

VIOLACIONES A LOS DERECHOS HUMANOS: SU JUSTICIABILIDAD FUERA DE LOS SISTEMAS CONVENCIONALES DE PROTECCIÓN

Sinopsis: La Corte del Distrito Sur de Florida emitió una orden mediante la cual resolvió un juicio civil de daños bajo el *Alien Tort Act*. En esta resolución, ordenó el pago de daños compensatorios y punitivos por violaciones a los derechos humanos de Manfredo Velásquez, en favor de dos familiares de éste. El caso del señor Manfredo Velásquez fue el primer asunto contencioso resuelto por la Corte Interamericana de Derechos Humanos. Se transcribirán las partes pertinentes de la sentencia de la Corte internacional.

Synopsis: *The Federal Court of the South Florida District issued a judgment according to which it resolved a civil complaint for damages under the Alien Tort Act. In this judgment, it ordered the payment of compensatory and punitive damages for the violations of Mr. Manfredo Velásquez's human rights, in favour of two of his family members. The case of Mr. Manfredo Velásquez was the first contentious case resolved by the Inter-American Court of Human Rights. The relevant parts of the Inter-American Court's judgment will be transcribed.*

CORTE INTERAMERICANA
DE DERECHOS HUMANOS

CASO VELÁSQUEZ RODRÍGUEZ
SENTENCIA DEL 29 DE JULIO DE 1988

En el caso Velásquez Rodríguez, la Corte Interamericana de Derechos Humanos, integrada por los siguientes jueces:...

IX

147. La Corte entra ahora a determinar los hechos relevantes que considera probados, a saber:...

148. Por todo lo anterior, la Corte concluye que han sido probadas en el proceso: 1) la existencia de una práctica de desapariciones cumplida o tolerada por las autoridades hondureñas entre los años 1981 a 1984; 2) la desaparición de Manfredo Velásquez por obra o con la tolerancia de esas autoridades dentro del marco de esa práctica; y 3) la omisión del gobierno en la garantía de los derechos humanos afectados por tal práctica...

XI

185. De todo lo anterior se concluye que de los hechos comprobados en este juicio resulta que el Estado de Honduras es responsable de la desaparición involuntaria de Ángel Manfredo Velásquez Rodríguez. En consecuencia, son imputables a Honduras violaciones a los artículos 7o., 5o. y 4o. de la Convención...

XIV

194. POR TANTO,
LA CORTE,
por unanimidad...

2. Declara que Honduras ha violado en perjuicio de Ángel Manfredo Velásquez Rodríguez los deberes de respeto y de garantía del derecho a la libertad personal reconocido en el artículo 7o. de la Convención, en conexión con el artículo 1.1 de la misma.

por unanimidad

3. Declara que Honduras ha violado en perjuicio de Ángel Manfredo Velásquez Rodríguez los deberes de respeto y de garantía del derecho a la integridad personal reconocido en el artículo 5o. de la Convención, en conexión con el artículo 1.1 de la misma.

por unanimidad

4. Declara que Honduras ha violado en perjuicio de Ángel Manfredo Velásquez Rodríguez el deber de garantía del derecho a la vida reconocido en el artículo 4o. de la Convención, en conexión con el artículo 1.1 de la misma.

por unanimidad

5. Decide que Honduras está obligada a pagar una justa indemnización compensatoria a los familiares de la víctima...

UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF FLORIDA.
CASE NO. 02-22046-CIV-LENARD/KLEIN-
31 DE MARZO DE 2006
OSCAR REYES, GLORIA REYES, JANE DOE I, JANE DOE
II, ZENAIDA VELÁSQUEZ, AND HECTOR RICARDO
VELÁSQUEZ, PLAINTIFFS
VS.
JUAN EVANGELISTA LÓPEZ GRIJALBA (GRIJALVA),
DEFENDANT

Findings of fact and conclusions of law

THIS CAUSE is before the Court sua sponte. Default was entered as to defendant Juan Evangelista López Grijalva on February 16, 2006. A trial on damages was held on March 16, 2006. Having heard the testimony of the plaintiff Oscar Reyes and plaintiff Gloria Reyes and after full consideration of the affidavits and other evidence in the record, it is ORDERED AND ADJUDGED that the following findings of fact and conclusions of law are herein made:

1. *Findings of fact**

A. *Background of military abuses in Honduras*

In the early 1980s, hundreds of people were disappeared by the Armed Forces of Honduras. Suspected “subversives” were de-

* Except where otherwise indicated, those findings of fact relevant to Oscar Reyes and Gloria Reyes are based on each’s testimony at the trial on damages.

tained and tortured: most of them were killed. The detentions were not publicly announced, and when family members or the media inquired about the detainees, the Armed Forces generally denied any knowledge of their whereabouts. Complaint at ¶ 42.

