice to say to the death squad
11 members that if for some reason they leave or talk, that they
12 will be killed by the others.

13 So that is that -- he said he was afraid for his life
14 while he was involved in the, I believe, 15 death squad
15 incidents that he said he was involved in his testimony in
16 front of this Court, and it is difficult, and usually
17 impossible, to find a second source of those kinds of
18 descriptions.

19 So then what I do is I look for pattern and practice.
20 In other words, we look for patterns that are the patterns

21 that make the most sense, and try to find as much evidence,
22 including the things that contradict our own belief of what
23 happens, so that we can assess them.

24 In the case of the camera, it was actually a very
25 easy story to discount. It was very quickly investigated.

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1 The person who was taking the pictures, it was clear, the
2 camera was investigated, et cetera, and that story immediately
3 just simply dropped out as a rumor. It was never considered a
4 reliable story.

5 Excuse me, I should also say that there are -- when
6 you read thousands of declassified documents, there are also
7 patterns in those documents where -- and the interesting thing
8 about reading declassified documents is that the personnel in
9 the United States who are sending things from the Embassies
10 change.

11 For example, Ambassador White is out and then the
12 next Ambassador comes in. And the information that that
13 Ambassador might gather or the history that that Ambassador
14 might know to send up to the Secretary of State in the United
15 States, which is the reporting mechanism, they often have to
16 go and regather from different sources information on a
17 similar question. There is not as long a historic memory as
18 one would expect in these cables.

19 So what you see is in the declassifieds, you see
20 repeated reinvestigations of questions. And one of the things
21 that will give you a sense of the confidence of the reporting,
22 for example, in the March -- excuse me, the cable I showed you
23 dated October '83, in that cable, which we went over earlier,
24 what is interesting to me as a person who reads thousands of

25 those cables is that the names are not redacted out of them.

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1 In other words --

2 Q. Dr. Karl, if I may, I believe you are referring to Exhibit
3 223, which was the briefing paper.

4 A. That's right.

5 Q. So not a cable, but a briefing paper?

6 A. Yes, excuse me, a briefing paper. If you read through
7 that cable, and this is the case, frankly, with all the
8 mentions of Roberto D'Aubuisson, he is not redacted out of
9 this cable.

10 Mr. -- Dr. Pedro Regalado Cuellar is not redacted
11 out. The Head of the National Police Death Squad, Marquez, is
12 not redacted out. The leader of the squad that is identified,
13 Captain Amilcar Molina Panameno, is not redacted out. And I
14 could give many other examples.

15 That means when they are not redacted out and they
16 are released in public, the United States Government is very
17 confident of that information.

18 Q. You testified you did observe the testimony of Robert
19 White; is that correct?

20 A. That's correct.

21 Q. In that deposition he discussed some of the cables that he
22 sent as Ambassador back to the Secretary of State discussing
23 the assassination of Archbishop Romero and he was asked about
24 some of the discrepancies in some of those cables about some
25 of the particular facts concerning the assassination?

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1 A. Uh-huh.

2 Q. How do you, again, in your professional experience as a
3 political scientist, evaluate such discrepancies in those
4 cables?

5 A. Well, I look for what I call a "core of consistency." In
6 other words, if there are a series of testimonies or a series
7 of descriptions of a particular event, I look for, again, a
8 core of consistency.

9 So I look to find out whether -- because it is my
10 experience, and particularly when you are dealing with a case
11 like this that happened so long ago, that memories are not
12 often as strong as they were at the beginning or people often
13 remember more later, so it can go either way.

14 So what I look for is a core of consistency in
15 descriptions. So if somebody is saying in every single
16 declaration, I drove the car, the car was red, those are the
17 kinds of things that I look for.

18 If there is a significant inconsistency, and I can
19 give you an example, in the testimony about the actual
20 shooting of Archbishop Romero, there is an inconsistency.
21 That inconsistency is on the one hand the testimony of the
22 driver, who says that he drove a gunman there. There is a
23 testimony of a nun who, at some point, says she saw Roberto
24 D'Aubuisson kill Archbishop Romero.

25 And in my very strong understanding of pattern and

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1 practice, that is not possible in death squads. Nobody of the
2 rank of Roberto D'Aubuisson would personally go and take part
3 in a death squad activity.

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4 The importance of the death squads, and again you
5 will see these descriptions in the Exhibit 2 --

6 Q. 223?

7 A. 223, thank you. And frankly, in virtually all the
8 declassified documents, is that they work through levels, so
9 that there are the money people at the top who pay.

10 There are -- there is a decisionmaking apparatus to
11 whom to kill, and in a very high profile killing, and this is
12 the highest profile killing in El Salvador, it is not possible
13 that, in my very strong opinion, that the killer would be
14 someone of the rank and stature of Roberto D'Aubuisson.

15 Q. Dr. Karl, you talk about the identity of the killer. In
16 your academic research, have you come across different reports
17 regarding the identity of the shooter?

18 A. Yes, I have.

19 Q. And how many different persons have been suggested as the
20 killer?

21 A. Well, let's see, I know of at least nine versions of who
22 the actual sharpshooter is. In my own work, there are certain
23 of those versions that are, in my opinion, very easy to
24 discount because of, again, my understanding over many years
25 of the pattern and practice of how death squads work.

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1 And also my own investigation of who actually is a
2 sharpshooter. This was not an easy shot, this was a very
3 difficult shot, and not any person could have done it.

4 So there are a number of reports of people who did
5 not have the capacity to actually shoot Archbishop Romero with
6 a scope, did not have the military training to do so.

7 And in my view, that also can limit the number of
8 people who are -- who could be considered a candidate for the
9 actual shooting.

10 Q. Setting aside personal hypotheses that you might have, as
11 a political scientist, can you reach any conclusion as to the
12 identity of the shooter?

