

THE MIAMI HERALD

March 2, 2005

FEDERAL COURT

Torture verdict is reversed

A federal appeals court has reversed a multimillion dollar 2002 verdict by a West Palm Beach jury against two former Salvadoran generals. The court said the statute of limitations had expired.

BY LUISA YANEZ

lyanez@herald.com

A federal appeals court has reversed a \$54.6 million verdict against two retired Salvadoran generals -- one of them a Broward County resident -- accused of turning a blind eye to the torture of citizens during their country's bloody civil war two decades ago.

The 11th U.S. Circuit Court of Appeals in Atlanta said Monday that the three plaintiffs -- a church worker, a rural doctor and a university professor who were labeled subversives and brutalized by Salvadoran soldiers -- waited more than 10 years, or beyond a statute of limitations, to bring legal action.

The court said the statute of limitations had expired before the generals were sued in a U.S. court in 1999 under the Torture Victim Protection Act of 1991, which allows U.S. courts to assess damages against perpetrators of human rights abuses committed abroad.

The ruling reverses a civil verdict reached by a federal jury in West Palm Beach in July 2002 after listening to weeks of chilling testimony from the three torture victims.

The jury decided the generals were liable for the brutality carried out by their men against those perceived to oppose the Salvadoran government.

"It's the right decision. I'm just surprised it took the court this long to rule," said Miami attorney Kurt Klaus, who represents the two generals, José Guillermo García, 72, of Plantation, and Carlos Vides Casanova, 67, of Palm Coast.

"We had faith that the truth would prevail," said Vides Casanova in a telephone interview.

At trial, Klaus told jurors the El Salvador of the 1980s was chaotic, and that the generals could not be held responsible for the actions of the soldiers under their command. By the time the civil war ended, some 75,000 people had died.

"This is an incredibly cold and harsh opinion," said West Palm Beach attorney James Green, who represented the torture victims.

Green and the Center for Justice & Accountability, the San Francisco-based consortium of pro bono lawyers representing the trio, said Tuesday they will request a rehearing by the three-judge panel that issued the decision, or the court's full panel of 12. If rejected, they will consider whether to petition the U.S. Supreme Court. "We will request a rehearing and point out what we

feel are the court's misunderstandings of the facts and errors of law," said Sandra Coliver, the center's executive director. The legal squabbling centers on when the statute of limitation clock should start ticking.

The torture and atrocities are alleged to have occurred between 1979 and 1983. A lower court set the start date at 1992 when the civil war in El Salvador ended. That, technicality, gave the victims until 2002 to file their claim. They filed in 1999. But Coliver said the Atlanta court rejected the 1992 start date, saying there is no evidence the plaintiffs were prevented or coerced from filing earlier.

News of the reversal was crushing for some of the torture victims; one was philosophical. All three said it had never been about the money.

"I'm very saddened by the court's decision. The trial in West Palm Beach had been a good process, " said Juan Romagoza Arce, 54, who runs a public clinic in Washington, D.C. He was awarded \$20 million of the verdict. He testified he was placed in a torture cell, beaten, raped and shot -- and that Vides Casanova visited his cell.

"That court victory was the only taste of justice we had for what happened to us. This will send a message to other torturers and human rights violators that they can be saved in the U.S.," he said.

Another torture victim, Neris González, 49, an agricultural educator in Chicago, was stunned by the appellate court's ruling but unbowed. She had been awarded \$21.5 million.

González, a church worker who taught peasants, was pregnant when she was abducted by the Salvadoran military. She was beaten and raped and left for dead in a pile of corpses. Her son was born but died two months later.

"We will continue our fight. We will always know this case was won in the eyes of the world and the jury," she said.

Carlos Mauricio, 53, a professor, was awarded \$13.1 million. He said he was tortured for eight days, strung up by his arms, starved and beaten.