

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

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DOLLY M. E. FILARTIGA and
DR. JOEL FILARTIGA,

Plaintiffs,

-against-

AMERICO NORBERTO PENA-IRALA, et al,

Defendants.

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79 C 917

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United States Courthouse
Brooklyn, New York

February 12, 1982
9:00 A.M. o'clock

B e f o r e :

HONORABLE JOHN L. CADEN, U.S. MAGISTRATE

GENE RUDOLPH
OFFICIAL COURT REPORTER

EASTERN DISTRICT COURT REPORTERS
UNITED STATES DISTRICT COURT
225 CADMAN PLAZA EAST
BROOKLYN, NEW YORK 11201
852-7105

A p p e a r a n c e s :

RHONDA COPELON, ESQ.,
BETTY LAWRENCE BAILEY, ESQ.,
PETER WEISS, ESQ.,
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853 Broadway
New York, New York 10003

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2 MS. COPELON: We were going to begin this
3 morning with Miss Bailey. We were going to begin
4 this morning with Miss Bailey who is going to make
5 a brief opening, just to set the stage for what
6 we are considering here today.

7 THE COURT: All right. Miss Bailey, are
8 you ready?

9 MS. BAILEY: Yes, sir.

10 We just want to point out the importance
11 of this case, that today for the first time in
12 history, a United States Court will sit to vindicate
13 the international guarantee of the human right
14 to be free from torture. These unprecedented
15 proceedings arise out of the landmark decision
16 in the U. S. Court of Appeals for the Second Circuit,
17 in June of 1980.

18 This decision recognized the right of aliens
19 under the Alien Tort Claims Act to sue in federal
20 court to redress violations of the International
21 Law of Human Rights. in cases where the defendant
22 can be found and sued in this country. We are
23 not here to determine whether the defendant is
24 liable. The issue of liability is settled. This
25 Court has ordered that a default judgment be entered

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2 because of defendant's failure to answer plaintiff's
3 complaint.

4 A default judgment on the issue of liability
5 means that all of the allegations in plaintiffs'
6 complaint are to be taken as true. Accordingly,
7 the following allegations are considered true.

8 On March 29, 1976, 17 years old Joelito
9 Filartiga was kidnapped and tortured to death by
10 the defendant Pena.

11 His sister, plaintiff Dolly Filartiga was
12 subjected to intentional infliction of emotional
13 pain and suffering. When he was summoned a few
14 hours after his death to the defendant's house
15 and led to the mutilated body of her brother,
16 and threatened with a similar fate.

17 Joelito was murdered and tortured by the
18 defendant in retaliation for the political acti-
19 vities and opinions of his father.

20 Further, Dolly Filartiga and her mother
21 were arrested and kept in jail without cause right
22 after the murder.

23 This hearing will examine the extent of
24 suffering of the plaintiffs. We will present four
25 witnesses; Joelito's father, Mr. Filartiga, and

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2 his sister, Dolly, will describe the terrible and
3 lasting impact of the torture and murder upon them.

4 Robert White, the former U.S. Ambassador
5 to Paraguay and later El Salvador will describe
6 the role and impact of torture in maintaining Latin
7 America's most repressive dictator, General Stroessner.

8 Finally, Jacobo Timmerman, the former editor
9 of the Argentinian paper La Opinion, will discuss
10 torture from the perspective of an observer of
11 a society decimated by torture as well as a victim
12 trying to understand the impact of torture on the
13 life of a person.

14 We will seek damages for the following:

15 1. The pain and suffering of decedent Joelito
16 Filartiga as a result of the torture.

17 Damages for the wrongful death of Joelito,
18 the pain and suffering which was intentionally
19 inflicted on the plaintiffs as a result of Joelito's
20 torture.

21 And punitive damages to punish the defendant
22 for this most inhuman crime against Joelito, his
23 family, and as Judge Kauffman stated, all humanity.

24 No amount of money --

25 THE COURT: Whose law are you applying?

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2 MS. BAILEY: Well, that -- we will present
3 additional evidence to you in the form of affidavits
4 and we will present memoranda of law to you addressing
5 those issues.

6 No amount of money could right the wrong
7 done to Joelito, his family and humanity. However,
8 money damages is the only way the law provides
9 to compensate for the injuries suffered by plaintiffs.
10 Thus, we ask for compensatory and punitive damages
11 in the amount of 10,000,000, not as an evaluation
12 of Joelito. His worth as a human being is beyond
13 monetary evaluation. Nor as an evaluation of the
14 endless suffering of his family. That can never
15 be fully compensated in dollars. But to respond
16 to the wrong done in the only way possible, under
17 our laws.

18 This Court has the responsibility of acting
19 on behalf of the international community, to vindi-
20 cate the critical international interests of freeing
21 society from torture.

22 THE COURT: Thank you.

23 Are you ready to proceed?

24 MS. COPELON: Yes. The first thing I would
25 like to do is qualify Martin Poblete as the

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2 translator.

3 THE COURT: All right.

4 MS. COPELON: Do you want the witnesses
5 sworn?

6 THE COURT: Absolutely. I'll do that. As
7 far as the interpreter is concerned, you can just
8 state your qualifications and that will be fine
9 with me.

10 THE INTERPRETER: Martin Poblete,
11 P-o-b-l-e-t-e.

12 Yes. I am a former professor of European
13 contemporary history at the University of Chile.
14 Here I am teaching Spanish language at the St.
15 Thomas Aquinas College, and I am teaching con-
16 temporary history at the Latin American seminar
17 of Columbia University.

18 THE COURT: That's fine. You can stop right
19 there. You may -- who will be your first witness?

20 MS. COPELON: The first witness is Dolly
21 Filartiga.

22 THE COURT: All right. Miss Filartiga,
23 raise your right hand, please.

24 (Continued.)
25

D O L L Y F I L A R T I G A ,

called as a witness, having been first duly sworn
by the Court, testified as follows:

DIRECT EXAMINATION

BY MS. COPELON:

Q Dolly, will you tell the Court where you
reside today, where you live today?

A I live in United States, Manhattan.

MS. COPELON: Magistrate Caden, let me just
interrupt for a minute to say that Dolly will testify
in part in English and will revert to Spanish when
she has troubles.

THE COURT: Fine.

Q Dolly, what is your occupation?

THE COURT: Why don't we do it all in Spanish?
It is a lot easier, I think. In other words,
every question that Miss Copelon asks, you will
translate in Spanish. It will be a lot easier.

THE INTERPRETER: Yes, sir.

A At this moment I am unemployed.

Q In Paraguay, did you have an occupation?

A I studied when I was in Paraguay.

Q And what did you study in Paraguay?

A I finished my primary school and after

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2 finishing my high school, I was expecting to continue
3 my studies at the School of Medicine.

4 Q And what was your ambition in studying medicine?

5 A What I was expecting to accomplish was to
6 help people.

7 Q Did you want to become a doctor?

8 A Yes.

9 Q Dolly, are you employed today?

10 A No.

11 Q And are you one of the plaintiffs in this
12 action?

13 A Yes.

14 Q What is your relationship to this case,
15 Dolly?

16 A I am Joelito Filartiga's sister.

17 Q Where do you come from originally?

18 A I am from Paraguay.

19 Q When did you come to this country?

20 A I arrived in the United States three months
21 ago.

22 Q How did you come here?

23 A I came through Ammesty International and
24 with a waiver visa.

25 Q Why did you need a waiver vi a?

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A Because I did not have a passport.

Q What is your legal status here today?

A I have my application for political asylum pending.

Q Dolly, could you explain to the Court why you didn't have a passport?

A Because my passport was taken by the authorities while I was in prison.

Q Dolly, can you identify this document, which is marked Plaintiff's Exhibit 1-A and 1-B?

A Yes. This is my application for political asylum.

Q When did you make that application?

A I presented this application three months after my arrival in the United States.

MS. COPELON: Magistrate Caden, we'd like to move that as an exhibit, Plaintiff's Exhibits 1-A and 10-B.

THE COURT: Both 1-A and 1-B will be received.

(So marked.)

Q Dolly, what happened precisely that caused you to come when you did to the United States?

A The tremendous pressure I was receiving in my country by the police, the lack of security I was

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2 experiencing. Another reason was that I wanted to have
3 some form of justice.

4 Q What happened to make you think that that
5 might -- that you should come to this country? What was
6 your purpose in coming here?

7 A The purpose of my trip was to search for
8 Pena, whom I knew was living in the United States.

9 Q How do you know that?

10 A I knew it by a wrong -- a mistake. I received
11 a letter he had sent to his family.

12 Q What did you learn from the letter?

13 A I knew his address.

14 Q I want you to turn your attention, Dolly,
15 to the period of time before your brother Joelito was
16 killed.

17 A Okay.

18 Q How old were you then?

19 A I was 20 years old.

20 Q How old was he?

21 A He was just 17 years old.

22 Q Were there other brothers or sisters in
23 your family?

24 A Yes, there were some younger brothers.

25 Q Who was that?

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A Fourteen year old and eleven year old.

Q They were your sisters or brothers?

A They were my sisters.

Q And where were you living at the time?

A We had to leave, or our status in Asuncion.

Q Were your parents living with you at the
time?

A No, they didn't.

Q Where were they?

A They lived in Ybycui.

Q Why were they living in Ybycui?

A Because they worked there.

Q How often did you see them?

A I used to see them for the weekends.

Q And so who took care of the family during
the week when your parents were in Ybycui?

A My father asked a sailor to take care of
us.

Q Did you also take care of the family?

A Yes. I was the head of household.

Q And can you explain what you were doing?
Is this the period when you were a student, studying medicine?

A Yes.

Q And can you tell us a little about what

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2 your life was like in that time?

3 A It was as the normal, regular life of any
4 normal family, with the exception that we were the Filartiga
5 family and we were against the Government of Stroessner.

6 Q What was your social life like during that
7 time? Did you have friends? Did you go out? What did
8 you do?

9 A Yes, we had friends. We used to go out
10 with my brother.

11 Q Did you spend a lot of time with your brother?

12 A Yes, because we were more or less the same
13 age.

14 Q Dolly, I know this is hard, but would you
15 try to tell the Court what your relationship was like
16 with your brother?

