

March 9, 2023

Patricia S. Connor, Clerk

United States Court of Appeals for the Fourth Circuit, 1100 E. Main Street, Suite 501

Richmond, Virginia 23219-3517

Case No: 23-1049 / Chilean Supreme Court upholds conviction of NDU / DSCA professor for torture, murder of Jaime Emilio Eltit Spielmann

[“Silence is complicity.” – President Joseph R. Biden](#)

Dear Ms. Connor,

May it please the Court, the news out of the democratic republic of Chile this week is that the conviction of Jaime Garcia Covarrubias—the former National Defense University / Defense Security Cooperation Agency professor who was since 2008 the target of the Petitioner’s disclosures through the NDU/DSCA chain of command—for the torture and murder of an unarmed detainee was upheld by that country’s Supreme Court. Garcia Covarrubias has been sentenced to seven years in prison for his authorship of that crime, one of two involving the torture and clandestine murder of unarmed detainees for which he has already been convicted as a former member of a state terrorist organization.

Below are two of the headlines and links to the Chilean Supreme Court’s unanimous decision, which – should either Merit System Protection Board or NDU/DSCA counsel object for the purpose of adding additional time and cost to the

Petitioner's case – the Petitioner will either translate or have translated into English. The first article is that of the official Chilean judicial branch press.

The Petitioner uses this opportunity to ask the Court to compare the deserved condemnation of Garcia Covarrubias, who went on to become at senior leader for a far-right military state terrorist organization, with the ethically absent without leave (AWOL) approach of both NDU/DSCA counsel and the MSPB headed by ACTING Chair Cathy A. Harris, et. al in the case before you.

In the Ms. Harris et. al “Nonprecedential ... Final Order” (NFO) of 11/17/2022 the Garcia Covarrubias case receives the scantest attention, referring on Page 7 in a footnote to “the arrest of officials formerly associated with the ... NDU” and on Page 8, to “killings ... and other wrongdoing by the Chilean ... militar(y).”

Similarly, in the [NDU/DSCA “Agency Response to Order to Show Cause”](#) filed 03/28/2018 before the MSPB Washington Office by Robert Andrew Schafer, associate general counsel for the DSCA, absolutely in no place in the Response or its six Appendices (A-F) did it mention the Garcia Covarrubias case and the Petitioner's central role in whistleblowing about an NDU/ DSCA colleague who committed the grossest of crimes while working for a death squad called an international terrorist organization by a former U.S. Secretary of State. Please note that Jaime Emilio Eltit Spielmann was [only one of thousands of his fellow citizens clandestinely murdered](#) by a vicious regime that embraced both German and Chilean

neo-Nazis, many of whom worked for and with the same organization to which Garcia Covarrubias belonged.

Unlike the Petitioner, whose supposed “wrongdoing” added up to sending out angry emails about violations of laws, regulations and rules at the NDU / DSCA, Garcia Covarrubias enjoyed U.S. federal monetary fruits for at least six years, including almost two when he was already detained in Chile. Neither Ms. Harris et al or Mr. Schafer noted that, besides the Chilean, the target of many if not most of the Petitioner’s disclosures were three Garcia Covarrubias promoters and defenders (retired Cols. Richard D. Downie and Kenneth LaPlante, and retired Lt. Col. Craig Deare).

Nor do they mention the Petitioner’s three Congressional Disclosures to the Intelligence Community Office of Inspector General, despite the fact that retired NDU officials justified Garcia Covarrubias’ hiring and promotion by mentioning that the Chilean may be or may have been an asset to the CIA.

Nor did they mention how Col. LaPlante in particular was a vociferous advocate behind closed doors of torture and the use of illegal death squads; this being a senior NDU official who annually literally met in his office with hundreds of foreign military officers, also behind closed doors.

Instead, Mr. Schafer accused the Petitioner of engaging in “conspiratorial,” “derogatory,” and “offensive” behavior in carrying out truth telling against

conniving and complicit former military wrongdoers, a view also justified by Ms. Harris et. al; in doing so each engaged in violations of their duty of candor to the public, including but not limited to myriad misrepresentations and failures to uphold multiple professional rules.

In this regard, I seek to direct the Court's attention to Page 14 of Mr. Schafer's MSPB submission, in which the 06/01/2011 email from one John Schwarzmann of DSCA to his office's deputy general counsel and others, including Lt. Col. John. Heaton, of the same office. In it he accused the Petitioner of sending out "numerous e-mails making scathing accusations about demeaning and inappropriate behavior against him by several (NDU) employees including ... (LaPlante).

In addition to making the accusations he also forwarded via e-mail an unsigned draft memo (attached) which appears to be drafted for Senator (Robert) Graham's signature in attempt to make public a personal matter pertaining to Craig Deare, an associate professor at (NDU). The draft letter is addressed to the Commander at the U.S. Army Central Personnel Security Clearance Facility. The letter is requesting support for Craig Deare's security clearance to be reinstated. The unsigned draft memo states that while Mr. Deare served as a Congressional Fellow in Senator Graham's office in 1997-1998, he forged the Senator's signature on his evaluation report.

What makes matters worse is that he sent these e-mails not only to the (NDU/DSCA) staff but numerous senior officials at NDU to include VADM Rondeau and the COMCOMS as well as other external organizations.

