

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

CRIMINAL CASE NO. 78-0367

ARMANDO FERNANDEZ LARIOS,)

Defendant.)

Washington, D. C.

Wednesday, February 4, 1987

The above-entitled action came on for arraignment and plea before the Honorable BARRINGTON D. PARKER, United States District Court Judge, in Courtroom No. 19, commencing approximately 10:30 o'clock, a.m.

APPEARANCES:

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For the Defendant:

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Interpreter: THEODORE E. HERRERA

P R O C E E D I N G S

THE DEPUTY CLERK: Criminal Case 78-367, United States of America v. Armando Fernandez Larios.

Stephen Spivack, Charles Roistacher, William Bloch, David Geneson, Timothy Reardon and Joseph diGenova for the Government and Axel Kleiboemer for the defendant.

Will the interpreter please rise and raise your right hand?

Do you solemnly swear that you will justly, fairly and impartially act as interpreter in the case before the Court, so help you, God?

INTERPRETER THEODORE E. HERRERA: I do.

THE DEPUTY CLERK: The interpreter is Theodore Herrera.

MR. GENESON: Good morning, Your Honor.

David Geneson for the Government.

If the Court please, we are here for a plea in Criminal Case 78-367, United States v. Armando Fernandez Larios.

Mr. Fernandez Larios is here in court today. He has voluntarily presented himself before the United States District Court for the District of Columbia and is in the United States Marshals Witness Security Program and has sought no bond pursuant to a plea agreement entered into between the United States and Mr. Fernandez Larios.

He is currently charged in an indictment under

1 Criminal No. 78-367 with various crimes related to the killings
2 of Orlando Letelier and Ronni Moffitt.

3 We are filing with the Court today in open court a
4 one-count information. This information charges violations
5 of 18 U.S.C. 1116 and three specifically accessories after
6 the fact to the murder of an internationally protected person.

7 This is a lesser included offense of the charges under
8 which Mr. Fernandez Larios is currently charged and, there-
9 fore, within the same case.

10 We understand that the defendant, Mr. Fernandez
11 Larios, will waive indictment and plead to the information.

12 We will also be filing with the Court today a plea
13 agreement. The plea agreement is an agreement between the
14 United States of America and Mr. Fernandez Larios and has
15 various conditions. Amongst them are the following:

16 Mr. Fernandez Larios has agreed to come before this
17 court voluntarily, to seek no bond and to plead to the one-
18 count information that we are filing.

19 He will admit guilt and plead guilty.

20 He will cooperate fully with the United States Govern-
21 ment Law Enforcement officers and Law Enforcement agencies.

22 He will enter the United States Marshals Witness Secur-
23 Program and remain in that program.

24 In exchange the United States will agree at the time
25 of sentencing to dismiss the remaining charges under the

1 pending indictment.

2 We will make the Court aware of the nature and extent
3 of Mr. Fernandez Larios' cooperation with all branches
4 of the United States Government with which he is assisting
5 and will provide witness security.

6 In the plea agreement, as the Court is aware, there
7 was an agreed cap of seven years to the charge, which, in
8 fact, carries a penalty of ten years maximum incarceration.

9 We understand that the Court has determined that
10 it is unable to accept that agreement.

11 It is also our understanding that Defendant Fernandez
12 Larios, notwithstanding that he will go forward with his plea
13 pursuant to the agreement as signed as to the other conditions
14 entered into by the defendant and the United States Government.

15 We will file the documents now and with the Court's
16 permission proceed to the plea.

17 THE COURT: Very well.

18 Mr. Kleiboemer, do you wish to make a statement?

19 MR. KLEIBOEMER: No, Your Honor. What Mr. Geneson
20 has stated to the Court is substantially correct. I have no
21 alterations to make to what he has represented to the Court.

22 What he has represented to the Court is absolutely
23 correct and I informed my client this morning of Your Honor's
24 determination not to accept the potential maximum, which is
the United States, and he had agreed upon that.

1 He is a courageous man and we rely on the fact that
2 at the proper time you will take all factors into considera-
3 tion. He is willing to go forward and submit himself to the
4 jurisdiction of this court on a plea.

5 THE COURT: Very well. Has he signed the necessary
6 waivers with respect to the information and the jury trial?

7 MR. KLEIBOEMER: Yes, Your Honor, he has. In fact,
8 I have been inundated this morning with a variety of forms,
9 some of which were in duplicate because it appears the United
10 States Attorney's Office has different forms from the Court's.

11 I think we have executed them all and, when neces-
12 sary, Mr. Herrera has witnessed them.

13 At this time with the Court's permission and Mr.
14 Geneson's permission I will hand up the waiver of indictment
15 form, which I see has to be filed in the United States District
16 Court for the District of Columbia. That is the one part that
17 is missing from this form.

18 I have executed it, my client has, and that is being
19 properly witnessed.

20 With the Court's permission I will now hand up the
21 waiver of trial by jury form, which has been executed by my
22 client in my presence, has been consented to by the U.S.
23 Government and needs your approval, Your Honor.

24 [The Court signs said document.]

25 THE COURT: Have your client come up.

1 MR. KLEIBOEMER: Yes, Your Honor.

2 Stand here.

3 [Mr. Armando Fernandez Larios stands before the Court.]

4 THE COURT: Your name is what?

5 THE DEFENDANT: Armando Fernandez Larios, Your Honor.

6 THE COURT: And how old are you, sir?

7 THE DEFENDANT: 37 years.

8 THE COURT: I understand you were born in the United
9 States?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Have you ever attended school here in
12 the United States?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: At the present time are you in good
15 health?

16 THE DEFENDANT: I think so, Your Honor.

17 THE COURT: Are you fairly conversant with the English
18 language?

19 THE DEFENDANT: A little. I think so.

20 THE COURT: You do have relatives here in the
21 United States?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And who are they?

24 THE DEFENDANT: One of my sisters. I have only one
sister. My sister is here in the United States.

1 THE COURT: Do you visit her frequently?

2 THE DEFENDANT: No. When I was here in 1966 --
3 excuse me -- 1976, I visited my sister only at that time.

4 THE COURT: At the present time I ask you do you have
5 any type of physical disability beyond the fact that I under-
6 stand you have a case of ulcers?

7 MR. KLEIBOEMER: Yes, Your Honor.

8 THE COURT: Beyond that do you have any physical
9 disability?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Do you have any type of mental disability
12 whatever?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: How long have you known Mr. Kleiboemer?

15 THE DEFENDANT: About one month, Your Honor.

16 THE COURT: Is he counsel of your own choice?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: At this point in time do you have any
19 complaint or criticism of the services he has rendered you?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Are there any questions concerning
22 this matter that he has not answered to your satisfaction?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: In the last month how frequently have
25 you talked to him?

1 THE DEFENDANT: I think that in the last 15 days I
2 talked all day.

3 THE COURT: All right.

4 Now beyond that in the last -- in the other 15
5 days within the month how frequently have you talked to him?

6 THE DEFENDANT: Two times -- three times. Three
7 times.

8 THE COURT: Are there any questions relating to
9 this matter that Mr. Kleiboemer has not answered to your
10 satisfaction?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Are you fully informed as to what this
13 is all about?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Now you have been charged in a one-
16 count information with certain crimes associated with the
17 assassination of Orlando Letelier and a person, Ronni Moffitt.
18 Are you aware of that?

19 THE DEFENDANT: Yes, Your Honor.

20 MR. KLEIBOEMER: If Your Honor please, the information
21 relates to the death of Mr. Letelier only.

22 THE COURT: All right. I will read it to him.

23 MR. KLEIBOEMER: Okay.

24 THE COURT: The underlying facts deal with the
... of former Ambassador Letelier and on the occasio

1 that he met his death, also a Ronni Moffitt met her death.

2 THE DEFENDANT: Yes.

3 THE COURT: Now the information charges -- and this
4 is a criminal proceeding brought against you by the United
5 States Attorney.

6 This crime alleged in the information comes within
7 the framework of an original indictment rendered against you
8 back in ---

9 MR. KLEIBOEMER: '78.

10 THE COURT: --- back in 1978.

11 The information reads, in part, as follows:

12 From on or about September 21, 1976 to on or about
13 October 1, 1979, within the District of Columbia and elsewhere
14 that you, Armando Fernandez Larios, knowing that Juan Manuel
15 Contreras Sepulveda, Pedro Espinoza Bravo and Michael V.
16 Townley had killed or caused to be killed Orlando Letelier,
17 an internationally protected person within the meaning of
18 Title 18, United States Code, Sections 1111 and 1116, in
19 violation of Title 18, United States Code, Section 1116(a),
20 did knowingly and wilfully relieve, receive, comfort and
21 assist the said Juan Manuel Contreras Sepulveda, Pedro Espinoza
22 Bravo and others known and unknown in order to hinder and
23 prevent their apprehension for trial and punishment, that is,
24 that you, Armando Fernandez Larios, well knowing that the
25 United States of America was investigating this crime and

1 thereafter seeking to formally extradite Contreras and Espi-
2 noza, agreed to and did testify falsely and provide false infor-
3 mation for the purpose of undermining the United States crimina-
4 investigation and preventing the extradition to the United
5 States of Contreras and Espinoza in order that they escape
6 apprehension for trial and punishment.

7 Do you understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Now this information is signed by the
10 United States Attorney and his assistant for the District
11 of Columbia, and it is not in the form of an indictment, but
12 this offense is a lesser included offense in the major indict-
13 ment that was rendered against you back in 1978.

14 Do you understand that?

15 THE INTERPRETER: No.

16 MR. KLEIBOEMER: If Your Honor please, I think it
17 is a related offense. I think it is not included in any of
18 the offenses in the indictment.

19 THE COURT: All right. Very well.

20 Related offense.

21 The point I want to get to is this: Do you consent
22 to being tried under this information rather than by an
23 indictment?

24 THE DEFENDANT: Yes, I accept. --

25 THE COURT: And do you consent and are you agreeable

1 to entering a plea of guilt to this information?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: The Court wants to advise you that if
4 you accept the charges of guilt and if the Court accepts your
5 plea of guilt to this information, you waive certain basic
6 constitutional rights. Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: You waive, for example, the right to a
9 trial by jury.

10 Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: There is no appeal if the Court accepts
13 your plea. Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you further understand that if the
16 Court finds that this is a good plea, it is based on a factual
17 basis, that the Court can sentence you to as much as ten
18 years?

