

**PETITION TO:**  
**UNITED NATIONS**  
**WORKING GROUP ON ARBITRARY DETENTION**

Chairperson-Rapporteur: Mr. Malick Sow (Senegal)  
Vice-Chairperson: Ms. Shaheen Ali (Pakistan)  
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**HUMAN RIGHTS COUNCIL**  
**UNITED NATIONS GENERAL ASSEMBLY**

In the Matter of

**Jason Zachary Puracal,**  
Citizen of the United States of America

v.

Government of Nicaragua

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**PETITION FOR URGENT ACTION**

And Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, 2003/31, 6/4, and 15/18<sup>1</sup>

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<sup>1</sup> Resolutions 1997/50, 2000/36, and 2003/31 were adopted by the UN Commission on Human Rights to extend the mandate of the Working Group on Arbitrary Detention. Resolutions 6/4 and 15/18, further extending the mandate of the Working Group, were adopted by the Human Rights Council, which has “assume[d] . . . all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights . . . .” G.A. Res. 60/251, para. 6 (Mar. 15, 2006).

## **BASIS FOR URGENT ACTION**

Jason Zachary Puracal, a United States citizen, has been arbitrarily detained by the Government of Nicaragua since his arrest on November 11, 2010. On that day, Mr. Puracal was held at gunpoint by the Nicaraguan National Police for over six hours while they raided his office. Mr. Puracal was physically and verbally abused during the transport to jail and was even beaten in the back of the head and on the arm with a revolver. He and ten Nicaraguan nationals also arrested were forced to sit in a crouched position in the back of a van with their heads bent over their knees while the police drove them around for over an hour. Since then, Mr. Puracal has been held without bail in sub-human conditions and suffered from repeated and continuing violations of his human rights.<sup>2</sup>

Mr. Puracal is currently sharing a 15' x 15' concrete cell with seven other men. There is no running water. The cell includes an area that is 3' x 5' with a hole in the ground that serves as not only a toilet, but also a sink, shower, and area to wash dishes. The unsanitary conditions are inhumane. The cell, including Mr. Puracal's bed, is infested with ticks and ants. Mr. Puracal suffers from bites all over his body. Mr. Puracal is allowed only one hour of sunlight once per week.<sup>3</sup> The outdoor area to which he is taken shares space with an open sewer system, making the one-hour excursion unbearable for Mr. Puracal.

He has been denied food and water for up to two days at a time. To this day, the prison has denied Mr. Puracal access to drinkable water. The prison water is infested with parasites, and the prison requires inmates to buy fresh water from the prison store. The prison store, however, is frequently out of supply, and the prisoners are forced to boil water with crude instruments to make it drinkable.

On September 9, 2011, Mr. Puracal suffered first and severe second-degree burns on both of his legs when he was trying to boil water to make it drinkable. Despite the severity of the injuries, the prison guards represented to the U.S. Embassy that the burns were minor and that there were no blisters. The prison refused to allow a private doctor inside to see Mr. Puracal and refused to take him to the hospital. The prison doctor told Mr. Puracal not to wash his wounds with the prison water due to the high risk of infection caused by the unsanitary water supply.

Mr. Puracal's mother—Dr. Daisy Zachariah, a medical doctor from the United States—immediately flew to Nicaragua to care for Mr. Puracal's injuries. Dr. Zachariah reported that, when she arrived at the prison, Mr. Puracal's bandages were soaked through with blood and the injuries were severe. Dr. Zachariah found that the wounds were infected because of the prison doctor's improper attempts to drain the blisters caused by the burns—blisters that the prison

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<sup>2</sup> See International Covenant on Civil and Political Rights ("ICCPR"), art. 7 ("No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.") and art. 10 ("All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."); Universal Declaration on Human Rights ("UDHR"), art. 5 ("No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."); American Convention on Human Rights ("ACHR"), art. 5 ("No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.").

<sup>3</sup> Mr. Puracal was allowed one hour of sunlight per month for the first four months of his imprisonment and then one hour of sunlight per week thereafter. Under the Standard Minimum Rules for the Treatment of Prisoners, inmates are entitled to "at least one hour of suitable exercise in the open air daily." Para. 21(1) (emphasis added).

doctor earlier reported did not exist. Dr. Zachariah treated Mr. Puracal for the infection and taught him how to change his own bandages. The prison, however, refused Mr. Puracal's request for a fan to keep mosquitos and ticks in the cell from biting at his open wounds.

The burn incident was not the first time the prison had refused Mr. Puracal proper medical care. Mr. Puracal has a history of asthma, but the prison guards have refused to allow Mr. Puracal access to his inhaler. He has also been refused proper medical care for an inflammatory condition he developed in his bowels as a result of the prison diet.

Physical abuse and the denial of food,<sup>4</sup> water,<sup>5</sup> and proper medical care<sup>6</sup> constitute serious violations of the standard for the detention of prisoners. The unsanitary and infested conditions in which Mr. Puracal is forced to live are further violations.<sup>7</sup>

Despite repeated attempts by Mr. Puracal and his lawyer to demand judicial intervention, the Government of Nicaragua has refused to abide by the standard for treatment of prisoners. Accordingly, the Petitioner hereby requests that the Working Group consider this Petition pursuant to the Working Group's "Urgent Action" procedure.<sup>8</sup> In addition, the Petitioner requests that this Petition be considered a formal request for an opinion of the Working Group pursuant to Resolution 1997/50 of the Commission on Human Rights as reconfirmed by Resolutions 2000/36, 2003/31, and the Human Rights Council Resolutions 6/4 and 15/18.

### **EXECUTIVE SUMMARY**

Jason Zachary Puracal is a United States citizen who has been illegally imprisoned in Nicaragua since November 2010.

Mr. Puracal traveled to Nicaragua in 2002 to serve in the United States Peace Corps. He ultimately stayed in the country and married a Nicaraguan woman with whom he has a four year-old son. At the time of his arrest, Mr. Puracal was working as a real estate agent in a RE/MAX office that he owned along with three other Americans in San Juan del Sur, Nicaragua.

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<sup>4</sup> Standard Minimum Rules for the Treatment of Prisoners, para. 20(1) ("Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.").

<sup>5</sup> *Id.*, para. 20(2) ("Drinking water shall be available to every prisoner whenever he needs it.").

<sup>6</sup> *Id.*, para. 22(2) ("Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.").

<sup>7</sup> *Id.*, para. 10 ("All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation."), para. 12 ("The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner."), para. 14 ("All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times."), para. 15 ("Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.").

<sup>8</sup> Report of the Working Group on Arbitrary Detention, E/CN.4/1998/44 (Dec. 19, 1997), Annex I at paras. 22-24.

Nicaraguan police arrested Mr. Puracal on November 11, 2010, and he was charged, along with ten Nicaraguan nationals, with international drug trafficking, money laundering, and organized crime. The police seized all of Mr. Puracal's computers, phones, and files, including the titles to properties owned by clients of RE/MAX. The police also seized Mr. Puracal's bank accounts, including the RE/MAX escrow account containing money from clients held in trust for real estate purchases and tax payments.

Mr. Puracal was imprisoned in sub-human conditions in a Nicaraguan prison for nine months without evidence and without a trial. After numerous unlawful delays, trial was finally held in August of 2011. The trial was closed to media, family, and the public, and, on August 29, 2011, Mr. Puracal was wrongfully convicted, despite any viable evidence to prove the allegations against him. He was sentenced to 22 years in prison and remains in custody at La Modelo Prison in Tipitapa, Nicaragua.

The proceedings failed to protect Mr. Puracal's fundamental human rights or afford him due process of law. Most egregiously, Mr. Puracal was denied:

- ***The Right to a Competent Tribunal Established by Law.*** The individual appointed to preside over Mr. Puracal's trial was neither a licensed attorney nor a proper judge. He appeared, instead, to be a political agent of the Nicaraguan government assigned to the bench in violation of Nicaraguan law.
- ***The Right to a Fair Trial.*** The prosecution's allegations against Mr. Puracal arise solely from real estate transactions Mr. Puracal conducted through the RE/MAX brokerage he owned with three other Americans. The other owners were never arrested or charged with any crime. The failure of the police and the prosecutor to understand basic real estate procedures, including the function and use of an escrow account, has caused Mr. Puracal to suffer through sub-human conditions in prison for more than fourteen months. Moreover, the failure of the Nicaraguan judicial system to protect Mr. Puracal's human and legal rights has resulted in an unjustified verdict in a trial that failed to meet even the minimum requirements of fairness and due process. In particular:
  - Mr. Puracal was denied confidential communications with his attorney. Mr. Puracal was permitted to meet with counsel for a maximum of 30 minutes per visit and all communications were monitored by prison guards to prevent any confidential exchanges.
  - Mr. Puracal was denied access to exculpatory evidence pretrial. That evidence included the property titles and accounting records of the RE/MAX brokerage that a forensic accountant could have used to prove that the inflows and outflows of money through the brokerage were for legitimate sales of real estate, and not money laundering.
  - Mr. Puracal was denied the opportunity to present a defense. When Mr. Puracal offered the testimony of key witnesses to prove his innocence, the judge excluded that testimony as irrelevant. The judge permitted the

prosecution to present the speculative and hearsay testimony of police officers while excluding the defense evidence offered to rebut that very testimony.

- ***The Presumption of Innocence.*** During trial, the judge shifted the burden of proof to Mr. Puracal, forcing him to prove his innocence in violation of Nicaraguan and international law.
- ***The Right to be Tried Without Undue Delay.*** Mr. Puracal was held in La Modelo Prison for nine months without a trial in violation of Nicaraguan law. The prosecution postponed trial numerous times without providing any reason for the delay, and the court refused to rule on the legality of the detention or provide appellate review of the issue.

Despite the court's attempt to prevent the admission of exculpatory evidence at trial, the prosecution's own witnesses established that Mr. Puracal is innocent of the crimes with which he was charged. Although police alleged they were investigating Mr. Puracal for nearly three years, officers admitted that they did not recover any drugs during their investigation. Indeed, the prosecution offered no drugs as evidence at trial. In addition, the prosecution's own expert on financial analysis confirmed that Mr. Puracal did not launder any money. The expert testified that no money ever changed hands between Mr. Puracal and any of the other defendants. Those other defendants have confirmed that they never had any relationship with Mr. Puracal before the arrest.

Despite the numerous violations that have plagued the Nicaraguan authorities in this case, Mr. Puracal remains in prison facing a 22-year sentence for crimes he did not commit. Over the past fourteen months in the Nicaraguan system, Mr. Puracal has been beaten and denied food, water, and proper medical care. He has been forced to live in squalid conditions infested with ticks and ants. Mr. Puracal is visibly malnourished and covered in scars from infection. United States Congressional representatives have requested assistance from the U.S. State Department to demand the Government of Nicaragua correct the violations.<sup>9</sup> No such corrective action has been taken.

Mr. Puracal and his family respectfully request the Working Group take urgent action to (1) find that the Government of Nicaragua has arbitrarily detained Mr. Puracal in violation of international law and (2) urge the Nicaraguan government order Mr. Puracal's immediate release.

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<sup>9</sup> Letter from Congressman Smith to Secretary of State Hillary Clinton, dated May 13, 2011 (Exhibit 1); Letter from Congressman Smith and Senators Cantwell, Murray, Wyden, and Merkley to Secretary of State Hillary Clinton, dated November 28, 2011 (Exhibit 2).

## MODEL QUESTIONNAIRE<sup>10</sup>

### I. IDENTITY OF THE PERSON ARRESTED OR DETAINED

*1 & 2. Name:* Jason Zachary Puracal

3. *Sex:* Male

4. *Birth Date or Age (at the time of detention):* May 31, 1977<sup>11</sup>

5. *Nationality/Nationalities:* Citizen of the United States of America

6. (a) *Identity documents (if any):* United States Passport

(b) *Issued by:* United States of America

(c) *On (date):* October 12, 2007

(d) *No.:* 431918912

7. *Profession and/or Activity (if believed to be relevant to the arrest/detention):*

Mr. Puracal moved to Nicaragua in 2002 to serve in the Peace Corps. He stayed in the country and married a Nicaraguan woman with whom he has a four year old son. At the time of his arrest, Mr. Puracal was working as a real estate agent in a RE/MAX office that he owned along with three other Americans.

8. *Address of Usual Residence:* Donde fue la Casa Capatinia  
300 metros al norte  
Barrio Pedro Juaquin Chamorro  
San Juan del Sur, Departamento de Rivas  
Nicaragua

### II. ARREST

*1 & 2. Date and place of arrest:* Mr. Puracal was arrested by the Nicaraguan National Police on November 11, 2010. The police, without notice or a warrant, raided Mr. Puracal's office in San Juan del Sur, Nicaragua, found no evidence of crime, but took Mr. Puracal into custody. He was arrested and taken to the police jail in San Juan del Sur. From there, Mr.

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<sup>10</sup> Mr. Puracal has made numerous requests to the trial court for the copies of the official trial tapes and trial transcripts. These requests have been ignored or denied. Lack of access to trial transcripts renders it impossible to provide the Working Group with citations to the record to support the information provided as requested in the Working Group's model questionnaire at this time. The Working Group has consistently stated that inability to provide all of the information requested in the model questionnaire "shall not directly or indirectly result in the inadmissibility of the communication." See, e.g., Report of the Working Group on Arbitrary Detention, E/CN.4/1997/4 (Dec. 17, 1996), Annex I, at para. 8. The information in this Petition is based on news reports and information obtained from the family of Jason Puracal as well as his attorney in Nicaragua.

<sup>11</sup> Mr. Puracal turned 34-years-old on May 31, 2011, during his detention in La Modelo Prison.

Puracal was moved to another police jail in Rivas and then to La Modelo Prison, the maximum security prison in Tipitapa, Nicaragua, where he has been held ever since.

**3. *Forces who carried out the arrest or are believed to have carried it out:*** Nicaraguan National Police

**4. *Did they show a warrant or other decision by the public authority?*** The police made the search and the arrest without a warrant. The police subsequently obtained a retroactive warrant from a Nicaraguan judge 24 hours after the search and arrest.

**5. *Authority who issued the warrant or decision:*** Judge Diogenes Davila issued a retroactive warrant on November 12, 2011—24 hours after the search and arrest.

**6. *Relevant legislation applied (if known):*** It is believed that Mr. Puracal was arrested pursuant to Ley No. 406 Codigoprocesal Penal de la Republica de Nicaragua.

### **III. DETENTION**

**1 & 2. *Date and duration of detention:*** See “Date and place of arrest,” above. Mr. Puracal was arbitrarily detained on November 11, 2010, and has been held in custody since that day. Mr. Puracal was held for nine months without a trial. His trial began on August 6, 2011, and on September 6, 2011, Mr. Puracal was sentenced to 22 years in La Modelo Prison.

**3. *Forces holding the detainee under custody:*** Government of Nicaragua

**4. *Places of detention (include any transfer and present place of detention):*** See “Date and place of arrest,” above. Mr. Puracal is currently being held at La Modelo Prison in Tipitapa, Nicaragua.

**5. *Authorities that ordered the detention:*** Nicaraguan National Police

**6. *Reasons for the detention imputed by the authorities:*** Mr. Puracal is alleged to have engaged in international drug trafficking, money laundering, and organized crime. See “Statement of Facts,” below.

**7. *Relevant legislation applied (if known):*** Mr. Puracal is alleged to be detained under Ley No. 641 Ley de Codigo Penal, Articulos 282, 359, and 393.

### **IV. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND/OR THE DETENTION AND INDICATE PRECISE REASONS WHY YOU CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY**

#### **A. Statement of Facts**

Jason Z. Puracal, a United States citizen, has been held in prison in Nicaragua since November 11, 2010. Mr. Puracal moved to Nicaragua in 2002 to serve in the Peace Corps. After his service, he stayed in the country, and he, along with three other Americans, eventually bought a RE/MAX franchise (RE/MAX Horizons) where Mr. Puracal worked as an agent. Mr.

Puracal was living with his wife (a Nicaraguan citizen) and their four-year-old son. Mr. Puracal is a well-regarded member of his community in San Juan del Sur, Nicaragua. Prior to his arrest, Mr. Puracal worked in his real estate office and helped care for his son, who suffers from Down Syndrome,<sup>12</sup> while his wife attended law school courses.

## **1. The Arrest**

On November 11, 2010, Nicaraguan police forced their way into Mr. Puracal's office wearing masks and carrying AK rifles. Without a warrant, the police raided the office, seized all the computers and files, and took Mr. Puracal into custody. They then went to Mr. Puracal's home, wearing the same masks and carrying the same AKs. Police forced their way into the house—again without a warrant—while Mr. Puracal's 65-year-old mother and four-year-old son were sleeping. Police detained Mr. Puracal and his family for over six hours while they conducted their search. They found no evidence of any crime, but continued to hold Mr. Puracal in an unlawful arrest and then detained him in prison where he has been subjected to further mistreatment.

After being held for three days, the prosecutor charged Mr. Puracal, along with ten Nicaraguan nationals—including one man who was running for mayor against the Sandinista government—with international drug trafficking, money laundering, and organized crime.

The court denied Mr. Puracal bail, and the prosecution postponed trial numerous times, never once stating a reason for the postponement. Throughout the pretrial process, Mr. Puracal was denied the right to meet privately with his attorney.

