

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA )  
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 )  
 v. )  
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 )  
 ARMANDO FERNANDEZ LARIOS )

Crim. No. 78-0367

**FILED**

**FEB 4 1987**

FACTUAL PROFFER

CLERK, U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA

The United States of America by and through the United States Attorney for the District of Columbia, Joseph E. diGenova, makes the following factual proffer to the Court. This factual proffer has been reviewed by defendant Armando Fernandez Larios and his attorney Axel Kleiboemer and has been agreed to and signed by both.

The Underlying Criminal Offense

The government proffers and the defendant agrees that the evidence would reflect that in or about June of 1976, defendant Armando Fernandez Larios was a 25 year old Chilean Army lieutenant assigned to a Protective Security Unit of DINA, the Chilean National Intelligence Agency. During this time Fernandez was told to report to the offices of Lieutenant Colonel Pedro Espinoza Bravo, the Chief of DINA Operations. Defendant Fernandez had been previously acquainted with

Lieutenant Colonel Espinoza, who had been Fernandez' superior in the Intelligence School of DINA prior to Espinoza's transfer to DINA Operations in 1975.

When defendant Fernandez reported as directed, Lieutenant Colonel Espinoza ordered defendant Fernandez to go to the country of Paraguay with an individual named Michael Vernon Townley, a United States citizen who was a civilian employee of DINA. Defendant Fernandez was told to contact a Paraguayan official who would provide false Paraguayan passports for the use of Fernandez and Townley in an intelligence mission in the United States.

Defendant Fernandez was told that the purpose of the mission was to surveil the activities of former Chilean Ambassador to the United States Orlando Letelier, and "see what he was up to". Lieutenant Colonel Espinoza also told Fernandez that Letelier was engaged in political activities harmful to the interests of the Chilean government. Espinoza further ordered defendant Fernandez to accompany him to a meeting with Michael Vernon Townley. Major Espinoza and defendant Fernandez drove to a meeting with Townley in an area of Santiago, Chile called Lo Curro. Upon arrival, Espinoza directed Fernandez to remain in his car and went to a separate location where Espinoza met with Townley. Defendant Fernandez was not privy to that conversation, but states that he believes that operational details of the Letelier mission were discussed

between Espinoza and Townley. Townley has corroborated the circumstances and content of that meeting with Espinoza in his own statements to the United States Government.

Defendant Fernandez, like many other officers who had been associated with DINA, was aware of Townley's reputation as an important DINA agent. Fernandez was aware that Townley was given special treatment by DINA, receiving from DINA a large house, servants and a staff.

Defendant Fernandez, having been told that he was to participate in a mission in which someone as important as Townley was involved, and due to his awareness that Townley had received separate instructions, understood that the true purpose might be other than the limited surveillance mission described to him, that the outcome to the object of the mission, Orlando Letelier, might very well be harm or even death. While Fernandez was never told that bodily harm to Letelier would be the object of this mission, defendant Fernandez acknowledges that he understood in his own mind the implications of what the mission might well bring, but decided to disregard his apprehensions.

Fernandez went forward as ordered, and with Townley journeyed to Paraguay in July 1976. In Paraguay, with the assistance of certain Paraguayan officials, he and Townley obtained false Paraguayan passports with visas issued by the

United States Consulate in Asuncion, Paraguay. During the process of obtaining these passports, defendant Fernandez learned that, in the course of obtaining the United States visas, the Paraguayans had notified the United States Embassy of the fact that the passports they were submitting for visas were being falsely issued to Chilean individuals. Thereupon the mission was aborted and defendant Fernandez and Townley returned to Chile.

Thereafter, Lieutenant Colonel Espinoza again contacted Fernandez in early August of 1976 and told him he was to go to the United States directly. Espinoza was aware that defendant Fernandez had relatives in the United States and that he had a working knowledge of the English language. Espinoza also directed that defendant Fernandez meet with a woman by the name of Lilliana Walker prior to this trip. Fernandez was to develop with Ms. Walker some familiarity with the Chilean Department of Public Works to support their cover story that they were employees for the Department of Public Works. Defendant Fernandez in fact did this. He met with Ms. Walker on one occasion in Chile, and thereafter met with her again on the trip to the United States. They traveled as husband and wife on false-name Chilean official passports representing that they were on official business.

