

As #Henry Kissinger associate Elizabeth Holmes arrives at prison  
to begin an 11-year sentence for fraud, this just went online ...

**“In Memoriam: Benjamin B. Ferencz, #Nuremberg, and #Argentina1985.”**

<https://acontracorriente.chass.ncsu.edu/index.php/acontracorriente/article/view/2351>



April 19, 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 / Re: Benjamin B. Ferencz, the Nuremberg  
legacy, and the embrace of neo-Nazi war criminals by  
NDU/DSCA/MSPB.

Andersen

Dear Ms. Connor,

May it please the Court, several things have occurred recently that the Petitioner asks be entered into consideration as the case against the National Defense University (NCU), the Defense Security Cooperation Agency (DSCA), and the U.S. Merit Systems Protection Board (MSPB) moves forward.

The first concerns the passing of Benjamin B. Ferencz, the last surviving prosecutor of the post-International Military Tribunal U.S. proceedings at Nuremberg at the end of World War II.

Mr. Ferencz's life and legacy are already legend and can only become more so given today's role of the United States in the international criminal arena. What is less understood, however, is how his unending fight for the rule of law at home as well as abroad has important nexuses with the case before the Court and the fight for democracy and human rights in Latin America.

Mr. Ferencz was at his prosecutorial best both in making the case for the creation of the International Criminal Court (ICC) and in the dissection with singular precision of former Secretary of State Henry Kissinger's refusal to see how the prevention of crimes against humanity deserves equal protection under universal law. The early work of the Harvard Law graduate also gave critical sustenance four decades after Nuremburg to those in Latin America who dared seek to establish the rule of law through the unprecedented trials in civilian court of former military dictators guilty of war crimes, crimes against humanity, and conspiracy to commit crimes against peace.

As the Court will remember, with [the Petitioner's initial 01/22/2023 Appeal](#), he mentioned

Benjamin B. Ferencz: In Memory of Justice

- 1) Mr. Kissinger's nefarious involvement in Argentina's dirty "war," in which thousands were illegally and clandestinely abducted, tortured in concentration camps, then killed (P.15-18);
- 2) Mr. Kissinger's critical support for neighboring Chile's international terrorist state (as subsequently so labeled by a fellow Republican Secretary of State) (Pp.15-16);
- 3) How now convicted DSCA/NDU professors and repeated foreign "honored guests" were themselves primary focuses of the Petitioner's classified and non-classified disclosures as part of both Argentine and Chilean neo-Nazi state terrorist organizations (Pp.13, 15-18), and
- 4) The hands-on NDU/DSCA support for the 2009 military coup in Honduras against a democratically elected government, the move in Tegucigalpa called by then Commander-in-Chief Barack Obama "illegal"; the NDU/DSCA actions a betrayal of the international public promise made by then-Secretary of State Colin Powell on September 11, 2001 (Pp.27-28).

I first met Martin while he served as an investigative reporter for *Congressional Quarterly/Homeland Security*, where among the several stories he broke were revelations about grave security threats at U.S. nuclear facilities and gross mismanagement at the Department of Homeland Security (the latter resulting in a full investigation by then Department of Homeland Security Inspector General Clark Ervin). Later, in 2009, he was the author of the petition signed by myself and nearly two dozen other national security whistleblowers to the newly-inaugurated President Obama, trying to ensure the free speech rights of federal employees.

Since that time, Martin has almost single handedly sought to ensure--against powerful entrenched interests fighting for a continued cover-up--that SouthCom's CHDS, with an important role in promoting dialogue and exchange between U.S. and Western Hemisphere security and defense leaders, actually (rather than just rhetorically) maintain high standards and act as an meaningful example of the appropriate role for military officials in Latin America and the Caribbean, i.e.: adherence to civilian control.

As you know, Martin has raised grave questions about how, in the last decade, CHDS has employed as its academic "stars" several Latin American ex-military officials implicated in serious human rights violations. In the case of fellow professor Jaime Garcia Covarrubias, a former CHDS director--in response to media inquiries--"offered" that the professor might have "previously worked with the CIA." (@ <http://bit.ly/2L5u8My>)

At the same time, Martin has worked to protect the Agency identities of those who opposed senior CHDS staff promotion of the illegal Honduras military coup, a disclosure I understand has been recently ratified to your office by an independent investigator who spoke to at least two of Martin's primary sources.

