

RELEASED IN PART
B6, 1.5(D), B1

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ACTION ARA-01

INFO	LOG-00	ACDA-15	AID-01	AMAD-01	CIAE-00	DODE-00	EB-01
	HA-09	H-01	INRE-00	INR-01	IO-19	LAB-04	L-03
	ADS-00	NSAE-00	NSCE-00	OIC-02	PA-01	PRS-01	P-01
	RP-10	SIL-01	SP-01	SR-01	SS-01	STR-20	TRSE-00
	USIE-00	/095W					

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P 202204Z APR 92
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 0000
INFO AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY QUITO
USAFSO HOWARD AFB PM
USCINCSO QUARRY HEIGHTS PM

C O N F I D E N T I A L SECTION 01 OF 02 LIMA 05887

E.O. 12356: DECL: OADR
TAGS: PHUM, PE
SUBJECT: MILITARY COURT CONVICTS ARMY
- OFFICER OF HUMAN RIGHTS VIOLATION

REF: LIMA 2790

1. CONFIDENTIAL - ENTIRE TEXT.

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2. SUMMARY: A MILITARY COURT HAS CONVICTED LT.
TELMO HURTADO OF THE 1985 ACCOMARCA MASSACRE.
THE CONVICTION HAS BEEN APPEALED TO THE SUPREME
COUNCIL OF MILITARY JUSTICE (CSMJ).

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[REDACTED] TOLD POLOFF THE CASE WAS
IMPORTANT BECAUSE THE OFFICER WAS CHARGED WITH
CRIMES CARRIED OUT "IN THE LINE OF DUTY." HE
EMPHASIZED HURTADO'S OTHERWISE EXCELLENT RECORD
AND THE FACT THAT THE CRIME HAD OCCURRED IN THE
HEAT OF BATTLE AND FOLLOWING MANY MONTHS OF
DANGEROUS SERVICE. END SUMMARY.

Current Class: CONFIDENTIAL
UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SAM A. MOSKOWITZ
DATE/CASE ID: 13 AUG 1999 199902261

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3. THE SECOND ZONE MILITARY COURT IN MARCH CONVICTED ARMY CAPTAIN TELMO HURTADO HURTADO FOR HIS ROLE IN THE 1985 ACCOMARCA MASSACRE OF MORE THAN THIRTY CAMPESINOS. HURTADO, TRIED UNDER THE MILITARY CODE OF JUSTICE, WAS SENTENCED TO SIX YEARS IN PRISON. HE HAS APPEALED THE VERDICT TO THE SUPREME COUNCIL OF MILITARY JUSTICE. (NOTE: THIS MARKS THE SECOND CONVICTION IN RECENT MONTHS OF ARMY OFFICERS FOR CRIMES WHICH ARE CLEAR HUMAN RIGHTS VIOLATIONS. THE CONVICTION BECAME PUBLICLY KNOWN A FEW DAYS BEFORE PRESIDENT FUJIMORI'S APRIL 5 "EXTRACONSTITUTIONAL ACTION.")

4. POLOFF DISCUSSED THIS CASE WITH [REDACTED] WHO HAD JUST RECEIVED THE CASE FOR REVIEW. [REDACTED] COMMENTED IN GENERAL TERMS THAT THE HURTADO CASE
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DIFFERS SIGNIFICANTLY FROM THE RECENTLY CONCLUDED MORILLAS CASE (SEE REFTTEL) IN THAT MORILLAS WAS TRIED BY THE MILITARY COURT ON MULTIPLE CHARGES, INCLUDING HOMICIDE, APPLYING THE CIVILIAN JUSTICE CODE, BECAUSE HIS CRIMES WERE UNRELATED TO HIS MILITARY ORDERS OR DUTIES. HURTADO, IN CONTRAST, WAS ON AN AUTHORIZED MILITARY OPERATION WHEN, IN THE HEAT OF COMBAT, HE ORDERED THE KILLING OF MORE THAN THIRTY CAMPESINOS IN ACCOMARCA, AYACUCHO ON AUGUST 14, 1985. CONSEQUENTLY, HE WAS TRIED UNDER THE MILITARY CODE OF JUSTICE FOR "ABUSE OF AUTHORITY," NOT THE CIVILIAN CRIME OF HOMICIDE FOR WHICH 15 YEARS IS THE MINIMUM SENTENCE.