## **2. The Trial**

Improprieties during the arrest and initial court proceedings were coupled with a glaring lack of evidence presented against Mr. Puracal to support a nine-month long pretrial detention.

Trial finally began nine months after the arrest, on August 9, 2011. The judge called for repeated recesses and trial concluded on August 29, 2011, when all eleven defendants were summarily convicted.

Mr. Puracal was tried for international money laundering, drug trafficking, and organized crime.<sup>13</sup> The trial was fraught with error and completely lacking in any substantive evidence to

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<sup>12</sup> Down Syndrome is chromosomal condition that occurs when some or all of a person's cells have an extra full or partial copy of chromosome 21. Children with Down Syndrome suffer from delayed development and an increased risk for certain medical conditions such as congenital heart defects, respiratory and hearing problems, Alzheimer's disease, childhood leukemia, and thyroid conditions. *See* <http://www.mayoclinic.com/health/down-syndrome/DS00182>.

<sup>13</sup> The trial judge permitted the Nicaraguan Inspector General to intervene in the prosecution's case in violation of Nicaraguan law. Under Nicaraguan law, recently affirmed by a Court of Appeals' decision, the Inspector General cannot be involved in any case that does not affect the State's interest. *See* Ley de Adición del Artículo 15 BIS a la Ley No. 411, Ley Organica de la Procuraduria General de la Republica ("The Inspector General's Office may intervene in criminal proceedings as a representative of the state and its institutions, when crimes or offenses are committed directly against the State. To this effect, it is understood that the crime or offense is committed directly against the State, when a particular authority, official or public employee conducts a crime against the assets of the

support the allegations against Mr. Puracal. Each of the charges and the evidence presented and excluded at trial is discussed in turn below.

*a.) Money Laundering*

The prosecution alleged Mr. Puracal acted as real estate advisor to another defendant, Manuel Antonio Ponce Espinosa, by making investments for Ponce to launder money. The prosecution claimed Mr. Puracal laundered drug money from Ponce by using RE/MAX and five corporations owned and organized by Mr. Puracal to purchase property and make real estate investments. According to the prosecution's written Accusation, Mr. Puracal made investments in Finca Las Nubes (a farm co-op in San Juan del Sur) and Finca El Peten (a coffee farm in Jinotega collectively owned by eight American families). The prosecution's written Accusation also alleges that Mr. Puracal helped Ponce make investments in Carin's Restaurant in San Juan del Sur.

A subsequent and untimely evidence filing by the prosecution admits that Ponce actually leased Carin's Restaurant from someone unrelated to Mr. Puracal. At trial, the prosecution's case did not include any evidence of investments made in Finca Las Nubes, Finca El Peten, or Carin's Restaurant. The prosecution intentionally withheld any mention of the farms after Mr. Puracal's defense team uncovered a video of Nicaraguan President Daniel Ortega visiting Finca El Peten and praising it as a model sustainable farm in Nicaragua.

The prosecution's only allegations of money laundering by Mr. Puracal came through three witnesses: two police officers and a financial expert.

One witness, Officer Byron Stanley Alfaro Traña, testified that Mr. Puracal traveled to and from Costa Rica (Nicaragua's neighbor to the south) twice in 2009 and 2010. Officer Alfaro could not say on which days Mr. Puracal allegedly traveled to Costa Rica. Another witness, Officer Berman Antonio Morales Castillo, testified that Mr. Puracal traveled to Costa Rica only once, not twice as Officer Alfaro testified. Officer Morales offered hearsay testimony that Mr. Puracal "bought property with narco money." The officer did not provide any further detail, and the prosecution was unable to offer any evidence to support this false claim.

Mr. Puracal's immigration records, in fact, confirmed that Mr. Puracal never traveled to Costa Rica in 2009 and traveled there only once in 2010. The trip in 2010, made shortly before his arrest, was a family vacation with his wife and four-year-old son. The family drove to Costa Rica to pick up Mr. Puracal's mother, Dr. Daisy Zachariah, who was visiting from the United States and attending a medical seminar in Costa Rica before a scheduled visit with her son in Nicaragua. The judge, however, would not allow the testimony of Dr. Zachariah, who would have confirmed the details of Mr. Puracal's family vacation to Costa Rica in 2010. The judge

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State or its institutions or against the duties of public service.") The Inspector General's involvement in criminal cases for drug trafficking has been ruled illegal by Nicaraguan courts. See Ernesto Garcia, Court and Facing Downgrades PGR Narcos, EL NUEVO DIARIO, December 26, 2011, available at: <http://www.elnuevodiario.com.ni/nacionales/236836>. Yet the court permitted the more experienced Inspector General to take the lead in the case to pursue the charges against Mr. Puracal in conjunction with the local prosecutor.

further excluded the immigration records of Mr. Puracal's wife and son that confirm the purpose of the trip.

The prosecution's final witness to testify about Mr. Puracal's alleged money laundering activity was Victoriano Zepeda, an expert on financial analysis. The prosecution suggested that the money coming in and out of Mr. Puracal's account through RE/MAX must be evidence of money laundering and drug activity because the amounts were large and the prosecution did not know the source of the money. The source of the money in the RE/MAX account was, in fact, RE/MAX clients who bought and sold property in Nicaragua using the RE/MAX escrow account. The prosecution's financial expert testified that he did not understand the purpose or use of an escrow account. The prosecution appeared unaware that escrow accounts are commonly used by real estate agents to hold money in trust for buyers and sellers of land. The defense was not permitted access to the property titles or the RE/MAX accounting records and was, therefore, unable to offer the testimony of a forensic accountant who could have conducted an audit to match the property transfers to the inflows and outflows of money in the escrow account.

At trial, the judge excluded the testimony of the RE/MAX accountant, Idalia del Socorro Artola Mesa, who would testify that Mr. Puracal's business transactions were open and transparent. The accountant would have testified that RE/MAX was owned by four individuals and that Mr. Puracal's other five corporations were formed by Mr. Puracal and his family for future businesses. She would have confirmed that the five corporations were created to hold assets in the future, but had yet to conduct any business or have any bank accounts. The court excluded the accountant's testimony, ruling it irrelevant.

Neither the police nor the prosecution made any attempt to investigate the source or purpose of the funds in escrow they claim as evidence of drug trafficking and money laundering. In total, the prosecution seized 295 property titles listed by Mr. Puracal's RE/MAX office for sale. The prosecution did not even try, however, connect a single property title to any illegal activity and never made any attempt to demonstrate that the transactions were not arms-length property sales for fair market value. The prosecution refused to interview the RE/MAX clients to whom the funds actually belonged. Those clients included numerous American citizens and prominent members of the Nicaraguan community, including the mayor of San Juan del Sur and even the Nicaraguan military. Indeed, of the 295 property titles seized from Mr. Puracal's office, six of them were owned by the Nicaraguan military and sold through RE/MAX in legitimate real estate transactions. When the prosecution learned of its mistake in entering the military titles as evidence, it attempted to prevent the discussion of those titles during trial. The prosecution vehemently objected to the defense attempts to question police officers about the existence of those titles, and the judge sustained those objections, prohibiting any testimony about the military titles. The prosecution, furthermore, asked that the judge delete the questions from the recorded transcript of the trial.<sup>14</sup>

The prosecution's own financial expert confirmed on cross-examination that Nicaraguan banks require documentation of the source and purpose of any money deposited in excess of \$10,000. The banks are further required to report any suspicious activity, which they have never

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<sup>14</sup> The trial court has denied the defense access to copies of the official trial tapes.

done in Mr. Puracal's case. Although the prosecution had full access to Mr. Puracal's bank records,<sup>15</sup> including documentation of the source and purpose of the funds in the escrow account, the prosecutor never even asked the banks to provide the documentation on file with respect to Mr. Puracal's accounts.

The prosecution's expert, Zepeda, further admitted that no money ever changed hands between Mr. Puracal and the other defendants. That is, the expert confirmed that there were no deposits by Mr. Puracal into the accounts of the other defendants and no deposits by the other defendants into Mr. Puracal's accounts. Zepeda actually refuted the prosecution's own allegation that Mr. Puracal purchased property in the RE/MAX name for the benefit of Manuel Ponce and testified that RE/MAX never directly purchased or owned any property. Despite the financial expert's testimony, the prosecution still insisted on attributing the money associated with those property transfers to Mr. Puracal.

The only substantive evidence offered by the prosecution at trial were the documents confiscated from the RE/MAX office during the unlawful November 2011 raid. After a supposed three-year investigation, neither the police nor the prosecution could offer a single piece of evidence obtained prior to Mr. Puracal's unlawful arrest, and the documents obtained after the arrest did not show any evidence of crime.

#### ***b.) International Drug Trafficking***

The prosecution, in its written Accusation, alleged that the eleven defendants received cocaine in Costa Rica and transported the drugs to El Salvador and Guatemala. The prosecutor made no mention of this alleged drug route at trial and no drugs were ever offered into evidence. None of the prosecution's witnesses gave any testimony to connect Mr. Puracal with drug trafficking. The prosecution, instead, merely offered the testimony of Officer Carlos Alberto Ortiz Obando who testified that a VaporTracer test conducted on Mr. Puracal's truck and clothes after the arrest produced a "70 percent positive" test result for cocaine on the truck's steering wheel and gear shift. (The VaporTracer is a machine used to detect microscopic traces of explosives and narcotics.<sup>16</sup>) Neither the prosecution nor the witness could explain what a "70 percent positive" test result means. (The "70 percent positive" test result suggests that the police were performing a non-specific test. A non-specific test merely indicates that a substance falls into a category of substances.<sup>17</sup> That is, there is a 70 percent chance that the substance found on Mr. Puracal's truck could be cocaine. Although a non-specific test could statistically suggest the identity of the substance, there is a high risk of false positive identification.<sup>18</sup>)

Neither the prosecution nor the witness produced any written documentation of the allegedly positive test result. And neither could explain the discrepancy between initial tests showing no evidence of drugs on Mr. Puracal's truck or clothing and the repeat tests performed

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<sup>15</sup> The defense was not able to obtain these bank records as the judge refused to issue a subpoena for the records on behalf of the defense.

<sup>16</sup> See [www.ustesting.com/media/pdf/VaporTracer-DAT.pdf](http://www.ustesting.com/media/pdf/VaporTracer-DAT.pdf)

<sup>17</sup> See [https://secure.wikimedia.org/wikipedia/en/wiki/Gas\\_chromatography%E2%80%93mass\\_spectrometry](https://secure.wikimedia.org/wikipedia/en/wiki/Gas_chromatography%E2%80%93mass_spectrometry).

<sup>18</sup> *Id.*

after the police had Mr. Puracal's truck and clothing in police custody for over 24 hours. The drug tests were conducted numerous times as follows<sup>19</sup>:

- November 11, 2010:
  - 2:00 p.m.: Police forced their way into Mr. Puracal's office and detained him there.
  - 7:00 p.m.: Police searched Mr. Puracal's office and truck and found no evidence of drugs.
  - 9:00 p.m.: Police transported Mr. Puracal to the jail in San Juan del Sur. Police conducted a VaporTracer test on Mr. Puracal and his clothes upon arrival at the jail. The test found no evidence of drugs. At the same time, two police officers drove Mr. Puracal's truck to the jail and parked it in the jail parking lot.
  - 11:00 p.m.: Police ordered Mr. Puracal out of his cell and told him to sit in his truck. Police used a drug-sniffing dog to search Mr. Puracal and the truck. The dog found no evidence of drugs. Police then conducted a VaporTracer test on Mr. Puracal's truck. Again, the test found no evidence of drugs.
  
- November 12, 2010:
  - [TIME UNKNOWN]: In the evidence document submitted by the prosecutor, it is recorded that the VaporTracer test was conducted on November 12 in Managua, where the VaporTracer machine was located. Police allege the test sample was 70% positive for cocaine. The date of the test was confirmed by the police on the stand, but, again, the police have never disclosed any documentation of the results.
  - 3:00 p.m.: Police confiscated Mr. Puracal's clothing that he was wearing on the day of his arrest.
  
- November 13, 2010:
  - 1:00 p.m.: Police brought Mr. Puracal out of his cell and forced him to dress in the clothes that were previously confiscated and held by the police. The bag in which the clothes were stored had been opened outside of Mr. Puracal's presence and his boxer shorts were missing. Police then conducted a VaporTracer test on Mr. Puracal's clothing.

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<sup>19</sup> Because the police and the prosecution have refused to provide documentation of the tests, the following times are estimated based on Mr. Puracal's best recollection.

The police and the prosecution refused to provide the defense with the documentation of the test results, and the prosecution notably failed to offer any documentation of those results at trial.

It is, furthermore, highly contradictory that the police claim to have found traces of cocaine on the steering wheel and stick shift after a police officer drove the car. The police admitted at trial that they drove Mr. Puracal's vehicle from his office to the police jail before the tests were conducted. The police witnesses, Officers Mario Jose Santana and Harlen Martin Acuña, conceded on the stand that there may have been direct or indirect cross-contamination during the VaporTracer test, and that the police failed to run the test on Mr. Puracal's hands, something they claimed to have done with other defendants. The judge refused to allow the defense to question the officers about their preservation of Mr. Puracal's clothing before the test.

Mr. Puracal's defense argued in the trial that the VaporTracer results violate the presumption of innocence, because the prosecutor's witnesses admitted during the trial that Nicaragua only has two officers trained in the use of the VaporTracer, and there is only one machine in all of Nicaragua. The defense, therefore, is left without any opportunity to conduct an independent test to confirm or deny the police allegations.

The VaporTracer was given to Nicaraguan law enforcement by the United States and relies on Ion Trap technology. The limitations of this technology have been recognized by U.S. courts. For example, in *United States v. Hibbitt*,<sup>20</sup> the federal district court in Alaska was quick to point out that machines like the VaporTracer register trace amounts of drugs that may result from cross-contamination.<sup>21</sup>

This principle is especially important in Mr. Puracal's case. The evidence tested—Mr. Puracal's truck and clothes—was handled by numerous officers before it was tested and after those officers had tested the evidence from the other defendants. The officers admitted on cross-examination that contamination was possible. Commentators have reported on this very situation and the problem it poses with respect to the reliability of machines like the VaporTracer:

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<sup>20</sup> *U.S. v. Hibbitt*, 208 F.Supp.2d 1026 (D. Alaska 2000).

<sup>21</sup> Furthermore, "numerous reports in the past ten years have documented the fact that most currency circulated in the United States is contaminated with cocaine." *Id.* at 1040; *see also United States v. U.S. Currency*, 39 F.3d 1039, 1041–44 (9th Cir. 1994) (probable cause for currency seizure found lacking where evidence presented established that over 75% of U.S. currency in the area was contaminated with some degree of cocaine residue). In one 1985 study done by the United States Drug Enforcement Administration on the money machines in the U.S. Federal Reserve district bank, random sample of \$50 and \$100 bills revealed that a third to half of all the currency tested bore traces of cocaine. Moreover, the machines themselves were often found to test positive, meaning that subsequent batches of cash fed through them would also pick up cocaine residue. Expert evidence given before a United States federal appeals court in 1995 showed that three out of four bills randomly examined in the Los Angeles area bore traces of the drug. In a 1997 study conducted at the Argonne National Laboratory, nearly four out of five one-dollar bills in Chicago suburbs were found to bear discernible traces of cocaine. In another study, more than 135 bills from seven U.S. cities were tested, and all but four were contaminated with traces of cocaine. These bills had been collected from restaurants, stores, and banks in cities from Milwaukee to Dallas. *See* <http://www.snopes.com/business/money/cocaine.asp> for a full summary.

The legal implications of such a machine that searches for drugs on a molecular level are enormous. Imagine shaking hands with a cocaine user that had used the drug only hours before. Unbeknownst to you, there is now likely to be a trace residue of cocaine on your hands. You later hug a loved one and transfer a molecular particle of cocaine to them. After showering and washing your hands thoroughly, a trace amount of cocaine is likely to remain on your body. Although you are unaware of your “molecular possession,” you could possibly be the victim of a humiliating search because the police, having reasonable suspicion to employ the Sentor device [similar to the Itemiser and VaporTracer] have detected a particle of cocaine as small as one part per one hundred trillion.<sup>22</sup>

Because of such risks, law enforcement in the U.S. is trained in the careful use of such machines and the limits as to what a particular test result really means.

Regardless of documented concerns about the reliability of the test, the test results are irrelevant in this case. The fact that there is a 70 percent chance that a substance found on Mr. Puracal’s steering wheel and gear shift could be cocaine is not evidence of international drug trafficking, money laundering, or organized crime—the three crimes with which Mr. Puracal was charged. The evidence would not even suffice for a charge of possession—a crime with which Mr. Puracal was never charged. The judge, nonetheless, used the undocumented test results to convict Mr. Puracal of the more severe charge of international drug trafficking.

The judge also refused to allow the defense to present a letter from the United States Drug Enforcement Agency confirming that the DEA “did not supply any information regarding Jason Puracal to the Nicaraguan authorities.”<sup>23</sup> Those authorities “did not involve DEA in their investigation” in this case of supposed international drug trafficking.<sup>24</sup> The DEA had no involvement in investigating Mr. Puracal—a fact at odds with the prosecution’s claims that this was an international drug conspiracy that had been under investigation for years.