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The three four points listed above fall well within the parameters established by the Nuremberg Charter, the International Military Tribunal, and the Subsequent Nuremberg Proceedings.

As a non-lawyer filing pro se before the Court, the Petitioner believes as well that perhaps No. 4, too, falls under the Nuremberg prosecutors' charge of conspiracy to commit crimes against peace and may include both those in Honduras who carried out the bloody illegal military coup as well as NDU/DSCA support for an effort in which narco-tyrants gained power in the small Central American country.

Mr. Ferencz's role in Nuremberg was both known and admired by those in Argentina who sought to restore their country's democratic republic following the disintegration of a neo-Nazi military that claimed to be fighting the opening battle of the Third World War. His role in the establishment of the ICC is briefly outlined in the article, "In Memoriam: Benjamin B. Ferencz, Nuremberg, and *Argentina 1985*," which will be published next month in the *A Contracorriente* academic journal. It ties in the fact that the role played by Luis Moreno Ocampo, a key Argentine prosecutor, in bringing that country's military dictators to justice in a "mini-Nuremberg" trial in Buenos Aires was the focus this year of an award-winning film, *Argentina 1985*, and the prequel to Mr. Moreno Ocampo's becoming the ICC's first prosecutor.



(The [Petitioner reported on the trial](#) in Buenos Aires for *Newsweek* and the *Washington Post*, and appeared with a number of other journalists and members of the audience in one of the authentic courtroom pictures used at the end of *Argentina 1985*.)

The Petitioner has also included, after the *A Contracorriente* article, two visuals involving serial DSCA/NDU wrongdoer and retired U.S. Army Colonel Kenneth LaPlante. The first shows Mr. LaPlante periodically checking in on the Petitioner's postings in Academia.edu. The second is a memorandum of conversation from 2009 in which Mr. LaPlante argues in favor of an Argentine 'dirty war' "solution" in crime ridden Mexico.

The Petitioner leaves the Court with this thought, re: the complaints made against him for his national security and human rights whistleblowing at NDU/DSCA. In the *A Contracorriente* story, the Petitioner repeated a story told by Mr. Ferencz, who he met and with whom he was a Facebook "friend."

Mr. Ferencz noted that, in his interview with U.S. Army Brig. General Telford Taylor, a man who as the Court knows became a pillar of the U.S. legal profession, General Taylor "had also uncovered some of my military records that, understandably, caused him some concern. He noted that my army file indicated that I was occasionally insubordinate.

"That is not correct, Sir,' I replied. 'I am not occasionally insubordinate. I am usually insubordinate.' I explained that I did not obey orders that I know were manifestly stupid or illegal."

Those are the type of U.S. military men (and women) the Petitioner was and is ready to follow.

Very Respectfully,

Martin Edwin Andersen

Andersen

Cc: International Criminal Court

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***Note:** The correspondence above was edited by the author, a pro se litigant, on May 23-27, 2023, beginning the day the U.S. Court of Appeals for the Fourth Circuit in Richmond, Virginia, denied his petition for review of a well-documented trail of torture, murder, military impunity and bureaucratic complicity. It is being sent to you as former Secretary of State Henry Kissinger turns 100, after never having had to answer for his crimes.*

*The changes were made primarily to include the final, published, version of the A Contracorriente remembrance of Ben Ferencz and his, and Nuremberg's, legacy in Latin America.*

*It should be mentioned, however, the author did correct several typos in the official version he sent on April 19, 2023 to the Fourth Circuit; the original version remains on file with the Court for those wishing to see it and added a few better transitional sentences.*

*What follows (below) is the public response by the author to Kissinger's un-American impunity as well as the already-decorated national security whistleblower's failure to find justice in the federal Fourth Circuit.*

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**Martin Edwin Andersen Statement / May 27, 2023**

## Benjamin B. Ferencz: In Memory of Justice

On the birthday of the lawless (and never indicted) former Secretary of State Henry Kissinger, I believe it is important to underscore the fact that the impunity enjoyed by senior Pentagon officials who knowingly promote far-right former foreign terrorists in Department of Defense international programs (and regularly engaged in the racism, sexism, homophobia and coup mongering overseas [Honduras], as well as common corruption), is a peculiar brand of "American Exceptionalism." Rather, it is behavior more akin to that attributed to so-called "banana republics" or Vladimir Putin's Russia.