Upon entering the United States on or about August 26, 1976, defendant Fernandez checked into the Hotel Washington in Washington, D.C. with Ms. Walker. On the next day defendant Fernandez, under the pretext of having some written materials from Chileans to deliver to Orlando Letelier, contacted the Institute for Policy Studies, the entity for which Orlando Letelier worked, and obtained his home address. He also learned that Orlando Letelier was supposed to be out of town for the next twenty days. Defendant Fernandez went to surveil the home of Orlando Letelier, confirming that it was Letelier's home by the fact that a car located in front of the house had a Chilean insignia on its rear portion. Fernandez reported to Lieutenant Colonel Espinoza, who agreed with Fernandez that since no further surveillance was possible due to Letelier's absence, his mission was over. Espinoza told Fernandez that he could take a few days leave prior to returning to Chile.

Thereafter, defendant Fernandez travelled to the city of New York and spent the next few days visiting with relatives and friends. Learning in New York that his father was gravely ill, defendant Fernandez contacted Lieutenant Colonel Espinoza and notified him of his intention to return to Chile immediately. Defendant Fernandez was informed by Espinoza that Michael Vernon Townley would be arriving in the United States on the same day as Fernandez was scheduling his departure, and was instructed to meet Townley at the airport.

On September 9, 1976 defendant Fernandez and Lilliana Walker, who had come separately to New York City, met at John F. Kennedy Airport. There defendant Fernandez met with Michael Vernon Townley and, in a men's room, passed to Michael Vernon Townley a map with his surveillance notes. Fernandez also provided Michael Vernon Townley with some additional funds, since Townley claimed to have no cash with him. Defendant Fernandez thereupon returned to Chile on September 9, 1976.

Upon defendant Fernandez' return to Santiago, Chile from New York, Fernandez reported to Lieutenant Colonel Espinoza about his meeting with Townley. Fernandez returned to Espinoza the remainder of the funds he had been provided along with his expense vouchers. He visited his father at the military hospital and began a military course which he was required to take in order to be promoted to be a captain in the Chilean Army.

After his arrival in the United States on September 9, 1976, Michael Vernon Townley, with the assistance of certain other individuals in the United States, built a bomb to be placed under the car of Orlando Letelier. Townley installed it on September 19, 1976 and, within two days thereafter, one of Townley's co-conspirators detonated the bomb as Orlando Letelier's car drove through Sheridan Circle, Washington, D.C. The explosive device killed Orlando Letelier and Ronni Moffitt, and injured Michael Moffitt on September 21, 1976.

Assisting in Hindering and Preventing the Apprehension, Trial  
and Punishment

Defendant Fernandez heard on the radio that Letelier had been killed. Shortly thereafter, when he was visiting his father at the military hospital in Santiago, Chile, a messenger from DINA came to the hospital and told Fernandez that he was needed immediately at DINA Headquarters. When he went to DINA headquarters, he met with Lieutenant Colonel Espinoza. Espinoza told Fernandez not to worry; that it was very probable that the Letelier assassination was done by "the opposition" to discredit the government because the following week the Foreign Minister would be speaking at the United Nations. Espinoza said, "That is what you will say." While Espinoza did not in fact admit that he had ordered Fernandez on a mission which resulted in Orlando Letelier's death, by word and gesture he indicated that his statements concerning the "opposition" was just a story, and defendant Fernandez understood that he had been part of an assassination plot.

Thereafter, defendant Fernandez continued his captain's course for the following three months and had no contacts with DINA. After fifteen days leave he returned to the Protective Security Unit to which he had previously been assigned. Defendant Fernandez stayed with the DINA Protective Security Unit until early 1978. Colonel Juan Manuel Contreras Sepulvada, who was the head of DINA, was promoted to General

and transferred to be the commander of the Chilean Army Engineers. Contreras was replaced by retired General Mena as head of CNI. (It should be noted that during this time DINA's name was changed to CNI.)

When the press reported the fact of defendant Fernandez' trip to Paraguay, Fernandez met with Contreras who instructed him to deny his trip to the United States. When the new head of CNI, General Mena, similarly inquired on several occasions about this matter, Fernandez, pursuant to Contreras' instructions, denied any involvement in the matter, despite the fact that Mena disbelieved Fernandez' continuing denials.

Moreover, Fernandez advised Contreras that he could not continue to deny his trip to the United States. Contreras instructed Fernandez to say he had gone to the United States on vacation: "You were there a few days and came back." Fernandez responded that this explanation did not deal with the false passport. Contreras told him to say that he (Fernandez) had gotten the false passports through a Foreign Ministry official who conveniently had died. Fernandez protested, saying, "I never knew him." Contreras then instructed Fernandez that he revert to the original story, saying that Fernandez should not worry, "Say you never went to the United States."



Mena confronted defendant Fernandez about the United States trip again and, though Fernandez continued to deny it to Mena, Fernandez returned to Contreras saying "They know." Contreras then told him to change his story. Fernandez was to say that he had gone to the United States on CODELCO business and that Fernandez had done it on his own initiative. (CODELCO is the Chilean national copper industry.) Defendant Fernandez admits that all of the representations that he made to General Mena were false and invented by Contreras.

