

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Case No. 92-CV-1258

HAITIAN CENTERS COUNCIL, INC.,)
et al.,)
)
Plaintiff,)
)
vs.)
)
GENE McNARY, COMMISSIONER,)
I.N.S., et al.,)
)
Defendants.)

COPY

Camp Bulkeley
Guantanamo Bay, Cuba
February 22, 1993
11:10 a.m. - 12:10 p.m.

CONT'D DEPOSITION OF YVONNE PASCAL

Taken before Mia Sohn, Notary Public
in and for the State of Florida at Large, pursuant
to Notice of Taking Deposition filed in the above
cause.

- - - - -

1 APPEARANCES:

2

3

4 ON BEHALF OF THE PLAINTIFF:

5

 NATIONAL REFUGEE RIGHTS PROJECT
 San Francisco Lawyers'
 Committee for Urban Affairs
 301 Mission Street, Suite 400
 San Francisco, California 94105
 BY: Robert Rubin, Esq.

6

7

8 ON BEHALF OF THE DEFENDANTS:

9

 OFFICE OF IMMIGRATION LITIGATION
 Department of Justice
 Patrick Henry Building, Room 8132
 601 "D" Street, N.W.
 Washington, D.C. 20004
 BY: Lauri Steven Filpue, Esq.
 and
 William J. Howard, Esq.

10

11

12

13

14 ALSO PRESENT:

 Ginette Cesar, Interpreter

15

16

17

 - - - - -
 I N D E X

18

<u>Witness</u>	<u>Cross (Cont'd)</u>	<u>Redirect</u>	<u>Recross</u>
Yvonne Pascal	3	--	--

19

20

21

22

23

24

25

1 (Thereupon, Ginette Cesar was sworn to act as
2 Interpreter during the taking of the deposition.)

3 Thereupon:

4

YVONNE PASCAL

5 was called as a witness by the Plaintiff, and
6 after being first duly sworn, was examined and
7 testified under oath as follows:

8

9

MR. RUBIN: This is a continuation of
Yvonne Pascal.

10

11

12

13

14

15

16

MR. FILPUU: Before I resume
questioning, I would simply like to state for the
Record that the Government has provided the
Plaintiff's counsel a copy of the medical records
relating to Miss Pascal from the battalion aid
station here at Camp Bulkeley.

CROSS EXAMINATION (CONT'D)

17

BY MR. FILPUU:

18

Q. Miss Pascal, do you speak English?

19

A. No.

20

Q. Do you understand any English?

21

A. A few words.

22

23

Q. Could you have a conversation with me
in English?

24

A. No.

25

Q. If I had a conversation with your

1 lawyer, could you understand that conversation?

2 A. No.

3 Q. When you were handcuffed, I believe
4 that was in August, 1992; is that correct?

5 A. Yes.

6 Q. And the commander of Camp Seven and the
7 doctor were talking about your situation and you
8 ended up being released?

9 A. Yes.

10 Q. Were the doctor and the camp commander
11 speaking English to each other?

12 A. Yes.

13 Q. You testified that after you were
14 handcuffed, and correct me if I'm wrong, that you
15 were moved to a different location, and if I
16 understand correctly, as you were being moved, you
17 fell; is that right?

18 A. No, it wasn't like that.

19 Q. I misunderstood. Please tell me how it
20 was.

21 A. While in the crowd, they had put men
22 separately and women separately. As the women
23 were leaving, the doctor was standing by the
24 militaries and he pointed out to me. They walked
25 over and they handcuffed me. As they handcuffed

1 me, they held me here (indicating), and as I was
2 walking, the woman kicked me in the foot and I
3 fell, and as I was on the floor, I was crying. I
4 was trying to lift my head. She took her boot and
5 she pressed my face -- she put it on my face and
6 she pressed my face on the floor.

7 Q. Was this a crowded situation?

8 A. Yes. They had started to arrest a lot
9 of people. She handcuffed them and they put them
10 behind the commodes.

11 Q. Were people bumping into each other at
12 that time?

13 A. They had handcuffed everybody. They
14 just took everybody, kicked you, made you lay on
15 the floor and then handcuffed your legs, also.

16 Q. Were the handcuffs put on you before
17 you were on the floor or while you were on the
18 floor?

19 A. They put one in my hand before I was on
20 the floor, then I was kicked in the leg. I fell
21 on the floor, and then they put the other in my
22 legs.

23 MR. RUBIN: Sorry. Excuse me at this
24 point.

25 Counsel, you used the word floor. We

1 were talking about the outdoors, though, were we
2 not?

3 MR. FILPUU: Let's find out.

4 BY MR. FILPUU:

5 Q. I understood your reference to the
6 floor as being the floor under the mess area; is
7 that correct?

8 A. The mess hall is here (indicating).
9 The toilets are there (indicating). It's behind
10 the toilets. If you want to, I can show you
11 exactly where it was.

12 Q. I don't think that's necessary.

13 As I understand you now, this is not
14 under the pavilion or awning that covers the mess
15 area, the outdoor mess area; is that correct?

16 A. The mess hall is on the side. There's
17 a big hall on the side, and then after they
18 handcuffed you, they dropped you behind the
19 toilets.