17 A We were great friends, great companions
18 because our parents were far from us, far away, so we
19 tried to get together as best as we can.

20 Q Did you go out together a lot?

21 A Yes.

22 Q Did you share friends together?

23 A Yes.

24 Q Did you confide in each other about your
25 lives?

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A Yes, we trusted each other very much.

Q Dolly, I'm going to show you Plaintiff's Exhibit 2-A and 2-B and ask yo to identify them.

A Yes. This is Joelito when he was five years old.

This is Joelito shortly before his death with my sister.

THE COURT: 2-A and 2-B will be received.

(So marked.)

Q What was the date, Dolly, that your brother was killed?

A He had just arrived from school. We spent a few hours together. Then we went to sleep.

About -- it was more or less 4:00 o'clock in the morning, we heard a person strong knocking on the door, somebody was strongly knocking on the door. We were awakened by Galeano, the Chief of Police, of the precinct in the neighborhood where we lived.

Because I wanted to know what was going on, I asked hikm what happened. He answered me that there was small problem with my brother at Pena's house.

Q Where was Pena's house, Dolly, in relationship to your own house?

A Bot houses were in a row of houses and ours

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2 was separated by one house from the house of Pena.

3 Q And then what happened? When Galeano came?
4 We walked together to the house of Pena and as soon as
5 we got there, I saw a platoon of policemen in the street
6 and also in the house and I asked where was my brother.
7 I was told that he was at the room, at the back of the
8 house.

9 Knowing the house, I walked to that room.

10 A Dolly, when you got to the door of that
11 room, what did you see?

12 Q I saw police there, who was making a sign,
13 sort of showing something, and telling me where my brother
14 was.

15 When I turned and I saw the horrible scene.
16 I just couldn't believe it. I ran to where my brother
17 was and tried to awake him, but he didn't answer.

18 One time after another time. I wanted to
19 cry but they didn't let me. I wanted to ask for help
20 but they didn't let me do that.

21 They told me to be as quiet as possible
22 because it was dawn. They also asked me to take away
23 the body of my brother as soon as possible and bury it.
24 To which I answered them that they should let me think,
25 that I didn't know what to do. In my desperation , I

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2 ran to the street and I met Pena in the hall of the house.

3 Q Did you say anything to Pena and did he
4 say anything to you?

5 A I asked him, sir, what have you done to
6 my brother. He answered me, shut up. Here you have what
7 you have been looking for and deserved.

8 Q Dolly, are you certain those were his words?

9 A I cannot forget.

10 Q Dolly, I'm going to show you Plaintiff's
11 Exhibit 3 and ask you if that's the way you found your
12 brother in that room.

13 A Yes.

14 Q Would you tell the Court when those photo-
15 graphs were taken?

16 A They were taken at my house, he was on the
17 same mattress.

18 THE COURT: Exhibit 3-A will be received.

19 (So marked.)

20 MS. COPELON: It's 3.

21 THE COURT: 3 will be received.

22 (So marked 3 in evidence.)

23 Q After the confrontation with Pena, what
24 did you do?

25 A I kept running to the street but there the

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2 Chief Galeano stopped me and told me, where are you going.
3 I answered him, I was going home. You have to take away
4 the body of your brother from there. I told him I don't
5 know what to do. I cannot touch the body. Then he said,
6 all has been done. He introduced me to the coroner and
7 other person whose identity I don't remember.

8 I told him to excuse me, but I was going
9 home.

10 In my desperation, I started to walk in
11 circles at home. I didn't know what to do. I didn't
12 know how to call my father, what to do.

13 Q Was anyone else at home at this time?

14 A My sister.

15 Q What did you do when you saw your sister?

16 A We hold each other.

17 Q Did you try to get, to reach your father?

18 A First I tried to reach my grandmother. Because
19 she was my closest relative living in Asuncion.

20 Q Then -- did she come over to the house?

21 A Yes. She came home.

22 Q Did you have any trouble reaching your father
23 and your mother in Ybycui?

24 A Yes.

25 Q What happened?

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2 A We tried unsuccessfully for six hours to
3 reach my father and my mother.

4 Q Have you ever had so much trouble reaching
5 them before?

6 A Yes, the night before.

7 Q What happened at that time, your brother
8 was still at Pena's? What happened? Did they continue
9 to ask you to bring him over?

10 A Yes.

11 Q What did you do.

12 A Yes, time and time, over and over again,
13 they insisted. Until the moment they threatened me with
14 throwing the body to the street.

15 Q What did you do, Dolly?

16 A With the help of the sailor who was living
17 with us at home, and a policeman, I took the body of my
18 brother.

19 Q You helped carry the mattress that your
20 brother's body was on?

21 A Yes.

22 Q About how many hours was it until your parents
23 got home?

24 A I think almost seven or seven and a half
25 hours.

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Q What happened when they came home?

A I am not sure. There was so many people at home. All I can remember is that there was crying.

Q Do you remember seeing your mother when she came home?

A Yes, I do.

Q And what happened when she came home, when you saw her?

A My mother got mad.

Q What do you mean "mad?"

A She got mad. She didn't want to believe.

Q What did your father do?

A He went to the room where my brother was, trying to understand what was going on. He took charge of the situation. He took pictures. He began a new diagnosis of the death.

Q Do you remember what happened around the funeral of your brother?

A Yes. More or less, I remember.

Q Can you describe that for the Court?

A Yes. We had his body at home for two days, undressing it and showing it, the tortured body, to all those who came home.

Q Was it -- then there was a funeral?

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A Yes.

Q Did a lot of people come during this time?

A Yes, many people attended. We think that probably 2,000 people.

Q What did you do during this period?

A So many things happened after the death of my brother that we didn't know. We received threats that probably we might be killed.

Q Did you -- did you see police?

A All night. All day, in groups, on trucks, 20, 50 policemen.

Q Were the policemen there all the time that the people kept coming to the house?

A Yes, yes, they were there in front of my house.

Q Was your brother known to a lot of people in the community?

A Yes, he was well known.

Q What did people say to you about your brother?

A They loved him very much. He was full of life.

Q After the funeral, Dolly, do you remember what your feelings were about what had happened?

A I didn't believe what was going on.

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Q Were you afraid during that period?

A Yes.

Q Did you try to imagine what they had done to Joelito?

A Yes, of course. Because I have seen before my father suffering the same.

Q What happened to your life after your brother's death, in the first six months? What was your life like then?

A We received many threats and persecution.

Q Describe those a little bit.

A On the phone, in the court, when we had to appear.

Q What do you mean in the court? How did you happen to come to court?

A When we had to go to court in the morning, the yard, the court was always filled with policemen. We were shadowed. They followed us in cars.

Q Dolly, why did you go to court? What was the case?

A Because we were trying to present the case of my brother before the court.

Q Was that -- how did you feel about trying to do that?

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2 A I had deep -- I was very angered because
3 I knew that there was no justice.

4 Q Did you feel when you got home from court,
5 did you feel safe at home?

6 A No.

7 Q Tell the Court what it felt like to be living
8 in your house during that period.

9 A We had to sleep behind the bed. We had
10 to watch through the night because we heard the noise
11 of weapons being prepared.

12 Q Where were these weapons?

13 A Weapons were in the street. And the house
14 was surrounded.

15 Q Who was carrying the weapons, Dolly?

16 A The policemen.

17 Q What do you mean you heard the noise of
18 weapons?

19 A I think it was a form to make us feel the
20 fear of -- to scare us.

21 Q Wh t else happened during this period?
22 Did you get any other threats during this period?

23 A Yes. My father -- my parents received threats
24 that myself and my younger sister would be kidnapped if
25 we didn't withdraw the case before the court.

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2 Q What did you feel when the telephone rang
3 in your house?

4 A So difficult to explain. Fear, anger, power-
5 lessness, and the knowledge that one is struggling against
6 something which is very strong.

7 Q Did you sleep very much during this period?

8 A No.

9 Q About how much did you sleep?

10 A There were people who came to accompany
11 me for the night. Sometimes I couldn't sleep one hour.

12 Q Did there come a time during this period
13 when you were yourself summoned to court and charged with
14 criminal charges?

15 A Yes, my mother and myself.

16 Q When did that happen? How much after the
17 death of Joelito?

18 A Twenty-five days after the death of Joelito.

19 Q What happened? What were the charges?

20 A We were accused of breaking into a house.

21 Q Into whose house?

22 A Pena's house.

23 Q Was there any other charge against you?

24 A Yes. That we had scratched one of the son-
25 in-law of Pena.

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2 Q What happened with these charges? Did you
3 go to court? Did you have a trial? What -- describe
4 what happened.

5 A We were summoned before the court. The
6 Judge read us the charges and we were sent to jail.

7 Q Were the charges true?

8 A No. They couldn't be true because the house
9 of Pena was under the control of the police. And we were
10 so afraid.

11 Q Did you have any chance to present any evidence
12 or to say anything in this trial?

13 A No. We -- but we were helped by public
14 opinion.

15 Q Were you sentenced as a result of these
16 charges?

17 A Yes, we were sentenced.

18 Q Did you go to jail?

19 A Yes.

20 Q When you went to jail, did you know how
21 long you might stay in jail?

22 A No.

23 Q The Judge didn't say how long you were to
24 be in jail?

25 A No, he didn't.

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Q What did you feel?

A I was afraid for what would happen to the family.

Q How long did you finally spend in jail, Dolly?

A One day.

Q Is it unusual that you spend one day?

A Yes, it is unusual.

Q Why do you think you only spent a day in jail?

A Because we had the help of public opinion.

Q How did that happen?

A My father published an advertisement in the newspaper, asking for security for our lives.

Q There was -- that is what you mean by public opinion?

A Yes.

Q During this period in these first six months when you were going to court, when you were in jail, when you came out of jail, can you tell the Court what you felt emotionally, how you dealt with this emotionally?

A It was terrible. Because I couldn't speak. We couldn't emotionally help each other in the family because we were all going through the same.

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Q You -- go ahead.

A I tried to work, to fill the time. But I couldn't.

Q You aid earlier that you couldn't believe that Joelito was dead. In this period of time, did you believe that he was dead?

A No.

Q What happened in that regard?