DoD is the largest employer in the United States; military impunity at home and abroad threatens both U.S. national security and is a clear marker of militarism in the world's longest-lasting democracy.

The once-uniformed DoD lawbreakers may never be held accountable in a court of law. Yet by naming the perpetrators publicly, seeking to shame them, and calling out their taxpayer-financed professional netherworld, one can help create a public accounting as well as a measure of healing for survivors.

Before I filed my case before the United States Court of Appeals for the Fourth Circuit, other, more famous, whistleblowers warned me that the Court was a conservative, pro-military maze from whom a judgment would likely be hostile to a recognized human rights and national security whistleblower, particularly now with the American justice system in crisis.

Yet armed with the Truth, myriad documentation and third-party accounts, I went forward nonetheless, with my eyes open and a hope then, and for our future, that American justice would be that - justice.

Watergate sleuths Bob Woodward and Carl Bernstein once noted that Henry Kissinger, a war criminal, an Establishment icon who

arguably committed treason, and a winner of the National Defense University Foundation most-coveted award, pointedly referred to the U.S. military as "dumb, stupid animals to be used" as pawns in foreign policy.

The Court's failure to act this week, in a display of the capriciousness of spoilt and frivolous men, both underscores the Kissinger dictum's weight at the Pentagon's university and the fact that civilian academic authorities at the National Defense University (NDU) and the Defense Security Cooperation Agency (DSCA) remain second-class citizens in a pawn shop.

On page 107 of a wonderful authorized biography, author Tom Hofmann noted that recently departed truth teller, Nuremberg prosecutor Benjamin B. Ferencz, wore "the new uniform that the War Department required be worn by all Americans serving" in a post-World War II, and post-Nazi, Germany.

"It was the standard U.S. Army officer's garb," Hofmann wrote, "with green gabardine jacket and pink trousers." (Italics and underline added.)

On March 15, 2023, I reminded the Fourth Circuit judges that in the parallel world of the U.S. Department of Defense today, where the fight against neo-Nazi extremists supposedly is a priority internal affair in fighting hate, just how bad homophobia at the NDU/DSCA was, even for "straight" employees.

I noted that retired NDU/DSCA Army Col. Richard D. Downie, a narcissistic and self-promoting West Point graduate who went on to repeatedly violate even the academy's Cadet honor code, was a key figure in my disclosures. These included, among other things, the illegal activities of his cabal of neo-Nazi and other far-right minions and his own School of the Americas-style role at the Pentagon's university in their promotion and protection. (The



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Cadet code? “Every Cadet is trusted not to lie, cheat, steal, or tolerate those dishonest behaviors.”)

I told the judges that the homophobic warrior Downie, now the chair of the Pacific Council’s Mexico Initiative, had even prohibited me, an NDU/DSCA professor and chief of strategic communications, from using light red (or, as he said with disdain, “pink”) in any promotional material under his control. His closest friends and advisers constantly brandished words like “faggot” in the workplace and even conspiratorially claimed that the Pentagon itself was run by a “gay mafia.”

It was Holocaust survivor and Romanian-American writer Elie Wiesel who once noted: “Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented.”

Going up against the Little Putins and Kissinger wannabes of our too-often corrupt military establishment is never easy. But it must be done. As Ferencz found in fighting Kissinger over the creation of the International Criminal Court (ICC), the ongoing battle for lawful international conduct by all is worth the cost.

It was perhaps Muhammad Ali, called by some the world’s “greatest” conscientious objector, who said it best: “You don’t lose if you are knocked down; you lose if you stay down.” As Ali told reporters at the height of the controversy revolving his refusal to be inducted in the army, “It has been said that I have two alternatives, either go to jail or go to the army. But I would like to say there is another alternative. And that alternative is justice.”