13 A. No.

14 Q. Okay. So you have -- so the identity of the shooter would
15 not be within that realm of core of consistency?

16 A. Absolutely not.

17 Q. Okay.

18 A. Not a conclusion that I would feel confident testifying to
19 in court.

20 Q. Thank you. I would like to discuss a series of three
21 exhibits with you now, Dr. Karl. We will take them in order,
22 and they are related. First they are Exhibit number 165,
23 followed by Exhibits number 95 and 97. I will ask you which
24 of these three would you like to discuss first. Shall we
25 start with 165?

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1 A. Sorry. One moment. May I clarify, would you like this
2 discussion prior to any other?

3 Q. I'm sorry. I apologize. Let's turn instead to the
4 testimony of Amado Garay. And you witnessed his testimony?

5 A. Yes, I did.

6 Q. Do you take his testimony into account in reaching your
7 opinions in this matter?

8 A. Absolutely. And I should say his testimony and various
9 other testimonies that he has given, he has testified prior to
10 this time. And so his testimony is important in my

11 understanding and it is very illuminating as well.

12 Q. Could I have Exhibit 166, please. Dr. Karl, put on the
13 screen is Exhibit 166, an article from the New York Times,
14 dated January 7, 1989. Is this one of the documents that you
15 reviewed in developing your opinions in this case?

16 A. Yes. I know we will discuss this later, but there are
17 other attempts to find some legal -- some justice for the
18 murder of Archbishop Romero. And in various attempts to do
19 that, Mr. Garay has testified.

20 And in particular, the United States Embassy for a
21 number of reasons, has -- or the United States Government has
22 had to make a consideration about how reliable it considers
23 his testimony to be.

24 In order to make that consideration, and this appears
25 in this newspaper article, but it also was explained to me by

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1 amnesty officials, Mr. Garay was given at least one, and I
2 believe here it says several, lie detector tests.

3 Q. If I could direct your attention to the screen, Dr. Karl,
4 one of the paragraphs has been illuminated.

5 A. Okay, thank you. That is the paragraph that reports that
6 American diplomats have examined the evidence and said that
7 Mr. Garay has passed several lie detector tests, and that his
8 testimony was, quote, "convincing." They have also charged
9 that Mr. D'Aubuisson -- and I'm sorry -- ordered the killing.

10 Q. And are you familiar with the testimony to which they are
11 referring in this article?

12 A. Yes, I am.

13 Q. And what testimony was that?

14 A. This is the testimony that was given in 19 -- Mr. Saravia
15 is arrested in --

16 Q. Mr. Garay or Mr. Saravia?

17 A. Excuse me, I said Mr. Saravia, but I mean Mr. Garay, is
18 giving this testimony, I believe, in 1988, '87.

19 THE COURT: In El Salvador?

20 THE WITNESS: One moment, please, your Honor.

21 THE COURT: While you are looking at that, let me
22 just say, so that there is no ambiguity in the record, it is
23 still the prevailing rule of evidence in the United States
24 courts, it may not be the case in state court, it is the case
25 in California, that the fact and results of a polygraph

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1 examination are not admissible to prove credibility or lack
2 thereof.

3 And so that you know, in my decision, I will not be
4 considering any results of polygraphic examination of
5 Mr. Garay.

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

7 THE WITNESS: Let me clarify my answer.

8 There was an extradition request from the Salvadoran
9 government or from the Salvadoran Legal -- from the Attorney
10 General to bring Mr. Saravia from the United States back to
11 El Salvador.

12 As a part of that process, Mr. Garay was brought to
13 El Salvador to testify. He told us in his testimony, he
14 talked about a Mr. Lopez who brought him to testify about his
15 role in the assassination of Archbishop Romero.

16 This newspaper article refers to that, and it also
17 refers to the testimony that he gave at that time.

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18 MR. Van AELSTYN: Can we have Exhibit 111, please.

19 THE WITNESS: I'm sorry, my 111 --

20 MR. Van AELSTYN: May I approach the witness, your
21 Honor?

22 THE COURT: Yes, you may.

23 THE WITNESS: Oh, here it is. Sorry.

24 BY MR. Van AELSTYN:

25 Q. Dr. Karl, what is Exhibit 111, when you have had a moment

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1 to review?

2 A. This is the testimony of Amado Antonio Garay, and in front
3 of a judge in El Salvador in 1987. This is his testimony in
4 preparation for a decision about the extradition or not of
5 Mr. Saravia. This is his testimony at the time.

6 Q. Did you review that in preparation for your opinion in
7 this matter?

8 A. Yes, I did.

9 MR. Van AELSTYN: Your Honor, I would like to request
10 the admission of Exhibit 166, the New York Times article, and
11 Exhibit 111, the Garay testimony from 1987, not for the truth
12 of the -- either document, but rather only for the issue of
13 the reasonableness of Dr. Karl's opinion in this matter.

14 THE COURT: I will not admit 166. I will leave it
15 marked for identification, but I will treat it as information
16 that has been relied upon by Dr. Karl in reaching her opinion,
17 not for its truth.

18 And as to the testimony, let me understand. Is this
19 testimony, it's a written assertion. It's not subject to
20 cross-examination. Is it given under oath? Is this all that

21 was given? This is the entire testimony?

22 MR. Van AELSTYN: Actually, your Honor, Exhibit 110
23 is essentially another version of the same thing. Both were
24 given under testimony [sic] over the course of two days.

25 The second one is a little more complete than the

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1 first one. 111 includes, for example, an artist rendering of
2 the description of the shooter provided by Mr. Garay, whereas
3 110 did not include it.

4 But both were taken under oath, not subject to
5 cross-examination, as that was not the nature of the
6 proceeding in the civil law system of El Salvador at that
7 time.

8 THE COURT: So that I have an understanding,
9 ordinarily testimony given, and I don't know how long it took,
10 but testimony in our court here will produce 50 to 60
11 transcript pages per hour if testimony is being given. I see
12 approximately ten or 12 lines of testimony there. I don't
13 know how long he testified. I'm not trying to be flip or
14 disrespectful, but it doesn't look like he said very much.