A I kept listening to voices in the house. I kept waiting for my brother during one year.

MS. COPELON: Could we take a little break?

THE COURT: Why don't we take another witness, all right?

MS. COPELON: I think if we took a little break.

THE COURT: We can. But I'd like to take another witness. Why don't you take a break, okay? It's been very difficult. I think you can step outside of the courtroom and maybe one of the -- somebody can go with you. But I'd like to take another witness. So can we take Mr. Filartiga, please?

My office is located in room 621. My secretary will be more than happy to help Dolly

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Filartiga. Just take a break and relax, please.

MR. MAGGIO: Thank you, Magistrate Caden.

THE COURT: Surely. Would you take
Mr. Filartiga?

MR. MAGGIO: Yes, your Honor.

THE COURT: Good morning, Mr. Filartiga.
Would you raise your right hand, please?

J O E L F I L A R T I G A ,

called as a witness, having been first duly sworn
by the Court, through an interpreter, testified
as follows:

DIRECT EXAMINATION

BY MR. MAGGIO:

Q Would you state your name, address and occu-
pation for the Court?

A My name is Joel Filartiga. I'm a medical
doctor, drawer and poet.

I am a permanent opponent to the dictatorial
regime.

Q Where do you reside, Dr. Filartiga?

A I live in Paraguay, in a small town in the
countryside, where I have a small clinic to provide free
attention for poor people. I live there during the week
and in the weekend I go to Asuncion with my family.

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2 Q How do you support yourself if the medical
3 services you deliver are without cost for your patients?

4 A I give free medical care to poor people
5 and to those who have some resources I do charge. I present
6 my drawings at exhibitions. I have been eight times in
7 the United States before, presenting my exhibitions,
8 lecturing on my work on rural medicine.

9 Q Could you please tell us a bit about your
10 family, Dr. Filartiga?

11 A We are a family normally studied, my wife
12 and four sons, Dolly, Joel, Analida and Catya. Joel on
13 March 30, 1976 was killed under brutal torture.

14 MR. MAGGIO: Could I have Exhibit 2-B,
15 please?

16 Q Why was Joel murdered?

17 A Joel was killed as a retaliation for my
18 opposition.

19 Q I would like to show you a copy of Plaintiff's
20 Exhibit 2-B. Is this an accurate picture of Joel shortly
21 before his death?

22 A Yes. It is a picture taken seven months
23 before his death on the occasion of the birthday of his
24 sister Analida.

25 Q Could you tell the Court about your

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2 relationship with Joel, what his goals were in life, his
3 activities.

4 A We were close friends. We talked about
5 justice in our country and in the world. We had long
6 dialogues. We even talked about the danger on our lives,
7 of a situation of opposition to the regime, that in danger
8 of our lives, of the possibility of being tortured and
9 I had been four times in prison and three times tortured.
10 I talked to him about my experience and how to behave
11 before the torturer.

12 Q How was Joel's health? Was there anything
13 unusual about your son's health?

14 A He was a very strong kid, very healthy.
15 He's what in medicine we would call --

16 THE INTERPRETER: That's a very specialized --

17 THE COURT: I got the idea.

18 THE INTERPRETER: Thank you.

19 A (Continuing) Tempermental. It is the type
20 of a kid for whom is very dangerous to have some -- to
21 have some sudden fear because they may have a heart stroke.
22 It is the problem of health that can be overcome once
23 adolescence is over.

24 Q This problem would not interfere with his
25 life expectancy?

1
2 A Absolutely not. I suffer the same symptoms
3 when I was a kid and I was operated from the -- from the
4 adenoids.

5 Q What did Joel want to do with his life?

6 A He had two projects for his life in the
7 future. In regard to profession. He was a good drawer.
8 And he wanted to be an architect. But once he started
9 helping me in my medical work, he said that he thought
10 he could be more helpful to people by being a medical
11 doctor. Lately that was his -- that was his decision,
12 to become a medical doctor.

13 Q Did Dolly also help you in your clinic?

14 A Yes, she helped me very much in the clinic.
15 Dolly also helped me as a nurse.

16 Q What kind of help specifically would Dolly
17 and Joel give you in your clinic?

18 A If Dolly had continued there, she would
19 be at this time a student of medicine and probably she
20 would be helping me with surgical operations.

21 And Joel would have also been studying medi-
22 cine.

23 Q Dr. Filartiga, you said that you had been
24 arrested and tortured yourself in Paraguay. Could you
25 tell us about your detention and torture in Paraguay?

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2 A I was arrested four times and tortured three
3 times. In 1958, there was a movement of workers and students
4 against the dictatory regime of Stroessner in which I
5 was the coordinator of student front with the workers.
6 I was taken prisoner and tortured during 11 days contin-
7 uously, without food and under forced labor. Almost to
8 the limit of death. Afterwards, in 1963, I was tortured
9 in more classical forms.

10 Q Could you tell us about the forms of torture
11 that were used against you?

12 A The telephone, which is a -- with both hands,
13 violently, they put both hands and violently strike on
14 the ears simultaneously both. They also kep me standing,
15 in a standing position for more than 76 hours without
16 sleep. I was also beaten in my lungs, in my kidneys.
17 I was urinating blood for six days as a result of being
18 beaten in the kidneys. And then I was subjected to what
19 they called the submarine. I was submersed in water almost
20 to the point of exhaustion under the supervision of medical
21 doctors to avoid being killed.

22 Then they also put salt in the water to
23 stimulate the capacity of the water to communicate elec-
24 tricity, conduct electricity and I was subjected to electric
25 shocks which resulted in lack of control of the sphincters

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2 and so that one has to defecate and urinate in the water
3 and one is kept permanently submersed in that water approxi-
4 mately for three hours each session, lasts three hours.

5 This is very painful but more painful is
6 to be a spectator for two or three hours and I had to
7 be -- I had to be a spectator of the torture of a veteran
8 of the war of Chaco, a man of 67 years of age, who was
9 taken almost to the point of death.

10 Q Did sthe victims cry out, that you saw
11 tortured?

12 A Yes, they did scream, brutally. There were
13 also some stereo equipment being played loudly so that
14 they could -- that sound could cover the screams.

15 Q Were electrical shocks also placed directly
16 on your body in these torture sessions?

17 A No. They did it by means of water, to avoid
18 leaving marks.

19 Q Dr. Filartiga, what thoughts linger about
20 your experiences under torture?

21 A It is a sensation of being tremendously
22 isolated. A sensation of sudden fear, of feeling prisoner.
23 And thinking that almost all the people do not know what's
24 going on in that place because one knows that people just
25 walk in front of the building of the police and in that

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2 backyard I could count 70 or 80 of us and that night ten
3 were tortured and they would do the same next night, another
4 ten. And the people wasn't conscious of the criminality
5 of that regime.

6 Q How many people did you see being tortured,
7 just this one man from the Chaco War or were there others?

8 A No. I have seen 300 persons tortured. I
9 have seen people dead by torture. I have seen people
10 who were left in poor health as a result of torture. A
11 man by the name of Inchausti, I-n-c-h-a-u-s-t-i, they beat
12 him in the eyes and the eyes was blown out of the orbit.
13 His head was a mass without form as a result of being
14 beaten. I visited his brother and learned that he died
15 in Brazil one year after, after being -- as a result of
16 having been tortured.

17 Q Dr. Filartiga, did you see this man in prison
18 or did you treat this man as a doctor?

19 A I saw him in prison. ut I have also pro-
20 vided medical care for many people who have been tortured,
21 about 500 percents who have been tortured.

22 Q Have you treated --

23 A I know the immediate effect of torture.

24 Q Have you treated persons who have had electric
25 shocks put to their body as part of their torture?

1
2 A Yes. Yes, I have seen the -- that -- the
3 electric shock and I have also seen the marks left by
4 the use of the Picana, p-i-c-a-n-a, which is a prod, a
5 rod, something.

6 Q So that we are clear on this fact, Doctor,
7 you have both seen persons had electric shocks applied
8 to their bodies while in prison and you have also treated
9 individuals who have come to you with injuries as a result
10 of being tortured with electricity in Paraguay; is that
11 accurate, Doctor?

12 A Yes, it is correct.

13 Q You said that you discussed torture with
14 your son Joel. What were these discussions like?

15 A I told him -- I told him that I was living
16 under a state of permanent depression and of permanent
17 fear for myself and for my family. I think that's the
18 way 80 percent of the population of Paraguay lives perm-
19 anently. One of the instruments for the stability of
20 the Government of Stroessner is fear.

21 Q Doctor, calling your attention to late March,
22 1976, in this constant state of political oppression,
23 was there anything unusual or particularly frightening
24 at this time in Paraguay?

25 A Yes. I was in Janury in 1976 in Los Angeles,

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2 California, lecturing on the situation of health in
3 Paraguay. I was interviewed by both the ABC and NBC TV
4 networks, where I spoke about the regrettable situation
5 of Paraguayan peasants. Then I was in Buenos Aires and
6 I was interviewed at Chanel 9 and the program was inter-
7 rupted and I was almost kidnapped. That left me terribly
8 scared, that something might happen to me in Paraguay.
9 Previously in November and December, 1975, many people
10 were taken prisoner in Paraguay.

11 We had information that at least four or
12 five of those were killed and brutally tortured.

13 I spoke about all this with my son and I
14 told him to take care, that we were in danger.

15 Q Doctor --

16 A That if you are taken by the police, don't
17 say anything because you don't know anything, but don't
18 lie because a lie brings another and they will not know.
19 It is better to say that you don't know anything.

20 Q In addition to explaining to your son Joel
21 that he should be careful, were there any other precautions
22 that you took for the safety of your family at this time?

23 A Yes.

24 Q Would you please --

25 A One of them was that sometimes I made a

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2 visit in the middle of the week. My wife has a cousin
3 who is a high navy official in Paraguay and thanks to
4 him, we obtained a sailor to guard our house. It was
5 a way to obtain some guarantees.

6 Q Doctor, at this tim , late March, 1976,
7 you were living in Ybycui; is that right, and the children
8 were in Asuncion?

9 A Yes, correct.

10 Q Where was this sailor at that time?

11 A The sailor was at my house in Asuncion.
12 In the day he went to the Navy base, which was close to
13 my house and at 4:00 o'clock he was back home. He slept
14 in the room next door to a room of Joelito.

