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Guatemala's Mack Trial Reversal

by LADB Staff

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A Guatemalan court reversed the conviction of the alleged intellectual author of the murder of Myrna Mack, and affirmed the innocence of his superior officers on April 7. In doing so, Guatemala's criminal justice system took a giant step backwards in the eyes of foreign diplomats and other international observers (see NotiCen, 2003-02-20). Sala IV of the Corte de Apelaciones freed all three military officers accused of having ordered the killing of the anthropologist in 1990.

The man who stabbed Mack to death, Noel Jesus Beteta, was convicted in 1993 and is still serving his 25-year sentence. Col. Juan Valencia was sentenced to 30 years in prison on Oct. 3, 2002, for having given Beteta the order. Today, he is a free man. In the same trial last year, Gen. Edgar Godoy and Col. Juan Oliva were found not guilty but were held in custody pending appeal. They, too, are free now.

Recapping the case:

Sept. 11, 1990. Myrna Mack died of 27 stab wounds in Guatemala City. She was investigating the situation of indigenous people brutalized by the internal war.

June 28, 1991. Army Sgt. Beteta was ordered arrested, after having been extradited from the US for the crime.

Aug. 5, 1991. Police officer Jose Miguel Merida was shot to death near the central police station after having linked the killing to agents of the Estado Mayor Presidencial (EMP), the army's official political hit-squad.

March 1993. Beteta was found guilty at trial. Charges against Godoy, Valencia, and Oliva remained open.

Sept. 3, 2002. Trial of the three officers commenced (see NotiCen, 2002-09-05).

Oct. 3, 2002. Valencia was sentenced; Godoy and Oliva absolved (see NotiCen, 2002-10-10).

Feb. 18, 2003. The case was brought before the Corte Interamericana de Derechos Humanas in Costa Rica. That court has yet to announce a verdict.

May 7, 2003. Valencia's conviction was reversed and absolution of the others confirmed.

The complainant in the case, Myrna Mack 's sister Helen, called the decision "a powerful blow" to the justice system. Helen Mack was disconsolate. She has been the motivating force for the

prosecution of this case since the beginning. "This resolution is extremely sad," she said, "These judges had a record of defending the interests of the military." She said she would, as she has so many times before, appeal. Valencia expressed his satisfaction with the decision. "Justice has been done, because I never gave the order to assassinate Myrna Mack," he said. "I am innocent and I'm going to thank God very much every day. It was the resolution I was hoping for." For Mack, however, it simply "demonstrated that justice is not free of coercion. This decision is a setback for the justice system in Guatemala."

But it isn't over till its over. The case is now in a phase of cassation, or reversal on the merits. The three defendants are still under the jurisdiction of the court pending the appeal that Mack will file shortly. Valencia was the only military officer ever to have been convicted for one of the many thousands of crimes alleged to have been committed by military forces during the internal war (1960-1996).

In its decision, the court rejected the finding of the previous court, the Tribunal Tercero de Sentencia, which found that the murder "was planned and executed by the EMP," which had determined that Myrna Mack was an "enemy of the state." Instead, they accepted the appeal presented by Valencia's lawyer, Sergio Castro, that the fact that his defendant had "transmitted the order" to assassinate "did not constitute a relation of causality with the deed." Court observers interpreted this to mean that the court found Valencia not to have responsibility because he only gave the order; he did not participate materially in the crime. This was in direct contradistinction to the prosecution's assertion that, because Valencia transmitted the order, those whose orders he transmitted ought also to be found guilty.

Said Mack, "The relationship of the causality of the facts is clear: my sister is dead. If he [Valencia] hadn't given the order, she would be alive." Nery Rodenas, director of the Oficina de Derechos Humanos del Arzobispado, added, "The wall of impunity is reinforced [by this decision] and the system of reconciliation is debilitated." While jubilant, Valencia seemed not to understand the basis of the verdict. "It is a legal and just verdict because I am innocent. I didn't transmit any order," he said. "What's more, Beteta didn't kill Ms. Mack either."

The international diplomatic community, which has supported the case throughout the years and which had heralded the previous conviction of Valencia as a breakthrough for Guatemala's feeble justice system, was taken aback by the reversal. "Although we respect the decision of the court, it is disappointing that 13 years after so barbarous a murder, the intellectual authors have not been condemned," said US Ambassador John Hamilton, who had attended the trial. "This is a decision that demonstrates that there is no justice in Guatemala." Swedish Ambassador Maria Lessner called the result "lamentable." She said, "I can't give an opinion for political reasons, but the fact that nobody has been condemned for being the intellectual author of this crime is very sad. Guatemala has not been able to achieve justice for Myrna and the other victims of the powerful repression that this country has lived with."

Similar sentiments were expressed by Tom Koenigs, chief of the UN mission to Guatemala MINUGUA.

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