

August 14, 1991

## **EL SALVADOR**

### **EXTRADITION SOUGHT FOR ALLEGED DEATH SQUAD PARTICIPANT**

On August 16, 1991, a federal magistrate in San Antonio, Texas will rule on a request by the government of El Salvador to extradite César Vielman Joya Martínez, a former soldier in the intelligence unit of the First Infantry Brigade of the Salvadoran Army, for his alleged involvement in the murder of two young men in El Salvador in July 1989.

Americas Watch opposes the extradition of Joya Martínez, because he is likely to be killed in El Salvador as a direct result of testimony he has given about death squad activities conducted in 1988-89 by the Salvadoran military.

Since fleeing El Salvador in 1989, Joya Martínez has provided lengthy testimony to the U.S. Congress, human rights organizations and journalists about a death squad operating out of the First Brigade intelligence unit in San Salvador in which he says he participated. He has also alleged that U.S. advisors stationed in the First Brigade funded the unit's activities while insisting on being insulated from knowledge of its dirty work.

Joya Martínez has admitted his participation in the summary execution of several persons held by the First Brigade or targeted by the military for elimination, either because they were guerrillas or suspected guerrillas or because they were military informers who knew too much or were no longer cooperative. Joya Martínez says that the murders in which he participated were ordered by his superiors.

Having spent years documenting death squad killings and political murder in El Salvador, Americas Watch finds that Joya Martínez's testimony is chilling but bears the ring of truth. Americas Watch has independently investigated some of the cases in which Joya Martínez says he was involved and has corroborated the details of at least one case and a second case in which he alleged that the First Brigade summarily executed one of his informants. We believe that the Salvadoran government is insisting on his extradition because it wants to silence him and thereby discourage others with inside information about the death squads from coming forward. The U.S. government is fully cooperating with the Salvadoran government's extradition request, and had Joya Martínez re-arrested within an hour of his May 29, 1991 release from a Texas prison, where he had been serving time for an immigration infraction.<sup>1</sup>

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<sup>1</sup> Joya Martínez was indicted in June 1990 under a rarely-used statute prohibiting re-entry into the United States after a previous deportation; he was convicted in September 1990 and later sentenced to six months in jail. Joya Martínez applied for political asylum in the United States in October 1989, and was turned down in late July 1991. He was first deported from the United States in 1982.

A U.S. magistrate in San Antonio, Texas will conduct a hearing on August 16 on the Salvadoran government's extradition request. If the judge rules for the request, the final decision on extradition, and probably on Joya Martínez's life, will lie with Secretary of State Baker.

While cognizant of the serious moral problems inherent in opposing extradition for a confessed murderer, and while insisting on the principle that abusers of human rights should be held accountable for their crimes, Americas Watch is persuaded that extradition should be denied in this case:

1) If deported to El Salvador, Joya Martínez will in all likelihood never live long enough to receive a trial, much less a fair one. Americas Watch opposes extradition to countries where defendants would not receive adequate due process guarantees; and

2) participants in officially-sponsored death squads should be encouraged to divulge details of their activities and name names of officers involved, in order to establish the truth about and responsibility for these activities. Such accounts have the added value of clarifying the fate of some of the tens of thousands of disappearance and murder victims, for the sake of their families.

Those who demonstrate their repentance of death squad activities by confessing their role and providing testimony to human rights groups, Congress and journalists should not be punished through extradition back to a country that has still not demonstrated its willingness or ability to protect and defend human rights. To move El Salvador away from its treacherous past of death squad killings, the tie of silence that binds the killers must be broken, and defections from the ranks must be encouraged, publicized and protected. Death squad activities in El Salvador, which commenced in the late 1960s, have involved hundreds of "operatives," yet until Joya Martínez surfaced, few have come forward or publicly revealed the inner workings of these murderous units. Although a tiny handful of members of the armed forces have described death squad operations in the early 1980s, Joya Martínez is the only one to have detailed their activities at the close of the decade.

The importance of bringing out the truth about death squad activities is magnified at this moment in Salvadoran history. Peace negotiations between the government and the rebels have focused extensively on the purging from the armed forces of soldiers and officers responsible for past human rights abuses. In addition, the government and the rebels recently agreed in principle to establish a Truth Commission to look into past human rights cases.