Thereafter, Fernandez' picture appeared in the Chilean newspapers and the press began to pursue him. In reaction, shortly thereafter Fernandez met with Espinoza and Contreras in a house in an area of Santiago, Chile called Providencia. At that meeting, a new version was planned of the story of Fernandez' trip to the United States. Contreras and Espinoza expanded upon the fiction that it had been a CODELCO-related trip, suggesting that Fernandez say that he had gone to investigate manipulation of funds by employees of CODELCO.

Within a few days thereafter, a Letters Rogatory request was received by the Government of Chile from the United States asking defendant Fernandez and Townley to answer certain questions for the United States Government's criminal investigation of the Letelier and Moffitt killings. On April 1, 1978 defendant Fernandez and Townley appeared before a Chilean magistrate. Defendant Fernandez responded to the

questions presented by continuing to represent as fact, what was actually the false cover story. Townley responded by invoking his privilege against self incrimination. Defendant Fernandez' responses to these questions, pursuant to the United States Letters Rogatory, were forwarded to the United States for entry into the Department of Justice and Federal Bureau of Investigation's investigative files and were used in the criminal investigation of the Letelier assassination and in developing the basis for the extradition proceedings in this case. These false statements hindered and undermined the United States' law enforcement activities to apprehend and try the culpable individuals.

On March 30, 1978 defendant Fernandez at the direction of Contreras reiterated the false cover story to Assistant United States Attorney Eugene Propper and Legal Attache Robert Scherrer at the offices of CNI. The contents of that interview were forwarded to the United States Department of Justice and Federal Bureau of Investigation in Washington, D.C. for entry into their investigative files and use in the ongoing criminal investigation, and in preparation for the extradition proceedings to the United States of culpable individuals. The false statements in the interview hindered and undermined these law enforcement activities.

Further, prior to Townley's being expelled by Chilean authorities to the United States, Fernandez, Townley and

Contreras discussed justifying the Townley/Fernandez meeting at Kennedy Airport, as part of the cover story. The newest version of the cover story was to be that Fernandez was merely waiting for his flight to Chile, that Townley happened to come into JFK, and that they had exchanged pleasantries. The cover story concerning the trip to Paraguay and the effort to obtain false passports was also further developed. The story was that their pretended efforts to investigate financial irregularities at CODELCO in the United States were to include electronic surveillance.

Once Townley was in the United States, General Orozco, the designated Chilean military investigator, was sent to the United States to meet Townley. Townley declined to testify until Orozco relieved him of his DINA oath of secrecy. Orozco ordered Townley to tell the truth.

When Orozco returned to Chile with Townley's statement, Orozco ordered defendant Fernandez detained at the Ministry of Defense. After some time, Orozco told Fernandez that the hour of truth had arrived and that Fernandez was going to be sent to the United States. Orozco stated that he had spoken to the United States Justice Department and to Townley and that Townley had confessed. Fernandez began defending himself using the CODELCO cover story. Orozco said "Don't lie, here is Townley's declaration." General Orozco then showed Fernandez a written declaration of Lieutenant Colonel Espinoza and

represented that Espinoza had admitted ordering Fernandez to go to the United States to surveil Letelier. Thereupon, defendant Fernandez gave a truthful statement to General Orozco.

Defendant Fernandez was again brought to the Ministry of Defense the next morning. Shortly thereafter, General Contreras came to the Ministry of Defense to meet with General Orozco. From the doorway of the room in which he was being held, Fernandez caught Contreras' attention. Contreras came over to Fernandez and told him not to worry, that he (Contreras) would resolve everything.

Contreras then entered Orozco's office. About half an hour later, defendant Fernandez observed a "commotion" and saw Orozco leave his office in the Ministry of Defense. Approximately one to two hours later General Orozco returned, met with defendant Fernandez, and said to him words to the effect that Fernandez was not to worry, that everything was resolved, and that defendant Fernandez should go back to work.

Subsequently, defendant Fernandez was told by an individual involved in the assassination plot what had transpired during the meeting between Contreras and Orozco. According to this account, when Contreras was confronted by Orozco with the statements of Townley, Fernandez and Espinoza, Contreras agreed to make his own declaration. Contreras stated he had in fact



ordered Espinoza to undertake the Letelier operation. When asked why he had given that order, Contreras responded by saying he (Contreras) had received an order. When asked "From whom?" Contreras responded by saying words to the effect of "Ask the Chief." Defendant Fernandez states that he and the individual who related this account of the meeting understood the reference to "the Chief" was to General Augusto Pinochet, the President of Chile, who was Contreras' actual superior. At this point, General Orozco stated to Contreras words to the effect of "you can't declare this," whereupon there was commotion among the participants.

