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VOLUME XLIV

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.) Criminal Case No. 78-367

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H5
GUILLERMO NOVO SAMPOL,)

ALVIN ROSS DIAZ,)

Defendants.)

FILED

JUN 1 - 1981

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Washington, D. C.

Saturday, May 30, 1981

The above-entitled action came on for decision by the jury before the Honorable BARRINGTON D. PARKER, United States District Court Judge, in Courtroom No. 19, commencing at approximately 1:47 o'clock, p.m.

APPEARANCES:

For the Plaintiff:

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APPEARANCES (continued):

For the Plaintiff (continued);

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P R O C E E D I N G S

1
2 THE DEPUTY MARSHAL: Remain seated and come to order.

3 THE DEPUTY CLERK: United States of America v. Guillermo
4 Novo Sampol and Alvin Ross Diaz, Criminal No. 78-367.

5 Mr. Barcella, Mr. Feldman and Mr. Brown represent
6 the Government. Mr. Goldberger and Mr. Dubin represent the
7 defendants.

8 THE COURT: Counsel, I understand the jury has reached
9 a verdict.

10 [Whereupon, the members of the jury resumed their
11 places in the jury box.]

12 THE DEPUTY CLERK: Will the foreperson of the jury
13 please rise?

14 [The forelady of the jury stood up.]

15 THE DEPUTY CLERK: Madam Forelady, has the jury
16 reached a verdict?

17 THE FORELADY: Yes, it has.

18 THE COURT: Have the marshal get the jury form.

19 [The marshal takes the form from the forelady and
20 hands it to the clerk, who passes it to the Court.]

21 THE DEPUTY CLERK: Will the defendants please stand
22 and face the jury?

23 [The defendants stand and face the jury.]

24 THE DEPUTY CLERK: Madam Forelayd, would you please
25 rise?

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1 Madam Forelady, as to the defendant Guillermo Novo
2 Sampol, how does the jury find as to Count 1, conspiracy to
3 murder a foreign official, O. Letelier?

4 THE FORELADY: Not guilty.

5 THE DEPUTY CLERK: How do you find as to Count 2,
6 murder of a foreign official, O. Letelier?

7 THE FORELADY: Not guilty.

8 THE COURT: All right. Just a second.

9 THE DEPUTY CLERK: How do you find as to Count 3,
10 first degree murder of O. Letelier?

11 THE FORELADY: Not guilty.

12 THE DEPUTY CLERK: How do you find as to Count 4,
13 first degree murder, R. Moffitt?

14 THE FORELADY: Not guilty.

15 THE DEPUTY CLERK: How do you find as to Count 5,
16 murder by use of explosives, O. Letelier and R. Moffitt?

17 THE FORELADY: Not guilty.

18 THE DEPUTY CLERK: How do you find as to Count 6,
19 false declarations?

20 THE FORELADY: Guilty.

21 THE DEPUTY CLERK: How do you find as to Count 7,
22 false declarations?

23 THE FORELADY: Guilty.

24 THE DEPUTY CLERK: As to defendant Alvin Ross Diaz,
25 how do you find as to Count 1, conspiracy to murder a foreign

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1 official, O. Letelier?

2 THE FORELADY: Not guilty.

3 THE DEPUTY CLERK: How do you find as to Count 2,
4 murder of a foreign official, O. Letelier?

5 THE FORELADY: Not guilty.

6 THE DEPUTY CLERK: How do you find as to Count 3,
7 first degree murder, O' Letelier?

8 THE FORELADY: Not guilty.

9 THE DEPUTY CLERK: How do you find as to Count 4,
10 first degree murder, R. Moffitt?

11 THE FORELADY: Not guilty.

12 THE DEPUTY CLERK: How do you find as to Count 5,
13 murder by use of explosives, O' Letelier and R. Moffitt?

14 THE FORELADY: Not guilty.

15 THE DEPUTY CLERK: Ladies and gentlemen of the jury,
16 your foreperson has stated that you find as to the defendant
17 Guillermo Novo Sampol not guilty as to Counts 1, 2, 3, 4 and
18 5 and guilty as to Counts 6 and 7 of the indictment.

19 As to defendant Alvin Ross Diaz your forelady has
20 announced that you find him not guilty as to Counts 1, 2,
21 3, 4 and 5, so say you each and all.