19 Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Do you understand that the Court did not
22 accept the plea proffer negotiated by your counsel and the
23 United States Attorney to the effect that the maximum penalty
24 to be served would be seven years?

25 Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Do you realize that if you enter a plea
3 to this information, that you will not have the opportunity
4 thru your counsel to cross-examine witnesses who will be
5 presented to support the information?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand that you will not be
8 able to present any testimony or any witnesses in support of
9 any defense that you may have?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: In other words, the Court will accept
12 the proffer if it appears to the Court that it was well taken
13 and that your answers to questions put by the Court are
14 appropriate, the Court will decide whether or not to accept
15 your plea of guilty.

16 Do you understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: You will not have all of the trappings
19 of a jury trial and the right to examine witnesses, the
20 right to cross-examine witnesses.

21 Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Now under the circumstances are you still
24 willing to enter a plea of guilty?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Now I have here a waiver of indictment
2 which reads, in part, as follows:

3 That you, being advised of the nature of the charges
4 and your rights, hereby waive in open court prosecution by
5 indictment and consent that this proceeding may be prosecuted
6 against you by way of information rather than by indictment.

7 Do you understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And I have here a paper signed by you.
10 Is that correct?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: I also have a paper signed by you to the
13 effect that you waive your right to a trial by jury. Is that
14 true?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Mr. Geneson, do you want to make any
17 statement with respect to this factual proffer?

18 MR. GENESON: Yes, Your Honor. We do have a factual
19 proffer.

20 May I beg the Court's indulgence on one slight matter?
21 I misheard the Court's inquiry concerning Mr. Fernandez
22 Larios' understanding that he may receive up to a maximum
23 of ten years.

24 I ask the Court's indulgence to reask that question.

25 THE COURT: All right.

1 Mr. Armando Fernandez, do you realize that the
2 maximum plea in this case is ten years -- that the maximum
3 sentence is ten years?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And do you understand that the Court
6 may sentence you to as much as ten years if your plea is
7 accepted?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And I rejected the plea cap?

10 MR. KLEIBOEMER: Your Honor, ---

11 THE COURT: That was negotiated between you and
12 your attorney and the United States Attorney after seven
13 years?

14 Do you understand that?

15 THE DEFENDANT: Yes, Your Honor,

16 MR. KLEIBOEMER: Your Honor, I think it would be
17 important, however, also to explain that the Court has not
18 yet determined any sentence and that it may be less than ten
19 years.

20 THE COURT: I think he would understand that.

21 MR. KLEIBOEMER: Yes, I think that distinction is
22 important, Your Honor.

23 THE COURT: Well, you realize that at this point
24 I have not accepted your plea. You understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And you realize that at this point you
2 are not before the Court for purposes of sentencing. Do you
3 understand that?

4 THE INTERPRETER: I beg your pardon, Your Honor.

5 THE COURT: At this time he is not before the Court
6 for purposes of sentencing. Do you understand that?

7 THE DEFENDANT: I understand, Your Honor.

8 THE COURT: And at the time of sentencing you may
9 be sentenced by this Court to as much as ten years. Do you
10 understand that?

11 THE DEFENDANT: Yes, I understand, Your Honor.

12 MR. KLEIBOEMER: Yes, Your Honor.

13 THE COURT: It may be less than ten years. It may
14 not exceed ten years.

15 THE DEFENDANT: I understand that, sir.

16 MR. GENESON: Your Honor, we have a factual proffer
17 which we have prepared, which has been reviewed by the defendant
18 Mr. Fernandez Larios, and has been agreed to and executed by
19 them. I will file with the Court the original of that.

20 [Mr. Geneson hands said document to the Court.]

21 MR. GENESON: This contains the evidence as we
22 believe it would come out concerning this matter, Your Honor.

23 THE COURT: Do you want to summarize that which is
24 included in it?

25 MR. GENESON: Your Honor, I am somewhat hesitant

1 to summarize the contents of this because it was hammered
2 out in very, very fine detail and with great precision.

3 THE COURT: Mr. Kleiboemer, when ---

4 MR. KLEIBOEMER: Yes, Your Honor.

5 THE COURT: Have you had an opportunity to discuss
6 this factual proffer with your client?

7 MR. KLEIBOEMER: Yes, Your Honor, I have, until
8 approximately 6 o'clock last night. It went thru various
9 stages of drafting and I have gone thru all versions of it
10 with my client.

11 He has had personal input into the document. The
12 words mean what they say in that document, which probably
13 makes it unique in legal history.

14 Mr. Herrera has translated it.

15 THE COURT: You say "unique in legal history"?

16 MR. KLEIBOEMER: Mr. Herrera has translated it. I
17 am satisfied that my client understands every word that
18 is in that document and, more importantly and equally important
19 that it contains the truth.

20 THE COURT: Mister, I will refer to you as Armando
21 Fernandez, is that appropriate?

22 MR. KLEIBOEMER: Your Honor, his name ---

23 THE COURT: I know what his name is. His name is
24 on here.

25 MR. KLEIBOEMER: Yes, but my client is ordinarily

1 referred to ---

2 THE COURT: What does he prefer?

3 MR. KLEIBOEMER: Mr. Fernandez.

4 THE COURT: Mr. Fernandez?

5 MR. KLEIBOEMER: Yes, Your Honor.

6 THE COURT: Mr. Fernandez, I have in front of me a
7 15-page factual proffer and it is dated February the fourth
8 of 1987, and it bears out -- did you sign it?

9 THE DEFENDANT: Yes, this morning.

10 THE COURT: Show him this.

11 [The Court hands document to the defendant thru Mr.
12 Kleiboemer.]

13 THE DEFENDANT: Yes, it is my signing.

14 THE COURT: Look thru the pages there.

15 THE DEFENDANT: Yes.

16 THE COURT: When did you sign it?

17 THE DEFENDANT: This morning, Your Honor.

18 THE COURT: When was the first time you saw the
19 document?

20 THE DEFENDANT: Yesterday, Your Honor.

21 THE COURT: Are you presently a member of the Chilean
22 Army?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: What was the highest rank you obtained?

THE DEFENDANT: Major, Your Honor

1 THE COURT: And how long were you a member of the
2 Military Force in Chile?

3 THE DEFENDANT: About 19 years. On Monday I present
4 my resignation.

5 THE COURT: And of those 19 years how many years did
6 you serve as an officer roughly?

7 THE DEFENDANT: All the years except the two years
8 that I was in the Military School and after 1979 I have per-
9 mission from the Army, but I was an officer of them.

10 THE COURT: Now other than going to Military School,
11 what other school did you attend? What other school beyond
12 Military School did you attend?

13 THE DEFENDANT: In my preparatories I went to an
14 American school.

15 THE COURT: Where?

16 THE DEFENDANT: In Santiago.

17 THE COURT: Yes.

18 THE DEFENDANT: And after I was there about six years
19 and the last six years I went to high school.

20 THE COURT: Have you had the equivalent of what we
21 refer to as a college education?

22 THE DEFENDANT: I think, Your Honor, that the two
23 years of the Military School is like the college.

24 THE COURT: And that was in Chile?

25 THE DEFENDANT: In Chile, Your Honor.

1 THE COURT: Now in addition to that while you were
2 a member of the Armed Forces were you also a member of what
3 is known as DINA?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And in connection with that experience
6 did you attend any schools?

7 MR. KLEIBOEMER: If Your Honor would indulge us.

8 THE COURT: Mr. Kleiboemer, he can answer that ques-
9 tion "yes" or "no."

10 MR. KLEIBOEMER: Fine. Answer "yes" or "no."

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: I am only interested in the amount of
13 formal education that you have had.

14 Do you read English?

15 THE DEFENDANT: I think that I can read English but
16 Well, Your Honor, but I can only get an idea of what
17 I am reading.

18 THE COURT: Mr. Kleiboemer, was this agreement ever
19 translated into Spanish?

20 MR. KLEIBOEMER: Yes. Mr. Herrera has translated
21 it to my client.

22 THE COURT: Did you ever see a Spanish version of
23 this factual proffer?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Was one ever read to you?

1 THE DEFENDANT: Excuse me.

2 Yes, Your Honor.

3 THE COURT: Who read it to you?

4 THE DEFENDANT: Mr. Herrera.

5 THE COURT: Did you understand what he was reading
6 to you?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Mr. Herrera, you are under oath.

9 Did you compare the English version with the Spanish
10 version of the factual proffer?

11 THE INTERPRETER: There was no Spanish version of
12 this. I translated it orally from English into Spanish.

13 THE COURT: Into Spanish. And as far as you were
14 concerned, was your translation correct?

15 THE INTERPRETER: Yes, Your Honor.

16 THE COURT: In all respects?

17 THE INTERPRETER: Yes, Your Honor, it was.

18 THE COURT: Mr. Fernandez, when Mr. Herrera was
19 reading the factual proffer to you, were there any statements
20 made -- were any statements read to you by Mr. Herrera which
21 you did not understand?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Mr. Herrera, when you read the translatio
24 to Mr. Fernandez, did he understand precisely what you were
25 reading to him?

1 THE INTERPRETER: I believe he did, Your Honor.

2 THE COURT: Who was present at the time?

3 THE INTERPRETER: His counsel.

4 THE COURT: Do you understand Spanish, Mr. Kleiboemer

5 MR. KLEIBOEMER: No, Your Honor, but I have had about
6 eight years of Latin and I am satisfied and Mr. Herrera
7 is one of the finest translators of the English language into
8 Spanish and of Spanish into English which I have ever encoun-
9 tered.

10 THE COURT: Very well.

11 Mr. Fernandez, this factual proffer recites and
12 chronicles a number of events, beginning with the time on
13 the first page.

14 Do you have a copy of it in front of you?

15 MR. KLEIBOEMER: Yes, Your Honor, we do.

16 THE COURT: Back in 1976 when you were 20 years old
17 and a member of the Chilean Army, a lieutenant, and around
18 that time Lt. Colonel Pedro Espinoza Bravo gave certain
19 directions to you.

20 Do you recall that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Mr. Herrera, if you would just read to him and
23 you may read silently to him the first paragraph under the
24 underlying criminal offense and the succeeding paragraph,
end of page 1 and beginning of page 2.

1 Just read it to him silently.

2 [Mr. Herrera reading to the defendant silently.]