On or about August 1, 1978, Fernandez was advised that he was to be detained because of an extradition request from the United States. Fernandez requested that his detention be at a hospital because he was suffering from an ulcer at the time. Defendant Fernandez was in fact detained at a Chilean military hospital for fourteen months. During that same period of time, Lieutenant Colonel Espinoza and General Contreras were also detained at the same hospital. During the period of the detention, defendant Fernandez met with Contreras on several occasions. On some occasions Contreras attempted unsuccessfully to persuade defendant Fernandez to use Contreras' attorney in an effort to control and create a unified position. Contreras also unsuccessfully sought to persuade defendant Fernandez to join Contreras and Espinoza in

a criminal complaint against the United States prosecutors. Contreras also revealed to defendant Fernandez that he (Contreras) had a copy of the investigative file of the military investigator in his possession.

Also during the period of detention, defendant Fernandez was brought to the Ministry of Defense with Espinoza. At the Ministry of Defense General Orozco instructed them to make false declarations to the Supreme Court of Chile as part of the extradition proceedings in accord with the false cover story. Espinoza inquired as to the disposition of his previous truthful statement. Espinoza's truthful statement was returned to Espinoza by Orozco and Espinoza tore it up. Fernandez similarly inquired about his own truthful statement, and after some discussion, it was returned to Fernandez and destroyed.

Defendant Fernandez has also stated that during his detention at the hospital he was outspoken concerning his desire to go to the United States to resolve this matter. As a result, he was called to the Ministry of Defense. When he arrived, he, in fact, met with President Pinochet. Fernandez describes this meeting as follows:

President Pinochet confronted him by saying "I understand that you have a problem at the hospital and I'm told that you want to go to the United States." Fernandez responded by

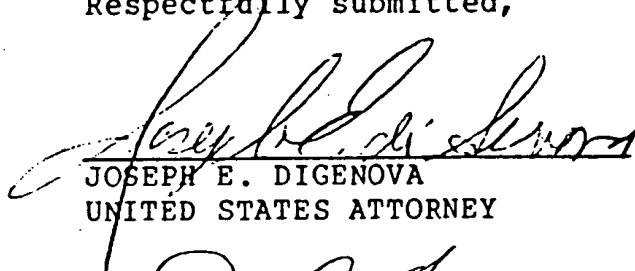
saying "That's a lie." President Pinochet said "I know it is the truth." Fernandez said "The truth is, not that I want to go to the United States, but that I am going to the United States." President Pinochet responded by saying words to the effect "Don't worry, I will order that you will have no more problems at the hospital. Be a good soldier, tough it out and this problem will have a happy end."

On October 17, 1978 during proceedings at the Supreme Court of Chile on the United States extradition request for Contreras, Espinoza and Fernandez himself, defendant Fernandez, under orders, lied concerning his knowledge about and involvement in the killing of Orlando Letelier, following the substance of the false, carefully evolved cover story. Based upon this testimony and false representations by others to the Chilean Supreme Court, the United States extradition proceedings, which had been filed in the United States District Court for the District of Columbia and by which various culpable individuals were sought for trial in the United States, were undermined.

Defendant Fernandez has also stated that he subsequently twice attempted to resign his commission in the Chilean Army, but President Pinochet personally refused to accept his resignation, although defendant Fernandez was never returned to actual military duties.

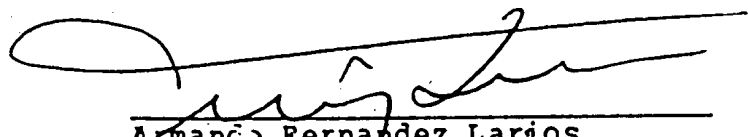
In his long-standing agreement to the coverup and his false testimony to United States and Chilean authorities, defendant Fernandez assisted in hindering the apprehension of Contreras, Espinoza and others directly responsible for the assassination of Orlando Letelier and the murder of Ronni Moffitt.

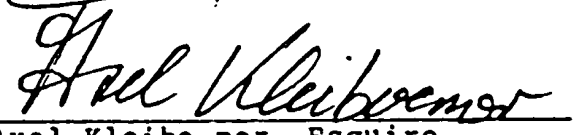
Respectfully submitted,

  
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ASSISTANT UNITED STATES ATTORNEY

Reviewed and agreed to:

  
Armando Fernandez Larios

  
Axel Kleiboemer, Esquire  
Attorney for Defendant Armando Fernandez Larios

2/4/87  
Date