22 THE COURT: You may be seated.

23 THE DEPUTY CLERK: Ladies and gentlemen of the jury,
24 I am now going to poll you individually.

25 As your name is called, please say yes if your

1 verdict is the same as that announced by your foreperson.

2 Juror No. 1?

3 JUROR NO. 1: Yes.

4 THE DEPUTY CLERK: Juror No. 2?

5 JUROR NO. 2: Here.

6 ~~THE COURT: No, it is not whether or not you are~~

7 here. Is your verdict the same as announced by the forelady?

8 JUROR NO. 2: Yes.

9 THE DEPUTY CLERK: Juror No. 3?

10 JUROR NO. 3: Yes.

11 THE DEPUTY CLERK: Juror No. 4?

12 JUROR NO. 4: Yes.

13 THE DEPUTY CLERK: Juror No. 5?

14 JUROR NO. 5: Yes.

15 THE DEPUTY CLERK: Juror No. 6?

16 JUROR NO. 6: Yes.

17 THE COURT: Juror No. 7?

18 JUROR NO. 7: Yes.

19 THE DEPUTY CLERK: Juror No. 8?

20 JUROR NO. 8: Yes.

21 THE DEPUTY CLERK: Juror No. 9?

22 JUROR NO. 9: Yes.

23 THE DEPUTY CLERK: Juror No. 10?

24 JUROR NO. 10: Yes.

25 THE DEPUTY CLERK: Juror No. 11?

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1 JUROR NO. 11: Yes.

2 THE DEPUTY CLERK: Juror No. 12?

3 JUROR NO. 12: Yes.

4 THE DEPUTY CLERK: The jury has been polled, Your
5 Honor.

6 THE COURT: Very well.

7 The defendants may be seated.

8 [Defendants seated.]

9 THE COURT: Ladies and gentlemen of the jury, you
10 initially came before the Court in connection with your pro-
11 posed jury service, as I recall, on May the 5th, and for the
12 several days remaining in that week we went through jury selec-
13 tion, and certain discrete questions were put to you to determine
14 whether or not you were eligible to serve, and on the following
15 week, Monday, May the 11th, the jury was indeed selected.
16 However, you were not sworn in until the following day, May
17 the 12th.

18 And then on May 13th you began to hear the live
19 testimony and the live testimony continued from May 13th
20 thru May the 26th.

21 Now, of course, there were several days that you
22 did not continue for a full five- or six- or seven-hour day
23 in listening to testimony, but during the time that you were
24 here, I will say without exception all and each one of you
25 did not lack as far as I could observe in terms of your

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1 attentiveness and consideration of this matter.

2 Now, of course, when you started out there were
3 six alternate jurors and one of them fell by the wayside
4 immediately before you got into the box, and then toward the
5 last day a young juror, young man, was discharged; and then
6 ~~the following day a second juror was discharged, and I under-~~
7 stand that one of the jurors or perhaps even several of the
8 jurors made an inquiry of Inspector Reid and the other marshals
9 who were in attendance as to what happened to those two jurors.

10 Well, I think you are entitled to know in a general
11 sense what happened.

12 As far as the first young man, there was a problem
13 in his personal life with respect to his household, his residence,
14 which was entirely separate and apart and distinct from anything
15 that had to do with this case, and the Court after considering
16 the matter, and after talking with counsel, decided that since
17 we had an adequate number of jurors, it would be the better
18 part of wisdom to not have that juror to continue to serve.

19 As far as the second juror is concerned, it involved
20 an incident which did not have anything to do with his hearing
21 of the case, not anything to do while he had the case under
22 consideration as a juror, but it did have something to do
23 with a situation which developed in the hotel where he was
24 not considering the matters of this case.

25 But in any event, it was a serious matter as far

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1 as the Court was concerned.

2 There again I brought counsel in, and the matter
3 was discussed with counsel on the record, and a report on
4 the incident was given to the Court by the United States
5 Marshal, and the incident is something which may or may not
6 be of seriousness.

7 In any event, it will be explored. It will be further
8 investigated, and those who might possibly be involved, they
9 know, of course, who they.

10 In any event, the Court took steps in its own judgment
11 after consultation with counsel to remedy a situation to the
12 extent that it should be remedied in the discretion of the
13 Court.

14 Aside from all of that, I want to say that the Court
15 has no doubt that during your deliberations and during your
16 consideration of this case that you have done nothing beyond
17 that which would be expected of any jury.