In mid-1981, the United States Department of State recognized and documented the role of the Honduran military in these activities. Specifically, the Department stated that the “minions” of the commander-in-chief of the Armed Forces of Honduras, General Alvarez Martinez were carrying out “officially-sponsored / sanctioned assassinations of political... targets”. State Department Cable, 6/17/81, “Reports of [Government of Honduras] GOH Repression and Approach to Problem.” (Plaintiffs’ Exhibit 23).

The *Dirección Nacional de Investigaciones* (DNI) was largely responsible for the disappearances, torture, and killings that took place during this time period. The DNI coordinated joint operations and shared information and members with Battalion 316—a group that committed widespread torture and carried out numerous disappearances and murders. Complaint at ¶¶ 6, 42, 44-45. Additionally, the director of the DNI ordered the Anti-Communist Liberation Army (ELACH) to carry out the murder of at least nine people between 1980 and 1984. CIA Cable, 11/26/86, “Honduran Leftists Executed...” at ¶ 1 (plaintiffs’ exhibit 24).

B. Defendant López Grijalbas Role in the honduran military

In 1978, Colonel Juan Evangelista López Grijalba was named director of the DNI. In 1981 and as director of that entity, López Grijalba held command and control over the operations of DNI in Tegucigalpa, the capital of Honduras. Complaint at ¶ 5. He also oversaw the operations of ELACH and worked with Battalion 316 (plaintiffs’ exhibit 24, at ¶ 1): complaint at ¶ 45.

In 1982, López Grijalba became the director of military intelligence (G-2) for the Armed Forces General Staff. Complaint at ¶ 5. As G-2 director, López Grijalba oversaw the operations of all security forces, including the DNI and Battalion 316. *Id.* at ¶ 45. Both in its clandestine and “official” incarnations, Battalion 316 operated under the direct command of G-2. *Id.* At ¶ 44.

UNITED STATES DISTRICT COURT

C. The human rights abuses in this case

1. The torture and disappearance of Manfredo Velásquez

In 1981, Manfredo Velásquez was a thirty five years old, married man with four children. (Plaintiffs' exhibit 15, at ¶ 18). He had been a primary school teacher, but, at the time of his disappearance, he was studying economics in Tegucigalpa. Although he studied outside of the town in which he lived, he drove home each weekend to be with his family. *Id.* At ¶¶ 19-21.

On september 12, 1981, a man came to the home of Manfredo Velásquez and asked for him. Manfredo Velásque'z son, plaintiff Hector Ricardo Velásquez, answered the door and let the man into the house. The man and Manfredo Velásquez left for Tegucigalpa. This was the last time anyone from Manfredo Velásque'z family, including his son, would see him. Declaration of plaintiff Hector Ricardo Velásquez at ¶ 10 (plaintiffs' exhibit 16).

That same day, Manfredo Velásquez was abducted in down-town Tegucigalpa and taken to a detention center where he was tortured. Complaint at ¶ 37.

Leopoldo Aguilar was the last known person to speak to Manfredo Velásquez. Aguilar was detained in september 1981 and taken to the DNI headquarters in Tegucigalpa, over which López Grijalba exercised command and control. Later, Aguilar was taken by at least one man, whom he knew to be a DNI agent, to a house some distance away. At that house, Aguilar was tortured.

One day, from a room next to the one in which Aguilar was being held, a man called to Aguilar. Although Aguilar could not see this man, he heard him say, in a painful voice, "help me, fellow. My name is Manfredo Velásquez". Deposition of Leopoldo Aguilar at 28-31 (plaintiffs' exhibit 22).

