

11-1-2001

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Guatemalan Judge Dismisses in Scandal

by LADB Staff

Category/Department: Guatemala

Published: 2001-11-01

Citing insufficient evidence, a judge has dismissed charges against all 22 congressional deputies accused in the Guategate legislative scandal. The ruling ends 15 months of legal wrangling over the accusations that governing-party deputies and the president of Congress illegally changed a tax bill, presumably to benefit corporate supporters.

On Oct. 28, Judge Sergio Castro dismissed charges against the legislators, all of whom belong to the governing Frente Republicano Guatemalteco (FRG). He said there was insufficient evidence to prove that a crime had been committed. The scandal erupted in August 2000 after Congress approved a beverage tax bill (*Ley de Impuesto a las Bebidas Alcoholicas, Fermentadas y Gaseosas*). The version of the bill as printed in the official government publication had been altered from the version that Congress approved in June. In the published version, some of the tax rates had been lowered.

Opposition deputies said the bill had been illegally altered by FRG deputies. They offered as evidence a tape recording made by the daily *Prensa Libre* of the June 17, 2000 session during which the tax percentages were changed. The FRG said the alterations were legal under a Congressional rule (*fondo de revision*) permitting a petition to revise. But neither the recording nor eyewitness accounts indicated that Congress had discussed or approved any such petition (see *NotiCen*, 2000-09-14, 2001-02-15). The resulting investigation placed the FRG majority in jeopardy as the 22 FRG deputies, including Congress president and FRG president Efraim Rios Montt, faced the possibility of prosecution and removal from office.

In March of this year, the *Corte Suprema de Justicia* (CSJ) ruled that there was sufficient evidence to remove the legislators' immunity from prosecution and to proceed with hearings. After a brief hearing in April, Judge Castro dismissed the charges against Rios Montt and Congress third vice president Luis Rosales because of insufficient evidence. He freed three others on bond pending a hearing (see *NotiCen*, 2001-04-26).

Special prosecutor says no crime was committed

In dismissing charges against all the deputies, Judge Castro acted on a request from special prosecutor Ramon de Jesus Saenz, who concluded that there had been no falsification involved in the process of approving the beverage tax. Some opposition deputies had opposed Saenz's appointment, arguing that he had ties to Rios Montt and the FRG. Judge Castro also agreed with the prosecution's contention that the *Prensa Libre* audio recording was of such poor acoustical quality that it could not be accepted as a faithful record of the meeting in which the legislators altered the law.

The judge also agreed with Saenz that the printed record of the session and testimony of journalists who were present when the alteration took place, were insufficient evidence. Judge Saenz also

sided with the FRG claim that no deputy had raised any complaints about the law during the five-day comment period specified under Congressional rules. That being the case, the tax law stands. Human rights and other groups condemned the ruling.

Mario Polanco of the Grupo de Apoyo Mutuo (GAM) said, "This shows the attorney general's lack of will and interest in seeing justice done." He noted that the CSJ found enough evidence to lift the deputies' immunity, but Judge Castro found no evidence that a crime had been committed. Deputy Otoniel Fernandez of the Unidad Nacional de la Esperanza (UNE), said "We are sure the bill was altered because we were present; deputies of the FRG came and told me that they had made a grave error." But Leonel Soto Arango, spokesman for the congressional Junta Directiva, said no wrong had been committed and that the media had blown the whole thing out of proportion.

La Prensa Libre published sections of the tape recording transcript in its Oct 27 issue and insisted that the proceedings could be perfectly well heard, "confirming that the law was altered." Whether the ruling closes the Guategate case is unclear. Judge Castro said it does, but Deputy Leonel Lopez Rodas, secretary general of the Partido de Avanzada Nacional (PAN), said he would begin legal action to overturn the ruling.

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