3 THE COURT: Read to him the last paragraph on page
4 2 also.

5 [Mr. Herrera reading the last paragraph to the
6 defendant.]

7 THE COURT: Mr. Herrera, at what point did you stop
8 reading to the defendant?

9 THE INTERPRETER: On the third page, Your Honor,
10 after the third line.

11 THE COURT: All right.

12 Mr. Fernandez, were you a member of DINA while you
13 were in Chile at this particular time, 1976?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Did you meet in the time frame of around
16 the mid-summer of 1976 with Lt. Colonel Pedro Espinoza?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And in that connection did you also make
19 contact with Mr. Townley?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And on how many different occasions did
22 you make contact with Mr. Townley as a result of conversations
23 you had with Lt. Colonel Pedro Espinoza?

24 THE DEFENDANT: I don't -- with Townley I only met
25 in that opportunity when Major Espinoza talked with Townley,

1 but I don't hear what they tell. And afterward I called
2 Townley to say that we must go to Paraguay.

3 THE COURT: Paraguay?

4 THE DEFENDANT: Paraguay and I met him in about
5 those areas.

6 THE COURT: All right. Now from whom did you get
7 the orders from that you were to go to Paraguay?

8 THE DEFENDANT: From Lt. Colonel Espinoza.

9 THE COURT: And up until that time how many conver-
10 sations had you had with the lieutenant colonel concerning
11 going to Paraguay?

12 THE DEFENDANT: Only once.

13 THE COURT: And what were you going to Paraguay
14 for?

15 THE DEFENDANT: To pick up passport.

16 THE COURT: Passport for whom?

17 THE DEFENDANT: From the Paraguayans.

18 THE COURT: Well, the passports were to be issued
19 to whom?

20 THE DEFENDANT: To travel to -- oh, the passport
21 must be for me and for Townley, and with that passport we
22 must come here to the United States.

23 THE COURT: What names did you use on the passports?

24 THE DEFENDANT: I remember that I used Alejandro Rome
25 Jara.

1 THE COURT: Mr. Herrera, you provide that to Mr.
2 Olsen.

3 THE INTERPRETER: Yes, Your Honor.

4 THE COURT: Did Mr. Townley use his correct name?

5 THE DEFENDANT: I don't remember, but I am sure that
6 he don't use his right name.

7 THE COURT: Why did you go to Paraguay to get the
8 passports?

9 THE DEFENDANT: Because Lt. Colonel Espinoza ordered.

10 THE COURT: Did you ask him why?

11 THE DEFENDANT: No.

12 THE COURT: What were you to do when you got to the
13 United States?

14 THE DEFENDANT: We must go and see where Mr. Letelier
15 works and where Mr. Letelier lives and any activities
16 that we can find about Mr. Letelier.

17 THE COURT: How long were you and Townley in Para-
18 guay in an effort to secure passports?

19 THE DEFENDANT: I don't remember, but about five
20 days.

21 THE COURT: Did you have trouble in getting the pass-
22 ports?

23 THE DEFENDANT: No, we don't have troubles, but they
24 give us the passport about five days -- they don't put any
25 trouble to give us the passports.

1 THE COURT: What did you do with the passports
2 after you got them?

3 THE DEFENDANT: I returned to Chile with Townley
4 and I gave the passport to Lt. Colonel Espinoza, Your Honor.

5 THE COURT: Why did you give them to him?

6 THE DEFENDANT: Because he was the chief that send
7 me to Paraguay, Your Honor.

8 THE COURT: What happened to the trip to the United
9 States?

10 THE DEFENDANT: When the officer of Paraguay give
11 me the passport, he told me that -- he said, "To some member
12 of the embassy."

13 THE COURT: Of what embassy?

14 THE DEFENDANT: Of the United States.

15 THE COURT: Yes.

16 THE DEFENDANT: That the member that put the visa
17 in the passport, he told that we were Chilean men, that we
18 must go to the United States with that passport.

19 THE COURT: I am sorry. I don't understand his last
20 answer.

21 THE DEFENDANT: When the officer of Paraguay give
22 me the passport, the Paraguayan passport, he told me that
23 the embassy of the United States knows that we were two
24 Chileans that must go to the United States.

25 THE COURT: Did he say "must go"?

1 THE DEFENDANT: Okay. That we are going to go to
2 the United States.

3 THE COURT: Did you get any orders at that time from
4 Lt. Colonel Espinoza? Did you report that conversation to
5 Lt. Colonel Espinoza?

6 THE DEFENDANT: No, Your Honor. I don't remember
7 that I do it.

8 THE COURT: Was the original plan to leave from Para-
9 guay to go to the United States or were you to come back
10 to Chile and then go to the United States?

11 THE DEFENDANT: Oh, no, no. The original plan was
12 go from Paraguay to United States.

13 THE COURT: But instead of that, you went back to
14 Chile?

15 THE DEFENDANT: Yes, Your Honor, because when I know
16 that the Government of the United States knows that we
17 are going to come here with a false passport, I suppose that
18 we were going to -- we are going to get only to the airport.

19 THE COURT: Very well. By that you mean what,
20 that you were only going to get to the airport -- by that
21 you mean what?

22 THE DEFENDANT: Oh, here they are going to say you
23 are having false passport.

24 THE COURT: All right. Who furnisied the money to
25 you and to Townley to get from Chile to Paraguay?

1 THE DEFENDANT: Really, Your Honor, I don't know.
2 The general -- whether it was General Contreras or Lt.
3 Colonel Espinoza. One of the two gave the money. I think
4 it was Lt. Colonel Espinoza because when I returned from the
5 United States to Chile, the money that I don't spend I give
6 it to Lt. Colonel Espinoza.

7 I remember very well that.

8 THE COURT: Who gave you the money when you went
9 from Chile to Paraguay? Who gave you that money? How did
10 you get there?

11 THE DEFENDANT: Oh, it is the same thing. Lt. Colonel
12 Espinoza.

13 THE COURT: When you got back to Chile how long was
14 it before you went to the United States?

15 THE DEFENDANT: I cannot remember now, but I think
16 that it was about one month, Your Honor.

17 THE COURT: Who went to the United States with you?

18 THE DEFENDANT: A woman, Your Honor.

19 THE COURT: A what?

20 THE DEFENDANT: A woman.

21 THE INTERPRETER: A woman.

22 THE COURT: Who was she?

23 THE DEFENDANT: I know that the name that she used
24 -- excuse me -- that she used was Lillian Walker. This woman
25 and I only met two times, the day that she present us -- we

1 were introduced and the day that we travel from Chile to the
2 United States.

3 THE COURT: Was she a member of DINA?

4 THE DEFENDANT: I never seen that woman.

5 THE COURT: What?

6 THE DEFENDANT: I never seen that woman in DINA.

7 THE COURT: How long were you traveling together
8 from Chile to the United States. How much time did you spend
9 in the United States when you got here?

10 THE DEFENDANT: About 10 or 15 days.

11 THE COURT: Did you travel as husband and wife?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Did you register into hotels as husband
14 and wife?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Did you register here in the District
17 of Columbia as husband and wife?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And how long did you stay here in the
20 District of Columbia?

21 THE DEFENDANT: I stayed here in Washington about
22 10 years.

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24

25

1 THE COURT: State in your own words what you did
2 while you were here in the District of Columbia.

3 THE DEFENDANT: All right.

4 When I came here to the United States, I was
5 in, I registered in the hotel with Lillian Walker, but
6 immediately I went to see my sister and --

7 THE COURT: Was your sister living here in the
8 District?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: She lived here in the District?

11 THE DEFENDANT: She lived here in the District.

12 THE COURT: All right.

13 THE DEFENDANT: And that night I returned to
14 the hotel and stayed with Lillian Walker.

15 The next morning I say to Lillian Walker that
16 we are going to have a walk and she must do what she wants
17 to do because I am going to go to other parts.

18 THE COURT: To what?

19 THE DEFENDANT: To another part.

20 Other places. Excuse me.

21 And I called all day Lillian Walker to know if
22 she is okay, if she was okay.

23 In one of that day I called to the office that
24 works Mr. Letelier, and I asked if Mr. Letelier was there.

25 THE COURT: What office was that, do you know?

2-2

1 THE DEFENDANT: I don't remember.

2 Something political.

3 THE COURT: Institute for --

4 THE DEFENDANT: Political.

5 THE COURT: All right.

6 THE DEFENDANT: And in that part they say to me,

7 I remember that they say to me that he was in Europe, and

8 I said that I have some letters or something for to give

9 to Mr. Letelier, and at that part they say to me where --

10 Can I take these things from to his house, and they say

11 you must go, and they gave me his address.

12 About two days after, when I was visiting the

13 office where my sister works, I tell her that I need her

14 car to go to visit Washington to see something because in the

15 part that my sister worked I have nothing more to see there,

16 and my sister say okay, here, you have the car.

17 And I went to the address they gave me in the

18 office of Mr. Letelier.

19 THE COURT: You went to his resident address?

20 THE DEFENDANT: Yes, sir.

21 And there I saw the direct again -- I saw the
22 address that they gave me. And I think that was the house

23 of Mr. Letelier because in front of the house was a car

24 that have insignia of Chile, and I imagine that that was

25 correct.

2-3

1 After that I called to Chile to Lt. Col. Espinoza,
2 and I tell that a Mr. Letelier was not in the United States,
3 and she said to me that --

4 THE COURT: She?

5 THE DEFENDANT: No. He. Excuse me.

6 He said to me that I can take about one week
7 from vacation here.

8 After that I suppose that my mission was finished.

9 And about, I don't know, four or five days more
10 I went with my sister to New York.

11 That is all that I do here in Washington.

12 THE COURT: All right.

13 Let me ask you this question.

14 Before you left Chile to come to the United
15 States, did you receive any instructions or any directions
16 from anyone as to what you would do when you got to the
17 United States?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Who gave them to you?

20 THE DEFENDANT: Lt. Col. Espinoza.

21 THE COURT: Did anybody else give you any instruc-
22 tions?

23 What instructions did he give you? -

24 Your answer is no, no one else gave you any
25 instructions?

2-4

1 THE DEFENDANT: No. No, Your Honor.

2 THE COURT: All right.

3 What instructions did he give you?

4 THE DEFENDANT: That I have come, I must come
5 here to the United States and I must find out where is
6 the house of Mr. Letelier and where is the office of Mr. Leteli
7 and anything that I can know about him.

