

2-4-2015

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## Recommended Citation

Navarro, Carlos. "Judge Rejects Lawsuit by French Citizen Florence Cassez Against ex-President Felipe CalderÃ³n, Others." (2015). <https://digitalrepository.unm.edu/sourcemex/6138>

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## **Judge Rejects Lawsuit by French Citizen Florence Cassez Against ex-President Felipe Calderón, Others**

by Carlos Navarro

Category/Department: Mexico

Published: 2015-02-04

Florence Cassez, a French citizen who spent almost seven years in a Mexican prison on charges of kidnapping, filed a civil lawsuit in January against former President Felipe Calderón (2006-2012), a handful of government officials, and television reporters who participated in a staged re-enactment of her arrest. A federal judge rejected the lawsuit as inappropriate for his court but left open the door for her attorneys to file legal action in other venues.

Cassez was detained in 2006 on charges that she worked with the violent kidnapping gang Los Zodiacos in at least three abductions that included women and children ([SourceMex, April 1, 2009](#)). Cassez claims that she was merely an innocent bystander while Los Zodiacos, led by her former boyfriend Israel Vallarta, carried out the kidnappings and subsequent torture of victims.

Cassez had been sentenced to 60 years in prison (the equivalent of a life sentence) but was released in 2013 after Mexico's high court (Suprema Corte de Justicia de la Nación, SCJN) determined that the manner in which she was arrested violated her individual rights ([SourceMex, March 14, 2012](#), and [Jan. 30, 2013](#)). A day after she was detained, authorities re-enacted her arrest for the benefit of television.

The Frenchwoman, who left for her native country immediately following her release, filed the lawsuit against Calderón and several members of his administration, including ex-attorney general Daniel Cabeza de Vaca; Genaro García Luna, former director of the Agencia Federal de Investigación (AFI); former deputy public safety secretary Luis Cárdenas Palomino; ex-AFI staffer Facundo Rosas; and Calderón's presidential secretary and current Sen. Roberto Gil Zuarth.

The lawsuit also named Televisa reporters Carlos Loret de Mola and Pablo Reinah, who covered the re-enactment of the arrest for their network.

The legal action was filed in a federal court (Juzgado Segundo Civil Federal) in late January, with Cassez seeking the equivalent of US\$36 million in damages, which her attorney José Patiño Hurtado said was compensation "for the moral damage she suffered." The lawyer said the suit seeks "above all to vindicate Florence Cassez, which is the most important thing. This lady suffered because they framed her and made up the entire situation, which was far from the reality."

While Cassez's arrest came during the last year of ex-President Vicente Fox (2000-2006), the suit does not include Fox but did name the officials who served in his administration: García Luna, Cárdenas Palomino, and Rosas. Conversely, the legal action names Calderón arguing that he could have remedied the situation when he took office.

### ***Judge says his court has no jurisdiction***

Judge Juan Manuel Vega Tapia, who presides over the Juzgado Segundo de Distrito en Materia Civil, rejected the lawsuit on the grounds that his court does not have jurisdiction in the cases against the former federal officials and the two news reporters.

Regarding the legal action against Calderón and the other officials, Vega Tapia said the case should be reviewed by a federal court with jurisdiction over a decree governing human rights in Mexico (Ley Federal de Responsabilidad Patrimonial del Estado) and not by a civil court.

Vega Tapia ruled that the lawsuit against Loret de Mola and Reinah is not a federal case and should be heard by a court with local jurisdiction, in this case the Tribunal Superior de Justicia del Distrito Federal.

Shortly after the decision, Patiño Hurtado confirmed his intention to further pursue the case in the Mexican court system. "The decision of Judge Juan Manuel Vega Tapia is unacceptable, and evidently I will file an appeal," said Cassez's lawyer.

"The judge pretends not to be competent to hear this case because it involves individuals and insists that these particular persons have already left their public functions," Patiño Hurtado said in an interview with the weekly news magazine *Proceso*. "He forgets that they were once high-level public officials when these transgressions [against Cassez] took place."

Calderón rejected the lawsuit as "ridiculous," suggesting that Cassez might become the target of a civil suit in the Mexican courts from the victims of the kidnappings. "[This lawsuit] is absurd," the ex-president said in an interview with Mexican network Radio Fórmula while attending a conference in Caracas.

Calderón pointed out that the SCJN released Cassez because of irregularities in her arrest and not on the merits of the crime she is accused of having committed. "In terms of the law governing the rights of victims, the court did not issue an in-depth ruling regarding the behavior of this person. She should be the one worried about a civil lawsuit, not me."

### *Critics say Cassez cast herself in role of 'victim'*

Other observers agreed that authorities gathered ample evidence to prove that Cassez did participate in the kidnappings carried out by Los Zodiacos and later helped torture some of the victims.

"Florence Cassez should have never been released because her participation in the kidnappings had been proven and was based on testimony. Her own accomplices testified against her," columnist Jorge Fernández Menéndez wrote in the daily newspaper *Excélsior*. "She was set free because of a misleading diplomatic negotiation and because the court mistakenly ruled that there was a violation of due process."

Fernández Menéndez said that the problems with due process did not merit the automatic release of Cassez and that she should have received a new trial.

Other observers also noted that Cassez has managed to cast herself in the role of a victim, not only in the eyes of the Mexican public but also in international circles. She is currently considering an offer from a film company in Hollywood to produce a movie about her case. "It is an insult to our country's system of procuration and administration of justice that this case has been made into an international circus," Sergio Arellano Rabiela wrote in *AM Querétaro*, suggesting that the issue has become more political than legal. "The legal decision [from the SCJN] regarding Mrs. Cassez was very clear. She was not declared innocent or guilty."

Political analyst Miriam Hinojosa Dieck said President Enrique Peña Nieto's administration might have played a role in the treatment of Cassez as a victim. The administration negotiated a diplomatic solution with the administration of French President François Hollande to expedite Cassez's return to France. "[Cassez] was treated as a victim under Peña Nieto's administration, giving the impression that Mexico's system of justice is flawed and that corrupt officials improperly put her in jail," Hinojosa Dieck wrote in the daily newspaper Milenio.

Isabel Miranda de Wallace, who heads the anti-kidnapping organization Alto al Secuestro, described the lawsuit as a "publicity stunt that will not prosper." Miranda de Wallace said Cassez's move to file a lawsuit against Mexican officials was a "shameless" act.

If anything, Cassez's lawsuit has prompted the Mexican Senate to ask for a review of how the case was handled. In early February, the upper house voted unanimously to ask the Procuraduría General de la República (PGR) to conduct an investigation into the behavior of federal officials during Cassez's arrest. The purpose of the investigation, said the senators, was to determine who was responsible for the violation of her rights and apply appropriate legal actions against those individuals.

In the same motion, the senators asked the PGR to investigate irregularities surrounding the arrest of Elba Esther Gordillo, the deposed leader of the teachers union (Sindicato Nacional de Trabajadores de la Educación, SNTE). Gordillo was arrested in early 2013 on charges of corruption and racketeering ([SourceMex, March 6, 2013](#)). Later that year, a federal appeals court ruled that there were procedural errors in Gordillo's arrest, with the PGR requesting that the SNTE leader be taken into custody before presenting supporting evidence (averiguación previa) for the action ([SourceMex, Oct. 2, 2013](#)).

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