In the current circumstances, the armed forces as an institution and/or individuals who stand to be exposed have enormous incentives to prevent "traitors" such as Joya Martínez from coming forward, through intimidation tactics including assassination. In pressing for Joya Martínez's extradition, the Salvadoran government no doubt intends to send a powerful signal to others who might consider stepping forward with information about human rights abuses, even from the presumed safety of a foreign country. There is nothing that can guarantee Joya Martínez's life if he is sent back to El Salvador.

## Americas Watch's Investigation of Joya Martínez's Charges

Americas Watch interviewed Joya Martínez for several hours and reviewed transcripts of many other hours of testimony given about his personal knowledge of, and participation in, First Brigade death squad activities. We read the court records in the murder case for which Joya Martínez's extradition is being sought, up until the time those court records were, without explanation, removed from public scrutiny. We attempted to verify Joya Martínez's accounts of First Brigade death squad activities by field investigations of murders he alleged were conducted by this squad. We were already familiar, because of our presence since 1985 in El Salvador, with certain of the cases he mentioned and with the Apopa-Nejapa area north of San Salvador, to which he was assigned.

We were convinced, and the Army has not denied, that Joya Martínez was indeed a case officer in the First Brigade's intelligence unit. He had a detailed working knowledge of the Apopa-Nejapa area and of cases there that had never been publicly denounced or reported to human rights groups, as well as of cases that had been denounced.

Of the several cases of death squad executions in which he said he had been involved, we were able to verify that one execution, of a person he was told was a former army informer, had taken place at the time and in the place and circumstances that Joya Martínez described.<sup>2</sup> The coincidences between Joya Martínez's account and Americas Watch's investigation were very strong. His knowledge could not have come from public or human rights sources, because the family never filed any complaint; rather, they quickly buried the victim after the justice of the peace viewed the body and certified the death. Joya Martínez also had intimate knowledge of an execution of a person he said was one of his own informers; besides having received information on this death before meeting Joya Martínez, Americas Watch also located the case in the court records and verified through official documents that this person was indeed a military informant.<sup>3</sup>

Americas Watch was not able to verify other cases described by Joya Martínez because they were never publicly denounced and because of the inadequacies of record-keeping in El Salvador. In fact, Joya Martínez's accounts make clear the military's intention to eliminate all traces of its victims, often by throwing their bodies over cliffs into the Pacific Ocean. There are some inconsistencies in Joya Martínez's recollections of these killings, and he has contradicted himself on some details in interviews with different people. We have no explanation for these discrepancies. However, Americas Watch believes that the many details of death squad operations he provides could only have come from someone with an intimate knowledge of their inner workings.

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<sup>2</sup> The victim, whose name Joya Martínez remembered as José Antonio Marroquín, was killed in Apopa just outside of the Children's Park in early June 1989, with several bullets to the head. Court records and persons consulted about the case disclosed that the victim's name was actually José Arturo Girón Marroquín. The physical circumstances of the death were very much as Joya Martínez recalled them. A search of the newspapers for the month of June 1989 failed to reveal any report of the case.

<sup>3</sup> Joya Martínez believed that this June 1989 execution of his agent "Lino," whose full name appeared in the court records as Celino Guerrero, was committed by the First Brigade because its members suspected that the informant was a double agent; the execution added to Joya Martínez's fears that he might meet the same fate and contributed to his decision to flee El Salvador in July 1989.

## Previous Deaths in Custody

In at least one notorious case, current or former members of the armed forces died in custody, apparently to prevent their testimony about the military's involvement in crimes. Between 1982 and 1985, a band of former and active duty military officers and rightist civilians, posing as guerrillas, seized wealthy businessmen and ransomed them for profit (the kidnapping-for-profit ring reportedly grew out of a death squad). Two men who were sought as witnesses or low-level participants in the ring died in police custody in April and May 1986, shortly after they were detained; a third died under suspicious circumstances. Ramón Erasmo Oporto, a former National Police detective implicated in the kidnapping-for-profit case, was found hanged in his cell on April 3, 1986, two days after his detention by police. Another former National Police detective linked to the kidnapping scheme, Edgar Sigfredo Pérez Linares, died in the Santa Tecla hospital of gunshot wounds. The National Police maintained that Pérez Linares tried to escape during a transfer in May 1986 to San Salvador, and the police were forced to shoot him. An anonymous caller told a local newspaper, however, that Pérez Linares was wounded by machinegun fire and left for dead near a dumping ground for bodies; unidentified men took him to the hospital where he died. A third suspect in the kidnapping case, former National Police detective Moisés López Arriola, was shot and killed outside his own house, by a watchman who claimed that López was a guerrilla.