At some later date, Manfredo Velásquez was taken and murdered by ELACH, at the order of the director of the DNI, Colonel López Grijalba, and with the assistance of the DNI (plaintiff's exhibit 24). When Manfredo Velásque'z family

members inquired about his whereabouts, the Armed Forces denied all knowledge of his disappearance. Specifically, plaintiff Zenaida Velásquez met with, among others, Colonel López Grijalba, who stated that he knew nothing about Manfredo Velásquez, promised to investigate his whereabouts, but never initiated any investigation (plaintiffs' exhibit 15, at ¶ 9).

2. *The raid on Florencia Sur: the torture of Oscar Reyes and of Gloria Reyes and the disappearance and killing of Hans Madisson*

In 1982, plaintiff Oscar Reyes worked both as a professor of journalism and as a partner/manager of a documentary and advertising business. He was the founder and director of the School of Journalism at the National University of Honduras and had served as a communications advisor to the Honduran Minister of Culture, Tourism, and Information.

Plaintiff Gloria Reyes, the wife of Oscar Reyes, was an interior designer and a housewife. Additionally, she and her husband ran a small market out of their garage.

Hans Madisson was twenty-four years old in 1982. He had recently moved to the Florencia Sur neighborhood of Tegucigalpa to live with his sister, Vicki, and to begin his engineering studies at the university. Previously, he had lived in San Pedro Sula, where he worked installing telephones. Declaration of plaintiff Martha Madisson (Jane Doc 1) at ¶¶ 2-3 (plaintiffs' exhibit 17).

On July 7, 1982, Julio Vásquez, an employee of the *Centro Cristiano de Desarrollo* (CODE), and his friend were stopped by men in military uniforms while driving away from the CODE office. This office was located in the Florencia Sur neighborhood of Tegucigalpa. Vásquez and his friend were forced to follow the men to the headquarters of the General Staff. Deposition of Julio Vásquez, at 20-29 (plaintiffs' exhibit 21).

Inside the General Staff, an officer interrogated Vásquez about plaintiff Oscar Reyes and plaintiff Gloria Reyes, among others. The Reyes family lived across the street from the CODE office.

UNITED STATES DISTRICT COURT

During the interrogation, the military officer spoke with defendant López Grijalba. After the officer finished speaking to defendant López Grijalba, he told Vásquez that he and his friend could not leave Tegucigalpa until further notice. *ID.* At 36-42.

On July 8, 1981, Hans Madisson called his sister, Vaike. He told her he was going to the headquarters of the General Staff to pick up a jacket from their brother, Gerardo Madisson, who, as a member of the military, worked at the General Staff headquarters. Hans Madisson left the Florencia Sur home of his sister Vicki at approximately 6:30 p.m. He never arrived at the General Staff headquarters to pick up the jacket, and he never returned home. Declaration of Vaike Madisson at ¶ 3 (plaintiffs' exhibit 20).

That same night, July 8, 1982, at approximately 9:00 p.m., armed men wearing ski masks raided the Florencia Sur home of Oscar and Gloria Reyes. The men handcuffed the Reyes couple, their twelve-years-old daughter, their housekeeper, and an employee of the small market in their garage. As her parents watched, one of the men kicked the twelve-years-old girl in the head, breaking her glasses. The men blindfolded the resident of the house and forced Oscar and Gloria Reyes over a wall in the backyard of the house and into a vehicle parked there.

As the armed men broke into the Reyes home, Julio Vásquez and a friend were inside the CODE office. They heard shooting and the sound of military radios outside. Vásquez looked out the window and saw military personnel and a tank in the street. A soldier used a megaphone to order Vásquez and his friend outside. They complied and were surrounded by armed soldiers. The man with the megaphone threw Vásquez and his friend against the tank and threatened them with a pistol. Vásquez saw many soldiers and vehicles, including plainclothes members of DNI (plaintiffs' exhibit 21, at 54-66).

While Oscar and Gloria Reyes were detained inside the vehicle behind their house, they heard soldiers stop someone on the street. Because the Reyeses knew that their son would be returning from the cinema around that time, they feared that this per-

son was their son. From the street, Julio Vásquez watched as the soldiers stopped this young man and threw him to the ground (plaintiffs' exhibit 21, 82-91). The soldiers hit the man and took him away. Then, Oscar Reyes and Gloria Reyes heard gunshots. Each feared that their son had been killed.