15 Q How long had you known this sailor?

16 A I had treated him medically since he was
17 four years old. He is from Ybycui, from the countryside
18 near Ybycui. In such a way that I helped him to enter
19 the Navy for his military service.

20 Q What was the environment in Ybycui in late
21 March, 1976?

22 A There was a lot of repression and there
23 was also great fear. Eight days after the death of Joel,
24 at a population near Ybycui called Cimbron, C-i-m-b-r-o-n,
25 one thousand peasants were arrested and all of them were

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2 tortured and kept on a concentration camp which was very
3 well known by its name of Emboscada, E-m-b-o-s-c-a-d-a.

4 Q Dr. Filartiga, calling your attention to
5 March 30, 1976, did anything unusual happen that day?

6 A At the beginning it was just as another
7 day. I awoke at 7:00 o'clock. I had some Paraguayan
8 tea. We made a list of the patients we were waiting to
9 be given care. We had 21. We gave them their numbers
10 and began to work.

11 We thought it was a day as any other, but
12 at 10:05 in the morning, while I was taking care of the
13 10th patient, a messenger from the telephone office in
14 town arrived to tell me that my son Joelito had suffered
15 a tragedy and he gave no further explanations.

16 Q How did you feel at that time and what did
17 you do in response to this message?

18 A I was very scared. I felt like a robot.
19 I took my wife and within three minutes we were on the
20 road. I told my patients that I couldn't continue giving
21 them attention. They insisted, they tried to come in
22 but I violently locked the door and told my wife, let's
23 hurry up. We have to go to Asuncion.

24 I had a secretary there, his name is Leandro,
25 L-e-a-n-d-r-o, and we made the 80 miles separating Ybycui

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2 from Asuncion in one hour, a distance that usually takes
3 two hours to cover.

4 Q What did you find when you arrived at your
5 neighborhood in Asuncion?

6 A I want to explain something which I omitted
7 before.

8 One of the strange things before the death
9 of my son Joel is that I noticed that in the road to Ybycui
10 there was a police control, which was really very surpris-
11 ing to me. I asked them once, why do you do this, and
12 I was told that there were many Paraguayan gorilla fighters
13 being persecuted in Argentina and trying to reenter Paraguay
14 so they wanted to arrest them.

15 I noticed that on that day, there was no
16 control at all. The day before, in the afternoon, I asked
17 a colleague who was visiting if there was a control and
18 he said yes. And I called attention of my wife to the
19 fact that the control was no longer there.

20 As we arrived to our neighborhood where
21 we lived, it was known as Sajonia, S-a-j-o-n-i-a, there
22 was an unusual number of police patrols, a hundred soldiers,
23 the police, and in front of my house there were many of
24 them, two patrol cars filled with -- filled with armed
25 policemen and many policemen armed keeping watch on my

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2 house.

3 They were blocking the way so they opened
4 the door of the garage for me to enter the house.

5 As I entered the house, I greeted my mother
6 and brother. My brother told me that they killed your
7 son, and in a moment my wife went crazy. I took her to
8 a nearby room and asked her to go to bed and two friends
9 tried to stay with her.

10 Then I returned to the room where the body
11 of my son was being washed.

12 Q Dr. Filartiga, I'd like to show you Plain-
13 tiff's Exhibits 5-A and 5-B and I'd like you to identify
14 them, please.

15 A Yes. They are pictures taken from the body
16 of my son.

17 Q Dr. Filartiga, could you please describe
18 the injuries?

19 A Yes. He has marks from being beaten with --
20 THE INTERPRETER: I had doubts of the word,
21 your Honor.

22 THE COURT: Then we will just go on.

23 THE INTERPRETER: I want to be accurate.

24 THE COURT: Yes. I appreciate your effort.

25 A (Continuing) Cables, high tension electricity

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2 cables, one and a half inch and rods covered with wet
3 cotton. Besides, I notice burns, burns, cuts in the skin
4 as a result of electrical because the electric Picana
5 is an instrument of high voltage, but can be controlled
6 and when it is applied at high voltage it can burn.

7 Another thing that is also important in
8 this picture is that a -- is that a wire, an aluminum
9 wire was removed from the penis of my son. I was surprised
10 to see his penis erect as a ruler. In that picture you
11 can see that we took off that wire.

12 Q How long would it take to inflict this kind
13 of damage in your experience of torture and as a medical
14 doctor who has treated victims of torture?

15 A According to my experience of tortures,
16 a group of torturers is -- is composed of six members
17 and a medical doctor who supervises, and I think that
18 my son might have been tortured for three quarters of
19 an hour, 45 minutes. And he died as a result of cardiac
20 stroke. The wounds were probably inflicted after his
21 death, to hide the torture and I think -- I think that
22 this is the reality because in the previous pictures we
23 had seen, the blood is -- the blood is falling downwards
24 but when we have a body alive, the work of the heart makes
25 blood to spill so blood would have been spilled in several

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2 directions.

3 Q Doctor, what kind of wounds were inflicted
4 after he had died, in your opinion?

5 A Yes. I think that the wounds after his
6 death were knife wounds, with intention of hiding the
7 reality of torture. Because torturers are criminals and
8 they try to hid their crime.

9 Q Dr. Filartiga, is that how you found your
10 son's body when you arrived at your home in Asuncion?

11 A Yes, that is the state in which the body
12 was. And I understand perfectly all that had happened,
13 including the intention of those who had done it and they
14 knew that I knew. And when they noticed that I was trying
15 to have al the necessary documentation to make a case,
16 to present, they -- we were afraid and that was the begin-
17 ning of tremendous pressure of threats.

18 Q Dr. Filartiga, did you have these pictures
19 taken?

20 A Yes. The first thing I thought was I know
21 what happened, but how could I make the world to know
22 what happened.

23 Q How did you feel right then when you saw
24 your son's body?

25 A I told myself everything has happened, but

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2 this martyrdom is -- it's document for the future. And
3 it is good if it's good that as a result of it it will
4 not happen to others what is happening to me now.

5 Q Did you at all think of your own experiences
6 in prison under torture, seeing victims of torture when
7 you first saw your son there?

8 A Yes, I thought in my own experience and
9 I also thought in other victims. And it was hard to believe.
10 Three days after the death, a massive wave of arrests
11 took place in Asuncion. Many of them were killed in their
12 houses. Two thousand persons were in prisons.

13 Paraguay as a country and Asuncion the city
14 was under military occupation.

15 Without living in that country is really
16 hard to believe how that is. Truckloads of armed soldiers
17 with machineguns, houses broken.

18 Q Dr. Filartiga, when you arrived at your
19 home and found your son's body, was the sailor that you
20 were paying to guard your family, was he around?

21 A The person indeed was looked for, the sailor,
22 but he had disappeared to today. Nobody knows where he
23 is. His relatives don't know. He never appeared again.

24 Q Dr. Filartiga, could you tell the Court
25 about the funeral arrangements that you made for your

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2 son?

3 A I thought that the most important thing
4 was to document facts. As part of the documentation,
5 I took pictures. I drafted a -- with other three doctors,
6 a letter and the crime was the greatest scandal in the
7 city. Many people came to the house.

8 I undressed and dressed again the body of
9 my son for 15 times. I took him in my arms for two con-
10 secutive days. There was permanently many people there,
11 at dawn, in the afternoon, at night.

12 Q Was this at some risk to you that you laid
13 the tortured body out, dangerous?

14 A Yes, it was dangerous. That same day marks
15 the beginning of the telephone threats. I remember that
16 the first threat I was told ironically "Doctor, you are
17 being wrinkled. Be careful, we're going to iron you."

18 Q Dr. Filartiga, could you please tell the
19 Court of the other efforts that you undertook to both --
20 to both inform people as to what happened to your son
21 and to obtain justice in the courts in Paraguay?

22 A I had friends in the United States. I wrote
23 to them. Historian Richard White, from UCLA. I sent
24 two letters, one by the mail, which he didn't receive,
25 and another by the diplomatic pouch of the Ambassador

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2 of Peru, requesting his help and asking him to communicate
3 with Amenesty International.

4 Surprisingly, four days later, I received
5 a call from him and he told me that he was with me and
6 one month after, he arrived in Paraguay to stay with us
7 for four months. He was also threatened with death. And
8 one night we had to leave the house because we had a situa-
9 tion of alarm. Our daughters stayed under the bed and
10 we escaped.

11 Q Dr. Filartiga, did you institute any legal
12 proceedings in Paraguay, to try and obtain justice for
13 the death of your son?

14 A The death of my son with suffering, but
15 the recovery of trying to obtain justice in Paraguay is
16 another suffering. It would be something like reading
17 the Process by Franz Kafka. That's Paraguayan justice.
18 It is something without end. It is a machine that
19 deteriorates people psychologically.

20 Q What were the experiences you had and your
21 lawyers had with the Paraguayan system in your effort
22 to obtain justice for the murder of your son?

23 A We had all the evidence to prove the truth,
24 which we could have proved. It was just a question of
25 small doses of equity from them. When we asked for that

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2 key police officers be summoned, my lawyer was arrested,
3 threatened and put into an iron cage at one of the prisons
4 of the Paraguayan police.

5 They deprived him of his authorization to
6 work professionally as a lawyer. To today.

7 Two other lawyers I had, they left the case.
8 They were afraid. For eight months I had no lawyer to
9 defend me. That was the moment in which the scandal of
10 Pena erupted in the United States. Then the Paraguayan
11 police themselves sends me a lawyer of the police and
12 I took it. Because it's better to have that lawyer than
13 to have none.

14 But once the case of Pena begun to be treated
15 in the United States, then I was left without lawyer at
16 all and I ended all the cases in Paraguay without lawyer.
17 Nobody wanted to take the case.

18 Q Dr. Filartiga, you said that you had proof,
19 did that include any other evaluation of the cause of
20 Joelito's death other than your own?

21 A Yes, we did have other proofs. We had infor-
22 mation given us by members of the police who told us about
23 all the details, how it happened and where it happened.
24 Not only that, but when Pena was here arrested, I was
25 threatened and almost killed by accident. It was a

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2 fabricated accident in the road.