15 THE WITNESS: It keeps going.

16 THE COURT: I would hope so. That's one page.

17 THE WITNESS: Yes, it keeps going.

18 MR. Van AELSTYN: Your Honor, I can explain. In the
19 Salvadoran legal system at that time, testimony given in front
20 of an investigating judge, which is the context here, is
21 summarized by a court official. So it is not direct testimony
22 as we are familiar with it, transcribed by a court reporter.
23 But rather, it is a summary of the testimony prepared by a
24 court official. And then, as you can see on the last page,

25 the witness signed it, as did several of the court officials

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1 that were present, attesting to their understanding that it
2 was an accurate summary of his testimony.

3 THE COURT: All right. This is more complicated than
4 appears, because, of course, it's not former testimony because
5 he wasn't subject -- he can't testify and he wasn't subject to
6 cross-examination. It certainly isn't offered to rebut a
7 charge of recent fabrication, which is the primary exception
8 under which former testimony, which is not inconsistent. I'm
9 sure you are not offering this as inconsistent testimony
10 because you don't want to impeach the witness here for
11 credibility purposes, and so it would be admissible if it were
12 inconsistent. And so, candidly, it's a hearsay declaration by
13 the witness signed out of court in 1986 or 1987 that, unless
14 you can offer a separate ground of admissibility, one does not
15 immediately come to my mind.

16 MR. Van AELSTYN: No, your Honor. And that's why we
17 offered it only essentially for authentication purposes as a
18 document relied upon by the professor in developing her
19 opinions in this matter. Experts are entitled to rely upon
20 hearsay.

21 THE COURT: I'm quite aware of that, but there are
22 two things that I need to know. One is I'm assuming, I know
23 that Professor Karl reads and can interpret Spanish. I can't.
24 And so there would need to be translated versions of these
25 testimonies. And, again, the summary of the testimony as to

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1 its accuracy and integrity is something else I have no way of
2 knowing because there is no foundation for that. And I don't
3 know how, quite frankly, to give this weight. And since it is
4 being used to derive a consequential fact that the trier of
5 fact is deciding, such as that this is a truthful witness, and
6 a credible witness, and that this is an accurate version of
7 the events, then I'm not sure how it would help. It certainly
8 wouldn't help me decide whether Mr. Garay is telling the
9 truth.

10 MR. Van AELSTYN: Two things, your Honor. First, the
11 exhibits as we have prepared them, we have prepared
12 translations of them, which I do represent are accurate
13 translations. They were prepared by a professional
14 translator.

15 THE COURT: Then we need to make those 166-A and
16 111-A and make those part of the exhibit. Attach the
17 translations as Exhibit A to the declaration.

18 MR. Van AELSTYN: All right. We can so identify
19 them. Right now, it's 110 and 111 are the two versions of the
20 testimony that he gave. And attached to each are the
21 translations, which we can have identified as 110-A and 111-A.
22 166 was the New York Times article.

23 AS to the degree of reliability that you, as a Court,
24 can give to them, I suggest, your Honor, it is different than
25 what the academic, Dr. Karl, can give to them in developing

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1 her opinion in the matter. We understand that you are going
2 to apply the legal analysis in developing your fact finding
3 that would be different from the level of analysis that

4 Dr. Karl and her academic research will be giving to these
5 same documents.

6 THE COURT: And here's the difficulty I'm having.

7 I cannot distinguish the function of the academic
8 making consequential findings of fact and/or law in the form
9 of a legal conclusion, such as this is a responsible party,
10 this is a coconspirator, this is an aider and abettor, this is
11 an accomplice, an accessory after the fact, whatever the legal
12 role in the activity that results in the death is, because
13 this is a wrongful death case and we are trying to assign
14 responsibility in the sense of causation.

15 She is not a witness on causation, and so I'm trying
16 to understand as to the witness how that expert opinion would
17 even be helpful to the Court quite frankly, and again, with
18 respect, I'm not seeing that.

19 MR. Van AELSTYN: Okay. Perhaps if I could ask just
20 a couple of foundational questions of the witness.

21 THE COURT: You may.

22 MR. Van AELSTYN: That may address the part.

23 BY MR. Van AELSTYN:

24 Q. Dr. Karl, would you review a document such as Exhibit 111
25 as part of the kinds of documents that you would review in

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1 ascertaining a pattern of facts to try to determine which
2 facts you can rely upon, reported facts you can rely upon and
3 which reported facts you cannot rely upon?

4 A. Yes, I would, and I would do that for two reasons. One is
5 that I, as I said, I try to gather as many pieces of
6 information as I can, particularly in circumstances like this,

7 and look for what I call a core of consistency, which means
8 that it's very important to me to see repeated -- how stories
9 are repeated over time, if I can put it that way.

10 The other thing is I will review something like this
11 in this particular case because one of the things that I have
12 studied and have a strong opinion on is ways in which
13 investigations occur in El Salvador, and ways in which they do
14 not occur. And how they are stopped or obstructed.

15 And so in this -- in the case of the murder of
16 Archbishop Romero, there are a series of investigations that
17 stop and start over time in various organizations inside
18 El Salvador and also outside El Salvador.

19 That means that I would read everything that all of
20 those investigations produce in order to look for an
21 understanding of either why they start and stop or what kind
22 of history I can learn from the documents that are produced.

23 THE COURT: Here's where I am -- and I think maybe
24 now that I have heard that answer, I can explain exactly what
25 I think the issue that is presented is.

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1 If you are offering the testimony of Mr. Garay in
2 El Salvador to draw the inference that it's accurate and
3 reliable testimony and the higher court should have never
4 found it unreliable as part of an obstructed or an abandoned
5 or refused investigation or obstruction of the investigation,
6 I think that is a determination on which an expert opinion
7 would not be helpful.