Next, Julio Vásquez watched a jeep approach and park on the street. He saw that colonel López Grijalba was sitting in the passenger seat, dressed in fatigues. Vásquez observed López Grijalba as he exited the jeep, spoke with the soldiers, and appeared to be giving them orders. At that time, the soldiers blindfolded Vásquez and bound his hands with wire (*id.* at 97-99). Both Vásquez and his friend were thrown in a van. In the van, Vásquez noticed that another person was there: this person did not move, but smelled of blood (*id.* at 103).

From the alley behind their home Oscar Reyes and Gloria Reyes were driven to a house outside of the city. During this trip, one of the soldiers repeatedly fondled Gloria Reyes.

Upon arriving at the house, the soldiers separated Oscar and Gloria Reyes. Oscar Reyes was left in a corner inside the house, where individuals would gratuitously kick him as they walked by. Eventually, Oscar Reyes was taken to a room. The soldiers applied electric shocks to various parts of his body, including his genitals, and interrogated him about "guerrillas" and "subversives." Oscar Reyes denied any knowledge of and any involvement with any such persons or group.

Later, Oscar Reyes was taken into another room. His wrists were handcuffed behind his back, the handcuffs were attached to a meat hook, and the soldiers hoisted him into the air "like a piñata". While he was in this position, the soldiers repeatedly swung him back and forth, striking him with their rifle butts and causing intense pain and injury to his arms and chest. Oscar Reyes fell in and out of consciousness, only to be awakened by blows to his body and questions about guerrillas and subversives.

In response to the soldier's questions, Oscar Reyes reiterated that he had no knowledge about or connection to any guerrillas or subversives. At this point, the soldiers threatened to execute him. They took Oscar Reyes outside and placed him against a tree.

One soldier screamed, “Fire!” After a few seconds, Oscar Reyes realized that he was still alive. The soldier who screamed the order then declared, “We will kill him tomorrow.” The soldiers took Oscar Reyes to a third room filled with human excrement, urine, and blood. For days, he waited in this room, without any knowledge of what had happened to his wife or his children, what would happen to him, or for what reason he was being detained and tortured.

In the same house and during this same period, Gloria Reyes was tortured, assaulted, and interrogated. Complaint at ¶ 22. The soldiers removed her clothing and beat her with the butts of their rifles. They applied electric shocks to various parts of her body, including her breasts and vagina. While this was happening, Gloria Reyes lost consciousness several times. Each time she awoke, the soldiers continued to shock her, beat her, accuse her of being a “*sandinista*,” and question her about other individuals.

At some later time, Gloria Reyes heard a man beg his captor not to hang him from the ceiling. At first, she thought the man was her neighbor, but then she realized that it was the voice of her husband, Oscar. The soldiers also forced Gloria Reyes to witness the torture of a young man in the house. She was later placed in a room with a woman who had been beaten so badly that she begged the soldiers to kill her.

While being held in the house, Gloria Reyes was kept in a room smeared and smelling of human excrement, urine, and blood. She was continually beaten by the soldiers. At some point, she realized that blood and water were flowing from her vagina.

The soldiers from the street in Florencia Sur also took Julio Vásquez to the basement of a house that was located outside the city. There, he could hear soldiers beating a woman, whom he thought might have been Gloria Reyes. The soldiers threatened to rape this woman as they beat her, insulted her, and accused her of being a subversive.

The soldiers tortured Julio Vásquez. They applied electric shocks to his body, including to his lips, his nipples, and his genitals. They interrogated him about Oscar Reyes and Gloria Reyes (plaintiffs’ exhibit 21, at 107-114).

Approximately three days after the disappearance of Hans Madisson, that is, on or about July 11, 1992. Hans Madisson's brother, Gerardo Madisson, was ordered to appear at the General Staff before a man who identified himself as a G-2 officer. The officer explained that the commander-in-chief, general Alvarez, and Colonel López Grijalba ordered him to investigate the Hans Madisson case. The man interrogated Gerardo Madisson and implied that Hans Madisson belonged to a left wing organization and used drugs. The next day, the same man threatened Gerardo Madisson and instructed him to stop searching for his brother. Declaration of Gerardo Madisson at ¶¶ 5-6 (plaintiffs' exhibit 19).

