

Ours may be one of the most ridiculous accusations of espionage in the history of this country

Defense statement presented by Comrade Gerardo Hernández Nordelo at the sentencing hearing held on December 12, 2001

Your Honor:

I would like first of all to express a few words of thanks to a number of federal government officials who worked throughout our long and complex trial, both inside and outside this courtroom. I am referring to the translators, stenographers, marshals and other assistants, who showed a high professional ethic at all times.

I would also like to publicly express our deepest gratitude to the attorneys who so masterfully represented us, and to all of the people who assisted them in this very difficult task.

So as not to waste your valuable time, I will try to be as brief as possible. There are five defendants in this case, and we share many opinions and views, so I will refrain from referring to important aspects that I know they will want to address in their turn.

Moreover, it would take too much time to point out every one of the inconsistencies of the prosecution and its witnesses, every one of its efforts to use and sometimes manipulate small portions of the evidence while disregarding its larger and more essential significance.

The few minutes I have would not be enough to highlight all of the attempts made by the gentlemen of the prosecution to ensure that the jury was guided more by emotions and prejudices than by the facts and the law; nor would there be enough time to point out every one of the reasons that made this an eminently political trial. Moreover, it might not even be necessary, because no one knows better than you what really happened in this courtroom between December 2000 and June 2001. Nevertheless, there are a number of elements that must not be overlooked.

Those who are not aware of the way the most radical sector of the Cuban community in Miami traditionally operates, those who do not watch Spanish-language television or listen to so-called "Cuban radio" might have sincerely thought that it would be possible for us to be given a fair and impartial trial in this city. Unfortunately, there are many realities of which the U.S. public is still unaware. As for us, from the very moment that we were denied the possibility of having the trial moved out of Miami, we did not have the slightest doubt of what the final outcome would be.

It would be dishonest to deny that as the trial progressed, and in view of the overwhelming arguments and evidence put forward by the defense, combined with the frequently desperate behavior of the prosecution and the reaction of the press, there were moments when we even considered that what seemed to be impossible in this community could perhaps really happen. Yet the jury, with its quick and unequivocal verdict, proved our initial prediction to be accurate. After six months of a complex and exhausting trial, with dozens of testimonies and extensive evidence, the members of the jury needed only a few hours, without even asking a question or voicing a doubt, to reach a unanimous verdict.

It is sufficient to read the statements made to the press by the foreman of this jury to understand that we never had the slightest chance, and that they were influenced more by prejudices or by the final, deceptive words of the gentlemen of the prosecution than by the arguments they heard here over the course of half a year.

And when I refer to the deceptive behavior of prosecution, I am not making a disrespectful or unfounded accusation. As I said before, there is not enough time to point out every single example. It

is enough to recall that the person responsible for translating the majority of the evidence used by the prosecution, an individual who claimed to be an expert in the field, stated before this court that the Spanish word "plastilina" is used to refer to plastic explosives, when in fact, any Hispanic child knows, without being an expert, that the only "plastilina" in our language is what is known in English as "modeling clay." Incidentally, the prosecution used the document referring to this "plastilina" over and over again for its alarmist effect, despite knowing, because they do know, that it has nothing to do with any one of the five accused.

It is equally ridiculous that during the trial of people accused of being dangerous spies and a menace to national security, the accusing party has repeatedly stressed an incident that purportedly took place in Cuba, involving a taxi driver from the country's main airport, at a time when the island had just suffered a wave of terrorist attacks. I wonder how many taxi drivers are being watched by the FBI at this very moment in airports across the United States, not only for expressing their discontent with the government, but probably simply for wearing turbans. In order to understand the attitudes of a country or its citizens, it is necessary to live, or suffer, its daily realities. The above-mentioned incident, as inconceivable as it may seem, was even included in the PSI report, although no one could explain what relation it might possibly have to the crimes I have been accused of.