8 Because that's so legal, quite frankly, the Court is
9 able to determine. If I am provided with the Salvadoran
10 standard: Is it probable cause, is it reasonable suspicion to

11 believe that for extradition purposes, that the perpetrator
12 has committed the crime?

13 The United States standard, quite frankly, is
14 different for extradition. But all I need to be provided is
15 the standard for extradition under El Salvadoran law and what
16 the investigating judge, if that's what the judge is called in
17 El Salvador who makes the initial determination, whether the
18 writ should issue, if that's what it's called in El Salvador,
19 then I can look at -- you can show me the translated
20 testimony, and I can compare it with the standard, applying,
21 as I'm entitled to do, El Salvadoran law.

22 I can be given, as I was by Judge Amaya, assistance
23 with foreign law. I'm entitled to rely on a foreign expert
24 and receive assistance as to interpreting El Salvadoran law.
25 And I can look and see whatever it is, whether it is a

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1 probable cause standard, whether it's reasonable suspicion,
2 whether it is by clear and convincing evidence, but something
3 that American judges do every day of their lives in criminal
4 cases, and sometimes in civil cases, particularly extradition,
5 which is a civil proceeding.

6 And that determination then -- the fact that
7 testimony is old doesn't make it unreliable, doesn't make it
8 incredible. That's one of the reasons cited by the Salvadoran
9 Supreme Court. And so we would then have to look to
10 Salvadoran law to ascertain whether Salvadoran law says the
11 age of testimony affects its truthfulness. We all know that
12 the passage of time can affect memories, but if there are
13 principles of Salvadoran law that say testimony that is older

14 than so many years, disqualify it; then, of course, I would
15 need to know that.

16 But I don't think it would be helpful to have a
17 political scientist talking about the reliability of testimony
18 and the functioning of the Supreme Court there. And we have
19 the other question that I have asked you to provide me
20 authority on, and that is to what effect am I bound by, to
21 what effect must I give, and what deference and what comity
22 must I extend to the law of the courts of El Salvador, having
23 respect for the comity of nations, having respect for the
24 sovereign, recognizing that this is a nation that's entitled
25 to have laws of its own and to have those laws applied, and so

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1 all of those factor in here. That's why I say, I don't think
2 there is a productive area where an opinion is going to be
3 helpful to the Court.

4 Now, on all of the other information, as to the
5 military and political structure, the formation of the
6 paramilitary units, the death squads, how they operate and all
7 this historical information, all of that, I find is helpful,
8 and can be used.

9 MR. Van AELSTYN: Right, and that's actually where I
10 was trying to go with regard to the foundation. For example,
11 Dr. Karl, in identifying some of the kinds of information that
12 she relies upon in developing her opinions about death squads,
13 testifies that she looks for second sources to confirm things.

14 And she gave as an example one kind of source that is
15 not -- that cannot be confirmed by another source. And she
16 used an example testimony before Congress by admitted death
17 squad members that she was not able to confirm by a second

18 source, and yet she is able to give that some weight, not as
19 much weight as she gives to those who are confirmed -- and I
20 suggest that these summaries of testimonies by Amado Garay in
21 1987 in El Salvador are more akin to that kind of material and
22 information upon which she, in her practice of academic
23 methodology is information she relied upon.

24 THE COURT: I don't think that I need the opinion,
25 and there is no purpose for which I can use that testimony,

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1 except if we are going to reach the question of, if she is
2 going to offer the ultimate opinion that that was an
3 obstructed, an abandoned or otherwise aborted investigation
4 where the process of justice was perverted because there
5 should have been, applying a standard, the normal Salvadoran
6 legal standard, there was enough evidence to justify
7 extradition. And obviously, the court didn't grant the
8 extradition order or maybe the lower court did, but the
9 Supreme Court overturned it. Then that is done a different
10 way, as I have just tried to explain to you.

11 MR. Van AELSTYN: Understood. And that's not what we
12 are seeking to admit it for.

13 THE COURT: And beyond that, it would be cumulative
14 for a nonadmissible purpose. I already have Mr. Garay's
15 testimony from which, if believed, if it's credible, he
16 describes a death squad in operation. He was part of one.

17 MR. Van AELSTYN: All right, why don't we move on,
18 then.

19 THE COURT: I think normally a witness --

20 THE WITNESS: May I ask a question?

21 THE COURT: -- doesn't ask questions or give opinion
22 without a pending question, but you may ask a question.

23 THE WITNESS: The question I have, sorry, is that
24 when you have studied death squads patterns and practices as
25 much as I have, you actually hear and see things in testimony

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1 that I think someone who hasn't studied as much of that
2 wouldn't necessarily notice.

3 THE COURT: Those kinds of things, you can identify.

4 THE WITNESS: I have an opinion, for example, of
5 certain things that were said in this court, which was the
6 most extensive testimony, in my experience, that Mr. Garay has
7 given anywhere.

8 And so there were things that I heard for the first
9 time in this court that I understand differently because of
10 the pattern and practice. And I'm not --

11 THE COURT: well, I asked him some questions because
12 this is a truth seeking process and I was trying to test his
13 credibility.

14 THE WITNESS: And my question then, is if there are
15 things like that that I have noticed in that testimony, is
16 that --

17 THE COURT: You may testify to that. That isn't
18 afoul of -- these are very highly technical and complicated
19 legal rules, but that's the difference between our
20 disciplines, law and political science.

21 THE WITNESS: Exactly.

22 BY MR. Van AELSTYN:

23 Q. Dr. Karl, in your practice as a political scientist,
24 observing the testimony of Amado Garay here on Tuesday of this

25 week, what did you observe of significance?

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1 A. As I said, he gave information that I had not previously
2 heard or seen anywhere. For example, he described his
3 involvement as a driver in a number of death squad actions,
4 not simply one against the Archbishop, but a number of other
5 ones as well.

