

Criminal investigation into Judge Ana Leticia Pena Ayala who acquitted Mynor Padilla, Hudbay Mineral's former head of security, in mining-related murder and assault trial

<https://mailchi.mp/rightsaction/criminal-investigation-into-judge-who-acquitted-mynor-padilla>

*"Questions linger about why the Judge acted as she did,
and if acts of collusion occurred, which were by all counts illegal."
(Luis Solano)*

The Guatemalan Supreme Court of Justice (CSJ) has lifted the legal immunity of Judge Ana Leticia Pena Ayala who, in April 2017, acquitted Mynor Padilla (former Hudbay Minerals head of security) in his trial related to a mining-linked repression at Hudbay's then-owned nickel mine that resulted in the killing of Adolfo Ich and shooting-paralyzing of German Chub.



Mynor Padilla (standing, on left) in a 2015 court appearance with his team of well-connected lawyers (all allegedly paid by Hudbay Minerals). One lawyer –Francisco Jose Palomo Tejada (next to Padilla)- was since assassinated in an alleged narco-trafficking linked hit; another –Frank Manuel Trujillo Aldana (3rd over from Padilla)- is in jail on government organized crime corruption charges.

In her decision, not only did Judge Ana Pena immediately free Padilla from detention, but she apologized to him on behalf of the judicial system, and –even worse- she ordered criminal investigations into the prosecuting lawyers from the Attorney General's office and CICIG (the UN-backed commission to end corruption and impunity), into Angelica Choc (widow of Adolfo Ich) and some family members, and into witnesses and expert witnesses called by the AG's office, CICIG and Angelica.

- **“Mynor Padilla Trial: Racial Discrimination / Caso Mynor Padilla: Discriminacion Racial”**. This 4 minute report (2016) by Lazar Konforti documents unsuccessful efforts to have the allegedly corrupt Judge Ana Ayala recused from the Mynor Padilla trial. Angelica Choc addresses the court, as Mynor Padilla and his team of lawyers look on. Background music: a song written and sung by Adolfo Ich, Angelica's husband, killed by Mynor Padilla and his security guards on

September 27, 2009, when they were working for Hudbay Minerals/CGN. View: https://www.youtube.com/watch?v=Q_nLF-bke1k&feature=youtu.be

- **“Hudbay on trial for murder in Guatemala / Hudbay enjuiciada por homicidio en Guatemala”.** In this 2 minute report (2015) by Lazar Konforti, Mynor Padilla, Hudbay Minerals' former chief of security at their mine in Guatemala (which they sold in 2011 to Switzerland company Solway Investment Group), is on trial for murdering community leader Adolfo Ich during an attack by Hudbay's security personnel against community members in 2009. Angélica Choc, Ich's widow, fears for her safety as she has to confront her husband's murderer in court. View: <https://www.youtube.com/watch?v=ke-mmuPHqFY>

In September 2017, an appeals court completely overturned Judge Ana Peña's stunningly biased decision, and sent the matter back for re-trial, now set to begin March 18, 2019.

This potentially explosive investigation into possible criminality in the Judge's acquittal of Mynor Padilla comes on top of a separate case before the CSJ (Supreme Court of Justice) questioning whether the MEM (Ministry of Mines and Energy) illegally granted the underlying mining license in 2005 when the operation was owned by Skye Resources, soon after to be bought out by Hudbay Minerals.

(<https://mailchi.mp/rightsaction/did-hudbay-minerals-skye-resources-ever-have-a-valid-mining-license-in-guatemala-in-the-first-place>)

The criminal investigation into Judge Ana Peña also comes on top of revelations in Hudbay corporate documents (filed into the court record of the civil lawsuits in Canada) that Hudbay had extensive knowledge about and, in effect, enabled repression and corruption in Guatemala.

(<https://mailchi.mp/rightsaction/hudbay-minerals-corporate-documents-reveal>)

The re-trial of Mynor Padilla is slated to begin March 18, 2019. Given that Padilla was once a fugitive a justice for over 3 years, he may be sent back to jail during the re-trial. Padilla's re-trial is parallel to, but separate from the criminal investigation into Judge Ana Ayala's initial ruling.