### *c.) Organized Crime*

The prosecution failed to offer any details regarding the charge of organized crime against Mr. Puracal and only two of the prosecution’s witnesses gave any testimony related to the charge. One witness, a police officer named Berman Antonio Morales Castillo, was allowed to give hearsay testimony that an anonymous informant told police the informant saw Mr. Puracal meeting with one of the other defendants on one occasion at a house in Rivas. The officer could not provide any details of the alleged meeting. On cross-examination, Officer Morales admitted that he had no photographs of the supposed meeting, and no video or tape recordings of any conversation. He was not even able to recall the name of the supposed

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<sup>22</sup> *Hibbitt*, 208 F. Supp.2d at 1040 (quoting Peter Joseph Bober, *The “Chemical Signature” of the Fourth Amendment: Gas Chromatography/Mass Spectrometry and the War on Drugs*, 8 Seton Hall Const. L.J. 75, 77 (1997)).

<sup>23</sup> Letter from United States Drug Enforcement Administration to Congressman Adam Smith (Exhibit 3).

<sup>24</sup> *Id.*

informant. When another defendant attempted to call the owner of the house in Rivas as a trial witness, the judge refused to allow the testimony in support of the defendants.

The other prosecution witness, Officer Byron Stanley Alfaro Traña, testified that he heard from another anonymous informant that Mr. Puracal met with the other defendants at the RE/MAX office in San Juan del Sur. Again, the officer had no evidence to confirm the alleged informant tip and gave only the nickname of the informant—“El Diablito,” or “Little Devil.”

Mr. Puracal has repeatedly confirmed that he did not know any of the other defendants. All of the other defendants have, over the past fourteen months since the arrest, confirmed that they had no prior involvement with Mr. Puracal. Defendant Manuel Ponce testified at trial that he did not know and had never met with Mr. Puracal prior to this arrest. There was complete failure by the prosecution to link Mr. Puracal to any activities involving the co-defendants or any other criminal actors.

### **3. The Appeal**

Despite the complete lack of evidence presented at trial, Mr. Puracal was convicted on August 29, 2011. The trial judge, Artola Narvaez, wrote the sentence committing Mr. Puracal to 22 years in prison on September 6. Artola Narvaez, however, refused to notify Mr. Puracal’s attorney of the sentence until the attorney made a personal appeal at the courthouse on September 21, 2011, delaying the opportunity for appeal.

Mr. Puracal’s attorney then filed a timely appeal brief outlining the denial of Mr. Puracal’s due process rights at trial, but Artola Narvaez refused to submit the brief to the appellate court for consideration. He, furthermore, refused to notify one of Mr. Puracal’s co-defendants of his sentence for two months, further delaying Mr. Puracal’s right to appellate review. Until all defendants were notified of their sentence, Mr. Puracal’s appeal could not be heard.

In response to extensive media attention on the delay, the trial court finally submitted Mr. Puracal’s appeal to the appellate courts for review on December 19, 2011, nearly four months after his conviction. That submission came just one day before the Nicaraguan courts closed for a three-week holiday recess. The appeal remains pending and has yet to be heard.

### **VIOLATIONS OF INTERNATIONAL LAW**

The deprivation of Mr. Puracal’s freedom falls within Category III of the Working Group’s classification of cases because the Government of Nicaragua has violated many of the international norms relating to the right to a fair trial. The Working Group considers a deprivation of liberty to be Category III arbitrary detention “[w]hen the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by

the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.”<sup>25</sup>

For the reasons below, the arrest and detention of Mr. Puracal violates the fundamental rights and freedoms established by the International Covenant on Civil and Political Rights (“ICCPR”),<sup>26</sup> the Universal Declaration of Human Rights (“UDHR”),<sup>27</sup> the American Convention on Human Rights (“ACHR”),<sup>28</sup> the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (“Body of Principles”), and constitutes a Category III arbitrary detention.

#### **A. Denial of the Right to a Competent Tribunal Established by Law**

Mr. Puracal’s conviction was not rendered by a legal tribunal. The right to trial before a competent tribunal established by law is a fundamental precept of the justice system. Article 14 of the ICCPR provides that “[i]n the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.” Article 8 of the ACHR confirms the same right: “Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him[.]”

Mr. Puracal was denied that fundamental right. The judge who presided over Mr. Puracal’s trial (27-year-old Kriguer Alberto Artola Narvaez) was neither a licensed attorney nor was his appointment to the bench legal under the Nicaraguan Constitution.<sup>29</sup> To be a district court judge under Nicaraguan law (Article 137 of the Judicial Power Organization Act), one must (1) be an attorney, (2) have practiced for at least three years, and (3) have served as a local judge for at least two years. The secretary of the Supreme Court has issued a notarized Constancia showing that Artola Narvaez is not a licensed attorney.<sup>30</sup> It is, furthermore, undisputed that Artola Narvaez has not practiced law for three years and has never served as a local judge. The Government of Nicaragua has never provided an explanation of why Artola

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<sup>25</sup> Fact Sheet No. 26, The Working Group on Arbitrary Detention, Office of the High Commissioner for Human Rights.

<sup>26</sup> Nicaragua ratified the International Covenant on Civil and Political Rights on March 12, 1980. See <http://www2.ohchr.org/english/law/ccpr.htm>.

<sup>27</sup> Nicaragua was one of 48 countries that voted in favor of the Universal Declaration of Human Rights. Yearbook of the United Nations 1948-1949 at p. 535.

<sup>28</sup> Nicaragua was a signatory to the American Convention on Human Rights and has recognized the jurisdiction of the Court and the competence of the Inter-American Commission on Human Rights to adjudicate violations. See Signatories and Ratifications available at <http://www.cidh.oas.org/Basicos/English/Basic4.Amer.Conv.Ratif.htm>.

<sup>29</sup> See Lésber Quintero, Abnormal Appointment of Judge in Rivas, EL NUEVO DIARIO, July 4, 2011, available at: <http://www.elnuevodiario.com.ni/nacionales/106766-raro-nombramiento-de-juez-rivas>; Ramón Villarreal B., Lucía Vargas, and Eddy López, Deputy Judge Unregistered Attorney, LA PRENSA, July 4, 2011, available at: <http://www.laprensa.com.ni/2011/07/04/politica/65636>; Ramón H. Potosme, Ramón Villarreal, and Lucía Vargas, Rivas Judge is Not a Lawyer by Error, LA PRENSA, July 5, 2011, available at: <http://www.laprensa.com.ni/2011/07/05/nacionales/65706>.

<sup>30</sup> Constancia (Exhibit 4).

Narvaez was, nonetheless, appointed to preside over Mr. Puracal's trial. The trial was, in fact, the first trial Artola Narvaez had ever seen.

Besides being incompetent to preside over the trial, Artola Narvaez was, furthermore, neither independent nor impartial. Artola Narvaez held private meetings with the prosecution's witness, Officer Byron Stanley Alfaro Traña, in chambers during breaks in the middle of the trial. Under the ICCPR, "it is inherent to the proper exercise of judicial power that it be exercised by an authority which is independent, objective, and impartial in relation to the issues dealt with."<sup>31</sup> The judge's willingness to violate such basic rules of judicial independence as to allow *ex parte* contact with the prosecution's witness is a violation of Nicaraguan and international law.

## **B. Denial of the Right to a Fair Trial**

The ICCPR, UDHR, and ACHR guarantee the right to a fair trial. As has been stated by the Human Rights Committee, "[t]he requirement of equality of arms, rules of evidence, control of the proceedings by independent and impartial judges, deliberation and decision by neutral juries, and the system of appeals are all part of these guarantees."<sup>32</sup> The right to fair trial, then, includes both the right to prepare a defense and the right to present that defense. Mr. Puracal was denied both.

### **1. Mr. Puracal was denied an equal opportunity to prepare his defense.**

Article 14(3)(b) ensures that the right to fair trial includes the right "[t]o have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing[.]" The General Comments to the sub-paragraph clarify that "the facilities must include access to documents and other evidence which the accused requires to prepare his case, as well as the opportunity to engage and communicate with counsel."<sup>33</sup> Mr. Puracal was denied confidential communications with his counsel. He was further denied access to evidence.

#### **a) *Denial of Confidential Communication with Counsel***

Article 14(3)(b) permits "counsel to communicate with the accused in conditions giving full respect for the confidentiality of their communications."<sup>34</sup> That is, "[l]awyers should be able to counsel and to represent their clients in accordance with their established professional standards and judgement without any restrictions, influences, pressures or undue interference from any quarter."<sup>35</sup>

Mr. Puracal was initially denied any access to his attorney. Mr. Puracal was arrested without a warrant on November 11, 2010. He immediately requested a phone call to his

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<sup>31</sup> *Vladimir Kulomin v. Hungary*, Human Rights Committee, Communication No. 521/1992, UN Doc. CCPR/C/50/D/521/1992 (16 March 1994), para. 11.3.

<sup>32</sup> *Richards v. Jamaica*, Human Rights Committee, UN Doc. CCPR/C/59/D/535/1993 (31 March 1997) (Ando, N., dissenting).

<sup>33</sup> ICCPR, art. 14(3)(b), General Comment 13, para. 9.

<sup>34</sup> ICCPR, art. 14(3)(b), General Comment 13, para. 9.

<sup>35</sup> *Id.*

attorney, but the request was denied.<sup>36</sup> Mr. Puracal was interrogated three times (on November 11, 12, and 13) without his attorney despite his repeated demands for counsel.

Even after Mr. Puracal was afforded the right to speak with his attorney, the prison guards carefully monitored each conversation, limiting Mr. Puracal's visits with his attorney to 30 minutes and preventing any confidential communications. The Body of Principles prohibits such censorship of attorney-client communications: "Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement officer."<sup>37</sup> The Working Group has previously concluded that the right to communicate with counsel was "seriously undermined" when prison officials remained within hearing distance of the defendants' meetings with counsel, "denying the privacy which is essential between a defendant and his counsel."<sup>38</sup> Mr. Puracal has never been permitted a confidential communication with his attorney in the prison.

### ***b) Denial of Access to Evidence***

In addition to being denied free access to his attorney, Mr. Puracal was also denied access to exculpatory evidence. Nicaraguan law requires that the defense be given pre-trial access to the evidence the prosecution intends to present at trial.<sup>39</sup> The prosecution, here, listed documents and other evidence on its Interchange of Evidence filed with the court, but it refused to acknowledge the defense right to see that evidence before it was presented at trial.

For example, on the fourth day of trial, the prosecution called its expert on financial analysis, Victoriano Zepeda, who offered his 60-page report into evidence. That report had never-before been seen by the defense, despite repeated requests. The defense objected to the

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<sup>36</sup> Mr. Puracal was further denied the right to visit with his attorney as the police moved him from prison to prison and refused to tell his attorney where he had been taken. Mr. Puracal's wife hired an attorney to represent Mr. Puracal and find him in the prison system. The prison guards' refusal to disclose Mr. Puracal's whereabouts to his family and his attorney is a further violation of international law. See Body of Principles, Principle 16 ("Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody."). Mr. Puracal was not provided access to his attorney until the evening of November 13—two days after being taken into custody. The delay is a direct violation of Article 14(3)(b), under which it is imperative "that detainees have access to lawyers from the moment of their detention." Human Rights Committee, Concluding Observations on Czech Republic, UN Doc. CCPR/CO/72/CZE (27 August 2001), para. 17 (emphasis added).

<sup>37</sup> Body of Principles, Principle 18(4). See also *Gridin v. Russian Federation*, Human Rights Committee, Communication No. 770/1997, UN doc. CCPR/C/69/D/770/1997 (20 July 2000), para. 8.5 (The Human Rights Committee held that the refusal to permit the defendant to consult counsel in private was a violation of the Article 14(3)(b)).

<sup>38</sup> United Nations Working Group on Arbitrary Detention, Opinion No. 33/2006, para. 19.

<sup>39</sup> Artículo 34 de la Constitución Política de Nicaragua o Carta Magna ("Every defendant is entitled, on equal terms to the following minimum guarantees . . . (4) to ensure their involvement and defense from the beginning of the process and have adequate time and facilities for his defense.."); Artículo 4 de la Ley de Código Procesal Penal de la República de Nicaragua (CPP) ("All the accused or defendant is entitled to material and technical defense."); Artículo 273 de la Ley de Código Procesal Penal de la República de Nicaragua (CPP) ("The body responsible for the custody of the documents, objects and other items of evidence must guarantee that they are available for review by the parties, from the moment that each of them are offered as evidence, and even before Judgement. Confidential items will be examined privately by the court. If they are useful for finding out the truth, they will be incorporated into the process reserving them without affecting the parties' right to know.").

introduction of the report without prior defense review, but the judge admitted it and allowed the expert to testify from it. The defense had to cross-examine the expert without prior review of the document, and the expert admitted that the report actually confirmed that no money had ever changed hands between Mr. Puracal and the other ten defendants with whom he was charged.

The prosecution, furthermore, had in its possession additional exculpatory evidence seized by the police, but refused to permit the defense access to the evidence and declined to offer it at trial. For example, the police seized from Mr. Puracal's office numerous documents showing title transfers by RE/MAX Horizons. The prosecution had alleged that Mr. Puracal could not account for the source of the money in the RE/MAX escrow account and that the money must, therefore, be illegal proceeds from drug activity and money laundering. All the while, the prosecution had in its possession the very documents that prove the source of the money in escrow. The defense could have used the documents to prove that the money in escrow was, in fact, used for legitimate sales of property for Mr. Puracal's clients. The prosecution, however, refused to permit the defense access to those documents and refused to provide the defense with the names or properties listed on the titles. Because the documents were taken from Mr. Puracal's office along with his computers and other files, the defense was without sufficient means to recreate the information in the documents. The same is true for other documents in the prosecution's possession, including the corporate documents of RE/MAX Horizons showing the purchase agreement and shareholder and accounting information.

As the Human Rights Committee stated, the "right of an accused person to have adequate time and facilities for the preparation of his defence is an important element of the guarantee of a fair trial and emanation of the principle of equality of arms."<sup>40</sup> Mr. Puracal was denied this important right from the moment of his arrest.

## **2. Mr. Puracal was denied the right to present his defense.**

The right to fair trial includes the right to "examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him," under Article 14(3)(e) of the ICCPR. Article 8(2)(f) of the ACHR guarantees the same: "During the proceedings, every person is entitled, with full equality, to the following minimum guarantees, [including] . . . the right of the defense to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts."<sup>41</sup>

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<sup>40</sup> *Smith v. Jamaica*, Human Rights Committee, Communication No. 282/1988, UN doc. CCPR/C/47/D/282/1988 (31 March 1993), para. 10.4.

<sup>41</sup> The right to a fair trial also includes the right "[t]o be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him." ICCPR, art. 14(3)(a). Mr. Puracal, a native English speaker, was questioned three times (on November 11, 12, and 13) without his lawyer in Spanish. He was, furthermore, forced to sign a document stating that his human rights had been respected. Mr. Puracal did not understand the document and asked the police officers to clarify its meaning. The police officers refused and, instead, forced him to sign without his lawyer or a translator. The Working Group has previously held that forcing a detainee to sign a document in the absence of his lawyer or a translator is a violation of the ICCPR. United Nations Working Group on Arbitrary Detention, Opinion 14/2010, paras. 26-28. The absence of a translator in court proceedings is, too, a violation. *Id.* Mr. Puracal requested the assistance of a translator at each and every hearing

This right “is designed to guarantee to the accused the same legal powers of compelling the attendance of witnesses and of examining or cross-examining any witnesses as are available to the prosecution.”<sup>42</sup> In Mr. Puracal’s case, the judge (during a preparatory hearing on the first day of trial) ordered that much of the defense case would be excluded from trial, ruling that the evidence was “irrelevant.” The judge permitted the prosecution to present the speculative and hearsay testimony of police officers, yet refused to allow Mr. Puracal to call key witnesses who would have refuted that very testimony. For example, the judge excluded:

- ***The testimony of Christopher Robertson.*** The judge permitted the prosecution’s witness, Officer Byron Stanley Alfaro Traña, to present hearsay testimony that Christopher Robertson, another American living in San Juan del Sur, had informed the police about Mr. Puracal’s allegedly illegal activity. The defense had previously named Mr. Robertson as a witness to testify to the contrary, but the judge struck his testimony as “irrelevant.” The defense later learned from Mr. Robertson that he had been interviewed by the police, but had not given them the information to which Officer Alfaro had testified. Mr. Robertson had, in fact, told the police that Mr. Puracal came to Nicaragua to serve in the Peace Corps and later decided to stay. He also told the police that Mr. Puracal’s hard work was the source of his success in the real estate business. Mr. Robertson gave the police a statement to this effect, but the prosecution never disclosed that statement to the defense and did not offer it at trial. Mr. Robertson, in the attached declaration, stated under oath that, had he been given the opportunity to testify, he would have refuted the hearsay testimony of Officer Alfaro.<sup>43</sup>
- ***The testimony of Mr. Puracal’s mother, Dr. Daisy Zachariah.*** The trial judge permitted the prosecution to change its theory mid-way through the trial and offer the testimony of Officer Alfaro that Mr. Puracal traveled to Costa Rica in 2009 and 2010 to receive drugs. Mr. Puracal’s immigration records show that he never traveled to Costa Rica in 2009 and traveled there only once in 2010, shortly before his arrest, with his wife and son to pick up his mother who was visiting from the United States and attending a medical conference there. Mr. Puracal’s mother was offered to confirm this testimony, but she was precluded from testifying. Mr. Puracal also offered the immigration records of his wife and son to confirm the purpose of the trip, but the judge likewise excluded that evidence as irrelevant.
- ***The testimony of Idalia del Socorro Artola Mesa, the accountant for RE/MAX Horizons.*** The accountant for Mr. Puracal’s company would have testified about the source and purpose of the funds in the RE/MAX escrow account alleged by the prosecution as evidence of drug activity and money laundering. The judge excluded the testimony of the accountant, but convicted Mr. Puracal on the basis that he failed to bring forward evidence of the source of the funds held in the

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and at trial, all of which took place in Spanish. Mr. Puracal’s requests were consistently denied in violation of Article 14(3)(a) of the ICCPR.