8 THE COURT: Did you know Mr. Letelier by sight
9 before you came to the United States?

10 THE DEFENDANT: Only from the newspaper, Your
11 Honor.

12 THE COURT: Were you given any pictures of
13 Mr. Letelier before you left to come to the United States?

14 THE DEFENDANT: No, Your Honor, but --

15 THE COURT: But what?

16 THE DEFENDANT: But I know Mr. Letelier from the
17 newspaper.

18 THE COURT: You know him by the pictures?

19 THE DEFENDANT: Yes, he was, he was an important
20 person in the other government.

21 THE COURT: In the other government?

22 THE DEFENDANT: Yes.

23 THE COURT: By that you mean what other government?

24 THE DEFENDANT: Not in the government, that of
25 Chile now.

2-5

1 THE COURT: I see.
2 Mr. Pinochet?
3 THE DEFENDANT: Yes, sir.
4 THE COURT: Now, did you know his wife?
5 THE DEFENDANT: No, Your Honor.
6 THE COURT: Had you ever seen her picture?
7 THE DEFENDANT: No, Your Honor.
8 THE COURT: How many times -- What part of the
9 city, of this city, did Mr. Letelier live in, if you know?
10 THE DEFENDANT: I don't know, Your Honor.
11 THE COURT: Did you find out where the Chilean
12 Embassy was when you came here at that time?
13 THE DEFENDANT: No, Your Honor.
14 THE COURT: Did you ever go to the place where
15 you were told that Mr. Letelier worked?
16 THE DEFENDANT: Yes, Your Honor. Yes.
17 In that part -- In that day that I went to see the house of
18 Mr. Letelier I went to the office, but the office, I don't
19 go inside of the office.
20 I remember that it was a building with a window
21 door.
22 THE COURT: During the time that you were in the
23 United States how many times did you call back to Chile and
24 talk to Lt. Col. Espinoza?
25 THE DEFENDANT: I think that was about three times.

2-6

1 Once was saying that Mr. Letelier was not in the
2 United States.

3 And the other was when I called because my
4 father was very sick and he was in the hospital and I needed
5 my father to send to the military hospital.

6 He was not in the military hospital, and I needed
7 my father went to the military hospital, and I called Lt. Col.
8 Espinoza, and I say that please he send my father to the
9 military hospital, and after when I say that, I return to
10 United States.

11 I think that -- Excuse me. Return to Chile.
12 And I think that would be the three or four times that I
13 called.

14 THE COURT: Now, in this same time frame did you
15 know one Manuel Contreras?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Did you ever have any conversations
18 with him about coming to the United States?

19 THE DEFENDANT: I think that, no, Your Honor.
20 I talked with General Contreras I remember something when he
21 give me the instructions to have the Paraguayan passport,
22 something like that, only like that.

23 THE COURT: What was his position in the Chilean
24 Army?

25 THE DEFENDANT: He was a colonel, but he was the

2-7

1 chief of DINA.

2 THE COURT: And you had conversations with him
3 before you went to Paraguay to get the passport?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: What conversation did you have with
6 him?

7 THE DEFENDANT: Only like, only something like
8 you must, you must go to Paraguay and go to the Minister
9 of Defense of Paraguay and say that you are -- And they are
10 going to receive you only that kind of --

11 THE COURT: You are saying that you never did
12 talk to him about coming to the United States with the
13 lady?

14 THE DEFENDANT: I don't remember. I don't
15 remember if he give me instructions what I must do here in
16 the United States, but I know that he knows that I was
17 coming here to the United States.

18 THE COURT: While you were in the United States
19 and while you were canvassing where Mr. Letelier lived and
20 worked, did you make any notes of what you were doing?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: What notes did you make?

23 THE DEFENDANT: Only the name of the street that
24 Mr. Letelier lives, the name of the street that Mr. Letelier

25 works and the one that I saw that was in front of his house.

2-8

1 THE COURT: The one with the Chilean insignia
2 on it?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: How many times did you go out to his
5 home?

6 THE DEFENDANT: Only one time.

7 THE COURT: Where did you get the money from to
8 come to the United States and stay here for a week or ten
9 days?

10 THE DEFENDANT: From DINA. Lt. Col. Espinoza
11 gave it to me.

12 THE COURT: Did he give you money for the young
13 lady, too?

14 THE DEFENDANT: He don't say to me that, he don't
15 tell me that, he don't tell me that this money is also for
16 the girl, but I think that was also for the girl.

17 I don't know if they give money to the girl or
18 not, but I pay everything of the woman.

19 THE COURT: You paid all of her expenses?

20 THE DEFENDANT: Yes.

21 THE COURT: Now, did there come a time when you
22 left the United States?

23 Do you remember the day that you left?

24 THE DEFENDANT: Really I don't remember, but I
25 know because I read it that it was the 9th of September.

2-9

1 THE COURT: Did you see Michael Townley on that
2 day?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Where was this?

5 THE DEFENDANT: In the airport, Kennedy Airport.

6 THE COURT: Who was with you at the time?

7 THE DEFENDANT: Lillian Walker and my sister.

8 THE COURT: The young lady who came with you
9 from Chile and your sister?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Your sister's name is Rosemary?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: How did you happen to see Townley?
14 Did you know that you were going to see him at
15 that time?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Your answer is yes that you knew you
18 were going to see him at the airport?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Who told you that?

21 Where did you get that information from?

22 THE DEFENDANT: Because when I called I --

23 THE COURT: You what?

24 THE DEFENDANT: When I called to Lt. Col. Expinoza
25 and I asked him that, put my father in the military hospital

2-10

1 because he was very sick, and I say that I must return
2 immediately to Chile because my father is going, death,
3 Lt. Col. said to me that I must take the airplane in the
4 afternoon one day and Townley is going to come to the United
5 States on that same day, but in the morning, and I know that
6 Townley was coming the same day that I returned to Chile.

7 THE COURT: Now, did you give Townley anything
8 when you saw him?

9 THE DEFENDANT: Yes. When I saw Townley, when
10 I saw Townley, I gave the direction, the address of the office,
11 of his house, and the car.

12 THE COURT: When you say his house, you mean
13 Letelier's house?

14 THE DEFENDANT: Yes, sir; yes, Your Honor.

15 THE COURT: What else did you give him?

16 THE DEFENDANT: And he said to me that he don't
17 have money, and I gave him some money that not belongs to me,
18 belongs to DINA, about -- I don't remember -- I think it was
19 five hundred dollars.

20 THE COURT: How long did you talk with Townley
21 there?

22 THE DEFENDANT: For this case only five minutes.

23 I remember that it was in the bathroom, only
24 five minutes.

25 THE COURT: Did you give him any maps?

2-11

1

THE DEFENDANT: Yes. All the notes were there.

2

THE COURT: Were those regular printed maps,

3

or were they maps which you drew?

4

THE DEFENDANT: No. It was impress map.

5

THE COURT: What?

6

THE DEFENDANT: Printed.

7

THE COURT: Printed maps?

8

THE DEFENDANT: Yes.

9

The map that use tourists.

10

THE COURT: Used for tourists?

11

THE DEFENDANT: I think so.

12

THE COURT: Now, up until that time, while you

13

were here in the United States --

14

You met Townley in the airport where, in what

15

city?

16

THE DEFENDANT: In New York.

17

THE COURT: Now, up until that time while you were

18

in the United States did you talk to anybody in Chile other

19

than Lt. Col. Pedro Espinoza?

20

THE DEFENDANT: I don't remember that I talked

21

with anybody.

22

THE COURT: Did you talk to Colonel Manuel

23

Contreras?

24

THE DEFENDANT: No; no, Your Honor.

25

THE COURT: Later did you learn that Letelier

2-12

1 had been involved in a fatal accident?

2 THE DEFENDANT: Yes, the same day that this
3 terrible thing --

4 THE COURT: When you got back to Chile, who did
5 you talk to about your trip to the United States?

6 THE DEFENDANT: When I returned to Chile, I go
7 immediately to the hospital because I told you that my
8 father was very sick, and in that afternoon I returned to
9 the office of Lt. Col. Espinoza, and I say all the things
10 that I have said to you today, to Your Honor.

11 And immediately they gave me permission to go
12 to see my father. That was the only -- I also gave the
13 money that I don't spend here in the United States.

14 THE COURT: Did you ever talk to Manuel Contreras,
15 Colonel Manuel Contreras, after you returned to Chile?

16 THE DEFENDANT: No, Your Honor.

17 Yes, at that time I don't never talk with
18 Colonel Contreras.

19 THE COURT: Are you saying that when you got
20 back you did not talk to him at first?

21 THE DEFENDANT: Yes, Your Honor.

22 To talk with General Contreras was very difficult,
23 and not anybody can talk with General Contreras.

24 THE COURT: You mean because of his rank and
25 because of his position?

2-14

1 you to the United States to the District of Columbia where
2 Mr. Letelier was living?

3 What was your understanding of why you came here?

4 THE DEFENDANT: I think that in that time I must
5 carry out a mission, and I was really, I was very glad to
6 come here because I was going to see my sister, and in this
7 case I don't think nothing about when he give me the mission,
8 only, all right, thank you very much.

9 THE COURT: Well, did you know what Lt. Col.
10 Espinoza had in mind when he directed that you come to the
11 United States?

12 THE DEFENDANT: No, Your Honor, I don't know what
13 he have in mind, and I think when I came to the United States,
14 when I came here to the United States, after I met Townley
15 in Paraguay, and all of that, I must be honest to say to you
16 that can be not for a good thing here.

17 THE COURT: Had you known Townley before you
18 ret him with Lt. Col. Espinoza?

19 THE DEFENDANT: Yes, I know Townely well before.

20 THE COURT: Was he a member of DINA?

21 THE DEFENDANT: Yes, Your Honor. He was.

22 THE COURT: On what basis do you say that when
23 you knew that he was involved here that it was for no good
24 reason, or to paraphrase your words --

--- --- --- It is very simple Your Honor,

2-15

1 because the orders of this mission was given separate.

2 THE COURT: Was given what?

3 THE DEFENDANT: Separately. Separately.

4 Espinoza gave me one order and give to Townley
5 another order, but I don't know what he give to Townley,
6 and something must be before this -- must be behind this
7 when they don't give us the same order in the same place
8 and with Townley present.

9 THE COURT: How did you happen to give Townley
10 these notes that you had made concerning Mr. Letelier
11 when you met him at the airport in New York City?