Now that I have mentioned the PSI report, I would like to briefly refer to some of the statements I wrote for the same, and I quote: "Cuba has the right to defend itself from the terrorist acts that are prepared in Florida with total impunity, despite the fact that they have been consistently denounced by the Cuban authorities. This is the same right that the United States has to try to neutralize the plans of terrorist Osama bin Laden's organization, which has caused so much damage to this country and threatens to continue doing so. I am certain that the sons and daughters of this country who are carrying out this mission are considered patriots, and their objective is not that of threatening the national security of any of the countries where these people are being sheltered."

This statement was written for the PSI report and sent to my attorney to be translated many days before the tragic and condemnable events of September 11. Today they are more relevant than ever. Just as the president of the United States stated recently before the United Nations, it is necessary for all of the world's countries to unite in the struggle against terrorists, and not against some terrorists, but rather against all terrorists. And I would add that as long as the acts of some of these criminals are condemned, while others are sheltered and allowed to act with impunity against the security and sovereignty of other countries, and considered "freedom fighters," this scourge will never be eradicated. And as long as this is the case, there will always be nations that need to send some of their own people to carry out dangerous missions for their defense, whether it be in Afghanistan or South Florida.

Your Honor, we have been accused of conspiring to commit espionage and harm the national security of the United States. We have been placed on the same level as the worst spies ever known, without a single piece of sound evidence and without having caused any harm whatsoever, solely on the basis of suppositions. Ours may be one of the most ridiculous accusations of espionage in the history of this country. Everything that we intended to do and have done was clearly set out in the evidence put forward. The person who was closest to anything military, after six years of working in his insignificant post, was merely asked to try to find a position that allowed him to be closer to the runways, in order to observe the number of planes. This is not espionage. The evidence and testimony offered by individuals highly qualified in this area have demonstrated that.

On the other hand, it is true that for years, some of the accused had false identity documents in our possession, but their only purpose was to guarantee our safety. As a judge, you are aware of how many crimes can be committed with false documents, and yet it was acknowledged in this courtroom

that the only use made of these documents, when they were used in any way at all, was exclusively aimed at protecting our own personal integrity and that of our families.

Please permit me to briefly refer to what I believe is the reason for which all of us find ourselves here at this moment: the third in the list of charges against us, "conspiracy to commit murder."

The prosecutors and FBI authorities know and knew from the very beginning what truly did take place before, on and after February 24, 1996. They themselves had to acknowledge that the high frequency messages they chose to reveal as evidence are only a minute portion of all the messages they intercepted. They know the true story. They know that there was never any conspiracy to shoot down those planes, much less to do it over international waters. They know perfectly well that not only Gerardo Hernández, but not even Juan Pablo Roque ever had anything to do with a plot to shoot down the planes. They know that Roque's return had been planned long before for strictly personal reasons, and that in February of 1996, instructions were given for him to choose for himself his date of departure, with the recommendation that it be either February 23 or 27, depending upon the availability of airline tickets. If there had been a plot in which Roque was involved, how could he have stayed here until the 27th? This is just one of the many details that make this the most absurd and outrageous of all the charges against us.

After two years of close surveillance, and having taped most of our telephone and personal conversations and confiscated a large quantity of materials from that time period, the prosecutors could not present a single piece of evidence at this trial to demonstrate beyond a reasonable doubt that Gerardo Hernández had conspired to shoot down those planes or contributed in a way to that act. They based their entire case on pure speculation, on small excerpts of documents, manipulated and taken out of context, and above all on the emotional and sensitive nature of this accusation, due to the loss of human lives.

It would only be natural to ask what motivated the prosecution to stage its whole propaganda show around this charge, and to seek at any cost to convict someone who they know had nothing to do with the death of those people. The answer is not all that difficult to find. One need only recall the enormous pressure exerted by some sectors of the Cuban community who were not satisfied with the economic sanctions adopted against Cuba following the events of February 24. The repeated accusations made by these individuals and organizations against the government of the United States for its alleged complicity in these events, according to them, and for not doing anything to punish those responsible, became ever more bothersome, just as it was bothersome and unforgivable to these Miami Cubans that the FBI regional office would have infiltrated informers into a number of so-called "exile" organizations, including Brothers to the Rescue. It had become necessary to restore images and improve relations, and nothing would work better than finding, or fabricating, a guilty party.