<sup>42</sup> ICCPR, art. 14(3)(e), General Comment 13, para. 12.

<sup>43</sup> See Declaration of Christopher Robertson (Exhibit 5).

escrow account. The accountant for RE/MAX Horizons was also the accountant for the other five corporations in Mr. Puracal's name, which the prosecution alleged were part of the wrongful activity. The accountant would have further testified that those five corporations were formed for future family businesses, but were not yet actively conducting business and did not have any bank accounts associated with them. The accountant would have confirmed that none of the other defendants were shareholders in either RE/MAX Horizons or the other five corporations.

- ***A letter from the U.S. Drug Enforcement Administration.*** The Nicaraguan prosecution has frequently alleged, for the first time during trial, that the DEA provided the prosecutor with information to pursue the charges. The defense was left without an opportunity to rebut the evidence. Mr. Puracal's defense, however, obtained a letter from the DEA in advance of trial confirming that the DEA "did not supply any information regarding Jason Puracal to the Nicaraguan authorities."<sup>44</sup> Those authorities "did not involve DEA in their investigation" in this case of supposed international drug trafficking.<sup>45</sup> The judge ruled the letter was irrelevant.
- ***The crime scene expert offered by the defense.*** The defense crime scene expert would have testified that the police refused to adequately investigate and failed to properly handle evidence, including the evidence tested for the presence of drugs. The judge excluded the testimony of the defense expert as "irrelevant," but allowed the prosecution's crime scene expert to take the stand and testify that the police followed protocol. The defense expert would have explained that the police never had a crime scene, but an "investigative facts scene," and would have explained the very important difference between the two terms. He was also to testify about the importance of the chain of custody, which was repeatedly and flagrantly violated by the police in this case.
- ***A video of Nicaraguan President Daniel Ortega praising Finca El Peten.*** Nicaraguan President Daniel Ortega had visited Finca El Peten, the coffee farm the prosecutor alleged was used by Mr. Puracal to launder money. In a video filmed during his visit, President Ortega praised the coffee farm as a model sustainable farm in Nicaragua and its owner, Chris Robertson, an American living in Nicaragua. The evidence was deemed irrelevant.

Such a one-sided proceeding does not constitute a fair trial under Article 14 of the ICCPR, Article 10 of the UDHR, or Article 8 of the ACHR.

### **C. Denial of the Presumption of Innocence**

The presumption of innocence is guaranteed by Article 14(2) of the ICCPR, Article 11 of the UDHR, Article 8(2) of the ACHR, Principle 36 of the Body of Principles, and Article 34 of

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<sup>44</sup> Letter from United States Drug Enforcement Administration to Congressman Adam Smith (Exhibit 3).

<sup>45</sup> *Id.*

the Constitution of Nicaragua. The presumption of innocence requires that “the burden of proof of the charge is on the prosecution and the accused has the benefit of doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt.”<sup>46</sup> Despite the wealth of authority in favor of the presumption of innocence, Mr. Puracal was denied the presumption—even being held in prison with convicted persons from the time of his arrest.<sup>47</sup>

During trial, the prosecution argued that Mr. Puracal should be found guilty of the crime of money laundering because he failed to present evidence to prove the source of money found in the RE/MAX escrow account. Mr. Puracal had, in fact, offered the testimony of the RE/MAX accountant to prove that the money belonged to RE/MAX clients and was used for legitimate sales of property. Judge Artola Narvaez, however, excluded that evidence as irrelevant. Artola Narvaez convicted Mr. Puracal of money laundering on the basis that Mr. Puracal had failed to establish affirmative evidence to prove the source of money in the escrow account.<sup>48</sup>

In *Tin Min Htut and U Nyi Pu v. Myanmar (Burma)*, the Working Group stated “the presiding judge did not provide any reasoning when handing down the guilty verdicts against the . . . accused . . . The lack of reasons and tone of the verdicts indicate that the judge was operating from a presumption of guilt.”<sup>49</sup> This analysis also applies directly to Mr. Puracal’s case.

#### **D. Denial of the Right to be Tried Without Undue Delay**

Mr. Puracal was denied his right to trial without undue delay in violation of Nicaraguan law and denied the right to challenge the length of pretrial detention in violation of international law.

Nicaraguan law guarantees that a person accused of a crime be brought to trial within three months.<sup>50</sup> The pre-trial judge can extend the period of detention before trial for up to one year if the case is characterized as “complex.”<sup>51</sup> The judge must, however, set the period of detention at the beginning of the case.<sup>52</sup> According to Nicaraguan law, if the judge fails to do so, the maximum length of detention is six months.<sup>53</sup>

The pre-trial judge in Mr. Puracal’s case characterized the case as “complex,” but failed to set the length of detention. In a similar case involving charges of drug trafficking, the

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<sup>46</sup> ICCPR, art. 14, General Comment 13, para. 7.

<sup>47</sup> ICCPR, art. 10(2)(a) (“Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.”); Body of Principles, Principle 8 (“Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons.”). The segregation of unconvicted persons is specifically required by the ICCPR “in order to emphasize their status as unconvicted persons who are at the same time protected by the presumption of innocence stated in article 14, paragraph 2.” ICCPR, art. 10, General Comment 9, para. 4.

<sup>48</sup> Sentence (English translation) (Exhibit 6).

<sup>49</sup> United Nations Working Group on Arbitrary Detention, Opinion No. 4/2010, para. 13.

<sup>50</sup> Artículo 134 de la Ley de Código Procesal Penal de Nicaragua.

<sup>51</sup> Artículo 135 numeral 4 de la Ley de Código Procesal Penal de la República de Nicaragua (CPP).

<sup>52</sup> *Id.*; Jurisprudencia de la Sala Penal de la Corte Suprema de Justicia de Nicaragua visible en la sentencia número 30, de las ocho de la mañana del veinticuatro de Febrero del año Dos Mil Seis.

<sup>53</sup> *Id.*

Nicaraguan Supreme Court ruled that the prosecution's failure to bring the accused to trial within six months must void the charges.<sup>54</sup> An indefinite detention would "violate fundamental rights protected and guaranteed by [the Nicaraguan] Constitution and [penal] Code."<sup>55</sup> Mr. Puracal, here, moved the trial court to dismiss the charges against him after being detained for six months without any evidence of those charges. The pre-trial judge (Judge Diogenes Davila) refused to rule on the motion.<sup>56</sup>

Mr. Puracal's defense attorney moved for appellate review, but Judge Davila refused to acknowledge the appeal, thereby preventing it from being transferred to the appellate court for consideration. The trial court's refusal to rule on the length of the detention and refusal to permit appellate review of that decision violated Mr. Puracal's right to timely review under Article 14(3)(c) of the ICCPR, which prohibits undue delay "both in the first instance and on appeal."<sup>57</sup> Mr. Puracal was held without bail for nine months before trial. Mr. Puracal's objection to the length of his pretrial detention in violation of Nicaraguan law was not accepted for review in the appellate courts until seven months after the appeal was filed, long after trial and sentencing had occurred.

Even after trial, the Nicaraguan court continued to delay. The trial judge, Artola Narvaez, convicted Mr. Puracal and the other 10 defendants on August 29, 2011, within 15 minutes of closing arguments. Artola Narvaez sentenced Mr. Puracal to 22 years in prison. Artola Narvaez wrote the sentence on September 6, but refused to notify Mr. Puracal of the sentence, delaying Mr. Puracal's right to appellate review. Mr. Puracal was not notified of his sentence until September 21, when Mr. Puracal's attorney went to the courthouse and demanded notification. Mr. Puracal filed a timely appeal of the sentence in the trial court as required by Nicaraguan law, but Artola Narvaez refused to submit the appeal to the appellate courts for consideration. In addition, the appeal could not be considered until all eleven defendants had been notified of their sentences and been given time to file an appeal. Artola Narvaez refused to notify one of Mr. Puracal's co-defendants, Delvin de Jesus Bolanos Espinoza, until his attorney went to the courthouse to demand notification nearly two months after the sentence was written. The delay in notifying Mr. Espinoza of his sentence effectively delayed Mr. Puracal's right to appellate review in violation of Article 14(3)(c) of the ICCPR.<sup>58</sup>

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<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Judge Davila was appointed to preside over pretrial proceedings in violation of Nicaraguan law. Judge Davila was a personal friend of Mr. Puracal's co-defendant, Roger Nuñez, and should have, therefore, been disqualified. Judge Davila's continued involvement is further evidence of the Government of Nicaragua's failure to comply with Article 14 of the ICCPR, under which a proceeding "flawed by the participation of a judge who, under domestic statutes, should have been disqualified cannot normally be considered to be fair or impartial[.]" *Karttunen v. Finland*, Human Rights Committee, UN Doc. CCPR/C/46/D/387/1989 (23 December 1992), para. 7.2.

<sup>57</sup> ICCPR, art. 14(3)(c), General Comment 13, para. 10. *See also* ACHR, art. 7(6) ("Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful.").

<sup>58</sup> ICCPR, art. 14(3)(c), General Comment 13, para. 10 ("Subparagraph 3 (c) provides that the accused shall be tried without undue delay. This guarantee relates not only to the time by which a trial should commence, but also the time by which it should end and judgement be rendered; all stages must take place "without undue delay". To make this right effective, a procedure must be available in order to ensure that the trial will proceed "without undue delay", both in first instance and on appeal.").

## CONCLUSION

The Government of Nicaragua's arrest and detention of Jason Puracal for over fourteen months without due process in violation of Nicaraguan and international law amounts to a Category III arbitrary detention. Mr. Puracal remains wrongfully imprisoned, serving a 22-year sentence in subhuman conditions for crimes he did not commit. On the basis of the evidence submitted, we respectfully request the Working Group communicate an urgent appeal to the Government of Nicaragua and proceed to issue an opinion on this case urging Jason Puracal's immediate release from detention.

### **V. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN.**

As described above, Mr. Puracal was denied the right to timely challenge the length of his detention with appellate review. He was then tried, convicted, and sentenced to 22 years in prison. Although Mr. Puracal filed a timely appeal of his conviction and sentence, he was, again, denied timely appellate review.

Mr. Puracal's appeal has now been transferred to the Nicaraguan appellate court for consideration, but that appeal is highly unlikely to result in an appropriate remedy. Legal scholars have repeatedly recognized that Nicaragua lacks a system of impartial tribunals, often resulting in decisions that are influenced by politics and contrary to the rule of law. Scholars Manuel Arauz Ulloa and Maria Asunción Moreno investigated the Nicaraguan judiciary and concluded that "it is impossible to say that there is Rule of Law in Nicaragua."<sup>59</sup> According to the authors, one of the main problems with the Nicaraguan judiciary is that it is controlled by the political parties: "It is impossible to talk about justice with a Judicial Branch that is held hostage by outside interests, in a system in which judges and justices, rather than obeying only the Constitution and the law, are subject to the designs of their hierarchical superiors and, the latter for their part, to the interests of the party to which they belong."<sup>60</sup> Finally, the authors noted that Nicaraguans do not respect the judicial branch, in part, because of corruption: "It is well known to everyone that the administration of justice in Nicaragua is slow, expensive, partisan and uncertain from the legal point of view, because . . . the Judicial Branch is one of the branches of the State that is least respected by society. The crisis of recent years reveals, as some people have asserted, that we are faced with the weakest and most corrupt institution of the State."<sup>61</sup> Three Court of Appeals judges in Nicaragua were recently suspended for overturning the conviction of accused drug traffickers.<sup>62</sup> Mr. Puracal does not appear to have an effective internal remedy.

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<sup>59</sup> Manuel Arauz Ulloa and Maria Asunción Moreno, *Image of Justice: Independence and Associationism in Nicaragua's Judicial System* at 25.

<sup>60</sup> *Id.* at 98.

<sup>61</sup> *Id.* at 95.

<sup>62</sup> Oliver and Mauricio Miranda Bodan, Venality Bottomed With Drug Trafficking, EL NUEVO DIARIO, July 9, 2007, available at: <http://impreso.elnuevodiario.com.ni/2007/07/09/nacionales/53322>; Eduardo Cruz. Ajumanic Calls for

**VI. FULL NAME AND ADDRESS OF THE PERSON(S) SUBMITTING THE INFORMATION (TELEPHONE AND FAX NUMBER, IF POSSIBLE).**

This petition is submitted by the undersigned attorneys, Jared Genser, authorized legal representative of the Petitioner, and Janis C. Puracal, sister and authorized legal representative of the Petitioner.

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Janis C. Puracal  
Bullivant Houser Bailey, PC  
1601 Fifth Avenue, Suite 2300  
Seattle, WA 98101  
United States of America  
+1 (206) 521-6413 (tel)  
+1 (206) 386-5130 (fax)  
janis.puracal@bullivant.com

**EXHIBIT 1**

ADAM SMITH  
9TH DISTRICT, WASHINGTON  
2402 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-8901

COMMITTEE ON ARMED SERVICES  
RANKING MEMBER

Congress of the United States  
House of Representatives  
Washington, DC 20515-4709

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2209 PACIFIC AVENUE  
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TACOMA, WA 98402  
(253) 593-6600  
TOLL FREE 1-888-SMITH09  
<http://adamsmith.house.gov>  
[http://twitter.com/Rep\\_Adam\\_Smith](http://twitter.com/Rep_Adam_Smith)

May 13, 2011

The Honorable Hillary Clinton  
Secretary of State  
US Department of State  
2201 C Street NW  
Washington, DC 20520

Dear Madam Secretary,

I am very concerned about Jason Puracal, the son of one of my constituents and an American citizen, who is awaiting trial in a Nicaraguan prison.

Jason Puracal was arrested on drug trafficking charges in Nicaragua on November 11, 2010. With the trial only days away, apparent violations of due process continue. The court has continued on two occasions to allow the prosecution more time to gather evidence, but to date, the authorities have presented no evidence linking him to a crime. Further, the judge on Mr. Puracal's case, Ivette Toruno, was recently moved to the Court in Grenada and replaced with Judge Diogenes David Davila. Judge Davila was the judge who presided over the original hearings in the case. Under Nicaraguan law, the trial judge cannot have any previous knowledge of the technicalities of a case, appearing to make Judge Davila's appointment on Mr. Puracal's case a violation. In addition, before she left the case, Judge Toruno had scheduled a special hearing to rule upon some pretrial issues, including the prosecution's attempt to submit documents after the close of evidence. I understand, however, that Judge Toruno informed only one of the defense attorneys about the hearing and failed to tell the other ten defense attorneys. Once again, the hearing had to be cancelled at the last minute.

I would like to thank you for the Consulate's attention to Mr. Puracal's difficulties both in court and in prison; however, we are at a crucial juncture in the case and more needs to be done to make certain he receives a fair trial and to protect his safety. Although he has been visited in prison on several occasions since he was incarcerated, I understand more than three months elapsed between visits from the Consulate staff. We would respectfully request that the State Department do everything possible to continue to address his concerns during his detention, such as making more frequent visits, and facilitating access to his lawyer as well as to fresh water and private medical care.

Finally, I believe, with greater participation from the State Department, Jason Puracal has a better chance for a fair trial. Therefore, we request the Consul General or a Consular Officer

visit Mr. Puracal in prison before the hearing and attend the upcoming May 16<sup>th</sup> trial. I believe these actions will show the Nicaraguan government that the United States is following the case and will ensure he receives fair consideration under the law.

Thank you in advance for your attention to Mr. Puracal's case. If you need any further information please do not hesitate to contact me or Katy Quinn, my Senior Policy Advisor.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam Smith", with a stylized flourish at the end.

Adam Smith  
Member of Congress

**EXHIBIT 2**

ADAM SMITH  
9TH DISTRICT, WASHINGTON  
2402 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-8901  
COMMITTEE ON ARMED SERVICES  
RANKING MEMBER

Congress of the United States  
House of Representatives  
Washington, DC 20515-4709

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<http://adamsmith.house.gov>  
[http://twitter.com/Rep\\_Adam\\_Smith](http://twitter.com/Rep_Adam_Smith)

November 28, 2011

The Honorable Hillary Clinton  
Secretary of State  
2201 C. Street N.W.  
Washington D.C., 20520

Dear Secretary Clinton,

We write to urge your immediate attention to the case of Jason Puracal, a U.S. citizen who is imprisoned in Nicaragua.

Mr. Puracal was convicted by a Nicaraguan court in September 2011 and is currently serving out his sentence in Rivas, Nicaragua. Most recently, Mr. Puracal has faced troubling delays in his right to appeal his case in a timely manner.

