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LADB Staff

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Judge Throws Out Sexual-abuse Case Against Daniel Ortega

by LADB Staff

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A Nicaraguan judge dismissed rape charges brought against Frente Sandinista de Liberacion Nacional (FSLN) leader Daniel Ortega by his stepdaughter Zoilamerica Narvaez Murillo. In 1998, Narvaez said Ortega had sexually abused her for 19 years from the time she was 11 (see EcoCentral, 1998-03-19). Backed by a team of attorneys and a coalition of 15 national and international human rights and women's organizations, Narvaez unsuccessfully pursued the case in Nicaragua and took it to the Centro Nicaraguense de Derechos Humanos (CENIDH), arguing that the Nicaraguan government had denied her access to the justice system.

CENIDH assistant director Javier Perez said that the case would go forward regardless of the outcome of the criminal case against Ortega. The case against the Nicaraguan government then went to the Corte Interamericana de Derechos Humanos (CIDH), which gave the government until Dec. 18 to respond to the charges. But the administration of President Arnoldo Aleman made no public statement regarding the order. Ortega repeatedly denied the charges and said they were political in origin. The National Assembly could have voted to lift Ortega's legislative immunity from prosecution but failed to do so.

Ortega gives up immunity

In a surprise move, Ortega went to court on Dec. 12 and surrendered his immunity. At the same time, he asked Judge Juana Mendez to dismiss the charges on grounds that the alleged crimes took place 19 years earlier whereas the courts can only hear cases involving crimes committed within the past five years. He reiterated his claim that the charges were political and cited as evidence the use of the scandal by President Aleman's administration during the recent presidential election campaign. Ortega said that since Narvaez first made the accusations, he and his wife Rosario Murillo, Narvaez's mother, had tried unsuccessfully to find a family resolution through private talks with Narvaez.

But Narvaez rejected the premise that the issue should be resolved by the family in private. She said rape is a public crime and that her family should face it "no matter how painful it may be." Ortega said he had not given up immunity before because of his busy political schedule of party conventions, internal elections, and the November 2001 general elections, but he now wanted to set an example of legislators submitting to the judicial system.

In defense of Ortega, Murillo held a news conference in mid-December and offered intimate details concerning her daughter. Murillo said Narvaez had an obsession for power, and suggested she had an infatuation with Ortega that drove her to compete with her mother for his attentions.

Narvaez accuses judge of bias

Before the hearing began, Narvaez asked Judge Mendez to recuse herself from the case, arguing that Mendez had shown "a personal interest" in it. One of Narvaez's attorneys, Ana Guadamuz, said Mendez had publicly acknowledged her membership in the FSLN and had violated various legal proceedings in her handling of the case.

On Dec. 19, Judge Mendez ruled in favor of Ortega's petition. She said that, because of the time element and the lack of evidence, the court could not consider the charges. She noted that Narvaez had not brought any legal action against Ortega until she reached the age of 30. Mendez handed down her ruling one day after a judge in another criminal court, Judge Ileana Perez, ruled against Narvaez's request to have Mendez replaced. Narvaez immediately filed an appeal.

Magistrate Rafael Solis of the Corte Suprema de Justicia (CSJ) said the case could eventually end up in the highest court for final resolution. The women's organization Movimiento Autonomo de Mujeres de Nicaragua said history would not absolve Ortega politically or morally despite the court ruling. The CENIDH said Narvaez would take the case to international tribunals.

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