18 In short, what I am saying is that as far as the
19 Court is concerned, you have given fair consideration to this
20 case. By that I don't mean to say that -- I am not casting
21 -- you are the judges of the facts, and I feel that you have
22 carefully, objectively, impartially, intelligently, dispassionately
23 considered the case, and I want to thank you for your considera-
24 tion.

25 May you have a very pleasant weekend.

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1 Now I am sure that there will be persons who will
2 inquire of you as to your attitude, your position, your beliefs
3 concerning this case, and, of course, you have the right to
4 discuss it, but may I say this?

5 There is still one further procedure in this case
6 ~~and that is -- I should retract that. I don't know what other~~
7 procedure there is in this case.

8 [The clerk hands document to the Court.]

9 THE COURT: There is one further procedure in this
10 case in terms of the defendant Guillermo Novo Sampol.

11 Until that procedure is dispensed with, namely,
12 the sentencing of Guillermo Novo Sampol on the false declara-
13 tions count, until that has been completed, the Court requests
14 that you not discuss the extent of your deliberations with
15 anyone.

16 Very well. You may follow the marshal.

17 And again have a very pleasant weekend.

18 When I say the Court thanks you, I don't mean this
19 Court, I mean that the entire United States District Court,
20 the judges that sit on the Court.

21 You are excused.

22 [Whereupon, at 2:02 p.m. the members of the jury
23 departed from the courtroom.]

24 THE COURT: Mr. Novo, come forward.

25 [Mr. Novo steps forward accompanied by his counsel,

1 Mr. Goldberger.]

2 THE COURT: Mr. Novo, Mr. Dubin and Mr. Goldberger,
3 is there any reason why I shouldn't step this defendant back
4 pending sentence?

5 MR. GOLDBERGER; Judge, I would ask you to continue
6 his bail.

7 THE COURT: I know that, but give me the reasons.

8 MR. GOLDBERGER: Well, the reasons are, Judge, that
9 he has been here for three days with a life sentence hanging
10 over his head. He has adhered to every admonition Your
11 Honor has asked.

12 Your Honor has asked they be here at 8:30. They
13 have been on the floor each time.

14 Judge, he didn't know and I don't think anybody
15 knew what this jury was going to do, and he was facing life
16 on five counts in this case, and he was here. He has no plans
17 to run away, Judge.

18 He has a lot of family matters to attend to. He
19 will be back, Judge, for the sentence on the perjury counts.
20 He has already got three years in jail, Your Honor, on the
21 counts.

22 I would ask Your Honor to set a date for sentence
23 and continue his bail. He has no intentions of running away
24 now. The life sentences are no longer hanging over his head.

25 He didn't run when those were hanging over his head,

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1 Judge, and he certainly is not going to run when the perjury
2 are hanging over his head, especially since he has already
3 got three years in on the perjury sentences.

4 I would ask Your Honor to continue the bail. He
5 is not going to go, Judge. He didn't when Your Honor gave
6 him all the warnings about where he should be and when he
7 should be here.

8 Please continue the bail until sentence, Your Honor.
9 He will be here.

10 THE COURT: Mr. Barcella?

11 MR. BARCELLA: Your HONor, I will leave the matter
12 in the Court's discretion.

13 THE COURT: Very well.

14 Mr. Novo, I will permit you to remain on bond.
15 I will set the sentencing date in this case.

16 THE DEPUTY CLERK: June 19th.

17 THE COURT: What date was that?

18 THE DEPUTY CLERK: June 19th, Your Honor.

19 THE COURT: I can take it before then. When is
20 your next trial in the New York court?

21 MR. GOLDBERGER: June 9th we start, Your HONor.

22 THE COURT: June 9th?

23 MR. GOLDBERGER: That is a week from Tuesday.

24 THE COURT: Give me a date before June 9th.

25 MR. GOLDBERGER: You are talking about next week

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1 then, Your Honor.

2 THE COURT: I beg your pardon?

3 MR. GOLDBERGER: You are talking about next week
4 then?

5 THE COURT: No, I am just concerned when you have
6 a trial that would ---

7 MR. GOLDBERGER: Well, what I could do is -- I am
8 not sure. Judge Goettel said he probably wouldn't work Fridays
9 because the trial was going to be five to six weeks long,
10 but if Your Honor would hear it on a Friday like the week
11 of the 9th, maybe the 13th.