On July 14, 1982, two DNI agents arrived at Vaike Madisson's office. The men told her that they had "gotten rid of" Hans Madisson along the *Carretera del Norte* (the Northern Highway). One of the DNI agents was a man named Florencio Caballero (plaintiffs' exhibit 20, at ¶5).

Several days after the initial acts of torture, Oscar Reyes and Gloria Reyes were taken to the DNI headquarters. Oscar Reyes was again interrogated and directed to admit that he was a subversive. Both were placed in cells without the benefit of formal charges or medical treatment. While there, Gloria Reyes was forced to bathe naked in front of male prisoners. The soldiers threatened to place her in a men's cell so that she would be raped.

Eventually, Oscar Reyes and Gloria Reyes were brought before a judge. The judge ordered them detained for sedition. This was the first time they were informed of any charges against them. Oscar Reyes and Gloria Reyes then requested medical treatment for their injuries. A government physician, after a cursory visit, declared that each was fine.

During the months that followed, the family members of Oscar and Gloria Reyes negotiated with the military for their release, threatening to go to the press with their story. Finally, on December 22, 1982, Oscar and Gloria Reyes were released. It had been over five months since the raid on their home.

When releasing them, the military demanded that the Reyeses immediately and quietly leave Honduras. They agreed.

UNITED STATES DISTRICT COURT

On December 23, 1982, after spending a night at an unknown house and under military supervision, military officials escorted the couple to the airport, where their passports were stamped “exit only”.

Oscar and Gloria Reyes fled to the United States. Oscar’s sister lived in Houston, and the couple’s children had flown there just a week before. A few moments later, the family applied for asylum and settled in northern Virginia. Their petition for asylum was finally granted in 1988.

The Reyes couple arrived in the United States with the clothing on their backs and approximately \$1,000,00 money that friends and neighbors in Honduras collected for their trip. They were forced to begin their lives anew, yet, until this day, they suffer from the physical and psychological effects of their torture, detention, and expulsion from Honduras.

Meanwhile, the Madisson family continued their search for Hans Madisson. Some time later, a bag with human body parts and a dental prosthesis like the one worn by Hans Madisson was found. This was the family’s first confirmation that Hans had been killed.

On October 25, 1995, the body of Hans Madisson was exhumed from a spot along the *Carretera del Norte*. His body showed signs of decapitation; multiple fractures of the skull due to blunt and sharp trauma; fractures in the 2nd., 3rd., and 4th. vertebrae; and sharp trauma on both femurs. The cause of death was determined to be a bullet wound in the neck. Exhumation Report (plaintiffs’ exhibit 1).

Four years later, in 1999, Hans Madisson’s remains were delivered to his family (*id.* at ¶ 17).

II. CONCLUSIONS OF LAW

A. *Subject matter jurisdiction*

Plaintiffs have brought this action under the Alien Tort Statute (“ATS”), Title 28, United States Code. Section 1350, and under the Torture Victim Protection Act (“TVPA”), Pub.L., No.

JUSTICIA NO CONVENCIONAL DE DERECHOS HUMANOS

102-256, 106 Stat. 73 (1992) (codified at Title 28, United States Code, Section 1350, at note). This Court has jurisdiction pursuant to the ATS and Title 28, United States Code, Section 1331.

B. Default proceeding

Trough the entry of default against him, defendant López Grijalba is found to have admitted every well-plead allegation found in the complaint; thus, the entry of default establishes defendant López Grijalba's liability in this action. See *Buchman v. Bowman*, 820 F.2d 359, 361 (11th. Cir. 1987); *Petmed Express, Inc. v. Medpets.com, Inc.*, 336 F. Supp.2d 1213, 1217 (S.D.Fla. 2004). The Court finds that the facts pleaded in the complaint and the evidence contained in the record conclusively establish the Defendant López Grijalba's liability as to each plaintiff's claims, namely, the torture of Oscar Ryeyes; the torture of Gloria Reyes; the disappearance of Hans Madisson (John Doe); the extrajudicial killing of Hans Madisson; the disappearance of Manfredo Velásquez; the torture of Manfredo Velásquez; and the extrajudicial killing of Manfredo Velásquez.