Even the U.S. Embassy, which was interested in bringing the culprits in the kidnapping-for-profit case to justice, denounced the two deaths in custody.<sup>4</sup> To this day, the case remains stalled, and a spate of kidnappings in mid-1991 has led members of the private sector to believe that the ring may be back in business.

Less well-known suspects have also died in police custody, some after being tortured. In none of the following cases was there anything more than a cursory investigation of the police responsible; no trials or punishments resulted:

-- José Angel Alas Gómez, 27, died in Treasury Police custody, allegedly of a heart attack, on January 13, 1988. Photos of the body showed signs of beating and torture.<sup>5</sup>

-- José Joaquín González Vásquez, an agrarian cooperative member, died in National Police custody in San Miguel on June 20, 1989. The police claimed that he had hanged himself, but the body had signs of severe beatings and torture, as well as a mark around the neck from hanging.<sup>6</sup>

-- Yuri Edson Aparicio Campos, university student, was picked up in Soyapango, San Salvador, sometime after November 8, 1989. He was brought to the Hospital Rosales by the National Police on November 19 as a prisoner, unconscious, with internal injuries from beatings. He died on November 25.<sup>7</sup>

-- Julián Rosales López was captured by soldiers of the Atlacatl Battalion near San Salvador in early

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<sup>4</sup> Americas Watch, The Civilian Toll 1986-1987, Ninth Supplement to the Report on Human Rights in El Salvador, August 30, 1987, pp. 240-41.

<sup>5</sup> Americas Watch, Nightmare Revisited 1987-1988, Tenth Supplement to the Report on Human Rights in El Salvador, September 1988, p. 23.

<sup>6</sup> Americas Watch, A Year of Reckoning: El Salvador a Decade after the Assassination of Archbishop Romero, March 1990, p. 50.

<sup>7</sup> *Ibid.*, pp. 42-43.

February. On February 8, 1990, his relatives were told that he had died in National Police custody. An autopsy showed that his death was caused by torture.<sup>8</sup>

-- Mauricio Quinteros Henríquez was captured in San Salvador by men in civilian clothes on July 30, 1990. The next day, his family was told that he was being held at National Police headquarters; on August 8, they were told that he had been transferred to the National Guard. On August 10, uniformed National Guardsmen came to the family's house to tell them that the victim had hanged himself in his cell; an autopsy showed signs of violence unrelated to hanging.<sup>9</sup>

### **Background to the Extradition Request**

The pretext for the extradition of Joya Martínez is his involvement in the torture and killing of two detainees in July 1989. One detainee, Lucio Parada Cea, died in the field after capture and brutal interrogation in which eyewitnesses allege Joya Martínez participated. The second victim, Héctor Joaquín Miranda Marroquín, was captured during the same sweep and also allegedly brutally interrogated by Joya Martínez and others. Miranda died as a result of this beating and the subsequent gross negligence of officers of the First Brigade; Miranda was illegally detained in Brigade headquarters for nine days without medical care before finally being sent to a hospital; he died of internal injuries 24 hours later.<sup>10</sup>

Joya Martínez fled the country shortly after these killings. He said that he was fearful of being eliminated by the Army and his death attributed to combat; the Parada and Miranda killings would then conveniently be blamed on a dead soldier who could be said to have committed them of his own accord, rather than by order of his superiors.<sup>11</sup>

At the time of his flight from El Salvador, the investigation of the Parada and Miranda murders had not focused on Joya Martínez. Since his testimony abroad, however, he has become the only defendant in the case,<sup>12</sup> and the other soldiers and commanders who participated in the captures and deaths have been absolved of responsibility for the crimes. The officer responsible for the illegal detention of Miranda (and six others captured at the same time) as well as for the refusal to provide medical treatment for Miranda is the commander of the First Brigade, then as now, Colonel Francisco Elena Fuentes. Yet he is not a

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<sup>8</sup> *Ibid.*, pp. 49-50.