We were very concerned that the presiding judge, Artola Narvaez, may not have been qualified to preside over the case according to Nicaraguan law. It is our understanding that the Nicaraguan Supreme Court issued a Constancia, which states that Mr. Narvaez "is not registered as a lawyer or notary public." Article 137 of Nicaragua's Judicial Power Organization Act requires that one must (1) be an attorney, (2) have practiced for at least three years, and (3) have served as a local judge for at least two years. Without these qualifications, we understand that Mr. Narvaez was not qualified to serve as a judge in the district of Rivas under Nicaraguan law.

Further, we are deeply disturbed by recent news that Mr. Puracal's right to appeal his conviction and sentence has been delayed. Mr. Narvaez wrote the sentence on September 6<sup>th</sup>, but failed to notify Mr. Puracal's attorney of the sentence until September 21<sup>st</sup>, delaying the opportunity for appeal.

We appreciate the Embassy's prompt diplomatic note to the Nicaraguan government addressing the delay in sentencing for Mr. Puracal and requesting an investigation into the matter. However, it appears that sentencing problems remain. We understand that Mr. Puracal's attorney filed an appeal brief outlining the denial of Mr. Puracal's due process rights at trial but the appeal awaited further action by a judge in Rivas and the sentence of his co-defendant, Delvin de Jesus Bolanos Espinoza. Until all defendants were notified of their sentence, we were informed that Mr. Puracal's appeal could not be heard. We understand that the Rivas judge notified Mr. Espinoza of his sentence only after his attorney went to the courthouse to demand the notification nearly two months after the sentence was written. The

delay in notifying Mr. Espinoza of his sentence effectively delayed Mr. Puracal's right to appellate review. Mr. Puracal is currently waiting for the Rivas judge to take further action for his appeal to be considered by a higher court.

Despite the Embassy's best efforts, Mr. Puracal continues to be denied due process by the Nicaraguan judicial system. We appreciate the attention that the State Department has already given to this case and we stress that continued attention would help ensure Mr. Puracal's appeal is heard in a timely manner and is fairly considered. We, therefore, request that the State Department take all reasonable measures possible to achieve this outcome.

Thank you for your attention to Mr. Puracal's case.

Sincerely,



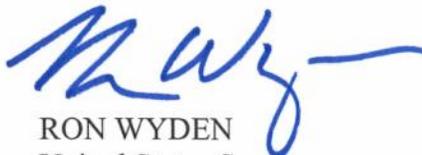
ADAM SMITH  
Member of Congress



PATTY MURRAY  
United States Senator



MARIA CANTWELL  
United States Senator



RON WYDEN  
United States Senator



JEFF MERKLEY  
United States Senator

**EXHIBIT 3**



U. S. Department of Justice  
Drug Enforcement Administration

*www.dea.gov*

Springfield, Virginia 22152

JUN - 8 2011

The Honorable Adam Smith  
United States House of Representatives  
Washington, D.C. 20515

Dear Congressman Smith:

Thank you for your letter dated May 25, 2011, on behalf of Janis Puracal regarding the incarceration of her brother Jason Puracal in Nicaragua. Ms. Puracal claims that her brother is being held unlawfully on narcotics and money laundering charges, and there is no evidence to support this crime. Furthermore, Ms. Puracal advised that she anticipates that the Nicaraguan Government will claim that the Drug Enforcement Administration (DEA) provided them with the information to substantiate her brother's arrest.

On May 26, 2011, the DEA Country Attaché in Managua, Nicaragua was queried regarding any information the office possessed regarding the arrest of Jason Puracal. The DEA Managua Country Office advised that they did not supply any information regarding Jason Puracal to the Nicaraguan authorities. DEA has determined that the case involving Jason Puracal was conducted by the Nicaraguan authorities, and they did not involve DEA in their investigation.

I trust that this information will assist you in responding to Ms. Puracal. If I may be of further assistance to you, please do not hesitate to contact me.

Sincerely,

Sheldon Shoemaker, Section Chief  
Congressional Affairs Section

Commonwealth of Virginia, County of Fairfax

The foregoing instrument was acknowledged before me this 08 day of June, 2011 by Tracy R. King. My commission expires December 14, 2014.

**EXHIBIT 4**



*Corte Suprema de Justicia*  
*Secretaría*

## CONSTANCIA

El infrascrito Secretario de la Excelentísima Corte Suprema de Justicia

*Hace Constar*

Que en informe recibido de la Dirección de Registro y Control de Abogados y Notarios Públicos de este Supremo Tribunal, el día veintisiete de junio del año en curso, manifestó:

Que el ciudadano **KRICGGUER ALBERTO ARTOLA NARVAEZ**, a la fecha no está registrado como Abogado y Notario Público, por este Supremo Tribunal, por lo tanto no podemos brindar la información solicitada.

Extiendo la presente a solicitud del señor **GUSTAVO JOSE FLORES BOLAÑOS**, en la ciudad de Managua a los veintisiete días del mes de junio del año dos mil once.

*Rubén Montenegro Espinoza*  
*Secretario*  
*Corte Suprema de Justicia*



Sc-683-11

**EXHIBIT 5**

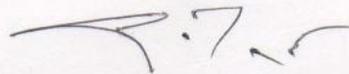
## DECLARATION CHRISTOPHER ROBERTSON

I, Christopher Robertson, declare as follows:

1. I am the owner of Finca Las Nubes near San Juan Del Sur, Nicaragua.
2. On or about Aug 1st, I was contacted by police concerning the investigation and arrest of Jason Puracal. I am aware that Mr. Puracal was charged with international money laundering, organized crime and drug trafficking. I gave a statement to police concerning my knowledge of Mr. Puracal. I was not provided a copy of the statement by the police.
3. I understand that at Mr. Puracal's trial in Rivas, a police witness suggested they received information from me to support their claim that Jason is involved in criminal conduct. Specifically, the witness stated that I knew Jason used to survive on five dollars per day, but appeared to gain economic success overnight.
4. This statement is false, and it was apparently used to show that I believed criminal conduct was the reason for Jason's success – that is not correct. I believe my statements were misrepresented.
5. After volunteering in the Peace Corp, Mr. Puracal chose to live in Nicaragua and eventually became a real estate agent. I am not aware that Mr. Puracal has any significant wealth, though he did work hard to develop his real estate business. To my knowledge Mr. Puracal was making his living as a legitimate real estate broker in San Juan Del Sur.
6. I was prepared to testify in support of Jason at his trial, but I have been advised the Court would not allow Mr. Puracal's attorneys to call me as a witness at trial.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Signed on this 30<sup>th</sup> day of August, 2011, at San Juan del Sur Nicaragua



Christopher Robertson

**EXHIBIT 6**

**CASE NUMBER HUNDRED AND FIFTY-TWO**

On behalf of the Republic, of Rivas in the district court criminal trial in the city of Rivas, where on Tuesday, September 6, two thousand eleven to eight in the morning, he passes sentence.

**I-HEADER**

This judiciary handled the criminal case number 0273-0535-10PN, then against.

**1. PONCE ANTONIO MANUEL ESPINOZA** thirty years of age, Nicaragua, married, sailor, Id number, 567-180 679-0002m, residing in the neighborhood Camilo Ortega municipality of San Juan del Sur, in this city Rivas .

**2. MONGE PAULINA CAMACHO** thirty-seven years old, married, businessman, Nicaraguan, residing in the barrio Camilo Ortega, municipality of San Juan del Sur, in the city of Rivas.

**3. LANCE JOSE VICENTE ESPINOZA** twenty-seven years old, single, sailor, of Nicaragua, Id number 567-160283, 000011, residing in the barrio Camilo Ortega, municipality of San Juan Del Sur, in the city of Rivas.

**4. DELVIN DE JESUS BOLAÑOS** twenty-five years old, married, fisherman, Nicaragua, residing in the neighborhood Camilo Ortega, in the municipality of San Juan del Sur in the city of Rivas.

**5. SEGUNDO RUFINO PONCE** fifty years old, married, fisherman, of Nicaragua, identity Id number 505-300754-00002v, residing in the neighborhood Camilo Ortega in the municipality of San Juan del Sur, in the city of Rivas.

**6. JASON ZACHARY PURUCAL** thirty-three years old, single, office real estate, a national of the United States of America, with permanent residence in Nicaragua, residing in the neighborhood Pedro Joaquin Chamorro, municipality of San Juan Del Sur in the city of Rivas.

**7. MANUEL ANTONIO FLOREZ RAMIREZ** thirty-five years old, married, fisherman, of Nicaragua id number 567-131062-0001T, residing in the neighborhood where the police was 30 meters to the south in the municipality of San Juan Del Sur from this city Rivas.

**8. RONALD DANILO SANCHEZ** thirty-five years old, sailor, Nicaragua, id number 567-020375, 0000C, residing in the neighborhood Maria Auxiliadora in the municipality of San Juan del Sur in this city Rivas .

**9. ROGER ANTONIO NÚÑEZ PONCE** thirty years old, manager of enterprise, identity card number 561-050173, 0001D, residing in the park of San Juan Del Sur in the municipality of San Juan del Sur Rivas of this city Rivas.

**10. OMAR ANTONIO CERDA** thirty-six years old, married, mason, of Nicaragua, id number 562-021273-0001T, residing in the neighborhood Chinatown in the municipality of San Juan Del Sur of the city Rivas

**11. JADER ANTONIO VELASQUEZ** thirty years old, mechanical, Nicaragua, identity card number 109-080975-0000G, residing in the neighborhood Jose Esteban Corea, in the municipality of San Juan Del sur in this city Rivas.

Accused by organized crime, transportation of illegal drugs in international form, money laundering. Carrying and having illegal possession of firearms and ammunition committed against Nicaraguan society and the state of Nicaragua.

**DEFENDANTS : MANUEL ANTONIO PONCE ESPINOZA , PAULINA MONGE CAMACHO , JOSE VICENTE LANZAS ESPINOZA , DELVIN DE JESUS BOLAÑOS ESPINOZA, SEGUNDO RUFINO PONCE , JASON ZACHARY PURUCAL , MANUEL ANTONIO FLOREZ RAMIREZ , RONALD DANILO SANCHEZ , ROGER ANTONIO NÚÑEZ PONCE , OMAR ANTONIO CERDA, JADER ANTONIO HERNANDEZ VELASQUEZ.**

They began their process fourteenth day of November, two thousand ten, eleven in the morning with the celebration of the preliminary hearing in which the

injunction decree were custody staff for all defendants, which he held until the conclusion of the trial.

Involved in the trial as Judge Kriguer Albero Narvaez, Assistant Attorney General Rodrigo Alberto Zambrana Gutierrez and his Assistant Robert Manuel, Assistant attorney Francisco Javier Mairena and his Assistant, Alejandro Antonio Chavez.

THE DEFENDANTS: **MANUEL ANTONIOPONCE ESPINOZA, PAULINA MONGE CAMACHO , JOSE VICENTE LANZAS ESPINOZA , DELVIN DE JESUS BOLAÑOS ESPINOZA, SEGUNDO RUFINO PONCE , JASON ZACHARY PURACAL , MANUEL ANTONIO FLOREZ RAMIREZ , RONALD DANILO SANCHEZ , ROGER ANTONIO NÚÑEZ PONCE , OMAR ANTONIO CERDA, JADER ANTONIO HERNANDEZ VELASQUEZ.**

**ASSISTED BY THEIR LAWYERS:**MARIA ESPERANZA and her assistant JOSE ADAN CASTILLO CENTENO, ADAN SOLORZANO MAIRENA , JOSE ANGEL NARVAEZ TENORIO, FABRITH JOSE GOEZ MEZA and his assistant JOSE ANTONIO TIJERINO MARIN, RICARDO HUMBERTO RAMIREZ MCNALLY , JOSE RAMON ROJAS and his deputy lawyer JOSE RAMON ROJAS URROZ , CESAR AUGUSTO BALTODANO , MARVIN ERNESTO MORA ROSALES

## II-FACTUAL AND CLAIMS OF DEFENSE

The prosecution accused and argued at trial. that the defendant **MANUEL ANTONIO PONCE ESPINOZA** , is the leader of a Nicaraguan structure and an American , located in san Juan del sur in the city of Rivas and in the city of Granada, structure that is dedicated to receive the drug from the country of Costa Rica and transfer to the countries of El Salvador and Guatemala waterway using specifically the Pacific coast beaches of the south San Juan known as **EL FARO, LA PLAYA EL YANKEE, PLAYA COCO, BRACILITO, OSTIONAL, TORO, MEXICAN.**

**THE STRUCTURE IS MADE BY THE DEFENDANTS:** Paulina Monge Camacho, José Vicente lanzas Espinoza, Delvin de Jesús bolaños Espinoza, segundo Rufino Ponce, Jasón Zachary Puracal, Manuel Antonio flores Ramírez, Ronald Danilo Sánchez, Roger Antonio Núñez Ponce, Omar Antonio cerda, Jader Antonio Hernández Velásquez.

On November 11, two thousand and ten, members of this structure were activated, as the leader and Manuel Antonio Ponce Espinoza accused with the intended to receive and introduce to nicargua a drug shipment from the country of Panama on board the fishing vessel known as Fuschimaro owned by Rolando Ponce Pavón, Manuel Antonio Ponce defendant , had the intended to use a boat Suzuki, which moved from the city of Granada in a red pickup , Tundra model, which would be launching and receiving the cargo at sea Drugs on board the boat Fuschimaro.

At the time that the defendants Manuel Antonio Ponce Espinoza, second and Delvin Rufino Jesus Ponce Espinoza Bolaños seeking to introduce the boat in the port of San Juan del Sur, the specialist in the direction of drug research by monitoring Bayron Alfaro operating officer in the company of drug research Berman moral Castillo and a group of specialized troops of the national police, proceeded to neutralize the charges and retain and inspect the ship black with white intended to put to sea.

once held the boat proceeded to apply the test of TRACE VAPOR 2 inside given positive results of particles of cocaine, so I decide to activate five technical groups already formed and oriented to conduct searches, search and seizure in residential homes and business offices of the accused members of the structure resulting in the defendant's home.

**SEGUNDO RUFINO PONCE:** located at kilometer 128, the Capulin area, San Juan del Sur, it occupied a Honda Civic car, color black without plate, of Manuel Antonio Ponce, automobile to which the canine technique was applied and vapor-proof TRACE 2, obtaining positive results from particles of cocaine, took deeds.

**RONAL DANILO SANCHEZ:** to him was occupied a jeep renegade, yellow , brand Chevrolet that the canine technique was applied and TRACER VAPOR 2 test with positive results for presence of particles of cocaine and it was seized a pistol brand BERATTA , color black, nine millimeter caliber, which has no license .

**JAYSON PURACAL:** to him was occupied a jeep Mercedes Benz, M154772 plate, color black, which was applied canine technique and TRACER VAPOR 2 test with positive results for particles of cocaine. They raided the offices of

REMAX located in San Juan del Sur where we found plenty of information related to the establishment of five companies facade and that the defendant had in his possession, while used to launder money REMAX that the defendant Manuel Ponce acquired international product transportation of cocaine.

**OMAR ANTONIO CERDA VILCHEZ:** was seized a truck TOYOTA HILUX, green, M038432 plate to which he applied the technique and test TRACER VAPOR 2, obtaining positive results from particles of cocaine.

**ROGER ANTONIO NUNEZ PONCE:** was seized a white van, Ford Explorer, M0005194 plate, which is the product of drug activity that is dedicated to the defendant, the canine technique was applied and test TRACER VAPOR 2, positive results in particles of cocaine in the accused Manuel Antonio Ponce, Segundo Rufino Ponce, Delvin Jesus Bolaños, Ronald Danilo Sanchez, Jason Zachary Puracal and Oscar Danilo bristles, demonstrating that the defendants engaged in transport activity using land and water vehicles for drug trafficking.

As a result product of drug trafficking activity and as a result of the profits from the defendants Paulina Monge Camacho, Roger Nuñez Ponce and segundo Rufino Ponce are used as proxies to buy goods for the defendant Manuel Antonio Ponce, by society of Abelardo Nunez, driven by the defendant ROGER Nuñez, made royalties and make loans, conduct sports sponsorship in different disciplines use the residents who request them as a charitable society ABELARDO Nuñez. REMAX HORIZONS corporation in which the defendant ZACHARY JASON PURACAL is the majority shareholder acts as an advisor in the acquisition of properties and equity investment gains from international cocaine trafficking.

## **II- CLAIMS OF DEFENSES:**

**Mr. Ricardo Mac / Nally,** counsel for the accused stated that Segundo Rufino Ponce to prove his client is not guilty does so by means of documentary evidence, as the club's property is not owned gallístico his client, he is going to let us know that this property is rented, will incorporate well as deeds and other documents at trial will be read at the time of the test evacuation

**Mr. Jose Ramon Rojas :**counsel for the accused Manuel Antonio Ponce Espinoza seeks to refute the prosecution evidence on points that are detrimental to my clients, give witness to Juan Carlos Espinoza which refute the charges of the state bodies, and under the principle of the community of the trial. I will take what will benefit my client. I will try to demonstrate that there are not drug that, I will try to demonstrate, to contradict the evidence.

**Mr. Marvin Ernesto Mora :** lawyer for the accused José Vicente Espinoza : my role is to refute the prosecution evidence which, I also will bring a witness established that my client is a fisherman at the same time submit the documentary evidence that my client is full time employee of the company SORVIVER, with no involvement of any of my client.