C. Damages

1. Federal courts have awarded substantial damages for human rights abuses

Federal courts have awarded significant compensatory and punitive damages for torture, extrajudicial killing, disappearance, and other human rights abuses under the ATS and TVPA. See, e.g., *Romagoza Arce y, Garcia*, 434 F.3d 1254 (11th. Cir, 2006) (total damages of \$54.6 million for 3 plaintiffs bringing torture claims); *Cabello v. Fernandez-Larios*, 402 F.3d 1148 (11th Cir. 2005) (3 million in compensatory damages and \$1 million in punitive damages for four plaintiffs and the decedent's estate for extrajudicial killing, torture, crimes against humanity, and cruel, inhuman or degrading treatment); *Doe v. Saravia*, 348 F.Supp.2d 1112, 1159 (E.D.Cal. 2004) (5 million in compensa-

tory damages and \$5 million in punitive damages to one plaintiff for extrajudicial killing and crimes against humanity); *Mehinovic v. Vuckovic*, 198 F.Supp.2d 1322, 1358-60 (N.D.Ga. 2002) (\$10 million in compensatory damages and \$25 million in punitive damages per plaintiff for torture, cruel, inhuman or degrading treatment, arbitrary detention, war crimes, and crimes against humanity); *Mushikiwabo v. Barayagwiza*, 1996 WL 164496, at *3 (S.D.N.Y. 1996) (between \$10 million and \$35 million per plaintiff in total damages for genocide, torture, and extrajudicial killing); *Xuncax v. Gramajo*, 886 F.Supp. 162, 197-99 (D.Mass. 1995) (between \$1 million and \$9 million in total damages for extrajudicial killing, torture, arbitrary detention, disappearance, and cruel, inhuman or degrading treatment); *Paul v. Avril*, Supp. 330, 336 (S.D.Fla. 1994) (between \$2.5 million and \$3.5 million in compensatory damages and \$4 million in punitive damages per plaintiff for torture and arbitrary detention).

2. The plaintiffs are entitled to compensatory damages

Each of the Plaintiffs in this action has endured mental pain and suffering, mental anguish, and shock and is therefore entitled to compensatory damages.

The Court finds that Oscar Reyes experienced extensive mental pain and suffering during the military raid on his home, his torture, and his detention and that his suffering continues to this day. He witnessed a soldier beat his daughter; he believed that his son had been killed. Oscar Reyes survived brutal torture at the hands of his captors. He endured tremendous physical pain. He was deprived of any information about the welfare of his wife and his children. Oscar Reyes was beaten, shocked with electrodes, interrogated, threatened with execution, degraded, and dehumanized. He continues to struggle with the physical effects of this abuse today. Oscar Reyes was jailed for over five months and forced into exile to build his life anew. His home was ransacked, his possessions taken. His life, as he knew it, was destroyed.

The Court finds that Gloria Reyes experienced extensive mental pain and suffering during the military raid on her home, her torture, her sexual assault, and her detention and that her suffering continues to this day. She, too, witnessed a soldier beat her daughter; she believed that her son had been killed. She heard her husband beg the soldiers not to “string [him] up like a piñata”; she was deprived of any information about the welfare of her children. She witnessed the torture of a young man and saw a woman begging to be killed, her abuse was so severe. Gloria Reyes survived brutal torture at the hands of her captors. She endured tremendous physical pain. She was beaten, shocked with electrodes, interrogated, threatened with rape, degraded, and dehumanized. Her physical abuse was so extreme that it caused blood and water to flow from her vagina. She has since undergone surgery to attempt to address the damage done to her ovaries. Gloria Reyes was jailed, under unmerciful conditions, for over five months before being forced into exile. Her home was ransacked, her possessions taken. She continues to battle depression today. The events of the night of July 8, 1982, and those from the months that followed, permanently altered the path of her life.

The Court finds that Martha Madisson has experienced mental pain and suffering as a result of the disappearance and murder of her brother, Hans Madisson (John Doe). The night of his abduction and for years after, she searched in vain for information about her brother (plaintiffs’ exhibit 17, at ¶¶ 5,6). She was shocked by the discovery of parts of his body in a plastic bag (*id.* at ¶ 7). Like other members of her family, she so feared the military that she did not request that her brother’s body be exhumed so it could be buried (*id.* at ¶ 9). She was tricked by individuals who would call and falsely state that her brother was alive (*id.* at ¶ 10). Finally, in 1995, the government of Honduras exhumed the body of Hans Madisson, and Martha Madisson learned the details of his brutal treatment and death (*id.* at ¶ 11).