3 At the same time, I received an envoy from
4 the Government who told me that I should withdraw the
5 case here and that they would take care of doing justice
6 there. That I should keep myself quiet, to withdraw the
7 case here in the United States and that they would take
8 me the bodies of those who killed my son. I told him,
9 I don't want more people killed. It's enough. Besides,
10 the case of my son is now out of my hands. I am no longer
11 in control of it.

12 Q Dr. Filartiga, did any other doctor than
13 yourself examine your son's body?

14 A The first doctor, the coroner, he gave a
15 completely false diagnosis.

16 Q What was his diagnosis?

17 A The diagnosis said penetrating wound between
18 the fifth -- between the fifth and fourth ribs, and death.
19 That wound does not exist. Besides, he ignored all the
20 other wounds. So we prepared with three other doctors
21 a detailed diagnosis of all the wounds. One of these
22 doctors was an army coroner, the other was the Director
23 of Health for Indigenous, an official position. The other
24 was a doctor of a hospital in one of the neighborhoods
25 of Asuncion. None of them stated a term such as the burns,

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2 so I had to call another coroner. We exhumated the body
3 three days after and that doctor is Dr. Hernan, H-e-r-n-a-n,
4 G-o-d-o-y, and he stated that those were burns. Surprisingly
5 for us, the Judge wrote, put that word "burns" in parenthesis
6 and with a question mark, and he said, what's this. Now,
7 the same thing as the lawyers couldn't take my case, we
8 also had six different judges. It was a case who was
9 burning both, lawyers and judges.

10 Q Dr. Filartiga, what was the official Paraguayan
11 Government explanation for the death of your son?

12 A The Government never gave any explanation.
13 The president is a personal friend of my mother and my
14 mother went to see him. He told her, this is a great
15 tragedy. We will try to investigate this mystery. My
16 mother was never again received after that and -- on the
17 ground of dignity, she never tried to be received again.
18 Justice was evidently not done.

19 Q Did the Paraguayan police have an explana-
20 tion as to why and how your son died?

21 A Yes, there is official police statement
22 which tried to present the case in a very devious way,
23 tried to present it as a passionate crime. There is a
24 very machisto law in Paraguay which says that the husband
25 can kill any person whom he thinks is cheating and the

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2 try -- they tried to explain this crime as a passionate
3 crime.

4 Q Does that happen often in Paraguay, where
5 there is deaths explained as crimes of passion or is this
6 unusual?

7 A No. It is very -- it is usual to have people
8 killed as tortured as it was the case of my son.

9 Q Doctor, you said they alleged it was a crime
10 of passion, so where is the woman that the police allege
11 your husband -- your son was having an affair with?

12 A She was the wife of the step-son of Policeman
13 Pena.

14 (Continued on next page.)
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J. Filartiga-direct

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EXAMINATION

3 BY MR. MAGGIO {Continued}

4 Q Where is she?

5 A She has disappeared. Coincidentally,
6 all the key witnesses that might explain the case have
7 disappeared.

8 Q Where did she disappear? Where was the
9 last time she was seen?

10 A She was in prison at the women's jail, the
11 same prison where my wife and my daughter were.

12 When she was called to appear before the
13 Court, the Judge released her immediately. And a woman
14 of the Paraguayan police went with her to Buenos Aires
15 on a chartered flight.

16 And we knew that he was being kept under
17 tight police control of the Paraguayan police in Buenos
18 Aires.

19 One of my cousins tried to see her and he
20 found her. And this cousin of mine was kidnapped January
21 3, 1978 in Buenos Aires, and until today he remains
22 disappeared.

23 His name, J-u-a-n, Alberta, Filartiga.

24 Q Dr. Filartiga, could you tell the Court,
25 the impact that your son's death has had on your family

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1 2 J. Filartiga

2 and your relationship with your wife and other children?

3 A Life has changed completely for me. I
4 lost my capacity to work 50%. My sight has also been
5 impaired. 15 days after, I had to wear glasses and
6 two months later I had to change the glasses, and six
7 months later I had to change them again, because evidently
8 I was losing sight.

9 My hair grayed in less than six months. I
10 had terrible guilt feelings whether I had some guilt
11 of the death of my son as a result of my militancy in
12 defending those Paraguayan peasants.

13 But if it was just the willingness of the
14 regime to make me feel guilty, when those who were really
15 guilty were them.

16 This is the problem on my personal level
17 and also in my relationship with my family. My wife many
18 times has repeatedly become very hostile to me, seeing
19 me as perhaps a monster who is perhaps guilty for the
20 death of my son. She has even written so also to my
21 daughters, telling them that I will go to the U.S. and
22 leave your father.

23 There were also psychological changes in all
24 my daughters. The youngest one who was 11 years old at
25 the time is just now beginning to recover her psychological

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3 J. Filartiga

equilibrium, which Dolly lost completely.

In one opportunity she became very aggressive, physically. Unconsciously I think they saw me as guilty for the death of my son and all this in addition, in addition to all this, we had the Paraguayan justice march to destroy consciousness.

My -- my near death, because of accidents on the road, then the U.S. Ambassador Lando called the Minister of Interior to request guarantees for me. The Minister of Interior was Montanero.

And for six months I just couldn't work. Afterwards I tried to rebuild my life. But evidently that life was abruptly changed, and now here I am in this room trying to continue this struggle.

There is no way to add up the feelings, but of course there is mounting feelings.

Q Dr. Filartiga, how often do you think of your son Howel, and what are your thoughts when you do think of him?

A I am always thinking of him. Practically Howel has become the owner of me. I can't say that I am not a friend, but I can say I am less a friend than before, and consciously I felt sometimes a little suicidal.

I had never used weapons before the death of

4 J. Filartiga

1
2 my son, but after, I took weapons, and regardless of my
3 being a medical doctor I felt that there was within me a
4 desire to kill.

5 I had to fight with myself for two years
6 to recover myself from this situation; to understand that
7 the right way wasn't that way.

8 Q Dr. Filartiga, you testified earlier that you
9 support yourself through the sale of your drawings as well
10 as to your medical practice.

11 Could you identify this drawing and briefly
12 describe what it shows?

13 A Below, you can see peasants, but if united
14 they might be able to rise up, and that's part of my
15 experience with peasants. I give them free health care.

16 In my whole life there I never had to buy
17 anything to eat, and the clinic under my direction was
18 built by peasants with their work.

19 As I said before that's Joelito, and in the
20 back my wife suffering. Joelito is crying for the
21 future generations of kids, and it is a flag that should be
22 lifted up by all of us.

23 Q Dr. Filartiga, this drawing is dated 1979.

24 Would you describe it for us, please?

25 A That's the documentation of what a peasant

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5 J. Filartiga

told me, a peasant by the name Barbosa told me. You may not understand, Doctor, what is happening to you, but because you are too close to it, but we do understand.

Your son was killed not because he was the son of Filartiga, but because he was the son of serving us, poor people. The punishment is not just for you, but it is also for us, the poor.

Q Who is this, Joelito?

A Those are electric picanas, an electric rod, and that arm, with the machete, that symbolizes the spirit of the peasants, which is still there regardless of the persecutions. It is the resistance of the peasants to persecution and death.

Q This is dated 1981. What does this picture represent?

A You can see three tunnels. One tunnel represents a hand within a prison, and the fingers praying and a hand which gives freedom and below, the body of myself as a document to the future to be exchanged for the Paraguayan freedom.

So people say that the one who dies lives, but I think that the one who dies remains, and people who learn how to die are people who deserve to be free.

Q In this drawing of yours, Dr. Filartiga?

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Ex J. Filartiga

A A poor peasant's girl, Paraguayan, the map of Paraguay made of wood, Christ, as one of the vehicles for the liberation of our people. The scream of Joelito tortured and the bars of the prison broken.

Q And lastly, Dr. Filartiga, this picture here, dated 1976.

A That's the much pain and consolation within the spirit of suffering together with compassion.

Q And here, Doctor?

A A mother carrying a jug or jar and a poor child on her arm, and the sun rising.

Q You have a man and a woman here crying with their hearts with screws in them.

Who are they?

A They represent my wife and myself, giving us much consolation, fighting the pain with our isolation, with our powerlessness.

MR. MAGGIO: Thank you very much for your testimony, Dr. Filartiga.

THE COURT: Any other witnesses?

MR. COPELON: I would like to call, recall Dolly.

THE COURT: Is Mr. Timmerman here?

MR. COPELON: Yes.

Timmerman

THE COURT: Would you come up, please.

All right, all of the exhibits have been received into evidence.

J A C O B T I M M E R M A N, a witness called herein, having been first duly sworn by the Clerk, took the stand and testified as follows:

EXAMINATION BY

MR. COPELON:

Q Would you tell the Court where you live and what your present occupation is?

A I live in Tel Aviv, Israel. I am a journalist.

Q And where are you presently living?

A I am spending a semester at the Institute for Advanced Study at Princeton.

I was invited to work on a book about the way the time I spent under torture destroyed my relationship with normal intellectual life.

Q Have you written one book?

A I have written one book which is my testimony about my being in prison. The name is, "Prisoner Without the Name, Cell Without a Number."

It was published in 13 languages, all over the world.

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1 B Timmerman

2 Q Could you tell the Court a little about your
3 work and experience in Argentina, the country from which
4 you come?

5 A Well, I arrived there, I was born in the
6 Soviet Union from where my family went out, running away
7 from the Communist life.

8 I arrived in Argentina when I was five years
9 old. I spent all my life there. I went through college
10 and the university, and I was a journalist all my life;
11 professional journalist. That was my only profession.

12 I started from the beginning as a street
13 reporter. I went up to be an editor. I created three
14 weekly magazines, a book publishing house and a daily
15 newspaper.

16 I had my own program of the T.V.; something
17 like "Meet the Press." The name was "Pressroom," translated
18 into English.

19 And I had my radio program. I was always a
20 journalist.

21 Q And was there a particular character to your
22 role as a journalist in Argentina?

23 A Well, I was always very independent, to
24 describe it more precisely.

25 I would say that during the eight years that I

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Q Timmerman

was editor and publisher of my newspaper there in Argentina, six presidents and the six at some point closed my newspaper and punished my business.