**Maria Esperanza Pena :**defender of the accused Ronald Danilo Sanchez, Roger Antonio Nuñez Ponce, Omar Antonio. she states that his theory of the case is that at no time on date November 11, 2010 his clients were active for the crime, for that reason I will prove that they were in different places, also i will show that there is no transport of drugs and that for them it needs more testing, achieved through testimony also established that they have never transported drugs and laundered money and nor has guns.

## **III-ACTS THAT TOOK PLACE IN THE TRIAL**

Preliminary hearing was held on 14 November 2010 to eleven in the morning where they let know to all the defendants : **MANUEL ANTONIOPONCE ESPINOZA, PAULINA MONGE CAMACHO, JOSE VICENTE LANZAS ESPINOZA, DELVIN DE JESUS BOLAÑOS ESPINOZA, SEGUNDO RUFINO PONCE, JASON ZACHARY PURACAL, MANUEL ANTONIO FLOREZ RAMIREZ, RONALD DANILO SANCHEZ, ROGER ANTONIO NÚÑEZ PONCE, OMAR ANTONIO CERDA, JADER ANTONIO HERNANDEZ VELASQUE**. The facts that are attributed to them, the public prosecution in the indictment upheld the application of the Public Ministry to declare the complex procedure of forming the present case with the provisions of Article 135 CPP. They imposed the injunction remand, the defendants established their lawyers María Esperanza Penas Nuñez, Marvin mora, Telma Venegas Alvares, Jhona Fonseca, José Ángel Narváez Tenorio, Ricardo Humberto Ramírez MCNALLY, José ramón rojas Urroz, Meylin Guadamuz.

Who was given the immediate law intervention , initial hearing was held on 1 December 2010 the defendants : **MANUEL ANTONIOPONCE ESPINOZA , PAULINA MONGE CAMACHO , JOSE VICENTE LANZAS ESPINOZA , DELVIN DE JESUS BOLAÑOS ESPINOZA, SEGUNDO RUFINO PONCE , JASON ZACHARY PURACAL , MANUEL ANTONIO FLOREZ RAMIREZ , RONALD DANILO SANCHEZ , ROGER ANTONIO NÚÑEZ PONCE , OMAR ANTONIO CERDA, JADER ANTONIO HERNANDEZ VELASQUEZ ,**

were assisted by their lawyers María Esperanza penas Nunez, Marvin mora , Telma vanegaz Alvares , Jhona Fonseca , José Ángel Narváez tenorio , Ricardo Humberto Ramírez MCNALLY, José Ramón Rojas Urroz , Meylin Guadamuz, were kept personal precautionary measures remand, admitted the evidence presented by the prosecution and the defense that there is merit resolved to refer the case to public trial and contradictory, pointing to February 2 in the year two thousand eleven . Charge attached to the Assistant Attorney Criminal, written exchange of information and evidence offered by the written statement of defense in exchange for the prosecution.

Written appeals exception of extinction of the criminal and administrative appeal for each and every one of the lawyers, letter from the citizen Luz Marina Lanzas Espinoza , sister of the accused Jose Vicente Lanzas , asking to have as a lawyer of her brother Cesar Augusto Baltodano , who was given immediate intervention by law.

Letter of Mrs. Paz Maria Bolaños mother of the accused Delvin de Jesus Bolaños, in this letter she asked the change of the lawyer , asking now as a lawyer from her son Adan Solórzano who was given immediate intervention by law.

Record of preliminary hearing, minutes of public trial has been guaranteed to the defendants their rights and guarantees in the constitution and Nicaragua treaties, conventions and agreements signed and ratified by intentions the Republic of Nicaragua, the cause being processed in accordance with due process and steps of law without which so far have obstacles that vitiate.

### III DESCRIPTION OF TESTS

During the visit of the public trial and contradictory put into effect the day August 9. to continue it was suspended on 10 , being rescheduled again to be held on August the days 16.17, being suspended again for continuity on the 23rd, being suspended in order to continue the August 29 this year, hours of eight o'clock this concluding last day.

**RODRIGO ZAMBRANA THE PROSECUTOR** in his opening statement said that the Public Ministry charged **MANUEL ANTONIOPONCE ESPINOZA , PAULINA MONGE CAMACHO , JOSE VICENTE LANZAS ESPINOZA , DELVIN DE JESUS BOLAÑOS ESPINOZA, SEGUNDO RUFINO PONCE , JASON ZACHARY PURACAL , MANUEL ANTONIO FLOREZ RAMIREZ , RONALD DANILO SANCHEZ , ROGER ANTONIO NÚÑEZ PONCE , OMAR ANTONIO CERDA, JADER ANTONIO HERNANDEZ VELASQUE.**

And to test that since 2007 is devoted to organized crime at the international transport of drugs and money laundering, each of the tests will determine the participation of each of the defendants; we prove the existence of a logistics the transport of drugs.

Manuel Antonio Ponce Espinoza, Jason Zachary are the leaders also going to prove that the accused were at one point in contact with illegal substances on November 11, 2010 these people and their vehicles were in contact with substances of cocaine is the public ministry to use elements of evidence, also with specialized experts will tell the defendants not only acquire property if no money invested in drug trafficking proceeds of the trial prove each of the offenses charged by the public ministry of defense.

**RICARDO HUMBERTO RAMIREZ:** to prove not guilty will use means of documentary evidence and other documents at trial with this evidence established that my client has no income and no bank accounts submitted on behalf of the same.

**JOSE RAMON ROJAS:** My strategy is the reputation of the prosecutor's evidence points that harm my client in relation to the accused Manuel Antonio Ponce, I have a witness Juan Carlos Espinoza and lower the principle of community trial I will take what benefit my client and I'll forget what harm.

**Marvin Mora:** for these alleged evidence is required and since the prosecutor's role is to allow the participation of my client, my role is the refutation of this test, submit the documentary evidence that my client is a full time employee in the company SORVIVER.

**MARIA ESPERANZA:** the theory of the case of my client that at no time on the date November 11, 2010 were triggered to commit a crime that is why my

clients which establishes that the different places where there is no show that they also transport drug because this requires more testing, obtaining it through testimony also established that they have never transported drugs and money laundering, nor has owned guns.

**FABRITH JOSE GOMEZ:** My guidelines will be the rebuttal of the evidence, and show that these same tests items for which you are being charged are false, also proves that the money Zachary is a product of work.

**ADAN SOLORZANO MAIRENA:** through the only witness that I have left ,my client did not commit the act for which he is accusing you, that no raid was conducted at the home of my client, he has never been involved in illegal activities.

**CESAR AGUSTO BALTODANO:** my client has not committed the crimes for which he is charged, nor will it be proven that transportation on an international drug, because in this case there is no drug evidence.

**JOSE ANGEL:** Nothing remains but the defense is going to refute all the evidence the prosecutor has offered.

**THE PROSECUTOR RODRIGO SANBRANO,** presented in trial the testimony: Berman Antonio Morales Castillo, who is of age, unmarried, police sub-grade officer, specialist in charge of operating the department's drug and Rivas said in court since the beginning of 2010, carry out following the structure that was dedicated to drug trafficking as those used route, Costa Rica - Nicaragua these use the Pacific coast via both terrestrial and aquatic as primarily responsible for this activity are defendants, Manuel Antonio Ponce, Ronald Danilo Sanchez, Jason Zachary Puracal and other people in this structure are among the activities within the activities of procurement of goods, money laundering and the necessary logistics to ensure the transport of drugs specifically cocaine defendants are Paulina Monjes Camacho , José Vicente lanzas , Delvin de Jesús bolaños espinosa , segundo Rufino Ponce , Manuel Antonio Flórez , Roger Núñez Ponce , Omar Antonio cerda , Rolando Ponce , Jader Antonio Hernandez.

The accused Roger Antonio Ponce worked lending his name for Manuel Antonio Ponce, is know that this person took by Manuel Antonio Ponce large amounts of money to invest in the various acquisitions of property, giving apparently a facade of legality and hiding the true origin illicit source of funds in the same way the defendant spouse Pauline Camacho Monge Manuel Antonio Ponce Espinoza in order to disguise the illicit proceeds of drug money in agreement with your spouse proceeded to invest the money referred to in purchasing vehicles and property facilitating consent on her behalf.

**THE DEFENDANT JASON ZACHARY PURACAL:** function starts to acquire real estate in the department of Rivas in a money laundering scheme proceeds of drug trafficking for it was using a real estate company that personally directed at San Juan del Sur, Rivas.

**SEGUNDO RUFINO:** defendant's father of Manuel Antonio Ponce who appears as owner of vessels that are used for the crime of transporting drugs and also acts as a figurehead of his son because it provides for the legalization of property and business as a gallera that has just building in the district the capulin in the municipality of San Juan del sur.

**OMAR ANTONIO CERDA:** the defendant performs the function of safeguarding and securing the drug goes into the costs and it provides security to the defendant Manuel Antonio Ponce when it moves to the inner the counties of San Juan del Sur, the accused Manuel Antonio Ramirez flowers in the criminal activity carried out maintenance work of boats owned by Manuel Antonio Espinoza which are used for the transportation of the drug

**MIGUEL ANGEL MENDOZA:** police specialist crime scene and said in court: general inspection performed in the home of Manuel Antonio Ponce accused which also where his wife live, the accused Paul Monge, on November 11, 2010, which take place in San Juan del Sur, a neighborhood known as a plate, we found a considerable number of writings, photographs exist in these documents are detailed in the bill occupation, eight or nine photograph receipts for medical expenses on behalf of Mrs. Pauline. He said that the picture matches the crime was being investigated by the method of research was aimed at finding as an indication of documents from the vehicle purchase properties.

**LORENA AGUILAR DEBERLIN:** police, expert in visual inspections of crime scenes and taking pictures in court said people who have occupied the vehicle, do not know who the owner. I did not know how they got legal assistance vehicles, was on duty that day and my boss told me to go head to inspect the

vehicles occupied the accused. The inspection carried out in time for two in the afternoon, the inspection was 20 minutes

**YURI ALEJANDRA LOPEZ:** of legal age, police, work address in the direction of judicial assistance, who said in court that the occupation performed receipt of November 11, 2010 on behalf of Omar Antonio Cerda Vilches, it occupied a truck vehicle HYUADAY, vehicle documents and a keychain.

carried out raid at the home of Ronald Danilo Sanchez in the municipality of San Juan del Sur, performing on November 11, 2010 was the search for firearms found a Beretta with its charger and twelve rounds. I realize certificate of search results on 11 November 2010. Maggu Flórez Vargas, Jason's wife, was held this event to find illegal items, because it was linked with money laundering, organized crime and trafficking International drug, found a shotgun and pistol bullets, shotgun shells which were forwarded to office of evidence

Conduct searches at the home of Roger Antonio Núñez Ponce on November 11, 2010. These crimes that were being investigated were instructed by our superiors and there was a complaint, these were authorized by a judicial authority. receipt of occupation performed to Maggu Flores Vanegas the official took the shotgun. Remington acknowledges receipt of occupation performed in the name of Manuel Antonio Florez Ramirez, she also occupied a navigation radio , this happened the day 11 of august.

**ROBERTO JOSE RAMIREZ PARRALES**

Detective, police work address on national Rivas, elaborate trial refers complaint is understood that self-knowledge is a faculty that has the police when he is aware of a fact. Here the facts relating to the crime is organized crime, money laundering, international drug transportation 11 November 2010.

The accused, Manuel Antonio Ponce Espinoza, Segundo Rufino Ponce and Delvin de Jesus Bolaños going to put to sea a boat to be use forget drug, which were presented at the port of San Juan del Sur to put boat afloat.

the head of the structure is the defendant Manuel Antonio Ponce, perform detention certificate on behalf of Manuel Antonio Ponce, also in the name of Delvin de Jesus Bolaños and Segundo Rufino ponce , occupation , on the objects carried in your body and clothing for the crime.

The receipts of occupation in the name of Manuel Antonio Ponce were conducted in San Juan del Sur, the port sector, here occupied a Tundra pickup, a pistol and cash 6000 exactly six thousand dollars in notes 20 and 322 Cordoba, plus belongings and hand bracelet containing a club legend Gallístico and light blue.

**SAKIA ELENA INCER CADEZAS:**

Detective is located on the premises of the national police Rivas. who said at trial that he made the receipt of occupation from Rosa del Carmen Sanchez Perez and performed certificate of entry and search results, dated 11 November 2010, at the address cited: the meadow area of the bus terminal 700 meters south of Rivas.

**MARIO JOSE SANTANA:** Adult, police officer, whose registered address labor's in the special operations police canine. who referred in court that the eleventh day of November two thousand ten .

He applied the canine technique with the dog named satan, in the red truck, Toyota Tundra with plate M138825 , property of the accused Manuel Antonio Ponce, with the result that the dog felt the presence of drugs and mark from the back seat and after that .

He applied the same technique to vehicle Honda civi, color black, no plate, owned by Manuel Antonio Ponce, marking the dog in the shifter, then the canine technique was applied to the yellow jeep renegade Chevrolet owned by RONALD DANILO SANCHEZ marking the presence of drugs in the board, was continued with the application of the canine technique to car Toyota Yaris , without plate owned by Ronald Danilo Sanchez, marking on the wheel, then apply the dog in the Jeep Mercedes Benz, M154722 plate, black-owned Jason Zachary Puracal , marking on the wheel.

He apply the canine technique in pickup Toyota green hilux plate m 038432, owned by Oscar Danilo , marking on the board and the shifter. Then apply to the white pickup truck, Ford Explorer owned by Roger Antonio Núñez Ponce, plate M005194 giving no signs of having particles of drug. Then apply the technique on people marking the presence of drug particles in Manuel Antonio Ponce Espinoza, Segundo Rufino Ponce, Delvin Jesus Bolaños ,Ronald Danilo Sanchez, Jason, Zachary Puracal and Oscar Danilo Cerna. As the work of applying the technique canine is considered positive.

**HARLIN MARTIN MURILLO:** Adult, police officer, is located on the premises of the national police trace 2 steam specialist, who stated at trial that performed the technique of terror trace 2, in two vans owned by defendant Ronald Danilo Sanchez and, on 21 February 2011, resulting in 90 percent for cocaine and 45 percent for amphetamines in both vehicles.

**Carlos Alberto Obando :** police officer, specialist steam trace 2, who stated at trial that drew up the report of November 12, 2010 steam test applied in trace 2 to a boat with twin-engine boat, resulting in 74 percent of presence of cocaine, the test applied steam brings to Manuel Antonio Ponce in the hands, back and clothing, resulting in a 95 percent for cocaine, is applied to the truck and it resulting from 95 percent to Rufino Ponce technique is applied vapor trace 2 and gave 70 percent for cocaine, the defendant Delvin Bolaños technique was applied vapor resulting trace 2 to 70 percent for cocaine. Test applied to the boat Abenelly and it resulting 70 percent for cocaine.

The Honda car gave 70 percent in particles for cocaine, the black van took a 70 per cent in particles for cocaine, the test is applied to the defendant Ronald Danilo Sanchez, resulting in a 70 per cent for particles for cocaine, the defendant Jason Zachary is applied on the hands and clothing giving 70 percent of particles of cocaine.

**RICARDO ANTONIO CARCACHE :** police officer, who stated at trial that he was on the south side July Martinez where the traffic lights in was at twelve noon, as were two vehicles from the south to north, leaving the school itself army Jose Dolores Estrada, the characteristics of the vehicle was a silver Mitsubishi pickup, RI 3937 plates of that vehicle and leave behind a gray van. M 014,680, was made the arrest of the first vehicle, I did it because the order was to seize the vehicles.

**JUAN MANUEL NICARAGUA:**, visual inspections official, who spoke in court that elaborate inspection report in the pickup of Manuel Antonio Ponce was recorded 60 \$ 100 bills and a bill 20 is found a weapon, will be forwarded to the police of a San Juan del Sur, to practice the technique canine inspection report performed at the home of Mrs.

Mary of the Angels Espinoza, handles vehicles that were there. the third inspection report dated 11 was held at the offices of Remax of San Juan del Sur, we found money in one of the offices in a green box which was in an archival accounting for and 100 of 200 cordobas , 100 bills of 50 cordobas and more.

**LENIN GUILLERMO GARCIA:** visual inspections officer, who stated in court that conducts the inspection on Friday 12/11/2010 in the kilometer 128, St. John's Road south, the state fixed is the evidence as I stroke my specialty is logic in it is: A series of chassis and the same evidence as they may have made changes in its structure. Refer is that we work upon request by making a series of questions.

**HARLIN MARTIN MURILLO:** Adult, police officer, is located on the premises of the national police steam specialist, who stated at trial that performed the technique of terror trace 2, in two vans owned by defendant Ronald Danilo Sanchez on 21 February 2011, resulting in 90 percent for cocaine and 45 percent for amphetamines in both vehicles.

**LARRY ALBERTO FLOREZ MONTIEL:** Adult, police officer surveys the scene of the crime, residing in the police station in Rivas, who I do mean on trial inspection report crime scene eleventh day of November two thousand ten in place appointment: Pedro Joaquin Chamorro neighborhood where he was captain 20 meters to the north, San Juan del Sur. inspection report the crime scene.

**LUIS ALBERTO GAITÁN RUIZ--:** Police, work address in the delegation of conception Masaya, who have made the occupation credited dated November 12, two thousand ten name of Jose Hernandez Mercado , a Toyota pickup, 4 Runner, gray.

