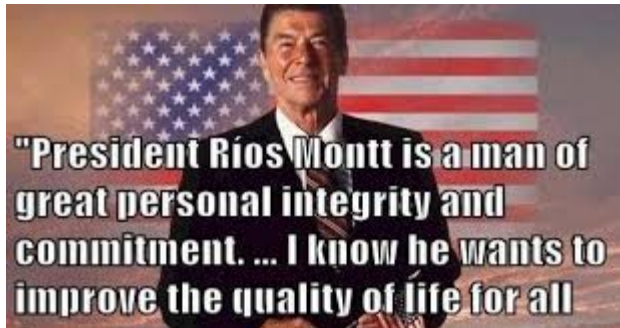


“Dos Erres” Trial in Guatemala

<http://us9.campaign-archive2.com/?u=ea011209a243050dfb66dff59&id=62c42ffd2a>

U.S. trained, funded and supported general Efraim Rios Montt on trial – again – for genocide in the Dos Erres massacre



Rights Action funds FAMDEGUA, the Association of Relatives of the Detained-Disappeared of Guatemala, one of the oldest ‘victims human rights organizations’. FAMDEGUA is a civil party in this precedent setting ‘Dos Erres’ lawsuit.

What to do / How to support: See below

Guatemalan Dictator Rios Montt to Face Genocide Charges

<http://www.telesurtv.net/english/news/Guatemalan-Dictator-Rios-Montt-to-Face-Genocide-Charges-20161116-0027.html>

The former despot, who was a “School of the Americas” graduate and an alleged CIA asset, carried out the bloodiest period of Guatemala’s civil war. The former dictator of Guatemala Jose Efraim Rios Montt will face genocide charges for [the Dos Erres] 1982 massacre that killed 273 Indigenous people and campesinos, almost half of them minors.

A judge said Wednesday that Rios Montt, who ruled from 1982 to 1983, will be represented by his lawyers since he was ruled mentally unfit for trial, at 90 years old.

Four members of the army’s elite troop, which executed the massacre, were already condemned to over 6,000 years in prison five years ago. One lieutenant was sentenced to over 5,000 years and two others accused of participating in the massacre are detained in the United States, where they are serving a sentence for lying to obtain U.S. citizenship.

Ríos Montt is currently under house arrest and was scheduled to face trial for the killing of 1,071 Ixil Indigenous people during his de facto regime, but he was suspended from trial due to health reasons.

The former despot, who was a “School of the Americas” graduate and an alleged CIA asset, carried out the bloodiest period of Guatemala’s over three-decade-old civil war.

Judge Rejects Motion to Dismiss Charges Against Ríos Montt in the Dos Erres Massacre Case

by Jo-Marie Burt, November 18, 2016

[Original + links: <https://www.ijmonitor.org/2016/11/judge-rejects-motion-to-dismiss-charges-against-rios-montt-in-the-dos-erres-massacre-case/>]

Lawyers for former Guatemalan dictator José Efraín Ríos Montt sought, unsuccessfully, to have charges against him in the Dos Erres massacre dismissed based on the argument that he is mentally incompetent.

The Dos Erres massacre took place over the course of three days in December 1982. Soldiers searching for insurgents who had attacked a military convoy and stolen army weapons systematically massacred more than 200 men, women, and children in the remote settlement, located in Petén. They then razed the village to the ground.

Judge Claudette Domínguez of High Risk Court A rejected the defense motion to dismiss the charges. She stated that in a subsequent hearing, she will hear arguments from the plaintiffs about the application of special procedures, like those adopted in the Ixil genocide case. Under such measures, a guardian represents the defendant in closed-door hearings.

Several Guatemala media outlets erroneously reported that Judge Domínguez accepted the defense motion to desist from criminal prosecution of Ríos Montt in the Dos Erres massacre. The Attorney General’s Office published a press release clarifying the judge’s decision rejecting the defense motion and therefore the continuation of the criminal proceedings against Ríos Montt.

The Dos Erres Massacre Case: Background

In the face of inaction in Guatemala’s domestic courts, the victims brought the Dos Erres case to the Inter-American Court of Human Rights. The court issued a ruling in November 2009 in which it found the Guatemalan state to be responsible for the massacre of more than 200 individuals at Dos Erres and established the state’s obligation to investigate, prosecute, and punish those responsible.