12 THE DEFENDANT: Excuse me.

13 Oh, because Lt. Col. Espinoza, when I called
14 him by telephone, he said to me that I must, that to meet
15 Townley in the airport and give it to him.

16 THE COURT: Did there come a time when you returned
17 to Chile that you had conversations with Espinoza and Contreras

18 THE DEFENDANT: I think that only with Espinoza.

19 THE COURT: Were there any newspaper accounts
20 mentioning your name after you got back to Chile?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Did your picture appear in the
23 Chilean newspaper at any time?

24 THE DEFENDANT: Yes, Your Honor, but only in
25 1978 I think.

2-16

MR. KLEIBOEMER: The Court's indulgence.

(Informal discussion between Mr. Kleiboemer
and Mr. Herrera.)

THE DEFENDANT: Oh, excuse me, Your Honor.

Yes, my name was in the newspaper when I returned
to Chile, but only in 1978.

THE COURT: In 1978?

THE DEFENDANT: Yes, Your Honor.

It was two years after that I returned from the
United States to Chile.

THE COURT: Did you ever discuss with Lt. Col.
Espinoza -- Did you have a conversation with him concerning
the Letelier assassination here in the District of Columbia?

THE DEFENDANT: Yes, Your Honor.

The same day that Mr. Letelier died; that was
21st of September, I was in the hospital looking at my
father, and Espinoza called me to his office, and he said
to me that what happened here in Washington, and he told me
that this, that this was made by the opposition of the
Government of Chile because in the next week the Minister
of Public Relations, he was going to talk in the United
Nations.

THE COURT: United Nations?

THE DEFENDANT: Yes. And they had done this to
discredit.

2-17

1 THE COURT: Let me ask you this question:

2 Did anybody ever tell you to deny that you had
3 been to Paraguay to get a passport, that you had been to
4 the United States and surveilled the area where Mr. Letelier
5 worked and lived, and given that information to Mr. Townley?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And who was that?

8 THE DEFENDANT: Oh, the first time was General
9 Contreras.

10 A lot of times he told me that and after they
11 come, another person like Espinoza also told me, and the
12 General that was in this case looking -- this case -- also
13 say to me that I must lie in all of this case.

14 THE COURT: And who is the General?

15 THE DEFENDANT: General Carrasco.

16 THE COURT: Carrasco?

17 THE DEFENDANT: And that was a General in active
18 service.

19 Now he is not in active service.

20 THE COURT: Tell me, why did Espinoza tell you
21 to lie, and what did he tell you to lie about, and the same
22 thing is asked with respect to Contreras?

23 THE DEFENDANT: Oh, they say to me that I must
24 first, the first thing that Contreras told me was that I must
25 not say that I came here to the United States.

2-18

1 THE COURT: Do you know why he wanted you to
2 make that statement?

3 THE DEFENDANT: Because I think that he think that
4 all people is going to say, think that all people will say
5 that that is true because I have, I use false passport to
6 come here, but this thing --

7 THE COURT: Why did you use the false passport
8 to come here?

9 THE DEFENDANT: Because Lt. Col. said that I must
10 use that.

11 THE COURT: Why?

12 THE DEFENDANT: Because the Lt. Col. say, told
13 me that I must use that.

14 THE COURT: Did there come a time when you
15 realized one way or the other that you were involved in
16 the assassination of Letelier?

17 THE DEFENDANT: I think that I realized it the
18 same day that Mr. Letelier was killed.

19 THE COURT: And what caused you to come to that
20 conclusion?

21 THE DEFENDANT: Because when Espinoza called me
22 to his office and told me all the story that I told you
23 he say to me you must say this thing that this was to the
24 discredit.

25 THE COURT: I am sorry. Start again. The reporter

2-19

1 is not getting it.

2 THE DEFENDANT: When I went to the office of
3 Espinoza and he told me the story that I just told you,
4 and he said to me that I must talk and I must say the same
5 story, I knew that I was involved in this thing.

6 THE COURT: To say what same story?

7 THE DEFENDANT: The story that --

8 No, no. The story that this was made from the
9 office of the Government of Chile to discredit the
10 government.

11 THE COURT: How many such conversations do
12 you recall having with Espinoza?

13 THE DEFENDANT: When my name and my photograph
14 came in the newspapers, I think that I have about one or
15 two, but after when I was ill and in the hospital, the
16 military hospital, I talked, I don't know, a lot of times.

17 THE COURT: You were in the military hospital,
18 and who else was there with you?

19 THE DEFENDANT: Also Contreras and Espinoza.

20 THE COURT: For what period of time were the
21 three of you there together?

22 THE DEFENDANT: I was one year and two months.
23 Espinoza I remember that he came to the hospital one day
24 after me, and Contreras, I think that one week, one week
25 after me.

2-20

1 THE COURT: And how long did they stay there?

2 THE DEFENDANT: The same day that I go out.

3 THE COURT: They stayed there for a year or more?

4 THE DEFENDANT: A year and two months, fourteen
5 months.

6 THE COURT: What conversations did you have with
7 either Espinoza or Contreras?

8 THE DEFENDANT: Excuse me?

9 THE COURT: What conversations, if you can recall,
10 did you have with Espinoza and Contreras?

11 THE DEFENDANT: With Espinoza the only thing
12 that I talked was of this case, and he was very depressed,
13 and I don't like to talk very much with Espinoza.

14 THE COURT: Did you talk to him about the
15 assassination of Letelier?

16 THE DEFENDANT: Oh, I think that a lot of times.

17 THE COURT: What, if anything, did he tell you?

18 THE DEFENDANT: That we must always stay in the
19 same history that we talk to the General Carrasco and after-
20 ward to the Supreme Court.

21 THE COURT: You mean the Supreme Court of Chile?

22 THE DEFENDANT: Yes.

23 THE COURT: And what was this story that you
24 were telling to General Carrasco and to the Supreme Court?

25 THE DEFENDANT: Oh, that I came here to see

2-21

1 something of Codelco.

2 THE COURT: And Codelco was what?

3 THE DEFENDANT: It is a big factory.

4 THE COURT: It is a copper plant?

5 THE DEFENDANT: Yes, it is a copper plant.

6 THE COURT: Did you come here on behalf of
7 anything associated with the copper industry in Chile?

8 THE DEFENDANT: No. Nothing. That was the
9 cover history. That was the only thing that I talked with
10 Espinoza and with Contreras -- I only fight with Contreras --

11 THE COURT: Only what?

12 THE DEFENDANT: Fight.

13 THE COURT: I don't understand what he is
14 saying.

15 THE INTERPRETER: He is saying "I only fought
16 with Espinoza."

17 THE DEFENDANT: Yeah. I fought. I only fought
18 with Espinoza because he only want, he wanted that I have
19 his same lawyer. He wanted that I must be -- He was very
20 important in DINA, and when he said, when he said something,
21 all the people say, "Oh, yes, but he wanted --

22 THE COURT: You are referring to whom now?

23 Espinoza or Contreras?

24 THE DEFENDANT: Contreras, Your Honor.

25 And when Contreras say something, all the people

2-22

1 must say yes.

2 In the hospital he want to make me the same,

3 and I say no.

4 Now you are not my chief, and I am not going
5 to obey.

6 He also want that I must take his same lawyer,
7 that I must go in the same: -- He wanted that I must go where
8 he goes in his ideas.

9 He wanted present, or I don't know if he
10 presented a complaint against Mr. Propper and Barcella, and
11 he take me to his room and say to me that you must sign here
12 and you must do it also.

13 I say no, I am not going to do it.

14 And also a complaint to another minister, and
15 I also don't do it.

16 I also refused.

17 THE COURT: Did you ever discuss with any repre-
18 sentatives of the United States Government, and more par-
19 ticularly the United States Attorney's Office, concerning
20 your involvement in the Letelier matter?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Who did you talk with?

23 THE DEFENDANT: Mr. Propper, and I don't remember,
24 one other person was there, Mr. Sherrer.

25 THE COURT: Now, with respect to Mr. Propper,

2-23

1 did you give him a true statement of your coming to the
2 United States, your going to Paraguay?

3 THE DEFENDANT: No, Your Honor, but --

4 THE COURT: But what?

5 THE DEFENDANT: In that moment you must remember
6 that I was a lieutenant, and I have about three generals --

7 THE COURT: You were a lieutenant?

8 THE DEFENDANT: Yes, a lieutenant, and I have
9 about three generals that would say to me you must say this.
10 That is the only explanation. I know that it is not a good
11 explanation, but that is the truth.

12 I was a lieutenant, and I was not care to
13 say no I am not going to obey all of that generals.

14 THE COURT: Did you ever receive or secure any
15 information that Contreras and Espinoza planned and directed
16 the assassination of Letelier?

17 THE INTERPRETER: I don't understand.

18 THE COURT: Did you ever hear Contreras or Espinoza
19 say, in your presence, that they were involved in the
20 assassination of Letelier?

21 THE DEFENDANT: I hear from Espinoza that he send
22 Townley to the United States. I hear from Contreras when he
23 ordered me to lie in all of these things, but I think that they
24 never say I send to kill Mr. Letelier.

25 (The proceedings continue on the following page.)

take 2 ends

1 THE COURT: What did Espinoza tell you?

2 THE DEFENDANT: Only that he send Townley to the United
3 States and Townley do it all these kind of things and I suppose
4 that he was talking that he send Townley to kill Mr. Letelier.

5 THE COURT: What did Contreras tell you?

6 THE DEFENDANT: I think that it is the same thing.
7 When I talk with Contreras the first time before that, I went
8 to the hospital, Contreras never said something about Townley,
9 only he ordered me that I must say this thing enough and you
10 must say this other thing.

11 THE COURT: What thing is it he ordered you to say?
12 What thing did Contreras tell you to say?

13 THE DEFENDANT: All right. He told me a lot of
14 things. First, that I must say, "No, I never went to the
15 United States."