-----Original Message-----

From: Schwarzmann, John, , DSCA/PGM/FTE
Sent: Wednesday, June 01, 2011 8:59 AM
To: Farmer, Jeanne, , DSCA/PGM
Cc: Raycraft, Suellen, , DSCA/PGM/FTE; Sabin, Roger, Deputy General Counsel, DSCA/OGC;
Heaton, John, Lt Col, DSCA/OGC
Subject: FW: 005 - FW: CHDS

Jeanne,

FYI. I left copies of several e-mails on your desk regarding a personnel issue that took place at CHDS last Friday. Here is an electronic copy of one of those e-mails and a summary of the issue.

Last Friday Martin Edwin "Mick" Andersen, a CHDS Title 10 employee whose contract expires at the end of this year, sent out numerous e-mails making scathing accusations about demeaning and inappropriate behavior against him by several CHDS employees including the CHDS Deputy Director.

In addition to making the accusations he also forwarded via e-mail an unsigned draft memo (attached) which appears to be drafted for Senator Graham's signature in attempt to make public a personal matter pertaining to Craig Deare, an associate professor at CHDS. The draft letter is addressed to the Commander at the U.S. Army Central Personnel Security Clearance Facility. The letter is requesting support for Craig Deare's security clearance to be reinstated. The unsigned draft memo states that while Mr. Deare served as a Congressional Fellow in Senator Graham's office in 1997-1998, he forged the Senator's signature on his evaluation report.

What makes matters worse is that he sent these e-mails not only to the CHDS staff but numerous senior officials at NDU to include VADM Rondeau and the COMCOMS as well as other external organizations.

Compounding the matter is that Mr. Anderson is scheduled to have brain surgery to remove a tumor. Apparently he has been on medication which may have contributed to his behavior.

Mr. Anderson has been placed on administrative leave. NDU has executed full restrictions to the building, his badge, and computer. However, we hear that he continued to send out e-mails making accusations about CHDS employees over the weekend from his personal computer.

DSCA OGC is in receipt of the e-mails Mr. Anderson sent from his government computer. We are working with DSCA OGC to develop a course of action.

Thank you.

VR/Jay

Pleading Number : 2019010229 Submission date : 2019-03-28 17:11:35 Confirmation Number : 115491227 page 14 of 81

-----Original Message-----

From: Murphy, Jeffrey [mailto:murphyj15@ndu.edu]
Sent: Tuesday, May 31, 2011 4:51 PM
To: Heaton, John, Lt Col, DSCA/OGC; Raycraft, Suellen, , DSCA/PGM/FTE; Schwarzmann, John, , DSCA/PGM/FTE
Subject: FW: 005 - FW: CHDS

FYSA

z/

Jeff

From: LaPlante, Kenneth
Sent: Tuesday, May 31, 2011 4:48 PM
To: Thompson, John; Murphy, Jeffrey
Subject: 005 - FW: CHDS

Left out of the email is the fact that the Senator Graham whose signature was forged by Lt. Col. Deare was the chair of the Senate Intelligence Committee. Nor does he mention the "draft letter" addressed to the Commander at the U.S. Army Central Personnel

Security Clearance Facility was found in Col. (ret.) Downie's computer files. Several years later Lt. Col. Deare was fired for cause by his position at the National Security Council and went on to advocate protecting a senior-most Mexican general involved in the massacre of college students and, according to the DEA, a hands-on associate of some of the worst of Mexico's narcotics traffickers. Such was the conduct of the Petitioner who, according to the DSCA, was "attempt(ing) to make public a personal matter pertaining to Craig Deare."

Since when did forgeries of Congressional signatures, particularly those of senior-most Senators on the Intelligence Committee, a "personal matter"? When does an American citizen deserve far less consideration than a foreign national resident in the United States involved in torture and murder while belonging to a neo-Nazi international terrorist organization?

Finally, it has come to my attention that Tristan L. Leavitt, a Member of the MSPB who "recused himself and did not participate in the adjudication" of Ms. Harris et. al NFO, has moved on to a new position as president of Empower Oversight. Please note that the very

next filing by the Petitioner will address the fact that Ms. Harris should have also recused herself in keeping with *28 U.S. Code § 455*, due to the fact that the Petitioner's case is one in which her impartiality might reasonably be questioned.

I remain,

Very Respectfully.

Martin Edwin Andersen

Corte Suprema confirma condenas de ex fiscal militar y miembros del Ejército (r) por secuestro calificado de abogado
<https://www.pjud.cl/prensa-y-comunicaciones/noticias-del-poder-judicial/88841>

Corte Suprema confirma condenas de ex fiscal militar y miembros del Ejército (r) por secuestro calificado de abogado.

El máximo Tribunal confirmó la sentencia que condenó al ex fiscal militar Óscar Alfonso Ernesto Podlech Michaud y al oficial en retiro del Ejército Jaime Guillermo García Covarrubias a penas de 7 años de presidio efectivo, en calidad de autores del delito.

<https://www.diarioconstitucional.cl/2023/03/08/corte-suprema-confirma-condenas-de-ex-fiscal-militar-y-miembros-del-ejercito-r-por-secuestro-calificado-de-abogado/>