6 In terms of pattern and practice, it is simply
7 unconceivable to me, with my expertise, that someone would be
8 the driver in the murder of the Archbishop of the country
9 unless he was a man of full confidence. In other words, you
10 don't just pick up a civilian that you found that drives for
11 somebody and say, "Let's drive to a church and" --

12 THE COURT: You choose someone who can do the job.

13 THE WITNESS: You choose somebody who will do the job
14 and who also you have a history of reliability with. It is
15 inconceivable to me that anything else would be the case. It
16 is --

17 BY MR. Van AELSTYN:

18 Q. Was there anything in his testimony that indicated to you
19 that he had that level of trustworthiness?

20 A. The thing that most struck me in his testimony was an
21 event that we haven't yet talked about, but there is an arrest
22 in a farmhouse called San Luis Finca where Mr. Garay is
23 arrested along with Mr. Saravia and Mr. D'Aubuisson.

24 In that arrest, Mr. Garay testifies, and again, this
25 is the first time I heard this, that Mr. D'Aubuisson, in going

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1 into the farmhouse, left his weapon in the custody of
2 Mr. Garay.

3 Now, that is, again, to me, given my knowledge of the
4 pattern and practice of death squads, but also military
5 officers and the people who are their underlings, it is
6 inconceivable to me that Roberto D'Aubuisson would give his
7 weapon to anybody that wasn't of absolute and full confidence
8 to him.

9 So that is another thing that I noticed in his
10 testimony.

11 I would say a third observation I have from his
12 testimony, which, again, comes from pattern and practice of
13 interviewing a number of people who claim to be drivers or
14 along for the ride somehow in a death squad killing, there is
15 a pattern in which -- that I have observed of people acting as
16 if they were observers rather than participants.

17 And so they report things as if the death squad went
18 and did this, and "I was really scared for my life unless I
19 did X," but there tend to be -- they tend to report themselves
20 as if they were observing an action rather than necessarily
21 involved in it.

22 And my -- so my strong opinion from that testimony is
23 that Mr. Garay was a man of full confidence of Roberto
24 D'Aubuisson and that he was a man of full confidence of Alvaro
25 Saravia.

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1 Otherwise, I do not believe that Mr. D'Aubuisson
2 would have given him his weapon and I do not believe that
3 anyone would have asked him to drive a car to kill someone of

4 the stature of the Archbishop.

5 THE COURT: And is it recorded anywhere -- and when I
6 use this term, I want to use it advisedly. I have understood,
7 but nobody has said it, that amnesty in Salvadoran law is the
8 rough equivalent of, under United States law, the concept of
9 immunity, where there are use or transactional immunity by
10 which a person who engages in criminal conduct can be granted
11 by the government immunity from prosecution, immunity from
12 conviction, and punishment, either for giving testimony, and
13 then the testimony can't be used, that's called "use
14 immunity," or "transactional," where it simply absolves the
15 person from whatever he or she has done. And I don't know
16 whether amnesty operates the same way in El Salvador at the
17 time we are talking about in these cases.

18 Do you know?

19 THE WITNESS: There is going to be an expert, I
20 believe, that is going to testify on the legal aspects, but I
21 would like to say the following. There is a difference
22 between amnesty and impunity. In my research, which is --
23 involves the question of whether any single military officer
24 has ever been punished for these -- for somewhere between
25 75,000 and 85,000 murders of civilians, there is --

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1 THE COURT: Except for capturing landowners'
2 children, kidnapping them.

3 THE WITNESS: There are very few instances. One is
4 the kidnapping of the families of landowners, which frightened
5 the landowners very much, and there has been prosecution.
6 There was a prosecution. There was tremendous pressure to

7 find somebody to prosecute after the murder of four nuns and
8 there was a prosecution of lower level people involved,
9 although not officers.

10 There was a -- and they were subsequently amnestied.
11 The difference between the de jure and the --

12 THE COURT: Let's go back to Garay. If Garay
13 returned to El Salvador and got on a witness stand and
14 implicated himself under oath, if he did that in my courtroom,
15 I would order him taken into custody.

16 Did he do that under a grant of some kind of amnesty
17 or immunity in the Salvadoran court when he was there?

18 THE WITNESS: In the documents that I have seen, he
19 does not -- he says he was the driver in this action. He did
20 not, in the documents that I have seen, go as far as to locate
21 himself in a range of actions. That's the first answer.

22 The second --

23 THE COURT: Well, that makes him a coconspirator, an
24 aider and abettor.

25 THE WITNESS: The second answer is that in the time

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1 that he did this, there is no peace agreement in El Salvador.
2 There is no prosecution of anyone. The President of the
3 Supreme Court of El Salvador -- and this is the difference,
4 again, between de jure and what I call the way power was
5 exercised in El Salvador.

6 THE COURT: De facto.

7 THE WITNESS: De facto power. The president of the
8 Supreme Court of El Salvador was Francisco Guerrero, a person
9 I mentioned earlier, because he was the person who attended
10 the Confederation -- CAL, the Confederation of Anti-Communists

11 in Latin America, which I had talked about earlier as part of
12 the World Anti-Communist League and a far Right organization.

13 I presented to you in this court the -- one of the
14 Resolutions of that organization, which was the resolution to
15 keep dossiers on priests.

16 So the President of the Supreme Court in the time
17 period that we are discussing is in fact a person who knew
18 Roberto D'Aubuisson very well, had traveled with him to
19 meetings.

20 He is also, if I -- he is a person who is named in
21 other cases which I am -- I suppose I should mention now, I
22 have also -- I may need some guidance here. Francisco
23 Guerrero also appears in the testimonies of Mr. Saravia.

24 MR. Van AELSTYN: Okay.

25 BY MR. Van AELSTYN:

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1 Q. That does lead us to the next topic of the testimony of
2 Mr. Saravia, well, not testimony, but documents reflecting his
3 statements.