16 After when I went to his office and I say I cannot,
17 I can't deny that I went to the United States. They know
18 that I went to the United States and he said, "All right,
19 say that you went to the United States, but you was on vaca-
20 tion" and I say, "All right." If he told that they are
21 going to say to me -- and your passport, you may say that
22 you take the passport from a person that was died about three
23 months or one year ago, and I said ---

24 THE COURT: When you came to the United States your
25 passport did not bear your correct name, is that it?

1 THE DEFENDANT: No, Your Honor. No.

2 THE COURT: What name was on it?

3 THE DEFENDANT: Armando Faúndez Lyon.

4 THE COURT: What name was on your passport when you
5 came to the United States?

6 THE DEFENDANT: That name, Armando Faúndez Lyon.

7 THE COURT: That is the name on the information?

8 THE INTERPRETER: No.

9 THE COURT: Let's see it. Lyons?

10 THE DEFENDANT: Lyon.

11 THE INTERPRETER: The name is F-a-u-n-d-e-z.

12 THE COURT: And then you had a different name on
13 the passport which you got in Paraguay?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: All right. Now continue with your story.
16 They told you to say that you were on vacation and then there
17 was a question of your name being different on the passport
18 to the United States?

19 THE DEFENDANT: Yes. And I say that I cannot say
20 that I received a passport, an official passport with an
21 order and he said, "You must tell that you go to the Minister
22 of Foreign Affairs to get that passport," and that person
23 give -- that person died about one year and I say, "I don't
24 know that person. I have never seen that person."

25 He said, "No, you must do it."

1 "No, I am not going to do it because it is
2 incredible."

3 THE COURT: Who was it telling you to say that?

4 THE DEFENDANT: Contreras.

5 THE COURT: Anything else he told you to say?

6 THE DEFENDANT: Oh, he said to me also that I have
7 never said that he send me to United States to see Mr. Letelier
8 because if General Pinochet knows that, General Pinochet
9 is going to throw me out of the Army -- to throw Contreras
10 out of the Army.

11 THE COURT: Anything else he told you?

12 THE DEFENDANT: After that I don't see more of
13 General Contreras until my name goes in the newspaper and
14 my photograph was in the newspapers and then they began to
15 call me and say, "You must do this story" and that is the
16 story that is in ---

17 THE COURT: Now let's go back to Lt. Colonel
18 Espinoza. What, if anything, did he ever tell you concerning
19 the Letelier matter and what, if anything, did he tell you
20 to say or not to say?

21 THE DEFENDANT: Lt. Colonel Espinoza when I was in
22 the newspaper, he was not in Santiago. He was in Punto.

23 THE COURT: When you were in the what?

24 THE DEFENDANT: In the newspaper. Lt. Colonel
25 Espinoza was in Punta Arenas. It is a city about 3,000

1 kilometers from Santiago and he don't participate in this
2 thing until he came to Santiago one day and with Colonel
3 Contreras or General Contreras they met in an office downtown
4 and they say to me that all the story is going to be fine,
5 the same story that I said before that all the thing of
6 Codelco.

7 THE COURT: Anything else?

8 THE DEFENDANT: And afterward when we were in the
9 hospital, always they say to me that the story must be the
10 same.

11 THE COURT: Meaning what? The story must be the
12 same?

13 THE DEFENDANT: That I must repeat the same thing
14 that I have repeated before.

15 THE COURT: You mean this morning here?

16 THE DEFENDANT: Yes.

17 THE COURT: Let's get this time frame. When were
18 you in the hospital? When you came back to Chile when did
19 you go to the hospital?

20 THE DEFENDANT: In the first of August of 1978 until
21 first of October of 1979.

22 THE COURT: All right now, when was Mr. Letelier
23 assassinated?

24 THE DEFENDANT: In 1966. Excuse me -- '76.

25 THE COURT: All right now. Between '76 until the

1 time you went into the hospital did you have any conversations
2 with either Contreras or Espinoza concerning your using these
3 dummy passports?

4 THE DEFENDANT: I talked with Contreras and Espinoza
5 after, I think, March of 1978. From 1976 and, I think, until
6 March of '78 I have never talked to Contreras about this
7 case.

8 THE COURT: You never talked to Contreras about this
9 until two years after it happened?

10 THE DEFENDANT: Only when all of these notes began
11 to be in the newspapers.

12 THE COURT: Did you talk to Espinoza at any time
13 during that period?

14 THE DEFENDANT: I don't remember that I do that,
15 Your Honor.

16 THE COURT: So there came a time when news reports
17 appeared in the newspapers, is that correct?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And when was that? About how many
20 months or years after Letelier had died?

21 THE DEFENDANT: Mr. Letelier died in September
22 of 1976 and the notice appeared in the newspapers about
23 February or March -- February of 1978.

24 THE COURT: When was the first time that you talked
25 to Townley after you saw him there in the airport in New

1 York City?

2 THE INTERPRETER: After that occasion?

3 THE COURT: Yes, after he saw Townley.

4 THE INTERPRETER: After speaking to him at the airport,
5 after that when was the first time?

6 THE DEFENDANT: I remember that I talked with Townley
7 twice. When I came from Paraguay to Chile ---

8 THE COURT: I don't think he is ---

9 THE DEFENDANT: No, no. I understand your question,
10 but when I returned from Paraguay to Chile Townley bought
11 a suitcase, a bag -- a suitcase and I used that suitcase.
12 And when I was in the hospital looking at my father that was
13 sick, Townley needs his bag, his suitcase, and I say, "All
14 right, go to the hospital" and I am going to give you -- and
15 I gave him that opportunity and I think that was the last date
16 of September and I only say, "Here you have your bag" and
17 he returned to see my father. That was once.

18 That was in 1976. And after -- I saw Townley
19 also when we have to meet with Contreras in the street of
20 Santiago that he say that Contreras teach us -- told us what
21 we must say about our meeting in the airport of New York.

22 THE COURT: Was that before you went into the hospital
23 for that stay or when was it?

24 THE DEFENDANT: Before I went to the hospital. Before
25 I went to the hospital.

1 THE COURT: At that time had a news article appeared
2 in the Chilean papers?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: What did the news article say?

5 THE DEFENDANT: Oh, first, they put the name of
6 Romeral Jara.

7 THE COURT: They used the fictitious name that you
8 used to come into the United States?

9 THE DEFENDANT: And say that they think that some
10 Chileans was implicated in the case of Mr. Letelier. And
11 after when my photograph and the photograph of Townley
12 go to the newspapers, appears in the newspaper, they began
13 to worry of what I must say or not I must say.

14 THE COURT: When you say "they," who are "they"?

15 THE DEFENDANT: Oh, Contreras and also all of
16 DINA that in that time the name was not DINA -- it was CNI.

17 THE COURT: CNI?

18 THE DEFENDANT: It has been changed, you see. All
19 the chiefs of DINA were worried about this situation and began
20 to say to me what I must say.

21 THE COURT: Who was the chief of DINA at that time?

22 THE DEFENDANT: General Mena -- M-e-n-a.

23 THE COURT: After your picture and that article
24 appeared about you and Townley in the Chilean newspaper,
25 it was then that you had the meeting with whom?

1 THE DEFENDANT: With Contreras.

2 THE COURT: Who was there at the meeting?

3 THE DEFENDANT: I remember that it was in a restaurant.
4 I go there.

5 THE COURT: Let me ask you this. Was Townley there?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. Was anybody else besides
8 the three of you?

9 THE DEFENDANT: I don't remember. I think that
10 there was another person, but I think that was his driver
11 and his bodyguard.

12 THE COURT: What did the newspapers say with respect
13 to Townley and the assassination of Letelier?

14 THE DEFENDANT: I don't remember. I think they
15 say that he was an American that go to Paraguay and after
16 went to the United States.

17 THE COURT: What did the newspapers say about your
18 role, if any, in the assassination of Letelier?

19 THE DEFENDANT: Oh, the newspaper never said that
20 Townley or I do it. They say that we went to Paraguay and
21 after I go to the United States, but not the newspaper said
22 that.

23 THE COURT: All right. What did you and Contreras
24 and Townley talk about in that restaurant?

25 THE DEFENDANT: That the meeting that I have with

1 Townley in the airport of Kennedy and Contreras say that we
2 must only say that we met by accident in the airport of
3 Kennedy.

4 THE COURT: Did you ever have any conversation with
5 Townley concerning his involvement, if any, in the Letelier
6 matter?

7 THE DEFENDANT: No, Your Honor. No.

8 THE COURT: Did there come a time, going back again
9 to Mr. Propper -- did there come a time when Mr. Propper
10 talked to you about the Letelier matter?

11 THE DEFENDANT: Really I don't remember, Your Honor,
12 but I think that he talked with me about that.

13 THE COURT: Do you recall what it was about?

14 THE DEFENDANT: Oh, yes, I remember that I told him
15 all what I do here in Washington except the thing that I do
16 with Mr. Letelier.

17 THE COURT: What did you neglect to tell him?

18 THE DEFENDANT: That I went to the house of Letelier
19 and I have his car and all of that.

20 THE COURT: Why did you neglect to tell him that?

21 THE DEFENDANT: Because I have not an excuse, but
22 I have orders that -- not to do it.

23 THE COURT: Who did you get the orders from?

24 THE DEFENDANT: I must -- I went to -- I want to
25 clarify something to you please.

1 THE COURT: All right.

2 THE DEFENDANT: When I was -- in that moment the
3 only person that knows the truth, that I think they know
4 the truth, was Contreras. General Mena, who was the chief
5 of DINA -- General Mina, I think that he don't know the truth
6 why he come here. I don't know if General Mena and Con-
7 treras speak both of these things, but they put me in the
8 office, that I talked with Mr. Propper and they say to me
9 that the history that I told them must be just the same that
10 I told Mr. Propper.

11 THE COURT: Namely?

12 THE DEFENDANT: I want to say that when I talk to
13 Mr. Propper and I don't say why I come here to the United
14 States because General Contreras and all of the other
15 persons in DINA say to me that I must told the history that
16 I am telling to you, Your Honor.

17 THE COURT: Did they ever give you a reason why?

18 THE DEFENDANT: No, they don't give me any reason,
19 but I think that the most important reason, if I say that,
20 I come here to find out something of Mr. Letelier, they are
21 going to be accusing from this crime.

22 THE COURT: Did you ever have a conversation with
23 General Pinochet about this matter?

24 THE DEFENDANT: No. Of this matter, never. I have
25 never. Never have I talked to General Pinochet about these

1 special things, no.

2 THE COURT: When I say "this matter," the Letelier
3 matter.

4 THE DEFENDANT: Yes.

5 THE COURT: Did you ever have a conversation with
6 General Pinochet about coming to the United States or going
7 to Paraguay using false passports?

8 THE DEFENDANT: No, I have never talked with --
9 General Pinochet told me about my trip to Paraguay or to the
10 United States.