<sup>9</sup> Americas Watch, *El Salvador and Human Rights: The Challenge of Reform*, March 1991, pp. 13-14.

<sup>10</sup> Americas Watch, *A Year of Reckoning, op. cit.*, March 1990, pp. 43-49.

<sup>11</sup> According to Joya Martínez, the operation covertly to execute Parada and Miranda had failed. Joya Martínez had been temporarily integrated into the military's Atlacatl Battalion to carry out the operation, but the joint patrol captured the two suspects in front of their families, allowing witnesses to identify those responsible.

<sup>12</sup> Another defendant, Corporal Salvador Alcides Gómez Gómez, was detained in August 1989 but was released by court order in December 1989.

Americas Watch carried out detailed research into another case in which the military rehearsed soldiers in false testimony in order to cover up the Army's involvement in a massacre of ten captured peasants in the town of San Francisco, San Vicente in September 1988. In this case, the major in charge of military intelligence of the Fifth Brigade diagrammed on a blackboard a story of a fabricated FMLN ambush; the soldiers were then taken to the field to walk through their fake positions, so that their testimony would be more convincing and they would corroborate each other.

Because of the orchestrated cover-up of the San Francisco murders, we do not place a great deal of faith in the testimony of active-duty soldiers who collectively point a finger at an absent soldier. See News From Americas Watch, "The Army Massacre at San Francisco," September 1989.

defendant in the case and his role and responsibility were never probed.<sup>13</sup>

The Salvadoran government's aggressive pursuit of Joya Martínez's extradition stands in stark and cynical contrast to the position it took regarding the extradition of Colonel Rafael Alvaro Saravia, a right-wing associate of ARENA party founder and reputed death squad operative Roberto D'Aubuisson. Saravia was wanted for questioning in late 1987 in connection with the 1980 assassination of Archbishop Oscar Arnulfo Romero.<sup>14</sup> The Salvadoran Supreme Court, however, dismissed the extradition order in December 1988, saying among other things that it was procedurally defective and the evidence in the case was too old. Attorneys for the prosecution argued that a much higher evidentiary standard than normally used was being applied in the Saravia case.

## Conclusion

Of the thousands of cases of death squad killings in El Salvador, no one responsible has been brought to trial. Impunity for these murders has been promoted by a fearful and sometimes complicit judiciary, an executive branch that, regardless of political persuasion, has treated these savage killings primarily as a public relations problem vis-a-vis the U.S. Congress, and a legislature that passed a sweeping amnesty bill in October 1987 and is sure to do so again in the context of the current peace negotiations.<sup>15</sup>

If Joya Martínez is extradited to El Salvador, it can only be with the express consent of Secretary of State Baker. If he is extradited and dies in El Salvador in suspicious circumstances, it will be the direct responsibility of Secretary Baker. We call on the State Department not to extradite César Vielman Joya Martínez.

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*Americas Watch is a non-governmental organization that was established in 1981 to monitor and promote observance of free expression and other internationally recognized human rights practices in Latin America and the Caribbean. The Chair is Peter Bell; Vice-chairs, Stephen Kass and Marina Kaufman. Its Executive Director is Juan E. Méndez; Associate Directors, Cynthia Arnson and Anne Manuel; Director of San Salvador Office, David Holiday; Representative in Santiago, Cynthia Brown; Representative in Buenos Aires, Patricia Pittman; Research Associate, Mary Jane Camejo; Associates, Clifford C. Rohde and Patricia Sinay.*

*Americas Watch in part of Human Rights Watch, an organization that also consists of Africa Watch, Asia Watch, Helsinki Watch, and Middle East Watch. The Chair of Human Rights Watch is Robert L. Bernstein; Vice-Chair, Adrian DeWind. Aryeh Neier is Executive Director; Deputy Director, Kenneth Roth; Washington Director, Holly J. Burkhalter; California, Ellen Lutz.*

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<sup>13</sup> Americas Watch, *A Year of Reckoning*, *op. cit.*, pp. 43-49.

<sup>14</sup> A notebook kept by Saravia listed an "Operation Pineapple" (Operación Piña), which Salvadoran investigators and former U.S. Ambassador Robert White believe was a record of the Romero assassination.

<sup>15</sup> Ironically, a future amnesty would no doubt cover the very crime for which Joya Martínez is being extradited.