- Stay tuned
- Below: Background article by Luis Solano
- To support the community defense and justice struggles of the Mayan Q'eqchi' people, see below

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The Guatemalan Supreme Court of Justice (CSJ) to consider lifting legal immunity of Judge in the Mynor Padilla (former Hudbay Minerals head of security) criminal case

By Luis Solano, April 28, 2018, <https://cmiguate.org/csj-da-tramite-para-antejuicio-a-jueza-en-caso-de-militar-mynor-padilla>

The Guatemalan Supreme Court of Justice (CSJ) has agreed to investigate whether or not to lift the judicial immunity of Judge Ana Leticia Peña Ayala. On April 25, 2018, the CSJ gave notification of its

approval of the request to investigate whether Peña Ayala herself committed a crime in her decision to absolve Mynor Padilla in his criminal trial when she was a judge in Izabal.

The petition to investigate has to do with the Judge's April 2017 ruling in favor of military officer Mynor Ronaldo Padilla González, accused of human rights violations while employed as head of security for the Canadian mining company Hudbay Minerals and its subsidiary Guatemalan Nickel Company (CGN).

The defendant – former Lieutenant Colonel Mynor Padilla, is accused of homicide against Adolfo Ich Chamán, very severe injuries against German Chub Choc and serious injuries against Alejandro Acte Coc and Haroldo Cucul Cucul.

In April 2017, Judge Peña Ayala, Presiding Judge of the First Instance Criminal Court for Narcotics Activities and Crimes Against the Environment of Izabal, issued her ruling absolving Mynor Padilla of all charges and [ordered](#) his immediate release.

The absolving of the military officer came as no surprise, once again confirming the impunity that prevails in the Guatemalan justice system. However, her decision caused further indignation when the Judge “asked for the forgiveness” of Mynor Padilla for the time spent in detention (during the trial), and even more indignation when she “ordered legal investigations” against the plaintiffs, witnesses and prosecuting lawyers for allegedly having coerced witnesses to provide false testimony.

Notably, Mynor Padilla has a team of defense lawyers with strong ties to CGN and elite Guatemalan sectors.

The Judge's position was evident in her ruling as she “criminalized” some of the witnesses, the plaintiff Angélica Choc, a prosecutor from the Attorney General's office, lawyers from the International Commission Against Impunity in Guatemala (CICIG) and some of the expert witnesses. In her ruling, the Judge also violated the established time frames to make the judgment known, as she exceeded the time stipulated for making it public.

A few days after issuing the ruling, and days before it was made public, Peña Ayala was transferred to Guatemala City, to lead the First Instance Criminal Court for Narcotics Activities and Crimes Against the Environment in the City of Guatemala.

On June 1, 2017, the Attorney General's office, CICIG and the plaintiff Angélica Choc, widow of professor Adolfo Ich, appealed the trial court decision including Judge Peña Ayala's call for criminal investigations against the entire prosecution.

The appeal was presented before the Mixed Jurisdictional Appeals Court of the Department of Izabal. On September 14, 2017, the Appeals Court overturned all aspects of Judge Peña Ayala's decision and [ordered](#) a new trial under a different judge.

In response to the Appeals Court decision, Padilla and his lawyers presented an appeal and a petition for a judicial review. The CSJ's decisions on the appeal and petition have not yet been issued, thus a new trial has not begun.

The petition to lift the immunity of Judge Peña Ayala was presented by the AG's office and CICIG. The CSJ named the First Superior Judge from the Third Appeals Criminal Court as the Investigating Judge.

This Judge, Beyla Adaly Xiomara Estrada Barrietos, is this First Superior Judge from the Third Appeals Criminal Court, and she is also married to Alfredo Brito, the current President's Secretary of Social Communications.

Mynor Ronaldo Padilla González was a member of the Armed Forces graduating class #102. In 1982, one year after entering the army, he changed his name from the one he used to sign up at the Escuela Politécnica military academy (Jaime Rolando Padilla González) corresponding to number 4502.

His graduating class belongs to the group of classes 99-103 that graduated during the bloodiest years of the internal conflict (1981-1984) and were active in some of the most conflict-affected areas in western Guatemala, where hundreds of villages were destroyed.

Questions linger about why the Judge acted as she did, and if acts of collusion occurred, which were by all counts illegal.

Background: Hudbay Minerals lawsuits – Media reports, Photo-essays: <http://rightsaction.org/hudbay-minerals-lawsuits-media-reports-photo-essays/>

More information

- Hudbay Mineral lawsuits in Canada: Klippensteins Barristers & Solicitors, Murray Klippenstein and Cory Wanless, +1 416-598-0288, www.chocversushudbay.com
- Criminal trial in Guatemala against Hudbay's former head of security: Rights Action, Grahame Russell, grahame@rightsaction.org, +1 416-807-4436
- Legal challenge against mining license in Guatemala: Rafael Maldonado, areapoliticalegal@gmail.com, +502 5834-5834

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