4 But before we do that, your Honor, I would like to
5 address one question that you raised with regard to the
6 meaning of amnesty law.

7 We do have another expert in this case, Dr. Naomi
8 Roht-Arriaza, who is an expert and will provide expert
9 testimony with regard to the March 23, 1993 amnesty law of
10 El Salvador.

11 But you are correct, your Honor, that the testimony
12 that was given by Amado Garay in 1987 was not subject at that
13 time to any amnesty law, and whether or not it was subject to

14 any use immunity extended by the investigating judge or other
15 court at that time, we don't know.

16 THE COURT: If there was, that was my question.
17 Because it's self-incriminatory testimony.

18 MR. Van AELSTYN: No question about that, your Honor.

19 And as to what the judicial system of El Salvador
20 did, was that self-incriminating testimony, I would suggest
21 that the testimony of a political scientist with regard to de
22 facto power might be of more help to this Court than an
23 analysis of the de jure requirements of the courts in
24 El Salvador at that time.

25 THE COURT: Well, then let's let Professor Karl

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1 express her opinion now on that, and then you can go to the
2 next subject.

3 MR. Van AELSTYN: All right.

4 BY MR. Van AELSTYN:

5 Q. Dr. Karl, do you have an opinion with regard to the
6 exercise of power as conducted by the Salvadoran judicial
7 system in 1987 and 1988, the time period that we are
8 discussing here, as opposed to the legal requirements of the
9 actual Salvadoran law, as it is reflected in the case of the
10 extradition request for Alvaro Saravia and the testimony of
11 Amado Garay?

12 A. Yes, I do. The Supreme Court at this time, from a point
13 of view of de facto power, the President of the Supreme Court
14 and other magistrates, were ideologically very strongly in
15 favor of a hardline solution.

16 I personally interviewed Mr. Francisco Guerrero, who
17 is now not alive, and there are a number of published

18 interviews of him, including a long description of him in the
19 book about the world Anti-Communist League that was written by
20 two U.S. reporters from a major newspaper, although I don't
21 remember which one right now. The source of that is a book by
22 Anderson and Anderson called -- Inside the League, it's
23 called.

24 And I also -- as I said, interviewed Mr. Francisco
25 Guerrero. He was, in my interviews with him, very, very

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1 sympathetic to Roberto D'Aubuisson, and in fact, for him,
2 Roberto D'Aubuisson was a hero, he was a person who he
3 believed was saving the country from Communism, and that had
4 made the decisive difference in turning the corner in
5 El Salvador and making sure that the country didn't descend
6 into Communism.

7 THE COURT: Is there any historical evidence as to
8 how the prosecutor caused the extradition proceeding to be
9 initiated? And I don't mean --

10 THE WITNESS: Yes, there is.

11 THE COURT: -- the physical act of is it, but in other
12 words, what drove it, what motivated it?

13 THE WITNESS: The circumstances under which this
14 occurred -- you mean Mr. Garay's testimony on the extradition
15 and et cetera?

16 THE COURT: Why the extradition wasn't started if the
17 court wasn't going to let it succeed.

18 THE WITNESS: There is a pattern of repeated attempts
19 from the -- a particular judge and different people who are
20 Attorney Generals to at least initiate an investigation.

21 Judge Zamora is a judge, and an investigation of the
22 assassination of Archbishop Romero, it starts in 1982, and
23 that investigation is blocked by the President of the Supreme
24 Court in what I believe is a de facto, and not a de jure,
25 exercise of power.

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1 In 1985, there is a new investigation. The
2 government at this time is now controlled by the Christian
3 Democratic Party and not the ARENA Party. There is a new
4 investigation which is initiated to try to open -- actually,
5 to try to open an investigation. This is a better way of
6 saying these things, it is not an investigation, it is an
7 attempt to open an investigation, by the Attorney General's
8 office in 1985, and it is -- and the Attorney General is
9 encouraged, again, to open an investigation.

10 That investigation seems to be more serious. And at
11 that moment, one of the people most implicated in various
12 testimonies in the assassination of Archbishop Romero is
13 murdered.

14 At that time, that investigation moves forward, and
15 again, this is a Christian Democratic government, so their
16 hero is not Roberto D'Aubuisson. And in fact, he fought very
17 hard against them in taking power. So at this time, there is
18 another investigation, this one, as I said, it is initiated in
19 '85. There is tremendous pressure against it. And it is
20 blocked again.

21 But in November 1987, there is a rekindling of that
22 investigation. And at that time, that is the time when
23 Mr. Garay's testimony is given.

24 As a result of that testimony, given the one that
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25 was -- that you have been discussing, as a result of that

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1 testimony, Mr. Saravia is arrested in Miami. And an
2 extradition request goes forward from the Attorney General's
3 office to the United States Government to extradite
4 Mr. Saravia back to El Salvador.

5 What happens in this case is extremely interesting.
6 We actually have some exhibits on this.

7 BY MR. Van AELSTYN:

8 Q. Yes, could we have Exhibit 96, please, which I believe is
9 a little bit different. 96 is a cable that Ambassador William
10 Wonker sends to the Secretary of State in October of 1988
11 concerning the Supreme Court's consideration of a habeas
12 corpus petition that had been filed to challenge the
13 extradition request of Alvaro Saravia?

14 A. May I put in context this -- some of the information in
15 this cable?

16 This is a cable -- the United States Government is
17 cooperating in this investigation. Mr. Saravia is in jail in
18 Miami at the time. And the United States Government is
19 strongly trying to cooperate because, in fact, there has been
20 such difficulty in trying to diminish the death squad killings
21 in El Salvador.

22 So there is a very strong effort to back the
23 investigation in El Salvador. In El Salvador, the people
24 opening the investigation are very afraid for their lives.

25 And in the extradition request, and you will see this

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1 in the cable, I believe, what happens is the -- a document is
2 presented by -- and I will explain the facts first and then
3 perhaps we could go through the cable.