In 2011, in one of the early domestic war crimes trials to take place in Guatemala, four former Kaibil (special operations force) soldiers were convicted for their involvement in the Dos Erres

massacre. Pedro Pimentel, a former Kaibil who was extradited from the United States, was convicted in 2012.

The Inter-American Court also ordered the Attorney General's Office to investigate the intellectual authors of the crime, and in May 2012, it brought charges against Ríos Montt for the crimes of aggravated homicide and crimes against humanity.

The Attorney General's Office had also brought charges against Ríos Montt in the Ixil genocide case earlier that same year.

Pretrial judge Carol Patricia Flores ruled that the case against Ríos Montt in the Dos Erres case could go forward, but she modified the criminal charge to genocide, against the wishes of the prosecutor and the civil parties. While Guatemalan law requires pre-trial detention in the case of homicide charges, this is not the case with genocide charges, so as a result of Flores' decision, Ríos Montt was granted house arrest after posting bail.

Ríos Montt's defense lawyers filed dozens of appeals and legal motions to delay both cases from coming to trial. While the Dos Erres case remained paralyzed, in January 2013, a new judge, Miguel Ángel Gálvez, was named to the Ixil genocide case and ruled that there was sufficient evidence to go to trial. That trial began on March 19, 2013 and ended in the conviction of Ríos Montt. However, the judgment was effectively vacated after what human rights lawyers say was an illegal decision by the Constitutional Court to partially suspend the proceedings.

In the Dos Erres case, as a result of delays over the civil party demand to recuse Judge Flores, along with a sea of appeals and other legal motions presented by the defense, the proceedings remained stalled.

The Dos Erres case was reactivated in August 2016, when former Kaibil Santos López Alonso was deported from the United States to Guatemala. He was immediately arrested and charged with aggravated homicide, crimes against humanity, and other crimes in relation to the Dos Erres massacre.

Ríos Montt's lawyers have seized upon this opportunity to try to have the charges against their client in this case dismissed. They filed a motion before Judge Claudette Domínguez, who is overseeing the preliminary hearings in the case against López Alonso, asking the judge to declare Ríos Montt mentally incompetent to stand trial and to dismiss all charges against him in this case.

Human rights lawyers close to the case told International Justice (IJ) Monitor that they believe this is a strategic move by Ríos Montt's defense lawyers. If they can successfully have the charges against Ríos Montt dismissed in the Dos Erres case, it would allow them to seek to have the charges against the former dictator in the Maya Ixil genocide case dismissed as well.

The Attorney General's Office is pursuing the original charges of aggravated homicide and crimes against humanity against Ríos Montt, but the charge of genocide remains part of the accusation. Sources close to the case told IJ Monitor that the plaintiffs will seek to have the genocide charge dropped and to prosecute Ríos Montt for aggravated homicide and crimes against humanity.

The Hearing: Judge Rejects Defense Motion

The hearing to discuss the defense motion was initially scheduled in October, but Zury Ríos, who is Ríos Montt's legal guardian, was not in attendance. As a result, the hearing had to be rescheduled and was finally held on Wednesday, November 16. The defense lawyers argued that Ríos Montt should be declared mentally incompetent and called upon the judge to dismiss charges against him in the Dos Erres massacre case. They claimed that the criminal prosecution has caused damage and deterioration to the health of the retired general and represents a violation of his rights.

Erick de León, representing the Attorney General's Office, acceded to the request that Ríos Montt be declared mentally incompetent. However, he called upon the judge to rule in favor of continuing the criminal prosecution of Ríos Montt.

The lawyer for the civil party to the case, the Association of Relatives of the Detained-Disappeared of Guatemala (FAMDEGUA), Francisco Vivar, asked the court to consider the application of the same special security procedures currently in force for Ríos Montt in the Ixil genocide case in a subsequent hearing. This would allow the proceedings to move forward, though Ríos Montt would not be required to be in attendance. Vivar reiterated the importance of justice in this case, noting: "Many victims have died without having achieved justice."