**JAVIER LOPEZ RUIZ YELSON** : Adult, police officer, who in the trial said that he attended the citizens complaint and we follow up complaints, on November 12, 2010 my boss that asked me to go to help to take a boat related to the transportation of drugs and organized crime.

**LESTER ANTONIO HERRERA**: working in the drug department of the national police in Managua, performed acts of detention on November 11, 2010 on behalf of the accused, Antonio Ponce Espinoza, Pauline Monge Camacho, Jason Zachary Puracal, José Vicente Espinoza , Manuel Antonio Florez Ramirez, Jader Antonio Velazquez. Omar Antonio Vilchez who was investigated on charges of transporting drugs and organized crime, the arrest was in San Juan del Sur.

**FRANCISCO HERNANDEZ SOLOMON**: Adult, police officer, an analyst in the department of corruption .who is concerned that the program applied criminology 1 2, which is plotted by the bonds of organized crime, money laundering and cocaine drug transport between the accused **MANUEL ANTONIOPONCE ESPINOZA , PAULINA MONGE CAMACHO , JOSE VICENTE LANZAS ESPINOZA ,DELVIN DE JESUS BOLAÑOS ESPINOZA, SEGUNDO RUFINO PONCE , JASON ZACHARY PURACAL , MANUEL ANTONIO FLOREZ RAMIREZ , RONALD DANILO SANCHEZ , ROGER ANTONIO NÚÑEZ PONCE , OMAR ANTONIO CERDA, JADER ANTONIO HERNANDEZ VELASQUEZ.** program that shows the modes operandi of organized criminal group and the use of vehicles, firearms possession boats cash and acquisition of real property to launder money from illegal activity.

**BYRON STALIN ALFARO**: Specialist drug research direction, who spoke in court that the accused Manuel Antonio Ponce Espinoza, on January 11, 2010 intended to use a white with black boat with twin engines 140hp Suzuki outboard, to refuel and get a drug shipment from the south, so a device was activated and formed several working groups composed of drug research officers, detectives, investigators, officers of the department of special operations (DOEP) canine and other technical specialists.

stood near the port of San Juan del Sur is expected that the defendants entered the port in time of half past eleven, note that the defendants Manuel Antonio Ponce, Ponce and second Rufino, Delvin de Jesus Bolaños in a red truck tundra model, trying to float the boat they intended to use for obtaining and evaluating these drugs from offshore intended, so that targets the group of officers who were in charge, retain and neutralize the ship above water.

Once time we get this boat, we applied VAPOR TRACE 2 test with positive results for cocaine particles of this result is decided to activate five technical groups already formed and oriented to conduct searches in the homes of the accused **MANUEL ANTONIOPONCE ESPINOZA , PAULINA MONGE CAMACHO , JOSE VICENTE LANZAS ESPINOZA , DELVIN DE JESUS BOLAÑOS ESPINOZA, SEGUNDO RUFINO PONCE , JASON ZACHARY PURACAL , MANUEL ANTONIO FLOREZ RAMIREZ , RONALD DANILO SANCHEZ , ROGER ANTONIO NÚÑEZ PONCE , OMAR ANTONIO CERDA, JADER ANTONIO HERNANDEZ VELASQUEZ.**

Following the prosecutor incorporated documentary evidence to the trial by reading the relevant part.

For their part, defense **RICARDO HUMBERTO RAMIREZ, MELVIN ERNESTO MORA , FABRITH JOSE GOMEZ MEZA , JOSE ANGEL NARVAEZ** proceeded to incorporate documentary evidence by the relevant part of the documents

**JOSE ANGEL NARVAEZ** :proceeded to incorporate exhibits by leading the documents. Caesar Augustus **BALTODANO** defense exhibits incorporated the video on the beaches of San Juan del Sur **JOSE RAMON ROJAS** defense offered at trial and presented the testimony of

**JHONY CERPAS AREVALO**: of age, first engineer ,who is referred to trial they would look to take a panga water Reyna called the South, it has remained at anchor because it is used for fishing, the dinghy had sunk this happened in June 2010, the waves were quite high and it the boat subsidence is why it took a granada because it was outside my ability to repair, once I did an oil change. This dinghy was being repaired about 5 or 6 months, they were going to put on the pair because they organize a fishing tournament, the tournament was held on 13 November 2010.Also offered this defense as a witness the defendant

**MANUEL ANTONIO PONCE** : A judicial authority who is informed him of the importance of the act and if he did his free will, the accused replied that if he did his free will, proceeded to say that on 11 November 2010 was at home and received a call from Mr. Medina, who brought a boat named Queen of the South that it had been absent for six months and they were going to test

engines because they were entered in the tournament, on November 11 guides me in my red truck tundra to the port of San Juan del Sur, coincidentally when I have five minutes of being there I go to get the boat ramp and see if all is well and Mr. Medina was just is parking in that time I saw my dad segundo Rufino and Delvin, to help that Mr. Medina was alone, this vessel also came late because the position had been arrested eight mogo until he rode in it and dogs passed this I referred Mr. Medina.

then entered a gray Ford runner when leaving the truck about eight or nine officers and they started to surround us and throw us hit the and tell us where it was the drugs, none was identified, the faces had them covered and that no train were dressed chip. For its part,

**THE DEFENSE MARIA NUÑES ESPERAMZA PEÑA** presented in trial testimony **Pedro German Regalado Ruiz** , who works as an accountant for the American company Fisheries, presented no identification of the company and told in court that the defendant Ronald Danilo Sanchez came in 2010 seeking financing because he said to be a fisherman, the company will finance the enlisted and paid with products. May that was to start the work of Ronald Danilo Sanchez, basically the company will finance an enlisted, sometimes ice and bait sometimes comes and then we weighed the fish and we performed the check. Sometimes we paid him two hundred thousand cordobas.

**CARLOS DANIEL MARTINEZ**, officio fisherman, who stated at trial that he knows the defendant Roger Nunez since he was sixteen and since then.

**YESSENIA DEL SOCCORO PEÑA DAVIA** , married, is identified with ID number 567-090375-0000S who is the wife of Roger Nunez, whom the judicial authority has made it known that he has the right not to declare what the witness replied that their free and spontaneous will declare in court and said her husband work as a gatherer of shark fins following the death of his father the defendant wanted to form a foundation with the name of Mr. Abelardo Núñez, the foundation was in the probate process is called Abelardo Núñez, received help from Alejandro Ruiz.

**MARIA NELY PONCE GUZMAN** identified with identity card number 567-270377, 0000V, who is the wife of Omar Antonio Cerda Vilchez, whom the judicial authority has made it known that he has the right not to testify or what the witness responds that the free and spontaneous will declare in court and said her husband work in construction and became a master builder. We are located in San Juan del Sur. The always worked in construction .

**IN CLOSING ARGUMENTS THE PROSECUTOR IN THE TRIAL. RODRIGO ALBERTO ZAMBRANO, REFERS TO CRIMES.** Money laundering and organized crime are continuing in nature and our standards are separate offenses.

We have the beginning and end of the proof stage are key witnesses Berman and Byron Stanley , who we determined the involvement of each of the defendants also were wide and pointed the way operandi of the organization receiving the drug and the link of international, the link with the cartel of drugs call golfito and how they manage to use their skills, some as fishermen and their boats for easy operation.

In the case of Manuel Antonio Ponce Espinoza is presented as a simple fisherman, but this man is dedicated to fishing, I say this because in the registration of a ship captain only on behalf of Mr. Segundo Rufino Ponce, on the other side the police get a boat 2010 en busy at the moment he and the accused segundo rufino ponce and Delvin de Jesus Ponce were in the harbor with a boat that was stranded for several months, which are then used for fishing ,

however with their own words while fishing wins two or three thousand, but here we found no document that has sold some seafood while Mr. Manuel Ponce buy instead of selling fish, the documentation is also interesting he possessed in the house of Paulina Monge Ponce and segundo Monge is the same house for everyone, these documents tell us how these people's lives and find that all purchases are cash and cash, and even find medical expenses Private of thousands of dollars, also found firearms receipts for purchased legally

While it is true that the land was donated by the municipality of San Juan Del Sur but the renovations were done by illegal activity. In the financial analysis of the accused does not fit that revenues are greater than expenditures, why has the crime of money laundering.

In relation to Mrs. Paulina Monge, Camacho it appears that acquires a van,

and there is no justification to buy this van, Manuel Ponce's statement said that to buy the truck had to sell a boat called Francisca, and this does not appear in the records of captaincy, also a rent of 1300 appears to be the club Carin was also found bills, deeds, money laundering drug. Regarding Segundo Rufino Ponce, witnesses Berman and Byron tells us that as the defendant support his son, built a grandstand, invested in 96 fighting cocks, propaganda, are evidence that were included in the financial analysis, concluding that are linked to drug trafficking. The defendant Ronald Danilo Sanchez, the officials Byron and Berman identified him as the person who helps the accused Manuel Antonio Ponce, Also appears in the financial analysis that this man made purchases in foreign currency puts the property on behalf of his wife. The defendant Jason Zachary Purucal, use the corporation as a facade Harizon its operandi as the transfer of money to Costa Rica is also a financial analysis that this company was making money, but under the bank accounts had millions of money input and output, but does not justify the origin of money, as there were few reliable records, the defendant Roger Antonio Núñez Ponce by Abelardo Nunez Foundation, which is used to give royalties to the people and earn the appreciation of the community to keep them informed if the police investigation.

The accused Delvin Jesus Bolaños when they tried together to the accused Segundo Rufino , Manuel Ponce Antonio and add water a boat to decant the drug later at sea and is designated as the person who cares and maintains the boat, the same applies Canine technique that identifies that person handled cocaine, and that was positive.

In the boat was observed structure. The defenses are not distorted that their clients engaged in the traffic of drugs, not charged for the crime of possession but for the crime of transportation of substances is therefore not necessary to have found the drug, the above request failure guilt for the accused, for their part the Attorney FRANCISCO JAVIER MAIRENA LARIOS , is expressly demonstrated the activity of each of the defendants within the organization, the evidence brought to public trial was legally incorporated in accordance with Art. 16 CPP, were brought in evidence by witnesses, documents and expert, which showed that the defendants have engaged in the transport of drugs, money laundering, organized crime and therefore, the defendant's statement Manuel Antonio Ponce lacks any rational logic, because So much for the talk, there are circumstances that are illogical has shown the involvement of each of them, who was in charge of transport, who helped, who moved and who had the money, Jason Zachary Purucal who helped and cooperated to hide the illicit origin of the laundering activity, I request that those defendants convicted have to be on charges of organized crime, drug transport

#### **.- IN CLOSING ARGUMENTS THE PROSECUTOR IN THE TRIAL**

**RICARDO HUMBERTO RAMIREZ** he prosecutor did not prove the alleged money laundering, I can not break the principle of innocence. The prosecutor says it is not necessary to find the object, no sentence of the Supreme Court and says that if there is no unlawful purpose of transportation, where is this supposed to be transporting drugs, money laundering to the prosecution must prove where this came from money that illicit money, and if there is no drug money and much less organized crime.

If they were going to bring a shipment that does not wait for that to happen. He asked for a ruling of not guilty for the acts allege.

**JOSE RAMON ROJAS**, that neither the prosecutor nor the officers Byron and Berman, has proved the existence of an international transport of drugs, I mean in legal reasoning basis and if we read the regulations of Transport hypothesis one of the requirements is that there is a material object crime, here there was no material object, we have no drugs, which are atoms, odors and fumes, so the absence of the material object cannot be here talking and asking for a ruling on a chopping gap for the defendants, asked failure of not guilty to their clients.

**MARVIN MORA**, that the allegations of the prosecutors, my sponsor will not fit the factual theory, since the theory is not part of any of the acts, requested a ruling of not guilty.

**MARIA ESPERANZA PEÑA**, here there are not any document that appears Roger Nunez of any property or account to reflect that there is money to the foundation Abelardo Núñez. they says that Roger Nunez's car was acquired by

drug trafficking, the prosecution here did not bring the date it was purchased the truck, the truck had no particles of drug. there must be a rational approach should be applied to his arrest. It is shown that the drug has been transported boat Elizabeth, this was rooted in the declaration of Berman, this boat had two days of arriving in the fishing operation. He asked for a ruling of not guilty.

**FABRITH JOSE GOMEZ MEZA** the official said the role of Jason was acquiring property and not a single property has been presented in this trial, in a pattern of smuggling and money laundering. Jason Zachary Puracal said they spent money without specifying one of these properties. Remax is an international franchise and we know we need the support, but the most important to talk about but never Remax presented the contract that has the police and was not presented in this trial even reflected in its exchange. He says there are five companies that did not initiate activity, one thing is another legal life that have no activity, but necessarily have to be a movement commercial activity, but in these societies there is no activity so washing was not demonstrated money. He asked for a ruling of not guilty.

**ADAN SOLORZANO MAIRENA**, has made it clear that my client was earning the amount of 150 cordobas to help lower the boat, on 11 November 2010, only a ring he has no value, no money will be found. Request a ruling of not guilty.

**CESAR AGUSTO BALTODANO** , the manifestations of a police report is violating the right of defense for these reports are absent from the trial. The offense charged required for compliance to verify the existence of the drug, because if not it would be violating the principle of legality. Here there is circumstantial evidence. There is total lack of evidence, no proof was made Steam Tracer 2, no dog shows that have found particles. Requested ruling of not guilty.

**JOSE ANGEL TENORIO**, that Jader Hernandez Velásquez not tested Steam Tracer 2, the crimes for which he is accused never had happened , is the reason I ask ruling of not guilty .-

Sometimes testimonial evidence, Expert documentaries and were evacuated due incorporated public trial and contradictory the judicial authority made known to the defendants pursuant to paragraph of the Art. 314 are entitled to the last word. Using his right expressed what they had to either the accused Manuel Antonio Flores Ramírez, Jasón Zachary Puracal, Manuel Antonio Ponce, Roger Núñez Ponce, Paulina Monge.

#### **IV PROVEN FACTS:**

According to the evidence at the trial evacuated, contradictory public and the accused Manuel Antonio Ponce Espinoza, Paulina Monge Camacho, José Vicente Lanzas Espinoza, Delvin de Jesús Bolaños Espinoza, Segundo Rufino Ponce, Jasón Zachary Puracal, Manuel Antonio Flores Ramírez, Ronald Danilo Sánchez, Roger Antonio Núñez Ponce, Omar Antonio Cerda, Jader Antonio Hernández Velásquez ,consists of the testimony of Berman Antonio Morales Castillo, Miguel Ángel Mendoza Lezama, Deberlin Lorena Aguilar García, Yuri Alejandra López Castillo, Roberto José Ramírez Parrales, Saskia Elena Incer Cabezas, Mario José Santana, Harlin Martín Acuña Murillo, Calos Alberto Ortiz Obando, Ricardo Antonio Carcache Navarrete , Juan Manuel Nicaragua Gaitán, Lenin Guillermo García Umaña, Larry Alberto Montiel Flores, Francisco Fernando López Monjarrez, Luis Alberto Gaitán Ruiz, Yeison Javier López Ruiz, Lester Antonio Herrera Serrano, Francisco Salomón Hernández Obando, Johnny Cerpas Arévalo, Manuel Antonio Ponce Espinoza, Pedro Germán Regalado Ruiz, Carlos Daniel Martínez Sánchez, Yessenia del Socorro Peña Dávila, María Nely Ponce Guzmán, was tested: that the defendant MANUELANTONIO ESPINOZA PONCE , is the leader of structure living in San Juan del Sur of the city of Rivas and Granada, which is dedicated to resection of Drugs comes from the country of Costa Rica and transfer it to countries El Salvador and Guatemala waterway using specifically Pacific coast beaches of San Juan del Sur, known as el faro, playa el Yankee, Playa el coco, Brocalio, Ostional, Toro Mexican.

The structure is made by the defendants Paulina Monge Camacho, José Vicente Lanzas Espinoza, Delvin de Jesús Bolaños Espinoza, Segundo Rufino Ponce, Jasón Zachary Puracal, Manuel Antonio Flores Ramírez, Ronald Danilo Sánchez, Roger Antonio Núñez Ponce, Omar Antonio Cerda, Javier Antonio Hernández Velásquez , On November 11, two thousand ten, the members of this structure were active with the leader and the accused Manuel Antonio Ponce Espinoza intended Nicaragua get and introduce a drug shipment from the country of

Panama on board the fishing vessel known as Fuschimaro . At the time that the accused Manuel Antonio Espinoza Ponce, Ponce and Segundo Rufino ponce , delvin de Jesus Bolaños Espinoza seeking to enter an black white panga in the port of San Juan del Sur, the specialist in the direction of research in charge of monitoring Bayron Drugs operating officer in the company of drug research and a group of special troops of the National Police, proceeded to neutralize the defendant and to hold and inspect the watercraft black with white they were meant to sail.

Once detained the boat, we applied the test of VAPO TRACER 2, inside, getting positive results from particles of cocaine, so they decide to activate Five groups are technicians who were constituted and oriented to perform searches, registration and kidnapping in the residential homes, offices and businesses of the accused members of the structure resulting in defendant's home Rufino Second Ponce located in the kilometer 128, the Capulin District, San Juan del Sur occupied a Honda Civic car, black, no plate, property of the accused Manuel Antonio Ponce Espinoza, car to which he applied the technique and test canine TRACE VAPOR 2, obtaining positive results from the presence of particles of cocaine, took up public deeds.