4 A document is presented by the attorney of
5 Mr. Saravia in Miami, which that attorney gives the clear
6 impression in his testimony to the court that that document is
7 a decision by the Supreme Court of El Salvador that there is
8 no need to extradite Mr. Saravia.

9 Later on, it turns out that that was not a Supreme
10 Court decision. It was, instead, an administrative -- it was
11 represented to the U.S. court as if it were a Supreme Court
12 decision of El Salvador. However, it was not a Supreme Court
13 decision.

14 It was a -- it was an administrative order, signed by
15 a person sympathetic to the D'Aubuisson group. And then it
16 was faxed to -- it was faxed from a place called Mariscos
17 Tazumal.

18 And I need to now go through the cable to explain
19 what that is, if I may, Mariscos Tazumal is actually -- it's a
20 shrimp farm. And one of the things that is happening in this
21 particular period of time is that both the military and the
22 death squads are moving into economic activities as well.

23 Mariscos Tazumal is an economic activity. And
24 according to the U.S. Ambassador in his cable, but not only to
25 him, the Mariscos -- and may I direct you not to the

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1 highlighted part just yet, but to the description of Mariscos
2 Tazumal which is in the same cable on, it is number 5.

3 Q. Page 5 of the cable?

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4 A. It says number 5 of the cable --

5 Q. Paragraph 5?

6 A. Excuse me, it is number 5 on the cable and it is -- it is
7 page 5, yeah. It's the description called "Mariscos Tazumal
8 and the Dirty Dozen Or So."

9 This is a description of Mariscos Tazumal.

10 And it says that "Mariscos Tazumal is a shrimp
11 fishing company founded in 1982 using Guatemalan
12 boats seized by El Salvador and later stolen. The
13 board of directors included D'Aubuisson, Victor
14 Antonio Cornejo Arango, Lieutenant Colonel Joaquin
15 Zacapa Astacio and Lieutenant Carlos "Sandi" Zacapa
16 Butter." And it directs the recipient of this cable
17 to other documents.

18 And it then says, "The latter three are fugitives
19 under indictment in the kidnapping-for-profit case,
20 in which Lieutenant Rodolfo Lopez Sibrian, Major
21 Alfredo Jiminez and Orlando Llovera Ballete are in
22 pretrial detention. Lieutenant Roberto Mauricio
23 Staben Perla was implicated in the kidnapping case,
24 but was released when a military court of honor
25 determined the evidence was not sufficient to hold

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1 him. Ramon Oporto and Sigfredo Perez Linares both
2 died in detention."

3 Now, the important thing about this cable, it goes on
4 to identify who all of these people are, and without taking
5 all the time to do that, I would like to point out a couple of
6 things. Every single one of these people are repeatedly named

7 in U.S. declassified documents, in my own research and in UN
8 research, as members of death squads and leaders of inside and
9 outside the military in this type of activity, every single
10 one of them.

11 The important one, however, is the last one, who dies
12 in custody. Ramon Oporto and Sigfredo Perez Linares both died
13 in detention.

14 The last name, Perez Linares was a -- was a member of
15 the National Police and was the operational director of the
16 National Police death squad. Again, I want to say that these
17 names are not redacted, which means that the United States has
18 full confidence that these can be released in the way this
19 they are.

20 Perez Linares is important because he is
21 repeatedly -- he repeatedly appears in the papers of Roberto
22 D'Aubuisson and Mr. Saravia. He is repeatedly named in the
23 death squad apparatus. And he is a trained sharpshooter from
24 the National Police, who is involved in National Police death
25 squad activity investigations. He is, at the time that the --

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1 this new investigation is opened, he is shot in detention
2 while attempting to escape.

3 THE COURT: Why would a U.S. Court, sitting in an
4 extradition case, accept an administrative order from a shrimp
5 farm?

6 THE WITNESS: Well, the important thing is -- and we
7 should go over the cable, because they explain that -- the
8 U.S. Court, by a U.S. officer of the court, which is important
9 in this story, the fax was faxed as if it were an opinion of
10 the Supreme Court of El Salvador. It was represented in the

11 U.S. Court as if it were an opinion of the Supreme Court of
12 El Salvador.

13 It was not. It was, in fact, an administrative
14 writing inside the court faxed from a shrimp farm, which is
15 run and owned by a group of people who are all implicated in
16 death squad activities.

17 So the purpose of this cable, which is -- it's called
18 the "Saravia Extradition and the D'Aubuisson Mafia." The
19 purpose of this cable is to show, and if I may, read the
20 summary first. At the beginning:

21 "There is ample circumstantial evidence that an effort
22 is underway to obstruct the extradition from the
23 United States of Captain Alvaro Rafael Saravia, the
24 cashiered Salvadoran Air Force officer charged with
25 complicity in the March 24th, 1980, assassination of

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1 Archbishop Oscar Arnulfo Romero. The effort is
2 traceable to Roberto D'Aubuisson and associates
3 through a document telefaxed from D'Aubuisson's
4 Mariscos Tazumal office to Saravia's U.S. lawyer for
5 entry into the Saravia extradition court records."

6 MR. Van AELSTYN: Your Honor, if I may, there is one
7 important point here, which is that the faxed administrative
8 decision -- the court in Miami did not rely upon that and did
9 not act upon it. It acted later in response to the final
10 decision of the Supreme Court.

11 THE COURT: Right, I was going to say, did the U.S.
12 Court, if it was in Miami -- I assume that's the Southern
13 District of Florida -- did it defer its ruling in the case

14 awaiting the outcome of the judicial proceeding in
15 El Salvador, and then when the Supreme Court found the
16 evidence insufficient, was the warrant then discharged in the
17 U.S. court?

18 MR. Van AELSTYN: Yes, your Honor. The court in
19 Miami, the Southern District of Miami, it indeed acted only
20 after it was a final decision from the Salvadoran Supreme
21 Court.