There were six different presidents from the left to the right to the center, military dictatorships as well as elected presidents.

I was always, as the New York Times said in an editorial, a troublemaker. Very independent. And I didn't belong to any political party.

Q Mr. Timmerman, we have asked you to testify here today to inform the Court about torture as it is experienced in a country which has similarity to Paraguay, and I would like to ask you to preface your testimony by explaining the ways that you have come into touch with an understanding of and experience of torture.

A You want me to describe the way I was tortured, or the reflections and the problems of torture?

Q Why don't we start with your experience --

THE COURT: I think we can only have so much of that one day. I prefer not to have the witness tell us about his personal experiences.

Q Would you like to tell us your reflections?

A My personal experiences was not different than everybodys experience in the way of pain and in the

1 10 Timmerman

2 way of despair and horror.

3 So there is nothing new I could say to you,
4 your Honor.

5 Reflections is quite different. You know,
6 that this is the first time that a Judge is going to judge
7 torture. That is quite different from condemning torture.

8 Torture was condemned as a crime. It was
9 never judged as a problem of our civilization, and this is
10 quite different.

11 I am working on that, because there is not
12 one judgment about torture in the way that justice showed
13 different guidelines to the people who have been tortured,
14 to the people who were never connected with torture and to
15 the torturers.

16 What is the meaning of torture in our
17 civilization and in our society, and this is absolutely
18 new.

19 And believe me, I am working on that, and I
20 have been reading a lot, and this is the first time in
21 which there is nobody to be accused except for torture itself.

22 And this is something absolutely unusual, and
23 I really hope that from here, as so many other times in
24 the history from the U.S., will come a guideline about what
25 is the relation of our civilization with torture.

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2 Very recently in the Indiana University Press
3 has published a book by a writer, James Amery, who had been
4 tortured by the Gestapo when he was a Belgium fighter,
5 underground fighter, and that was in 1943.

6 He committed suicide in 1978, and all those
7 times, all those years he was living with the problem of
8 torture, and he wrote about that; and that was published in
9 this book.

10 He said that once you have been tortured,
11 torture is with you forever and there is nothing you can do
12 about it.

13 I am trying to describe what it means, and it
14 is quite difficult, because it is like another kind of
15 civilization, not another kind of society. The history of
16 mankind we have seen every kind of society, middle ages,
17 the mother revolution, the communists; everything. But
18 we had always one civilization.

19 Torture is something quite different. It is
20 pain and humiliation, but more than that, the moment you are
21 tortured, and the days after torture, and the years after
22 torture, they have changed your human condition. It is a
23 biological change. Your feelings have difference, your
24 feelings are different. Your relations with the rest of the
25 people is different.

1 12. Timmerman

2 You are like, they transform you from a
3 human being to another planet. This is very different. And
4 something should be said about that.

5 Usually in a criminal court the most horrible
6 of the crimes is to kill somebody, death, and this is the
7 biggest crime that anybody can commit. Not under torture,
8 because I have heard dozens of people when they were tor-
9 tured asking, kill me.

10 So you see, death was not the biggest crime,
11 they wanted to be killed. And this is what changed every-
12 thing when we talk about torture.

13 I have my reflections and my problems, and
14 this is the second time that I have to live with the pro-
15 blem, and I am very grateful to you that you didn't want
16 to hear more about the details because the last time I was
17 in a problem about explaining, and I collapsed because
18 it is very difficult; not only to remind, to remember, but
19 to try to transmit to you, to transfer to you the feelings
20 you have.

21 The biggest humiliation, the moment they are
22 changing your world of ideas and your world of values and
23 your biological structure.

24 And now, I still, after two years and having
25 written a book and having the support of my family and my

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2 sons, friends, human rights institutions, and many people
3 all over the world, I still cannot accept that it happened.

4 I have to find a way in which acceptance
5 doesn't mean approval, in which acceptance doesn't mean that
6 I accept as a realization that torture can be a part of
7 our civilization. This is why I couldn't accept torture.

8 I couldn't go back to the man I used to be.
9 This is something that I couldn't deal with. I don't
10 remember who I was. And I am trying very hard and still I
11 don't remember; because to remember who I was, I have to
12 go back through torture, to the time before that, and this
13 is very difficult to do.

14 I was a businessman and a journalist and a
15 professional, and I, my work now is very painfully writing.

16 I couldn't be an editor. I haven't the
17 strength to be an editor. I have fear for the rest of the
18 people. There is, I hope the word is correct that I am
19 using in English, there is a kind of syndrome.

20 You see, I am invited to a party. So the
21 day before, I begin to work psychologically, what is going
22 to happen in the party, and it can be hours and hours; who
23 is going to be there, what are they going to ask me.

24 So suddenly, I realize that I am rebuilding
25 in me the hours before interrogation, like going again into

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14 Timmerman
being interrogated. This is something I couldn't overcome.
I am living under permanent interrogation.

If I go to take a train at Princeton Station,
I begin to ask myself do I have the money and if they will
sell me the tickets, if I am going to say the normal words;
and it is again like being under interrogation. I am
permanently under interrogation.

Imagine the life in the Institute of Advanced
Study in Princeton, 180 of the most important scientists
and professors all over the world to write or think or do
whatever they want. It is a very unique institution all
over the world. And there is, of course, relations between
everybody; discussions and conversations.

Everybody has a house. And I spend all the
time, all the time, practically in my house; three or four
or five days without going out.

Suddenly I discovered I was repeating the life
of a prisoner. I couldn't overcome that. Because I am
afraid, the moment I leave and go outside, interrogation and
torture comes back. This is quite different from any
prisoner.

And I have seen prisoners, they are very
happy to leave the prison, and they very quickly adjust to
a free life.

1 15.

Timmerman

2 People who have been -- I have met people
3 who haven't been tortured and were in prison for 10 and 15
4 years. I was only three years. They adjust very quickly to
5 life.

6 But the people who have been tortured, they
7 couldn't adjust to life because they don't know how to deal
8 with the big destruction of their life that has been made
9 under this moment in which several people are over you
10 and there is only pain, your Honor, pain and pain and pain
11 and pain, and there is nothing you can do about it. Ab-
12 solutely nothing. This is the horrible thing.

13 And this is the judgment that I mean, I
14 was in many human rights conventions, especially dedicated
15 to journalism. In Argentina 100 journalists are missing.
16 This is a genocide, genocide of journalists. It is
17 enormous.

18 I received the golden pen of freedom from
19 the International Federation of Publishers. And I was in
20 Congresses of many institutions all over the world and
21 always trying to explain to them that we need some kind of
22 judgment about torture. We need some kind of guidelines
23 about torture.

24 It is not only to condemn torture as a
25 horrible scene. There is also something to say what we feel

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1 lb Timmerman

2 about it, what we think about that. This kind of con-
3 demnation.

4 And everything has been destroyed, the
5 relation with my sons, with my wife; there is something,
6 always something between us.

7 The time we suffered, the way they suffered,
8 the way I suffered, looking at them, looking at my wife when
9 she came to my prison and asked me if I was tortured again.

10 All those feelings are inside us and it is
11 not easy to destroy them and overcome them.

12 There is always in the lives of my sons a
13 moment in which they could not depend on their father, and
14 there is always in me a feeling that I have punished them
15 in a terrible way when there were nights, after night,
16 thinking, where was his father and if he has or is being
17 tortured. This is another aspect of the punishment that
18 the torturers are giving us.

19 Q Mr. Timmerman, working from your experience,
20 what can you say about the impact of torture on the people,
21 society on a whole?

22 A I had this discussion in a place in which
23 there is no torture practically and people live always in
24 danger, like the State of Israel.

25 We have to live with a terrorism of the

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Arabs. Once I had the discussion, because the police in Israel discovered a terrorist the moment he was placing a bomb in a bus station. They disarmed the bomb but they realized he has placed two other bombs in two public places. They tortured him to discover where the bombs were placed and they find it out and the bombs were dismantled.

I protested and the answer was that if those two bombs would have been exploded, they would kill probably 30 people, and I tried to explain as a journalist, in my writings, and the statements I made about this subject to columnists of the New York Times who was in Jerusalem at that time, Anthony Lewis, I was trying to explain to him that the police who succeeded and discovered two bombs through torture will think now forever that torture is a very positive and important instrument to solve the problems of our everyday life, and from that moment on torture is incorporated to our society, and who is going to decide who to torture. How many innocent people are going to be tortured now.

So the incorporation of torture to a society or civilization means that there is somebody, many people who believe that they have in their hands an instrument to discover everything they want, to obtain anything they want

1 18 Timmerman

2 to obtain.

3 They act like God because they have the
4 power not only to kill you, that it is nothing, because to
5 kill is a power that is in the hands of every human being.

6 They have a bigger power to torture and to
7 discover, find out and change everything they want to do.

8 And this is the danger.

9 Torture is the moment it is incorporated
10 to a society as routine, a permanent feature of life, an
11 instrument permanent, normally as the American philosopher
12 H. Arendt said about Eichmann, the banality of everything;
13 the moment you accept that, you haven't changed society,
14 you have changed our civilization.

15 This is going on in countries like Paraguay,
16 Argentina, Chile, in which torture is an inevitable
17 instrument of the way this society, this country has been
18 built up.

19 Q Can you describe the effects of some people in
20 Argentina that you have observed while you were there?

21 A It is very curious that how difficult it is
22 to understand torture.

23 I was an editor and journalist in a country
24 where people have been tortured and I was informed of that,
25 and I published many articles and stories, many articles,

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19 Timmerman

editorials protesting torture; but still after the moment I was tortured and I saw other people tortured, I couldn't understand exactly what it means.

After that, well, the reactions are so different, and it depends on so many psychological things. I wouldn't dare to give a general theory.

My second man in my newspaper was kidnapped two weeks before me, like the assistant editor, he was kidnapped two weeks before me, and he was kidnapped one day after Miss Patricia Darien, Undersecretary of Human Rights came to Argentina.

I was the only editor to invite her to my newspaper. All the other newspapers, editors and publishers rejected the idea. She asked for discussions for visits and everybody rejected and didn't want to have her. I was the only one. It was March 31st, the 31st of '77 and April 1st, my second man was kidnapped. He disappeared forever, a man of 40 years; and two weeks later I was kidnapped.