**RONALD DANILLO SANCHEZ**, he occupied a Jeep Renegade, yellow Chevrolet that the technique is applied to TRACER2 VAPOR test with positive results for presence of particles of cocaine, a pistol was seized Baretta brand, color black nine millimeter caliber, which has no bearing or license by, or is registered as the holder of a firearm, according to records of weapons section of the National Police.

**JASON ZACHARY PURACAL**, or Jeep Mercedes Benz, license plate 154772 M, color black, which is applied the technique TRACER2 VAPOR, and test canine obtaining positive results of particles of cocaine. They raided the offices of REMAX located in San Juan del Sur where he found plenty of information related to the five companies up front and the defendant had in his possession, while REMAX used to launder the money from the drugs.

**ANTONIO CERDA OMAR VILCHEZ**, he occupied a truck TOYOTA HILUX, green, plate m038432 to which the canine technique was applied to and TRACER2 VAPOR test with positive results for presence of particles of cocaine.

**ROGER ANTONIO PÉREZ NÚÑEZ**, he occupied a white van, Ford Explorer, M0005194 plate, the product of drug trafficking activity that is dedicated the defendant. the canine Technique was applied and TRACER2 VAPOR test with positive results for presence of particles of cocaine.

the accused Manuel Antonio Ponce Espinoza, Segundo Rufino Ponce, Delvin de Jesús Bolaños Espinoza, Ronald Danilo Sánchez, Jasón Zachary Puracal y Oscar Danilo Cerdas, showing that the defendants engaged in transport activity. using ground vehicles and water for the transfer of the drug. Product of drug activity and as a result of defendants profits paulina Monge Camacho , Roger Núñez Ponce y segundo are used as proxies to buy goods for the defendant Manuel Antonio Ponce Espinoza Royalties and make loans. REMAX HORIZONS corporation in which the defendant JASON ZACHARY PURACAL is the majority shareholder acts as an advisor in the acquisition of properties and equity investment gains from international cocaine trafficking.

At the hearing for discussion of the sentence the prosecutor Rodrigo Zambrana apply the penalty for defendants

**PONCE MANUEL ANTONIO ESPINOZA**, on charges of racketeering 9 years and 6 months imprisonment, 7 years in prison for laundering money or goods assets and 12 years in prison for the crime of international drug transportation.

**JASON ZACHARY PURACAL** for the crime of organized crime 5 years in prison , 7 years for the crime of money laundering properties or assets and 12 years in prison for the crime of international drug transportation.

**RONALD DANILLO SANCHEZ** on charges of racketeering 5 years, 7 years in prison for the crime of money laundering, property or assets and 12 years in prison for the crime of international drug transportation and 1 year in prison for the crime of carrying or illegal possession of weapons.

**SEGUNDO RUFINO PONCE** for the crime of racketeering 5 years for the crime of money laundering 5. **JOSE VIVENTE LANZAS ESPINOZA , DELVIN DE JESUS BOLAÑOS ESPINOZA , ROGER ANTONIO NUÑEZ PONCE , OMAR ANTONIO CERDA , MANUEL ANTONIO FLOREZ RAMIREZ , JADER ANTONIO HERNADEZ** on charges of racketeering 5 years in

prison and 10 years in prison for the crime of international transportation of narcotics and other controlled substances in its international form . for its part, attempted Francisco ask the following penalties in relation to the crime of drug transport request is imposed minimum of 10 years to the following: JOSE VICENTE , DELVIN BOLAÑOS, MANUEL ANTONIO FLOREZ , ROGER ANTONIO NUÑEZ , OMAR ANTONIO CERDA , YADER ANTONIO HERNANDEZ in relation to the accused **MANUEL ANTONIO PONCE ESPINOZA , JASON ZACHARY PURACAL , RONALD DANILO SANCHEZ Y SEGUNDO PONCE** Request that it impose a sentence of 10 years imprisonment in relation to the crime of racketeering request to be imposed the minimum sentence of five years in prison for those accused **JOSE VICENTE LANZAS , DELVIN DE JESUS BOLAÑOS , MANUEL ANTONIO FLOREZ , ROGER ANTONIO NUÑEZ PONCE , OMAR ANTONIO CERDA, JADER ANTONIO HERNANDEZ Y PAULINA MONGE CAMACHO.**

Regarding the request that organized crime is imposed **MANUEL ANTONIO PONCE ESPINOZA** sentence of Article 393 CP doubles the maximum number fourteen years in prison, also to **JASON ZACHARY PURACAL RONALD DANILO SANCHEZ Y SEGUNDO RUFINO PONCE** Because these people in the test has been shown greater responsibility in the acts charged. in the money laundering offenses request that the defendant MANUEL ANTONIO PONCE it imposes a sentence of seven years **IN PRISON, JUST LIKE** segundo Rufino , Jasón Pura cal , Ronald Danilo Sánchez and Paul Monge the imposition of the minimum sentence of five years of pressure, CPP art 112 states that you must seize the property by which it requested that all be confiscated property, in relation to the watercraft is forfeited and delivered Nicaragua's army and guns it will be delivered to the national police and request it and the real property be confiscated and be given the state of Nicaragua, at the same time apply for forfeiture Rivas house in house number 15 oaks.

Defenses Ricardo MC Nally , Ramón Rojas , Marvin Ernesto Mora , María Espinosa Peña , Fabrith Gómez , Adán Solórzano , Cesar Baltodano , José Ángel Narváez , Stick to the prosecutor's request concerning the application of the minimum sentence that would benefit his client and requested that benefits no minimum penalty.

#### V-LEGAL BASIS

In the present case that began with accusations by the public ministry on November 13, two thousand ten, against **MANUEL ANTONIOPONCE ESPINOZA , PAULINA MONGE CAMACHO , JOSE VICENTE LANZAS ESPINOZA , DELVIN DE JESUS BOLAÑOS ESPINOZA, SEGUNDO RUFINO PONCE , JASON ZACHARY PURACAL , MANUEL ANTONIO FLOREZ RAMIREZ , RONALD DANILO SANCHEZ , ROGER ANTONIO NUÑEZ PONCE , OMAR ANTONIO CERDA, JADER ANTONIO** ,on charges of racketeering, money laundering and international trafficking of goods and narcotics and other controlled substances to the detriment of Nicaraguan society and the state of Nicaragua In making the examination of the case, the simple reading of the evidence is assessed and determined that the evidence presented by the prosecution in monolithic consistent, coherent and conclusive in the various trials as witnesses and experts, documentaries and more.

All prosecution witnesses claim in one direction or another having been following the accused **Manuel Antonio Ponce Espinoza , paulina Monge Camacho , José Vicente lanzas Espinoza , Delvin de Jesús bolaños Espinoza , segundo Rufino Ponce , Jasón Zachary Purucal , Manuel Antonio Flórez Ramírez , Ronald Danilo Sánchez , Roger Antonio Núñez Ponce , Omar Antonio cerda , Jader Antonio Hernández** of who suspected of crimes engaged in racketeering, money laundering and international transportation of narcotic drugs, psychotropic substances, and that on 11 November 2010, two thousand

Were waiting for the shipment of drugs coming to board FUSCHIMARO the vessel so that the accused Manuel Antonio Ponce Espinoza who is the head of the organization, along with segundo rufino ponce and Delvin de Jesus bolaños were placed in the port of San Juan del Sur for launching the boat Color black white with two outboard engines, Suzuki, that to receive the drug that came from Panama.

Pauline Monge Camacho and segundo Rufino Ponce, serve as proxies of the accused Manuel Antonio Ponce for purchases of property and investments of the money from illegal profits and money to disguise the origin of drugs .

**MANUEL ANTONIO RAMIREZ** is the person's care and supervision, performed at the same time maintenance work of boats, properties of Manuel Antonio Ponce Espinoza, which are used for international drug trafficking. It is the operator of the panga ABENELLY.

**THE ACCUSED ANTONIO HERNANDEZ SANCHEZ** performs the transfer of firearms, as part of the logistics for the assurance of drug shipments. DONALD DANILO SANCHEZ, is that making use of the boats that have the facilitates and participates directly in the transfer of drugs from the south, going toward the west of our country.

**JOSE VICENTE ESPINOZA**, is carrying out the assurance of the drug once it docks at either coast of San Juan del Sur.

**ROGER NUÑEZ** help the accused Manuel Antonio Ponce Espinoza in structure to conceal their illegal activities makes royalties, loans to people who request them as charities, also invests in the municipality of San Juan del Sur, such as a disco bar restaurant Carin.

**JASON ZACHARY PURACAL** acts within the criminal organization as an adviser for the acquisition of property, assets and investments, for which society uses REMAX, same in which Jason Zachary is a major shareholder, which acts as an intermediary or agent real estate, buying properties and launder money from the payment for the transportation of drug.

**THE DEFENDANT DELVIN DE JESUS BOLAÑOS** is the one who made the care and maintenance of vessels owned by Manuel Antonio Ponce Espinoza, recommending both the type of vessel is to be used for the smuggling of drugs.

**The defendant OMAR ANTONIO CERDA**, is within the structure performs the function of safeguarding and securing of the drug, which goes into the shores of our Pacific coast and provides security for Manuel Ponce, when it moves to the inner of the regions of San Juan del Sur in the activity of drug.

The proof of the defense under any angle or point of view distorts the activity that the defendant engaged **MANUEL ANTONIOPONCE ESPINOZA**, **PAULINA MONGE CAMACHO**, **JOSE VICENTE LANZAS ESPINOZA**, **DELVIN DE JESUS BOLAÑOS ESPINOZA**, **SEGUNDO RUFINO PONCE**, **JASON ZACHARY PURACAL**, **MANUEL ANTONIO FLOREZ RAMIREZ**, **RONALD DANILO SANCHEZ**, **ROGER ANTONIO NUÑEZ PONCE**, **OMAR ANTONIO CERDA**, **JADER ANTONIO**, therefore to be a one-way solid proof directly linking the defendant falls entirely the presumption of innocence, resulting in the same culpability for the acts they were accused, a conviction which has this authority by the certainty of the guilt and therefore of the accused **MANUEL ANTONIOPONCE ESPINOZA**, **PAULINA MONGE CAMACHO**, **JOSE VICENTE LANZAS ESPINOZA**, **DELVIN DE JESUS BOLAÑOS ESPINOZA**, **SEGUNDO RUFINO PONCE**, **JASON ZACHARY PURACAL**, **MANUEL ANTONIO FLOREZ RAMIREZ**, **RONALD DANILO SANCHEZ**, **ROGER ANTONIO NUÑEZ PONCE**, **OMAR ANTONIO CERDA**, **JADER ANTONIO**.

Legal qualification of facts sufficiently tested and proven at trial as proof that work in it, are subsumed in the criminal sanctions which provides articles 392 and organized crime, money laundering 352, 282 illegal transportation of drugs and other controlled substances, that the defendants used several pangas for the transfer of drugs from other countries, introduce the drug to move to Nicaragua and other countries so that vessels ABENELLI tested positive for TRACE VAPOR 2 test and it worked 70 percent of particles of cocaine.

#### **CRIMINAL PENALTIES**

Impose sanctions as provided by Articles 392 organized crime, the penalty to be imposed is five to seven years in prison: 282 money laundering to impose the penalty is five to seven years in prison, 352 in drug transport mode sentence to impose international is 10 to 20 years in prison and five hundred to one thousand days of fines. This authority would impose the death between the maximum and minimum referral pursuant to Article 78 subsection A PN which states that if no aggravating or mitigating circumstances exist or where there is one and the other will take into account personal circumstances and the greater or less serious events.

#### **VI THEREFORE**

**ON BEHALF OF THE REPUBLIC OF NICARAGUA, THE UNDERSIGNED JUDGE BASED ON ARTOS 27, 34, CNY ARTOS:**

**1, 2, 4, 7, 8, 9, 10, 11, 13, 15, 16, 17, 18, 20, 51, 132, 141, 151, 153, 154, 157, 159, 166, 173, 177, 178, 190, 191, 192, 193, 195, 196, 210, 217, 247, 256, 257, 265, 268, 272, 273, 274, 281, 283, 285, 287, 291, 306, 307, 321Y 323 CPP y arto 53, 64, 78, 112, 393, 352, 282,**

**The undersigned Judge PN RESOLVED: PLEADS GUILTY ACCUSED OF FACTS TO**

**1. PONCE ANTONIO MANUEL ESPINOZA** thirty years of age, Nicaragua, married, sailor, Id number, 567-180 679-0002m, residing in the neighborhood Camilo Ortega municipality of San Juan del Sur, in this city Rivas.

**2. MONGE PAULINA CAMACHO** thirty-seven years old, married, businessman,

Nicaraguan, residing in the barrio Camilo Ortega, municipality of San Juan del Sur, in the city of Rivas.

**3. LANCE JOSE VICENTE ESPINOZA** twenty-seven years old, single, sailor, of Nicaragua, Id number 567-160283, 000011, residing in the barrio Camilo Ortega, municipality of San Juan Del Sur, in the city of Rivas.

**4. DELVIN DE JESUS BOLAÑOS** twenty-five years old, married, fisherman, Nicaragua, residing in the neighborhood Camilo Ortega, in the municipality of San Juan del Sur in the city of Rivas.

**5. SEGUNDO RUFINO PONCE** fifty years old, married, fisherman, of Nicaragua, identity Id number 505-300754-00002v, residing in the neighborhood Camilo Ortega in the municipality of San Juan del Sur, in the city of Rivas.

**6. JASON ZACHARY PURUCAL** thirty-three years old, single, office real estate, a national of the United States of America, with permanent residence in Nicaragua, residing in the neighborhood Pedro Joaquin Chamorro, municipality of San Juan Del Sur in the city of Rivas.

**7. MANUEL ANTONIO FLOREZ RAMIREZ** thirty-five years old, married, fisherman, of Nicaragua id number 567-131062-0001T, residing in the neighborhood where the police was 30 meters to the south in the municipality of San Juan Del Sur from this city Rivas.

**8. RONALD DANILO SANCHEZ** thirty-five years old, sailor, Nicaragua, id number 567-020375, 0000C, residing in the neighborhood Maria Auxiliadora in the municipality of San Juan del Sur in this city Rivas .

**9. ROGER ANTONIO NÚÑEZ PONCE** thirty years old, manager of enterprise, identity card number 561-050173, 0001D, residing in the park of San Juan Del Sur in the municipality of San Juan del Sur Rivas of this city Rivas.

**10. OMAR ANTONIO CERDA** thirty-six years old, married, mason, of Nicaragua, id number 562-021273-0001T, residing in the neighborhood Chinatown in the municipality of San Juan Del Sur of the city Rivas

**11. JADER ANTONIO VELASQUEZ** thirty years old, mechanical, Nicaragua, identity card number 109-080975-0000G, residing in the neighborhood Jose Esteban Corea, in the municipality of San Juan Del sur in this city Rivas.

on charges of racketeering, drug transport in international form, money laundering, property and assets, carrying or possession of illegal firearms or ammunition committed against Nicaraguan society and the state of Nicaragua.

**CONSEQUENTLY WAS CONDEMNED;**

**MANUEL ANTONIO PONCE** for the crime of organized crime to nine years and six months in prison, seven years in prison for the crime of money laundering and ten years in prison for the crime of illegal transport of drugs in international mode and five hundred days art fine in accordance to PN 64 and 352.

**JASON ZACHARY PURACAL** is convicted of the crime of organized crime to five years in prison, seven years in prison for the crime of money laundering and ten years in prison for the crime of transporting drugs in international mode.

**RONALD DANILO SANCHEZ** conviction for organized crime to five years in prison, seven years for the crime of money laundering and ten years in prison for the crime of transporting drugs in international form, and seven months in prison for the illegal possession of firearms

**SEGUNDO RUFINO PONCE** is convicted of racketeering and five years in prison, five years in prison for the crime of money laundering and ten years in prison for the crime of drug transport on an international

**PAULINA MONGE CAMACHO** sentence for the crime of organized crime to five years in prison and five years in prison for the crime of money laundering.

**JOSE VICENTE LANZAS ESPINOZA PONCE , DELVIN DE JESUS BOLAÑOS ESPINOZA , ROGER**

**ANTONIO NUÑEZ PONCE, OMAR ANTONIO CERDA , MANUEL ANTONIO FLOREZ RAMIREZ , JADER ANTONIO HERNADEZ VELASQUEZ** , is convicted of the crime of organized crime in prison five years and bear years in prison for the crime of illegal transport of drugs in international mode. his sentence must be served in the prison system granada , start to run from the day when the conviction becomes final, all without prejudice to the payment of time previously suffered imprisonment during the pendency of the proceedings. Maintaining custody precautionary measure imposed

Ordering the forfeiture of property seized and recorded in the receipts of occupation of the national police, according to articles 112 articles 159 NP and CPP, which must be delivered as a deposit to the police headquarters in the city Rivas.

Ordering the forfeiture, as occupancy receipts in the amount of six thousand dollars and thirty-two cordobas, which must be deposited in account number 10010305255685 cordobas and dollar account number 1002031831925 in the name both of the Supreme Court of justice. Notice to the parties the right of appeal from this decision.

Please notice this statement by the parties by simply reading the same sentence