5. [REDACTED] WHO CAREFULLY QUALIFIED HIS REMARKS AS PRELIMINARY TO A DETAILED STUDY OF THE CASE, NOTED THAT PRIOR TO THE MASSACRE, HURTADO HAD BEEN REGARDED AS AN EXCELLENT YOUNG OFFICER. ONLY 22 YEARS OLD AND A RECENT GRADUATE OF THE MILITARY ACADEMY, HURTADO HAD BEEN ON MILITARY OPERATIONS IN THE AYACUCHO EMERGENCY ZONE FOR TWENTY (20) CONSECUTIVE MONTHS AT THE TIME OF THE MASSACRE. [REDACTED] SUGGESTED THAT JUSTIFIABLE FEAR AND BATTLE FATIGUE ALMOST

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CERTAINLY HAD BEEN CONTRIBUTING FACTORS IN THE
CRIME, AND PROBABLY HAD BEEN FACTORED INTO THE
RELATIVELY MILD SENTENCE OF SIX YEARS. [REDACTED]
COULD NOT PREDICT IF THAT SENTENCE WOULD STAND
AFTER REVIEW BY THE SUPREME COURT OF MILITARY
JUSTICE.

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6. [REDACTED] WAS NOT UNDULY CONCERNED THAT
HURTADO HAD SHOWN NO SIGNS OF REPENTANCE AND HAD
JUSTIFIED THE KILLING OF EVEN SMALL CHILDREN ON
THE GROUNDS THAT EVEN TWO AND THREE YEAR OLDS
ARE SUBJECTED TO SENDERO INDOCTRINATION.

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[REDACTED] CONFIRMED THAT SMALL CHILDREN HAVE, IN
FACT, BEEN USED BY SENDERO TO PLACE BOMBS.

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[REDACTED] NOTED, HOWEVER, THAT THE FACT THAT
HURTADO ATTEMPTED TO DESTROY THE BODIES OF HIS
VICTIMS INDICATED SOME DEGREE OF SELF
ACKNOWLEDGMENT OF WRONG DOING.

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C O N F I D E N T I A L SECTION 02 OF 02 LIMA 05887

E.O. 12356: DECL: OADR
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7. [REDACTED] INSISTED THAT HURTADO HAS BEEN IMPRISONED AT THE RIMAC MILITARY PRISON FOR AT LEAST FOUR OF THE SIX YEARS THAT HIS CASE HAS BEEN IN THE MILITARY COURTS. LOCAL HUMAN RIGHTS MONITORING GROUPS, HOWEVER, MAINTAIN THAT

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HURTADO HAS BEEN FREE AND SERVING ON ACTIVE DUTY CONTINUOUSLY SINCE THE CRIME. FURTHERMORE, HURTADO WAS A 2ND LIEUTENANT AT THE TIME OF THE MASSACRE, BUT HAS SINCE BEEN PROMOTED TWICE, TO 1ST LIEUTENANT AND CAPTAIN. [REDACTED] EXPLAINED THAT THE PROMOTION TO FIRST LIEUTENANT WAS MORE OR LESS AUTOMATIC, BUT COULD ONLY SUGGEST THAT SOME "OVERSIGHT" HAD RESULTED IN HURTADO'S SUBSEQUENT PROMOTION TO CAPTAIN WHILE IN MILITARY PRISON.

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8. COMMENT: DISPUTE OVER WHETHER HURTADO HAS BEEN IN ACTIVE SERVICE OR UNDER DETENTION WOULD BE A CENTRAL ISSUE IN THE CASE. UNDER THE MILITARY CODE OF JUSTICE, ANY TIME SERVED IN PRISON PRIOR TO CONVICTION IS DISCOUNTED FROM THE SENTENCE. HENCE, IF HURTADO HAD BEEN UNDER DETENTION "AT LEAST FOUR YEARS," HE WOULD BE REQUIRED TO SERVE ONLY TWO ADDITIONAL YEARS. IF HE HAS BEEN ON ACTIVE SERVICE IN THE INTERIM, HE FACES SIX YEARS OF IMPRISONMENT. IN ANY EVENT, THIS WAS NOT ONE OF THE NINE CONGRESSIONAL TEST CASES. IT IS SIGNIFICANT THAT THE GOP WENT FORWARD ON ITS OWN READING OF THE SERIOUSNESS OF THE CASE. WE WILL CLOSELY MONITOR MILITARY PROSECUTIONS OF HUMAN RIGHTS CASES FOLLOWING THE EVENTS OF APRIL 5 TO EVALUATE GOP PERFORMANCE.
END COMMENT. QUAINTON##

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