The wife of this man, whose name is -- Sajon, from 1977 up to now, his wife is every night cooking a dinner and waiting for her husband, with four children.

There is different kinds of reactions. A lot of people who have been tortured couldn't live together

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Timmerman

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2 any more after that, with the families. Divorce, suicide
3 in adaptation to life, impossibility to adjust to life.

4 Many have overcome in a way at least openly,
5 but you never know what is happening inside them during the
6 nights when they couldn't sleep. The nightmares.

7 It is a unique experience, your Honor, a
8 unique experience. After my release from prison I spent
9 10 days resting as a guest of the writer Elie Weisel, who
10 wrote many books about the holocaust, and he is a survivor
11 or Auschwitz, and he has been appointed by the Government
12 of the U.S. President of the Commission of Holocaust of the
13 U.S., that is a presidential commission.

14 In talking about our experiences, he in
15 Auschwitz and I in the prisons of Argentina, he said to me,
16 that, my experience was much more painful than his, because
17 he was with thousands and thousands of people together.
18 That is quite different of being lonely tortured without
19 any hope of nothing. There is more hope in a concentration
20 camp, and Elie Weisel saw his father going to the gas
21 chambers, but there is more hope in that collective
22 experience than in the loneliness of the tortured man in
23 which there is nothing, nothing left to you; not your body,
24 not your mind, not your imagination, not your dreams, ab-
25 solutely nothing.

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Timmerman

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MR. COPELON: I have no further questions.

Mr. Timmerman.

THE COURT: All right. We will take a recess and we will come back at about 12 o'clock.

{Continued on next page.}

GR/ed
3AM

White-direct

MS. COPELON: If you would like, your Honor,
we can begin with the former Ambassador to Paraguay,
then --

THE COURT: May I have your name, please?

THE WITNESS: Robert White.

THE COURT: Mr. White, would you raise your
right hand, please?

R O B E R T W H I T E

called as a witness, having been first duly sworn
by the Court, testified as follows:

DIRECT EXAMINATION

BY MS. COPELON:

Q Could you state your current residence and
occupation?

A Yes. My name is Robert White. I live at
500 Jefferson Court, Alexandria, Virginia. I'm a senior
associate with the Carnegie Endowment for International
Peace.

Q Could you outline very briefly your experience
in the foreign service?

A I spent almost 20 years in Latin America,
in various capacities, with the United States Government,
as a career diplomat. I served as Ambassador to Paraguay
and Ambassador to El Salvador.

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White-direct

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Q During what years were you Ambassador to Paraguay?

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A 1977 to 1979.

5

Q Could you, Mr. White, give sort of a brief description of Paraguay under General Stroessner?

6

7

A Well, Paraguay -- with the exception of Cuba, Paraguay is the closest thing to a totalitarian state that we have in the Western Hemisphere, in the sense of total arbitrariness. There, in effect, is no law. The only law is the law that the president decides on.

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Q And is -- is it fair to describe Paraguay as under martial law? Is that --

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A It's not only fair. It's accurate. Because by the -- the Government every three months declares that -- a state of seige exists. They do that because -- this government is very legalistic, likes to follow legal norms. So they keep the state of seige in being, even though there is no justification for it, in order to be able to take any measure which, you know, under an emergency rule.

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Q Could you describe the situation in terms of the existence of political opposition in Paraguay?

23

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A Well, the political -- political opposition exists but it is a very dangerous profession. And if

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White-direct

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you intend on being effective in a political opposition,
3 your chances of being arrested, tortured, kept, detained
4 for a long time or exiled are very great.

5

Q Is there anything that one could describe
6 as an independent judiciary system in Paraguay?

7

A No. The total power belongs to the president
8 and the president gives the order whether to free or sentence.
9 Now, I don't want to overstate it, in the sense there
10 are numerous cases, civil cases, where nothing is really
11 at stake, except, you know, a suite of one person against
12 another. This will indeed function in a normal and proper
13 way.

14

But if we are talking about an issue in
15 which the government is interested, then the law is what
16 the president says it is.

17

Q Could you describe briefly the economic
18 conditions in Paraguay?

19

A Paraguay -- what comes to mind when you
20 say "economic conditions" to me is corruption, and corrup-
21 tion is endemic in Paraguay. One of the reasons for torture,
22 one of the reasons for arbitrary behavior is so they could
23 maintain themselves in power and continue the immense
24 profits. For example, Paraguay is the largest importer
25 of cigarettes in the world, this very small country.

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White-direct

That's because they bring them in on the Air Force planes and then scatter them out all over the Western Hemisphere. They contraband them in. So these give huge profits to the military.

Q Now, have you studied the three reports of the International League for Human Rights and do you know their work and do you consider that they are an accurate portrayal of the situation in Paraguay? We have the three reports here.

A Yes, I am familiar with all three reports. I have studied them.

I know the authors very well. They're all three of them highly professional works.

MS. COPELON: These are marked as Exhibits 10-A, 10-B and 10-C, for the record.

Q Could you discuss particularly, Mr. White, the role of torture in maintaining the regime in Paraguay?

A I think torture is basic to the repression. It's at the heart of the system that enables the Stroessner dictatorship to maintain itself in power.

Q And against whom is torture used?

A Anyone who has the capacity to play a leadership role, or anyone who challenges the system in any way.

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Q Do you have a view regarding to what extent torture is calculated to keep people in line and to what extent it is an expression of sheer viciousness?

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A Well, there is certainly certain people in power in Paraguay who are vicious. But I think that really it's something -- it's routine. I mean, perfectly normal people who appear normal get up and go to work and their work is torture, and then they come home after work and do whatever normal people do. It is institutionalized in Paraguay.

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Q Have you had occasion to observe the impact of torture on torture victims?

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A Oh, yes. I can give you two examples that come to mind.

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A very intelligent young doctor named Bogado Gondra, came to see me to thank me for my help in getting him out of prison, and he described for me the torture and -- which consisted of being put into a pool of dirty water, excrement, and being in effect caused to drown repeatedly, and he told me that by the time he was through with this torture, his only desire was to find out what they wanted him to confess to. He didn't care whether it was true or false, he just wanted to find out what they wanted. And that way -- and he would sign it.

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And he -- so they left him alone in a room and they fabricated the type of story that the torturers wanted to hear.

The other example is a man came up to me when I was at a -- just leaving a building and asked, and thanked me for my help. I had no idea who the man was. So I asked him to come to see me at the Embassy. He came in and told me how he had helped the high school friend, the high school friend, because he was jobless. The high school friend was then arrested and under torture, they asked -- he told them that he was staying at the house of this man. So they then arrested him, tortured him, kept him in prison for five years and he had no idea why.

He was released and they wouldn't -- they refused to give him an identity card and without an identity card you can't work in Paraguay. So he was literally without work, without means to feed his family and no way could he function as a human being. So I -- he went to work for us in the Embassy as a gardner. But it's a -- this type of thing has terrible psychological impact. For example, Bogado Gondra left the country and said no longer can I live in this place.

Q What is the effect of torture beyond the

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2 direct victims?

3 A Well, there is no -- almost no one in Paraguay
4 who hasn't been touched by torture, in the sense that
5 either they or someone in their family or -- has been
6 tortured. This is true -- this is true in the upper class
7 as well as -- it it's true there, where people have connec-
8 tions and so forth, you can imagine what it's like in
9 the countryside, where the people are poor and illiterate.

10 Q Is anyone immune? Does class position immu-
11 nize one from torture?

12 A The only people who would be immune would
13 be the people who are part of the apparatus.

14 Q So how does it come that anyone is able
15 to retain any independence in Paraguay?

16 A Well, you retain your independence, what
17 little independence you can retain, either because you
18 are attached to an institution, even though the church
19 in Paraguay, the Catholic Church in Paraguay, has described
20 itself at one point as a persecuted church, it is still
21 true that being part of the church, priest, nun, gives
22 you some assistance in -- in an institutional framework,
23 which will try to help you should you fall into -- into
24 the hands of the authorities.

25 Secondly, certain international groups take

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 2 an interest in Paraguay, Amnesty, International League
 3 of Human Rights, the Embassy of the United States and
 4 other western embassies. But, you know, what happens
 5 in most cases is that people just operate out of any kind
 6 of activity that could possibly get them into trouble.

7 Q And yet, that hasn't reduced the amount
 8 of torture or repression?

9 A It may. It may reduce it. In other words,
 10 I don't think these people torture just for the fun of
 11 it. I think they only -- mostly torture when it is neces-
 12 sary, and if you torture for a certain period, you cow
 13 the people. Then you no longer -- it's because the --
 14 I wouldn't want to be thought that the torture is at a
 15 sort of constantly ascending level. That's not true.
 16 It goes in waves, depending upon the pressures on the
 17 government.

18 Q Do you have an opinion, Mr. White, whether
 19 General Stroessner's regime could survive or not if it
 20 did not employ torture?

21 A I think -- torture, which is at the heart
 22 of it -- overall repression, no. That's what keeps the
 23 government in place.

24 Q From your experience in Paraguay, El Salvador,
 25 but Paraguay in particular, do you have a view about how

White-direct

the use of torture can be stopped?

A Well, the only thing that Paraguay responds to are international pressures. Traditionally Paraguay -- the Stroessner regime has survived pressures by keeping -- by not responding to them, by postponing action, by waiting things out.

There was -- I think that the Carter administration with emphasis on human rights had a great effect in Paraguay and -- but now that -- in the -- that there has been a change in the priorities of the administration, it probably has less effect. But international pressures are the only way.

Q What role do you think the existence of civil remedies for the victims of torture as we are here in this court for might play in the overall effort to stop torture?

A Well, let me give you -- I think one example might illustrate this. After the case was decided in favor of Dr. Filartiga, a Paraguay official, one of the people closest to General Stroessner, told me that I just had to do everything possible to get this decision reversed. They don't really understand independence of the court system here. And he stressed to me that no Paraguayan government figure would feel free to travel to the United

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States if this judgment was upheld because, you know, they would feel that they would be liable to arrest for just even being in any state in the United States.