11 THE COURT: What conversation did you have with Pino-
12 chet?

13 THE DEFENDANT: One day when I was in the hospital --
14 I don't remember what month. I think that was immediately
15 -- in the middle of 1979: I was sent to the ---

16 THE COURT: '79?

17 THE DEFENDANT: '79. I was in the hospital. I was
18 sent to the Minister of Defense and when I was in a room came
19 Pinochet. He say to me, "Hello." He greeted me and he said
20 to me, "Oh, Fernandez, I know that you have some problems."

21 I say, "Yes, I have some problems because in the
22 hospital I was having some problems." And he say, "You must
23 don't worry. I am going to order that you are going to be
24 fine in the hospital and I also know that you want to go to
25 the United States." And I say, "No, that is not true. I don't

1 want to go to the United States."

2 And he say, "I know that you want to go to the United
3 States," and I say, "No, the truth is that I am going to go
4 to the United States."

5 And General Pinochet say to me, "You must not do
6 that thing. You are a good soldier. You must not do that
7 thing.

8 "You are a good soldier. You must wait. All this
9 thing is going to be all right and a good soldier must be at
10 his post in a moment."

11 THE COURT: What did you understand when Pinochet
12 -- do either of you want some water?

13 What did you understand when Mr. Pinochet said
14 that everything was going to be all right?

15 THE DEFENDANT: I think that he was little worried.

16 THE COURT: Worried about what?

17 THE DEFENDANT: That I came here to the States.

18 THE COURT: What did you mean when you told Pinochet
19 that you were going to the Untied States?

20 THE DEFENDANT: Because I always think -- I want to
21 say the truth to Pinochet, the truth that I want to come
22 here to the States. In several opportunities I said to the
23 general that I want to come here to the States.

24 I can say his name. General Hernandez. General
25 Corrasco. And that generally I always say it. I want to go

1 to the States to say the truth -- to tell the truth.

2 THE COURT: What is it that you intended to say
3 that you haven't said already here this morning if you came
4 to the United States?

5 THE INTERPRETER: I am sorry, sir?

6 THE COURT: What is it that you intended to say if
7 you have not said it already this morning when you came to
8 the United States? What is the truth that you wanted to
9 say when you came to the United States?

10 THE DEFENDANT: The same truth that I am going --
11 that I am saying today.

12 THE COURT: Did you ever appear before the Supreme
13 Court of Chile?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And what was the occasion?

16 THE DEFENDANT: I don't remember the date, but I
17 think ---

18 THE COURT: Don't worry about the date. What were
19 you there for? Why were you there?

20 THE DEFENDANT: Oh, because the United States
21 asked for my extradition.

22 THE COURT: Extradition?

23 THE DEFENDANT: Extradition and there was a trial
24 and the Supreme Court -- I went to the Supreme Court to make
25 my -- to give my testimony.

1 THE COURT: This was after you got out of the
2 hospital?

3 THE DEFENDANT: No, no, when I was in the hospital.

4 THE COURT: When you were in the hospital?

5 THE DEFENDANT: Yes.

6 THE COURT: Was this after your picture appeared
7 in the newspaper?

8 THE DEFENDANT: Yes, my picture appeared about
9 January or March of 1978 and this -- when I go to the
10 Supreme Court, I think that was in September or October of
11 1978.

12 THE COURT: All right. What statement did you make
13 at that session of the Supreme Court?

14 THE DEFENDANT: The statement that I do on that occasi
15 was the same statement that I give to -- cover history --
16 the cover story. I gave the cover story.

17 THE INTERPRETER: Meaning what he had said previously
18 regarding his trip to the United States was on the Codelco
19 matters.

20 THE COURT: Was what?

21 THE INTERPRETER: Codelco, the copper plant matter,
22 that cover story.

23 THE COURT: Did you testify truthfully before the
24 Supreme Court of Chile?

25 THE DEFENDANT: No, Your Honor. I said the cover

1 story of this program.

2 THE COURT: Of this problem?

3 THE DEFENDANT: Of this case, of this matter.

4 THE COURT: What reason did you give without describing
5 it as a cover story?

6 THE INTERPRETER: I am sorry?

7 THE COURT: Was the cover story dealing with coming
8 to the United States on behalf of the copper industry?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Did they ask you whether or not you had
11 any relations with Lt. Colonel Espinoza or Colonel Contreras
12 before coming to the United States?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: What did you tell them?

15 THE DEFENDANT: That yes, that they both were my
16 chiefs.

17 THE COURT: You told them that you came to the United
18 States at their direction?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Come to the Bench, counsel.

21 [At the Bench:]

22 THE COURT: Mr. Herrera, you and Mr. Fernandez may
23 have a seat.

24 [The defendant and the interpreter seated.]

25 THE COURT: I am having problems with this matter.

1 I don't know whether I have been able to bring out from
2 him the fact that he was indeed an accessory after the fact.

3 MR. GENESON: I think, Your Honor, if I might,
4 he recognizes that he provided false testimony concerning
5 the entire matter to representatives of the United States
6 Government, that is, Gene Propper and the legal attache,
7 Bob Sherrer, and he recognizes that he provided false testimony
8 which directly affected the U.S. extradition process, and
9 the false testimony specifically dealt with being sent up
10 here concerning the Letelier problem, as he calls it -- the
11 case, and my perception, if I might, Your Honor, is that
12 once he is aware of the crime itself, which he has indicated
13 specific awareness of, and he does anything to assist or prevent
14 the apprehension of others, specifically Contreras and
15 Espinoza, who were under the extradition process, by giving
16 those false statements to U.S. Government representatives
17 has made out a prima facie case, and I believe he has recog-
18 nized that on the record, and in the factual proffer which
19 he executed, Your Honor.

20 THE COURT: The three people that they were seeking
21 to extradite were?

22 MR. GENESON: Colonel ---

23 THE COURT: Contreras, Espinoza and Fernandez?

24 MR. GENESON: That is correct, Your Honor.

25 THE COURT: I have been about this for quite a little

1 while.

2 MR. GENESON: Yes, Your Honor, but I think you
3 have brought out the facts.

4 THE COURT: Let me ask a few more questions,
5 just a few more questions.

6 MR. KLEIBOEMER: Okay.

7 [In open court:]

8 THE COURT: Mr. Fernandez, come back.

9 [Defendant Fernandez and Interpreter Herrera return
10 to the lectern.]

11 THE COURT: Mr. Fernandez, you did talk to Mr.
12 Eugene Propper of the U.S. Attorney's Office concerning this
13 matter down in Chile?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And also an agent from the Federal Bureau
16 of Investigation?

17 THE DEFENDANT: Yes, Your Honor.

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25

1 THE COURT: And what do you understand that
2 they were there in Chile to investigate?

3 THE DEFENDANT: I am sure that they were investi-
4 gating the murder of Mr. Letelier.

5 THE COURT: And the hearing before the Supreme
6 Court of Chile, what was that about, that you were involved
7 in?

8 What was it about?

9 THE DEFENDANT: Oh, it was for my extradition.

10 THE COURT: I am sorry. I didn't understand
11 your first several words.

12 THE INTERPRETER: It was about my extradition.

13 THE DEFENDANT: But also I understand that my
14 extradition was about the murder of Mr. Letelier.

15 THE COURT: And in that connection they were
16 asking you why you were in the United States?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: In response to questions as to why
19 you were in the United States, the answers that you gave
20 to the Supreme Court of Chile, were they true or were they
21 false?

22 THE DEFENDANT: They were false.

23 THE COURT: Were you there when Mr. Townley also
24 was before the Supreme Court?

25 THE DEFENDANT: No, Your Honor.

4-2

1 Mr. Townley was sent to the United States, I
2 think, in April or June of 1978, and I go to the Supreme
3 Court in September or October of '78.

4 MR. GENESON: With the Court's permission,
5 there was a prior proceeding in front of a Chilean magistrate
6 concerning letters interrogatory, which was also mentioned
7 in the factual proffer, Your Honor.

8 THE COURT: What paragraph is that?

9 What page is that?

10 MR. GENESON: Let me find it, Your Honor.

11 Okay. I believe it is, Your Honor, it starts
12 at the bottom of page 9, Your Honor, and continues on page
13 10, and that is the proceeding where Mr. Fernandez and
14 Mr. Townley appear.

15 THE COURT: Now, were you before the Supreme
16 Court of Chile when Lt. Col. Espinoza and Colonel Contreras
17 were there?

18 THE DEFENDANT: In the hospital, yes, Your Honor.

19 THE COURT: Did you hear them offer testimony?

20 THE DEFENDANT: No, Your Honor, because I went
21 the day before. No. After they went, Colonel Espinoza,
22 and after went Contreras.

23 THE COURT: All right.

24 Now, did you talk with either or both of them as
25 to your testimony before the Supreme Court?

4-3

1 THE DEFENDANT: Oh, yes.

2 The same day that I appeared in the Supreme
3 Court, when I returned to the hospital, Espinoza --

4 THE COURT: I want to know before you went to the
5 Supreme Court.

6 THE DEFENDANT: Oh, before.

7 THE COURT: Yes.

8 THE DEFENDANT: Oh, yes.

9 THE COURT: All right.

10 THE DEFENDANT: Yes, I talk about what I was,
11 about what I must said to the Supreme Court, and also this
12 is not an excuse, but this is the truth.

13 General Carrasco, that was a general, go to my
14 room, and say you must say this thing.

15 THE COURT: Say what?

16 THE DEFENDANT: The cover story.

17 THE COURT: The cover story?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: At that point in time did General
20 Carrasco know the true facts as to why you were in the
21 United States?

22 THE DEFENDANT: Oh, my. He knows very well.
23 I also give one day, I don't remember at this moment the day
24 exact that I give, I give my testimony.

25 THE COURT: To whom?

4-4

1 THE DEFENDANT: To Carrasco.

2 Just the same thing that I am talking with you
3 today.

4 THE COURT: And General Carrasco later became
5 head of DINA, after Contreras?

6 THE DEFENDANT: No, no, no. That was General
7 Mena.

8 Carrasco was the general that have a charge --
9 He was in charge of the case.

10 THE COURT: All right.

11 Do you remember sometime in April of 1978 you,
12 together with Townley, appeared before a Chilean magistrate,
13 around April 1st of 1978?