The Court further finds that Karen Burgos has experienced mental pain and suffering as a result of the disappearance and murder of her brother, Hans Madisson (John Doe). Like her sis-

ter, Karen Burgos searched for her brother and endured the horror of learning that he had been horribly beaten, decapitated, and shot dead. Declaration of plaintiff Karen Burgos (Jane Doc II) in Support of Plaintiffs' Trial on Damages (plaintiffs' exhibit 18).

The Court finds that Zenaida Velásquez has experienced mental pain and suffering as a result of the disappearance, torture, and murder of her brother, Manfredo Velásquez. Because his body has never been found, she is deprived of the closure many obtain through the burial of a loved one. Declaration of plaintiff Zenaida Velásquez in Support of plaintiffs' Trial on Damages at ¶ 2 (plaintiffs' exhibit 15). Zenaida Velásquez searched desperately for her brother; she met with and was rebuffed by numerous Honduran officials, including defendant López Grijalba; and she received numerous threats as a result (*id.* at ¶¶ 4, 5, 7-0). As part of her search for information, she filed *habeas* actions and criminal cases; she pursued an action before the Inter-American Commission of Human Rights, which led to a successful case against the government of Honduras before the Inter-American Court of Human Rights; she became an activist, seeking justice for her brother, her family, and others (*id.* at ¶¶ 6, 10-13). None of these tremendous efforts, however, have led to any information about her brother, his body, or the events leading up to his death.

The Court finds that Hector Ricardo Velásquez has experienced significant mental pain and suffering as a result of the disappearance, torture, and murder of his father, Manfredo Velásquez. Ricardo Velásquez was merely a boy of 8 years when he lost his father. Declaration of Plaintiff Hector Ricardo Velásquez in Support of Plaintiffs' Trial on Damages at ¶ 4 (plaintiffs' exhibit 16). Because it was he who opened the door to the man who came looking for his father, Ricardo Velásquez blamed himself for his father's disappearance (*id.* at ¶ 10). Throughout his childhood, he prayed that his father would return home, that his family's financial and emotional struggles would end, and that his old life would return (*id.* at ¶ 8). *Eventually, he became an alcoholic, and when he drank, he blamed himself for opening the door that day* (*id.* at ¶ 10). Ricardo

Velásquez continues to suffer immense pain, as, to this day, he has been denied any information about the death of his father (*id.* at ¶ 11).

3. The plaintiffs are entitled to punitive damages

Punitive damages are often awarded after consideration of the following factors: the brutality of the act; the egregiousness of the defendant's conduct; the unavailability of a criminal remedy; the international condemnation of the act; deterrence of others from committing similar acts; and provisions of redress to the plaintiffs, the country and the world. See *Doc v. Saravia*, 348 F. Supp. 2d 1112, 1159 (E.D. Cal, 2004). After its examination of the facts of the present action, the Court determines that Plaintiffs are entitled to substantial punitive damages.

First, the Court finds that the torture of Oscar Reyes, the torture of Gloria Reyes, and the torture and murder of Hans Madisson were all exceedingly brutal. The circumstances surrounding the torture and disappearance of Manfredo Velásquez suggest that his treatment was equally savage.

Second, the Court finds that the conduct of defendant López Grijalba was highly egregious. As a commander in the armed forces, López Grijalba possessed a duty to prevent abuses about which he knew or should have known. Instead, defendant López Grijalba participated in these abuses. Specifically, he was involved in the planning of the raid on Florencia Sur when he participated in the interrogation of Julio Vásquez, in which Vásquez was questioned about Oscar Reyes and Gloria Reyes. Deposition of Julio Vásquez at 34-42 (plaintiffs' exhibit 21). Defendant López Grijalba directly participated in the raid on the home of the Reyes family, meeting with and giving orders to soldiers. (*Id.* at 92-98). Additionally, there is evidence that defendant López Grijalba personally ordered the abduction and murder of Manfredo Velásquez. (Plaintiffs' Exhibit 24, at ¶ 1 (emphasis added). Last, defendant López Grijalba aided in concealing the role of the military in each of the offenses in this action (*e.g.*, plaintiffs' exhibit 15, at ¶ 9).