22 what this cable does is indicate the process that was
23 under way, the de facto process that was underway in
24 El Salvador with the cooperation of Saravia's counsel in Miami
25 with regard to the --

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1 THE COURT: And this is a rogue document. It is
2 simply, if it was an administrative order, assumedly one that
3 didn't have the legal effect that it was represented. And so
4 you said that the U.S. court did not rely on it. Was there
5 ever any consequence that the U.S. Court imposed as a result
6 of having that document submitted?

7 MR. COHEN: I don't believe so, your Honor. I'm not
8 aware of any sanctioning of Saravia's counsel, for example,
9 for misrepresenting the document to the Court. I'm not aware
10 of anything like that. I know the Court did not act until it
11 had a final decision.

12 THE COURT: All right.

13 MR. Van AELSTYN: While we are here, with Exhibit 96.

14 BY MR. Van AELSTYN:

15 Q. Dr. Karl, is this document amongst those declassified
16 documents from the special declassifications project of 1993
17 that you have testified about earlier?

18 A. That's right.

19 MR. Van AELSTYN: Your Honor, on the same basis as
20 the others, we would like to move into evidence Exhibit 96.

21 THE COURT: All right, and on the same basis, I will
22 admit it for the limited purpose of showing that this is a
23 regularly received and utilized executive communication in the
24 conduct of business of government.

25 MR. Van AELSTYN: Your Honor, I notice that it's

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1 4:30. It might be a good time recess for the day.

2 THE COURT: I think what we need to do is discuss
3 logistics if we are going to do that.

4 MR. Van AELSTYN: Yes, your Honor, but before we do
5 that, your Honor, I would like to state so long as we had
6 originally planned that the hearing would conclude today.

7 THE COURT: Yes.

8 MR. Van AELSTYN: And many people have traveled quite
9 a long way to be here during the course of the proceeding and
10 I would just like to express the gratitude of the entire legal
11 team that has been involved in this case to the Court for
12 granting us this evidentiary hearing and giving the witnesses
13 an opportunity to testify in this case, which, I think has
14 become clear, is a case of great importance to a large number
15 of people, and we are very appreciative to the Court for this
16 opportunity.

17 THE COURT: All right. Let us now talk about
18 logistics. You have been requested by the Court to provide
19 proposed findings. Additionally, you have indicated that you
20 have some additional evidence. Can you give me a time

21 estimate for the duration of the testimony of those witnesses
22 and do you wish to reserve time for oral argument following
23 the submission of the case for decision?

24 MR. Van AELSTYN: Your Honor, I believe the estimate
25 of the amount of time needed to complete the testimony of

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1 Dr. Karl, as well as Professor Roht-Arriaza is certainly less
2 than a day. I would estimate perhaps a total of four hours,
3 maximum, for the two witnesses together. I would like to
4 reserve a certain amount of time for oral argument at the
5 conclusion. However, that's -- as we will be submitting
6 written proposed findings of fact and conclusions of law, we
7 don't intend to provide a complete closing, a detailed
8 closing, as we can provide much of that in writing. But I
9 would like an opportunity to summarize at least the key points
10 as we see it.

11 THE COURT: All right. Well, I will tell you what my
12 preference is and then you can see what your ability to
13 respond it.

14 My preference would be to conclude the taking of the
15 testimony. To hear your oral argument, to have your proposed
16 written findings in hand, and then I will be prepared to
17 provide an oral statement of decision, which will be followed
18 by a written memorandum of decision.

19 MR. Van AELSTYN: So to have our proposed findings of
20 fact and conclusions of law ready to submit to your Honor --
21 may I confer with counsel for one moment?

22 THE COURT: Yes.

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

24 THE COURT: You may step down, Professor Karl.

25 MR. Van AELSTYN: Your Honor, we would be happy to

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1 comply with your preference.

2 THE COURT: That is appreciated. I know it puts
3 extra pressure on you. It puts extra pressure on me too, but
4 this way, I can devote my attention to the case, you know how
5 many other cases I have, and I would rather be able to do this
6 consistently when our memories are fresh and we are focused on
7 the material.

8 MR. Van AELSTYN: I appreciate that, your Honor, and
9 we will undertake that as well, and we are focused on that
10 also.

11 THE COURT: All right. And what I would request is
12 that if you could fax the proposed findings into the Court by
13 the afternoon on Thursday, that would be -- what is that, the
14 2nd of September?

15 THE CLERK: Yes.

16 THE COURT: The 2nd of September?

17 MR. Van AELSTYN: Your clerk has confirmed the date.
18 I cannot.

19 THE COURT: We would like to have those, if you can,
20 by 2:00 p.m.

21 MR. Van AELSTYN: All right.

22 THE COURT: We will then resume testimony at 9:00
23 a.m. on September 3rd. We are going to complete all testimony
24 in the case, and I'm going to see about a backup reporter,
25 because it may be necessary for us to go through the noon

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1 hour. I want to be sure we finish.

2 MR. Van AELSTYN: I appreciate that, your Honor, and
3 we have every desire to complete on Friday as well. Let me
4 make one point, which is that our proposed findings of fact
5 and conclusions of law will include statements based upon what
6 we expect our witnesses on that Friday to testify to.

7 THE COURT: Understood. Yes, and I recognize that
8 with the Court questioning, that it will change potentially
9 your estimate. I don't know whether there will be questions
10 or not, but there have been questions that have changed the
11 progress of the proceedings.

12 All right, is there anything further at this time?

13 MR. Van AELSTYN: No, I don't think so, your Honor.
14 Just to reiterate the appreciation of the team and the
15 witnesses for this opportunity.

16 THE COURT: All right. At this time, we will stand
17 in recess. Everybody have a pleasant weekend, please.

18 (The proceedings were adjourned at 4:35 p.m.)

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