The authorities knew this was a win-win situation. If I was found guilty of the charge, all the better. If I was found innocent, as unlikely as that may have seemed, they would still win, because they could silence those who were accusing them of not having charged anyone.

Perhaps there are people so naive or unaware as to believe that I am exaggerating the importance that some U.S. authorities accord to the opinions and reactions of the most extremist sector of the Cuban community. I would like to remind those people of the fact that the citizens of this nation cannot travel freely to Cuba, or smoke Cuban cigars, or trade in Cuban products without restrictions, or simply immunize their children against diseases for which the only vaccines are patented in Cuba, and further remind them that this fact does not exactly respond to the demands or interests of the American people.

Your Honor, I have always said, and will repeat now, that I deeply regret the loss of those four lives, and I understand the suffering of their families. I also regret the thousands of lives that have been lost as a result of the constant aggression suffered by my people throughout more than 40 years, and the eternal mourning of many, many Cuban families. These dead also have names and faces, although their pictures cannot be shown in this courtroom.

Cuba did not provoke this incident. On the contrary, it foresaw it, and tried to prevent it through every means within its reach. The prosecution's main argument during the trial was that this incident was a crime, because it involved unarmed civilian aircraft. This nation recently found out, in an unfortunate and brutal manner, just how much damage can be done to its people by an unarmed civilian plane. Perhaps that is why its top leaders have warned that any plane that strays threateningly from its scheduled route should be shot down, even if there are hundreds of passengers on board. Perhaps the gentlemen of the prosecution believe this would be a crime. Your Honor said today that this country changed its "perception of danger" after September 11; unfortunately, Cuba had to change its perception of danger on January 1, 1959, and this is what some people fail to understand.

The people primarily responsible for what happened on February 24, 1996, are the same people who do not relent in their efforts to provoke an armed conflict between the United States and Cuba, so that this country's army can do for them what they themselves have not managed to do in 40 years. Be it flotillas, airspace violations, false accusations or any other abomination, the goal is always the same: for the United States to wipe the Cuban government and those who support it off the face of the earth, no matter what the cost in human lives on one side or the other. It can be stated with all certainty that if anyone has repeatedly placed the national security of this country in danger, it has been those extremist Cuban groups.

The prosecution stated in this courtroom, during the final arguments, that Gerardo Hernández has blood on his hands. I wonder whose hands are really stained with blood, if it is me or the individual who fired on a hotel full of people in Havana, the same individual who appears in the evidence of this case planning to smuggle antipersonnel weapons into Cuba; the same person who openly and recklessly defied the Cuban authorities, over and over and over again, violating the laws of that country, the laws of this country, and the most elemental rules of international aviation; the same person who not only did not hesitate to lead these young men to their deaths, but who also, in the moments of greatest tension, when there was still time to go back on his plans, did not do so, and instead left his laughter on tape for all of history, while his comrades were dying.

This person's hands truly are stained with blood, yet this did not seem to matter to the gentlemen of the prosecution when they shook those bloodied hands on numerous occasions, even in this very courtroom. Nor did it matter to the prosecutors or the top FBI authorities in Miami when they shared the stage and the celebrations with this same person during the press conference on the day the verdict was announced. This is rather contradictory behavior for those who claim to represent the law.

I want the gentlemen of the prosecution to know that the only blood there may be on these hands is the blood of my brothers and sisters who have fallen or been murdered in a cowardly fashion, during the countless acts of aggression and terrorism perpetrated against my country by individuals who freely walk the streets of this city today. And it is for this blood that I made the pledge to sacrifice even my own life, if doing so could protect my people from such crimes.

Your Honor, the prosecution considers, and has requested, that I should spend the rest of my life in prison. I trust that if not at this level, then at some other level of the system, reason and justice will prevail over political prejudices and the desire for revenge, and it will be understood that we have done no harm to this country that deserves such a punishment. But if this were not the case, I would then take the liberty of quoting one of this nation's greatest patriots, Nathan Hale, when he said: "My only regret is that I have but one life to give for my country."

Thank you very much.

Gerardo Hernández Nordelo