UNITED STATES DISTRICT COURT

Third, plaintiffs have demonstrated that no criminal remedy is available to them. Oscar and Gloria Reyes were unsuccessful in their efforts to try one of the leaders in the raid of their home. The case filed by the family of Hans Madisson was rejected (plaintiffs' exhibit 17, at ¶ 12). Zenaida Velásquez initiated numerous criminal cases without success. (plaintiffs' exhibit 15, at ¶¶ 6, 10-12).

Fourth, there is no question that the offenses involved in this case are universally condemned. See *Sosa v. Alvarez-Machain*, 42 U.S. 692, 732 (2004) (quoting *Filartiga v. Peña-Irala*, 630 F.2d 876, 890 (2d Cir. 1980)) (torture); *Aldana v. Fresh Del Monte Produce, N.A., Inc.*, 416 F.3d 1242, 1251-52 (11th Cir. 2005) (torture); *Kadic v Karadzic*, 70 F.3d 232, 243 (2d Cir. 1995) (torture and summary execution); *In re Estate of Ferdinand Marcos, Human Rights Litigation*, 25 F.3d 1467, 1475 (9th Cir. 1994) (torture and summary execution); *Saravia*, 348 F.Supp.2d at 1153 (extrajudicial killing); *Xuncax*, 886 F.Supp. at 185 (torture, summary execution, and disappearance); *Forte v. Suarez-Mason*, 694 F.Supp. 707, 711 (N.D.Cal. 1988) (disappearance).

Last, the Court finds that the award of substantial punitive damages in this action will send a message that the offenses of torture, disappearance, and extrajudicial killing shall not be tolerated under any circumstances and shall always be punished.

DONE AND ORDERED in Chambers at Miami, Florida, this 31st. day of March, 2006.

FINAL JUDGMENT

THIS CAUSE is before the Court sua sponte. Default was entered as to defendant Juan Evangelista López Grijalba on February 16, 2006. A trial on damages was held on March 16, 2006, during which the Court received testimonial evidence in support of Plaintiff's application for judgment. On the basis of the testimony presented at trial and of the affidavits and other evidence in the record, the Court issued its Findings of Fact and Conclusions of Law on March 31, 2006. The Findings of Fact and Conclusions of Law are incorporated into the instant Order, and it is

ORDERED AND ADJUDGED that Final Judgment is hereby ENTERED as to defendant Juan Evangelista López Grijalba as set forth below:

1. *In favor of plaintiff Oscar Reyes in the amounts that follow:* Six million dollars (\$6 million) in compensatory damages, plus interest from the date of the entry of this Judgment; and Seven million dollars (\$7 million) in punitive damages, plus interest from the date of the entry of this Judgment.
2. *In favor of plaintiff Gloria Reyes in the amounts that follow:* Six million dollars (\$ 6 million) in compensatory damages, plus interest from the date of the entry of this Judgment; and Seven million dollars (\$7 million) in punitive damages, plus interest from the date of the entry of this Judgment.

UNITED STATES DISTRICT COURT

3. *In favor of plaintiff Martha Madisson (Jane Doe I) in the amounts that follow:* Two million dollars (\$ 2 million) in compensatory damages, plus interest from the date of the entry of this Judgment; and Three million dollars (\$ 3 million) in punitive damages, plus interest from the date of the entry of this judgment.
4. *In favor of plaintiff Karen Burgos (Jane Doe II) in the amounts that follow:* Two million dollars (\$ 2 million) in compensatory damages, plus interest from the date of the entry of this Judgment; and Three million dollars (\$3 million) in punitive damages, plus interest from the date of the entry of this Judgment.
5. *In favor of plaintiff Zanaida Velásquez in the amounts that follow:* Two million dollars (\$ 2 million) in compensatory damages, plus interest from the date of the entry of this Judgment; and Three million dollars (\$ 3 million) in punitive damages, plus interest from the date of the entry of this Judgment.
6. *In favor of plaintiff Hector Ricardo Velásquez in the amounts that follow:* Three million dollars (\$ 3 million) in punitive damages, plus interest from the date of the entry of this judgment.

For all of which, let execution issue.

It is further

ORDERED AND ADJUDGED that the Court shall retain jurisdiction over future proceeding pursuant to Federal rule of Civil Procedure 54(d).

DONE AND ORDERED in Chambers at Miami, Florida, this 31st day of March, 2006.