Guatemalan law has a provision that allows for special procedures in cases when a defendant is determined to be mentally incompetent. Under such procedures, the defendant is not required to attend the proceedings, and a guardian is appointed to represent him or her in the courtroom. Ríos Montt's children, Zury Ríos and Enrique Ríos Sosa, have been appointed to this effect.

Under these provisions, the proceedings would not be accessible to the public, as is normally the case. In addition, if the defendant is found guilty, no criminal sanction is applied, though certain measures, such as admission to a psychiatric institution, may be adopted. In August 2015, a three-judge panel determined that such special proceedings should apply to Ríos Montt in the Ixil genocide case. The retrial was started in March of this year, but it was suspended after the Constitutional Court found that Ríos Montt's co-accused, José Rodríguez Sánchez, should not be tried under these special proceedings, but in open trial. To date neither of these trials have started.

Judge Domínguez acknowledged the possible risks to Ríos Montt's health but ruled that the legal requirements to order the cessation of criminal prosecution were not met. She also acknowledged that her in making her decision she had to take into account her obligation to

guarantee victims' access to justice. She ordered the National Forensic Science Institute (INACIF) to report on the status of Ríos Montt's health every 30 days.

Ríos Montt's defense lawyer filed a motion against the judge's decision, stating that "it puts the life of the defendant at risk." In response, Judge Domínguez reviewed and partially modified her resolution. She maintained her decision to reject the motion to suspend the criminal prosecution against Ríos Montt. She agreed to lift the requirement that INACIF prepare monthly reports and ordered the family to report every 30 days on the state of Ríos Montt's health. Finally, she called upon the Attorney General's Office to present its position on whether special security measures should be applied in this case, as requested by the lawyer for the victims.

Several local newspapers, including Prensa Libre (see also here) and Siglo XXI, reported that Judge Domínguez had accepted motion presented by Ríos Montt's lawyers and that the charges against him had been dropped. In response, the Attorney General's Office published a press release clarifying that while the judge did in fact determine that Ríos Montt was mentally incapacitated, she rejected the defense motion to dismiss the charges against him, and that for now, the case against Ríos Montt continues.

The Case Against Former Kaibil Santos López Alonso

Shortly after his return to Guatemala in August of this year, the Guatemalan Attorney General's Office charged former Kaibil Santos López Alonso with aggravated homicide of 200 individuals and crimes against humanity. López Alonso is also charged with the suppression and alteration of the natural identity of Ramiro Antonio Osorio Cristales.

Osorio Cristales, who was five years old at the time of the massacre, was illegally appropriated by López Alonso, who he registered as his son. The Attorney General's Office also accuses López Alonso of subjecting Osorio Cristales to a condition of servitude and to cruel and degrading treatment.

Osorio Cristales' entire family was killed at Dos Erres and is one of two known survivors of the massacre. IJ Monitor will file a separate post on the case against López Alonso in the coming days.

For more on the Dos Erres massacre:

- Plaza Pública's "Dos Erres: the long road to justice"
<https://www.plazapublica.com.gt/content/dos-erres-long-road-justice>
- ProPublica's "Finding Oscar: Massacre, Memory and Justice in Guatemala"
<https://www.propublica.org/article/finding-oscar-massacre-memory-and-justice-in-guatemala>

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Rights Action Solidarity-educational trips to Guatemala and Honduras, 2017

<http://us9.campaign-archive2.com/?u=ea011209a243050dfb66dff59&id=34125a20ef>

- Guatemala, Spring Break 2017, Saturday March 25 – Saturday April 1 ... “Why Central Americans Flee North, Decade After Decade. Understanding the Human Rights, Poverty, Repression, Corruption & Impunity Crisis in Guatemala”
- Honduras, May 2017, Saturday May 27 – Sunday June 4 ... “Honouring The Life, Work & Struggles Of Berta Caceres”
- More information: info@rightsaction.org

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To support community, human rights and environmental defense organizations in Honduras and Guatemala – like FAMDEGUA-, working and struggling for justice and for fundamental change from the local to global levels, make check payable to "Rights Action" and mail to:

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- U.S.: <http://www.rightsaction.org/tax-deductible-donations> (click on NetworkForGood)

“This Will Not Stop ...” (Rights Action Newsletter, July-August 2016)

<http://www.rightsaction.org/action-content/will-not-stop-rights-action-newsletter-july-august-2016>

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