12 May I approach with the U.S. Attorney for one second,
13 Judge, with regard to the date?

14 THE COURT: Yes.

15 [At the Bench:]

16 MR. DUBIN: What is the penalty for this?

17 MR. BARCELLA: Five years, \$10,000, or both.

18 THE COURT: Miss Flynn, what is the Code citation?
19 Do you have the indictment?

20 MR. BARCELLA: It is 18 U.S. Code 1623.

21 THE COURT: 1623? What were you going to say?

22 MR. DUBIN: Judge, the only thing I wanted to say
23 with regard to the sentencing date that Your Honor is going
24 to choose is Your Honor knows we lost the wiretap motion in
25 the case before Judge Goettel, and pretty much the case is

1 academic at this point.

2 MR. GOLDBERGER: It looks like we are going to reserve
3 our rights in appeal and probably take an appeal in the case.
4 That is what it looks like.

5 MR. DUBIN: I don't necessarily think, Judge --
6 what I am saying is June 9th is the date we are going to

7 get locked into a six-week trial. I think we are probably
8 going to have a plea next week.

9 THE COURT: How about June the 5th?

10 MR. DUBIN: What I was thinking, Judge, if you could
11 give him a couple of weeks the other way.

12 MR. GOLDBERGER: Could you give us the original
13 date you set?

14 THE COURT: The 19th?

15 MR. BARCELLA: Your Honor, I wasn't going to be
16 here the week of the 14th. Could we make it either the 12th --

17 THE COURT: I will make it the 12th.

18 MR. GOLDBERGER: Could you make it the 22nd or 23rd,
19 Judge? Any date that week would be all right with me.

20 MR. BARCELLA: The 22nd is fine, Your Honor.

21 THE COURT: Yes, I have a trial that date.

22 You gentlemen perhaps want to allocute. Except
23 that you see -- well -- what sentence did I give him before?

24 MR. BARCELLA: You gave him five years on each of
25 the false declaration counts.

1 THE COURT: Five years?

2 MR. BARCELLA: I don't believe -- you didn't impose
3 a fine. Five years, if I recall.

4 MR. GOLDBERGER: He has done three.

5 THE COURT: The 26th?

6 MR. GOLDBERGER: The 26th is fine.

7 Thank you very much, Judge.

8 MR. DUBIN: Thank you very much.

9 [In open Court:]

10 THE COURT: You are to report back before this
11 Court on the 26th of June for sentencing at 10 o'clock, a.m.

12 MR. GUILLERMO: Thank you very much, Your Honor.

13 MR. GOLDBERGER: Thank you very much, Your Honor.

14 THE DEPUTY MARSHAL: All right.

15 THE COURT: Mr. Novo, the conditions originally
16 imposed by the Court as to reporting in New Jersey ---

17 MR. NOVO: Yes, sir.

18 THE COURT: The original order that I entered, those
19 conditions still prevail.

20 MR. NOVO: Prevail?

21 THE COURT: Yes.

22 MR. NOVO: Thank you, Judge.

23 THE DEPUTY MARSHAL: This Honorable Court stands
24 recessed until the return of court.

25 [Whereupon, at 2:10 p.m. the above-captioned
proceedings were concluded.]

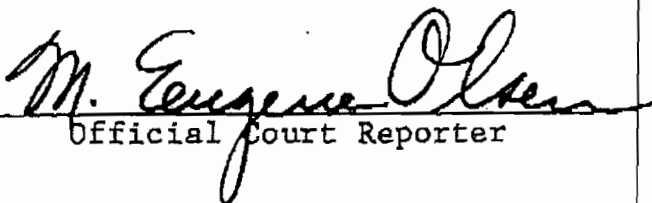
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CERTIFICATE OF REPORTER

I, M. Eugene Olsen, C.S.R., an Official Court Reporter for the United States District Court for the District of Columbia, do hereby certify that I reported, by machine shorthand, ~~in my official capacity, the decision of the jury~~ in the trial of United States of America v. Guillermo Novo Sampol and Alvin Ross Diaz, Criminal Case No. 78-367, in said Court, on the 30th day of May 1981.

I further certify that the foregoing 15 pages constitute the official transcript of said proceedings as taken from my machine shorthand notes.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 1st day of June 1981.


Official Court Reporter