Q Were you aware that the Filartigas filed a lawsuit in Paraguay?

A Oh, yes.

Q Were you involved in that in any respect?

A No. You can't say -- as an Embassy -- as the Ambassador or any embassy officer, it is very difficult for us to involve ourselves in the -- what are really, strictly speaking, internal affairs of another country. We can do a lot, but not that much.

Q I guess I might better rephrase my question.

Did you become engaged -- did you know Dr. Filartiga while you were in Paraguay and did you ever become involved in providing him the sort of protection, the assistance that the Embassy could give?

A I knew Dr. Filartiga from perhaps the first month that I was in Paraguay. Knew his family.

We became very interested in the Filartiga case, not only because it was our mandate under the Carter administration to be vigilant about human rights and to report on them and to do whatever we could to protect them, but also because we were deluged with letters from

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1 the United States after every trip that Dr. Filartiga
2 made here and we would get letters from university profes-
3 sors, human rights organizations and just ordinary citizens,
4 Senators, Congressmen, etc., in effect saying, please
5 do everything you can to protect Dr. Filartiga.

7 Q Do you think that that international opinion
8 provided him some protection in Paraguay?

9 A Yes, I do. I think that -- I think that
10 one of the purposes that I had in my -- in putting forward
11 the human rights policies was to try to spread an umbrella
12 of protection not only over Dr. Filartiga, but people
13 who were conducting themselves according to the norms
14 of the Constitution of Paraguay and sort of generally
15 accepted civilized norma, and so that the government could
16 not without expecting a reaction from the United States,
17 kidnap, torture, kill, whatever.

18 Q Going back to their lawsuit, are you aware
19 of the result in their lawsuit?

20 A Yes.

21 Q What was that?

22 A That Dr. Filartiga, the Judge awarded the
23 decision to -- in favor of the Filartigas against --

24 Q Here, no. The lawsuit in Paraguay.

25 A Oh. As far as I know, it's still pending.

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There is no -- there is no determination of the case at all, as far as I know.

Q Based upon your knowledge of the system in Paraguay, do you have an opinion whether or not the Filartigas could get justice in Paraguay?

A No, it's impossible.

MS. COPELON: I have no further questions.

THE COURT: Thank you, Mr. White.

Any other witnesses?

MS. COPELON: Just the completion of Dolly Filartiga's testimony.

THE COURT: All right.

(Continued on next page.)

D. Filartiga-direct

D O L L Y F I L A R T I G A

having been previously sworn by the Clerk of the Court, through an interpreter, resumed the witness stand and testified further as follows:

EXAMINATION

BY MS. COPELON: (Continues through an interpreter.)

Q Dolly, I want to turn your attention back to the period after your brother was killed. I want you to tell the Court about the dreams that you began having during that period.

A There are moments in which those dreams come to me continuously. And other times it's from time to time.

Q Do you want to describe the dream?

THE COURT: Why don't we go on to something else?

Q Dolly, I want to ask you about coming to the United States. What were your feelings about coming to this country/

A First of all, I want justice, and secondly, to escape from the pressure I was living under in Paraguay.

Q If Joelito had not been killed, do you think you would have come to this country?

A Yes, I may have come, but in a different

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D. Filartiga-direct

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2 way.

3 Q What do you mean?

4 A As a tourist. Or maybe to study.

5 Q What caused you to file your application
6 for political asylum?

7 A The regime of Stroessner.

8 Q Did your filing of the -- when you came
9 to this counry, did you in fact locate the defendant Pena?

10 A I knew where he lived. I wasn't familiar
11 with the country yet. But I had some Paraguayan friends
12 living here and they helped me.

13 Q And together, did you report to the Immigra-
14 tion and Naturalization Service the whereabouts of the
15 defendant Pena?

16 A Yes. First we had the help of an American
17 friend and with his help, we were able to locate him.

18 Q When you undertook to report his whereabouts
19 and have him arrested, what implication did that have
20 for you about returning to Paraguay?

21 A The implication for me and my family was
22 that we all might get killed, but with the regime of
23 Stroessner, you never know what's going to happen.

24 Q Did it have an implication for you regarding
25 whether or not you could return to Paraguay?

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D. Filartiga-direct

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A I was once in prison in Paraguay and I was released on bail. That means that if I am back, I might be in prison again at any moment.

Q Could you tell the Court what it has felt like to try to adjust to life in the United States?

A First we have to think about things such as culture, language.

Q Did you know English before you came here?

A I had studied, but it's not the same.

Q How does it feel -- have you been able to recommence your studies here?

A My papers in Paraguay were destroyed. I have my application for political asylum pending. I had no money when I came, so I had to defend myself as I could. And up to now what I have been able to do is strictly to survive.

Q At the beginning of your testimony you said that you were studying medicine and you had wanted to be a doctor. Do you still want to be a doctor?

A No. My life has changed a lot. Seeing my father and the work he does, I think I may not be prepared to handle more pain.

Q Do you want to tell the Court the other ways in which your brother's death has affected your life,

D. Filartiga-direct

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2 physically, emotionally?

3 A I have moments in which all I want is to
4 be alone. I don't know if this action of masturbation
5 of the mind is something like being mad or it is something
6 too strong and I cannot forget it.

7 Q Have you had therapy since you've been in
8 this country?

9 A Yes, I had.

10 Q Do you feel like you will have to continue
11 that in the future?

12 A Yes, I think so.

13 Q How do you feel in social situations, with
14 other people?

15 A I feel different to others.

16 Q How do you feel about engaging in normal
17 activities like reading? Can you read? Can you do things
18 like that?

19 A I cannot concentrate myself. Regardless
20 of the problem of what happened with my brother, I also
21 have the problem of my family who still lives there and
22 I know what they are going through.

23 Q Dolly, how often do you think of your brother?

24 A Always.

25 Q Do you feel you'll ever be free of that?

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D. Filartiga-direct

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2 A I think that only if I could be brainwashed.

3 MS. COPELON: I don't have any further
4 questions.

5 Q Is there anything else you want to say to
6 the Court?

7 A Everything is fine.

8 MS. COPELON: Magistrate Caden, I did not
9 go through two parts of Dolly's testimony that
10 have to do with the aftermath of the period and
11 asking her to relive what in fact was the most
12 painful, devastating period. I think that you
13 have observed her and since you have indicated
14 in the past that we could submit additional material
15 on affidavits, I think it would be --

16 THE COURT: It is agreeable with me. If
17 you like, you can submit an affidavit or submit
18 it in the form of a letter. However you choose
19 to do it.

20 Do you have any other witnesses?

21 MS. COPELON: No. That completes the testi-
22 mony for today. And we believe that that completes
23 the oral component of this submission.

24 If it is acceptable to you, we can project
25 with the difficulties of getting additional material

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D. Filartiga-direct

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2 from Paraguay and the things ahead of us, that
3 we would like to submit the additional evidence
4 and the legal memoranda regarding the underlying
5 law of damages here within a month.

6 THE COURT: Let's agree on one thing. As
7 far as the submission is concerned, as I indicated
8 before, we need a transcript --

9 MS. COPELON: Right.

10 THE COURT: -- of what occurred here today.
11 We need an exhibit list. We need -- if the exhibits
12 as they were being marked today have not already
13 been received into evidence, all of those that
14 have been marked and identified will be received
15 in evidence. That includes, I guess, to the extent
16 that a book was used, I think we should at least
17 keep the book as an exhibit even though only portions
18 of the book were referred to.

19 MS. COPELON: We have that marked here.

20 THE COURT: Then to the extent that this
21 Court indicates that there are a number of affidavits
22 that have been filed in the Court, to the extent
23 you want this Court to consider any specific, for
24 example, I note that there were a number of affidavits
25 that were offered, if you like just indicate on

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D. Filartiga-direct

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2 the exhibit list, at least to incorporate by refer-
3 ence the prior exhibits that have been filed that
4 you wish this Court specifically to consider when
5 it files its memorandum and order.

6 And, as I indicated to you previously, if
7 you wish to submit anything else, as long as we
8 agree on some outside date that you think you can
9 comply, you tell me what time you need and we will
10 agree to it.

11 MS. COPELON: Can we learn from the court
12 reporter how long it will take to get a transcript?

13 THE COURT: Let's assume that -- whatever
14 period of time that is, it will be whatever period
15 of time, a couple of weeks. My only question is,
16 when everything comes to me, I'd like it to come
17 in one. I don't think it is going to be helpful
18 to me or any of the people that -- it's not going
19 to be helpful unless I have it all together. After
20 I receive anything, if I have any further questions
21 or I think we should meet again, I'll advise you
22 in writing of that. If there is anything, especially
23 with regard to the applicable law, because it seems
24 to me in this particular case one of the more diffi-
25 cult problems that this case poses is not so much

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2 the testimony of the witnesses and what occurred,
3 but assuming for a moment the law that applies
4 in this case is the law of Paraguay. That seems
5 to me to pose some interesting legal problems.

6 MS. COPELON: We'll have an affidavit from
7 an expert in Paraguayan law to give you a background
8 of that. On the other hand, it is not because
9 there is any deficiency in the law of Paraguay
10 but rather because we think that what is presented
11 here, since it is an issue of remedy under inter-
12 national law, that it may not be that the traditional
13 rules, for example, cited by Judge Kaufman, that
14 apply to admiralty law, necessarily apply to deter-
15 mining what the law should be in this case. That's
16 what we will address in our memorandum.

17 THE COURT: That's the \$64 question.

18 MS. COPELON: That's right.

19 THE COURT: In any event, what we will do
20 is we will at this point let a month go by and
21 see where we stand at that time. On the assumption
22 that everything will come to me together. Then
23 after I receive that, I'll be in correspondence
24 with you, either by order or by letter, indicating
25 whether or not we need to do anything further or

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whether I just at that point have to take it on
my own.

Okay. This hearing is closed.

MS. COPELON: Thank you very much.

MR. MAGGIO: Thank you, your Honor.

THE COURT: I am going to ask you, if you
would, to please take all of these exhibits back.
I will leave everything with you.

MR. MAGGIO: Yes.

THE COURT: Double check it. I have my
own file here.

(Whereupon this matter was concluded for
this date.)

* * * *