It should be noted here that the denial issued May 23, 2023, by controversial Fourth Circuit Judges Paul V. Niemeyer (a Ronald Reagan appointee), Julius N. Richardson (a Donald Trump appointee), and Allison Jones Rush (also a Trump appointee), rubber stamped a previous decision by U.S. Merit System Protection Board acting Chair Cathy A. Harris that vindicated DoD

wrongdoers. ([Reagan used the “N-word”](#) in private and carried out a clandestine and [illegal war in Central America](#). Trump, like National Security Agency (NSA) leaker [Edward Snowden](#), and Kissinger, played [or play] bureaucratic footsie with [Russia’s Vladimir Putin, whose war crimes](#) are now before the International Criminal Court.)

Harris’ nomination to head the government agency that supposedly protected law-abiding federal whistleblowers was vociferously promoted by prominent supporters of Snowden, including his legal team.

As an already decorated national security whistleblower from my time with the Criminal Division of the U.S. Department of Justice, I had been one of the first and most consistent truth-teller critics of [a wanton lawbreaker now a citizen of Putin’s Russia](#). In framing her case against me, Harris based her cornerstone argument by [citing a legal framework offered by one of Snowden’s well-known defenders](#) here in the United States, someone who said he hope the U.S. military would be defeated on the battlefield somewhere in the world.

Left out of Harris’ rendition entirely was that, as a NDU/DSCA whistleblower, I made three separate Congressional Disclosures to the Office of the Director of National Intelligence (ODNI). Despite several efforts since that time to get the non-classified version of those disclosures made public, the ODNI reported that it was the Defense Intelligence Agency (DIA), the former home to several of the worst NDU/DSCA wrongdoers, refuses to play ball. My Congressional Disclosures are still completely classified.

Recently, the Pentagon created [an Influence and Perception Management Office \(IPMO\)](#) as an advisory shop to the Undersecretary of Defense for Intelligence and Security and, as such, intimately tied to the DIA. The move was seemingly out-of-step with work of the Intelligence Community’s Foreign Maligned Influence Center (FMIC). The latter’s mission is to monitor and

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combat influence efforts by foreign foes such as misinformation, disinformation, and malinformation, such as those of Russia. (The former DIA chief who went on to be a Trump national security adviser and Putin promoter counted among his acolytes several of those central to my whistleblower disclosures.)

As DoD -- and a DIA already subject to questionable oversight -- raise phony security questions against legitimate and already validated national security whistleblowers, its leaders claim to fight growing far-right hate within its ranks while at the same time hobbling truthtellers on the front lines.

The Fourth Circuit judges' inaction in Richmond and subsequent May 23, 2023 decision have sent the message that we were there too long already. If the judges want to join what e.e. cummings lampooned as the “undead”, then, as cummings added, “that’s their funeral.”

Like the poet, “I happen to like being alive.”


So my sincerest thanks to all of you who have stood with me, and now on to The Hague and the ICC, and let's win there.


 **DNI-FOIA** 8/17/21  
To: MICK, SALLYAN & 1 more... >  
  
**RE: DF-2017-00183**  
  
Good afternoon, Mr. Anderson,  
  
We are still waiting to hear back from DoD on our consultation request. We have reached out to them again for a status update.  
  
Thank you,  
  
DNI-FOIA

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From the [Kenneth A. LaPlante](#) file:

Andersen






Ken LaPlante

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Former School of the Americas (SOA) instructor on torture, clandestine murder in Mexico

From: Martin Edwin Andersen  
Sent: Monday, February 09, 2009 6:51 PM  
To: Andersen, Martin Edwin;  
Subject: MEMO TO FILE

This morning, in a conversation with my boss, Ken LaPlante, and CHDS operations chief XXXXXXXXX, the talk turned to the case of the retired Mexican general and two others who were kidnapped, torture and killed in Cancun.

XXXXXXXXXX approvingly mentioned how bad the repression was going to get in Mexico, suggesting that the military was going to go out and make bloody reprisals for the crime against a popular military figure.

Ken then said that what needed to be done was "an Argentine solution," no matter if innocent people were killed, referring to the Argentine "dirty war"--that unnamed people needed to be crushed. XXXXXXXXX nodded his head in approval.

These remarks go against CHDS' stated mission in support of human rights and democracy. If they were given a public airing, they would discredit the Center and its work. This is particularly so since Ken is an active participant in the public debate over the School of the Americas.

I did not address their remarks (on) ... the Argentine dirty war, in which torture, disappearance and clandestine murder were the norm. ...