14 THE DEFENDANT: Yes, Your Honor. I remember
15 that.

16 THE COURT: Did you make any statement before the
17 magistrate?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And what statement did you make con-
20 cerning your coming to the United States?

21 THE DEFENDANT: I don't remember what I said,
22 but I know that I don't say the truth. I don't remember
23 exactly, but I think that was the same thing of Codelco.

24 THE COURT: Did Mr. Townley testify at that
25 hearing as far as you know?

4-5

1 THE DEFENDANT: No, I remember that I saw
2 Townley.

3 The statement was taken in an office of DINA.
4 It was in an office of DINA, and I remember that I saw
5 Townley with his lawyer and he say to me, if you want, you
6 can, he say to me that I also can take the Fifth Amendment,
7 and I say, no, I am going to talk with and I go to the
8 office and I answer all the questions that they ask me.

9 THE COURT: Did you answer the questions truth-
10 fully?

11 THE DEFENDANT: I think that all the -- I don't
12 remember what the questions was, but I answered all the
13 questions truthfully without the question that my trip to
14 the United States.

15 THE COURT: What questions did they ask you?

16 THE DEFENDANT: Oh, it was if I was a military --
17 if I went to the United States. That kind of thing.
18 But I remember that --

19 THE COURT: Did they ask you about going to
20 Paraguay?

21 THE DEFENDANT: I don't remember that. I don't
22 remember.

23 THE COURT: Did they ask you about any conversa-
24 tions you may have had with Espinoza?

25 THE DEFENDANT: Really, Your Honor, I don't remembe

4-6

1 what was the question that they gave me.

2 THE COURT: Did you realize that the answers that
3 you were giving before the Supreme Court of Chile and
4 before the magistrate in Chile in April of 1978 concerned
5 an investigation of the circumstances of Mr. Letelier's
6 death?

7 THE DEFENDANT: Yes, Your Honor. I know that.

8 THE COURT: And you realize that the answers
9 that you were giving to the questions that were put to you
10 were false?

11 THE DEFENDANT: Yes, Your Honor, I know that.

12 THE COURT: Did you realize that the answers to
13 the questions that you were giving impeded the efforts to
14 have your extradition papers in order so that you could
15 return here to the United States?

16 Strike that question.

17 Let me put it another way.

18 THE DEFENDANT: Yes, Your Honor --

19 Oh, excuse me.

20 THE COURT: Did you realize that these questions
21 that were put to you were an effort to have you extradited
22 to the United States in connection with the assassination of
23 Letelier?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Have you had full opportunity to

4-7 1 think about what you are doing here this morning?

2 THE DEFENDANT: About ten years, Your Honor.

3 THE COURT: All right.

4 Are the answers to the questions put to you by
5 the Court, are they truthful answers?

6 THE DEFENDANT: All the truth, Your Honor.

7 THE COURT: Do you feel that in any way over the
8 last month, and particularly over the last several days,
9 that you have been abused in any way, physically abused in
10 any way?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Do you feel that anyone here in this
13 courtroom, and more particularly the United States Attorney,
14 has tricked you or misled you in any way?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Have you had full opportunity to
17 discuss this matter thoroughly and completely with
18 Mr. Kleiboemer?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: I ask you again at this point:
21 Do you have any complaint or criticism of his services as
22 your attorney?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: And you understand completely the
25 15-page factual proffer? You understand what is contained

4-8

1 in that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Show him that.

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And it was explained to you in the
6 presence of your attorney after Mr. Herrera read it to you?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Did Mr. Kleiboemer discuss with you
9 the fact that I would not agree to a seven-year maximum
10 sentence?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And did you agree to enter a plea
13 despite my position with respect to the maximum sentence to
14 be served?

15 THE DEFENDANT: Yes, Your Honor.

16 When I come here, I know that. I prefer to
17 come here and not to go to Chile.

18 THE COURT: Why?

19 THE DEFENDANT: To clear my name.

20 THE COURT: Are you married?

21 THE DEFENDANT: No, sir.

22 THE COURT: Did you wish to say something, counsel?

23 MR. GENESON: No, Your Honor, I have nothing
24 to add.

25 THE COURT: Mr. Kleiboemer?

4-9

1 MR. KLEIBOEMER: Yes, Your Honor?

2 I have nothing to add.

3 THE COURT: Well, the Court finds that there is
4 a factual basis for the plea.

5 Take his plea.

6 THE DEPUTY CLERK: May the record reflect that
7 the defendant and his counsel have received a copy of the
8 information.

9 Armando Fernandez Larios, in Criminal Case 78-367,
10 do you wish to enter a plea of guilty to the information
11 charging accessory after the fact to the murder of a
12 foreign official in violation of Title 18, United States
13 Code, Section 1116(a) and (3)?

14 THE COURT: Before he answers --

15 You realize that a condition of this plea agree-
16 ment, that you have to cooperate with the United States
17 Government?

18 Do you understand that?

19 THE DEFENDANT: Very well, Your Honor.

20 THE COURT: And where appropriate, to afford
21 testimony?

22 THE DEFENDANT: Yes, I know that, Your Honor.

23 THE COURT: All right.

24 Take his plea.

25 THE DEPUTY CLERK: How do you wish to plea?

4-10

1 THE DEFENDANT: Guilty.

2 THE DEPUTY CLERK: A plea of guilty is entered,
3 Your Honor.

4 THE COURT: Very well.

5 Shall I set a sentencing date in this matter?

6 MR. GENESON: Pardon me, Your Honor?

7 THE COURT: Shall I set a sentencing date in
8 this matter?

9 MR. GENESON: Yes, Your Honor, we would request,
10 with the Court's permission, approximately sixty days.

11 We would like the opportunity to speak with
12 Mr. Fernandez and get his cooperation as fully as possible
13 so we can make the Court fully aware of the nature and extent
14 of that cooperation.

15 THE COURT: I think under the rules he will have
16 to be sentenced within a set period of time.

17 I don't think it extends as long as sixty days.

18 Mr. Kleiboemer, do you have any problem with that?

19 MR. KLEIBOEMER: Your Honor, I join in that
20 request.

21 THE COURT: You better talk to your client.

22 He is the one that is going to be sentenced.

23 MR. KLEIBOEMER: Yes, Your Honor, I have dis-
24 cussed it with him.

25 THE COURT: All right.

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MR. KLEIBOEMER: Because I think it will be necessary to get information concerning him which, due to the distance from his home country, is difficult to obtain.

THE COURT: All right.

All right. I will set a date.

Today is the 4th of February.

MR. KLEIBOEMER: Yes, Your Honor.

THE COURT: I will set sentencing in this case for April the --

Bring it back.

(Informal discussion between the Court and clerk.)

THE COURT: April 6.

Would that give you sufficient time?

MR. GENESON: Fine, Your Honor.

THE COURT: Mr. Kleiboemer, will that give you sufficient time?

MR. KLEIBOEMER: Yes, Your Honor.

THE COURT: All right.

April 6 at 10:00 o'clock.

That is a Monday.

MR. GENESON: All right.

THE COURT: Come to the bench, counsel.

(At the bench:)

THE COURT: What do you want done with this officially?

4-12

1 MR. GENESON: That is the original.

2 I would like to have copies so Mr. Kleiboemer
3 and I have a copy, if you don't mind, Your Honor.

4 THE COURT: What -- A redaction has been made
5 in this.

6 MR. GENESON: In the plea agreement itself.

7 There is no redaction in the factual proffer.

8 I have a sealed version to be filed with the
9 Court. I was going to wait until after the proceedings
10 and file it with the Court.

11 THE COURT: All right.

12 Have that filed and make some copies for
13 counsel and send a copy up to chambers, too.

14 (Court hands to the clerk.)

15 MR. GENESON: I will file that today, Your Honor.

16 There is a complete version of the plea
17 agreement, including the security procedures, paragraphs
18 5(H) and 5(I) are included.

19 THE COURT: You are going to --

20 MR. GENESON: File it under seal, Your Honor.

21 THE COURT: That will be filed under seal.

22 The plea agreement will be filed under seal.

23 Give it to this young lady.

24 MR. GENESON: The redacted version?

25 THE COURT: The redacted.

4-13

1 MR. GENESON: This version you have with you,
2 Your Honor, is the redacted version for public filing.

3 MR. KLEIBOEMER: Your Honor, I understand com-
4 pletely there will be one version of the plea agreement
5 which will be open to public inspection.

6 MR. GENESON: Right. That is the version I
7 gave you.

8 MR. KLEIBOEMER: With the redacted paragraphs
9 in it, it will be sealed.

10 Okay. That is fine.

11 THE COURT: Those are paragraphs (H) and (I)
12 of what?

13 MR. GENESON: Paragraph 5.

14 THE DEPUTY CLERK: Judge, do you have the copy
15 to be filed for the public?

16 MR. GENESON: That is the public version.

17 THE COURT: This is it, and I haven't looked
18 at -- Are you sure?

19 MR. GENESON: That is the public version.

20 MR. KLEIBOEMER: Thank you, Your Honor.

21 MR. GENESON: Yes, this is the public version,
22 Your Honor.

23 MR. KLEIBOEMER: File that.

24 (End of bench conference.)

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4-14

(In open court:)

THE DEPUTY MARSHAL: This Honorable Court will stand in recess until 2:15.

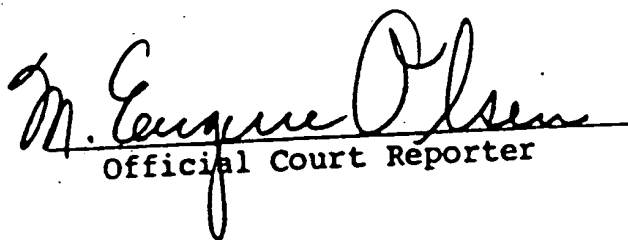
(Whereupon, at 1:15 p.m., the above-entitled arraignment and plea was concluded, and the Court recessed until 2:15 p.m., the same day, for the consideration of other matters.)

CERTIFICATE OF REPORTER

I, M. Eugene Olsen, C.S.R., an Official Court Reporter for the United States District Court for the District of Columbia, do hereby certify that I reported in my official capacity the proceedings had in the arraignment and plea in the case of United States v. Armando Fernandez Larios, Criminal Number 78-0367, in said court, on the 4th day of February 1987.

I further certify that the foregoing 83 pages constitute the official transcript of the said proceedings as taken from my shorthand notes.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 4th day of February 1987.


Official Court Reporter