20 Q. When you were on the ground or the
21 floor, were you behind the toilets or under the
22 mess pavilion?

23 A. Behind the toilets where they had put
24 everybody.

25 Q. Were other Haitians also on the ground

1 being handcuffed?

2 A. There were a lot of people.

3 Q. Were they also on the ground?

4 A. Yes.

5 Q. You testified last night that you were
6 a block leader; is that correct?

7 A. Yes.

8 Q. Are you still a block leader today?

9 A. Yes.

10 Q. How long have you been a block leader?

11 A. Since I arrived at the base on June
12 27th. There was a vote and I became a block
13 leader.

14 Q. That's June 27, 1992?

15 A. Yes.

16 Q. What are your duties as a block
17 leader?

18 A. The block leader's role is like that.
19 Let's say that the colonel and the commander of
20 the camp want to hold a meeting to propose certain
21 things. The block leader -- if the people do not
22 agree, the block leader can go to the colonel or
23 the commander and tell them that the people do not
24 agree.

25 I'm going to give you a little more.

1 Q. Yes, please do.

2 A. Let's say there is a message that he
3 would want to convey. He would call the president
4 of the Haitian association here or the block
5 leader and he would convey the message to them so
6 they could repeat it to the people. Even for the
7 doctors, if they want to send letters for shots
8 for people, they give it to the block leader and
9 the block leader would give it to the people.

10 Q. I understand then you were sort of a
11 spokesperson and liaison person with the Joint
12 Task Force; is that correct?

13 A. I am not the spokesperson. It's the
14 president's job, Michel. So whenever he has to go
15 to a meeting, he has to meet with the block
16 leaders.

17 Q. How many block leaders are there?

18 A. There were five of us. Two of them
19 left and there are three remaining.

20 Q. Yesterday you indicated that you would
21 like a lawyer if you were to have a second
22 interview.

23 Do you want a second interview?

24 A. Yes, with my lawyer I would want to do
25 it.

1 Q. As a block leader, do you know whether
2 other Haitians want a second interview?

3 A. Yes. It depends upon whether they can
4 go with their lawyers or not.

5 Q. As a block leader, do you know whether
6 there are Haitians who want to go to the United
7 States without a second interview?

8 A. Well, I believe that in order for them
9 to apply for political asylum, they need to have
10 their lawyers with them to do it.

11 Q. Yesterday you told me that when you
12 first arrived at Guantanamo, you told your story
13 to the Immigration Service about why you left
14 Haiti.

15 You didn't have a lawyer with you at
16 that time, did you?

17 A. No, I didn't have a lawyer with me.

18 Q. You could tell your same story to the
19 Immigration Service again without counsel there a
20 second interview, couldn't you?

21 MR. RUBIN: Objection. Argumentative.

22 THE WITNESS: To tell the same story
23 again?

24 BY MR. FILPUU:

25 Q. Yes, the story that you told

1 Immigration and that you told last night.

2 A. Yes.

3 Q. Last night you indicated that you
4 mailed a letter in early February to your
5 children.

6 Have you mailed a lot of letters from
7 Guantanamo?

8 A. I sent the letter to my mother, then I
9 gave a copy of it to my attorney.

10 Q. Have you mailed other letters before or
11 after?

12 A. I haven't sent any letters after that,
13 but prior to that, I used to write.

14 Q. Have you received letters here at
15 Guantanamo?

16 MR. RUBIN: Objection. Exceeds the
17 scope of Direct.

18 THE WITNESS: Should I answer?

19 BY MR. FILPUU:

20 Q. Please.

21 A. I have received letters from Miami.

22 MR. FILPUU: I take it, counsel, based
23 on your objection, that it's your desire to limit
24 this witness' testimony to the subjects which were
25 covered in the Direct Examination?

1 MR. RUBIN: Usually standard rules is
2 you limit it to the scope of my Direct, exactly.

3 MR. FILPUU: This witness has been a
4 fact witness on certain issues for you.

5 MR. RUBIN: This witness is a witness
6 as to the things she's testified to. I'm not
7 going to characterize it.

8 BY MR. FILPUU:

9 Q. Miss Pascal, you testified that when you
10 left Haiti, you had no specific destination.

11 Is it currently your intention to go to
12 the United States?

13 A. Evidently I did not have a destination,
14 but since the Americans picked me up from the sea,
15 I suppose that they have a place for them to put
16 me.

17 Q. Would you be willing to go back to
18 Haiti?

19 A. As long as there is democracy at home,
20 I will go back.

21 Q. Would you be willing to stay at
22 Guantanamo until there is democracy in Haiti?

23 A. The reason why I couldn't stay in
24 Guantanamo until there is democracy is because I
25 will die here before there is democracy.

1 Q. Is that because you expect to die on
2 the hunger strike?

3 A. Mistreatments is one of the problems.
4 That is why we started the hunger strike, so that
5 this body can get spoiled and then the soul can go
6 to God.

7 Q. What is the mistreatment that you speak
8 of?

9 A. We are sick. They say that we are
10 sick, but look at the treatments that are given to
11 us as sick people. We have HIV and the type of
12 medication that is given to us, we will die before
13 we can be treated.

14 Q. I'll get back to those issues in a
15 moment, but let's return to the question of your
16 desires to leave Guantanamo.

17 If the opportunity were available,
18 would you be willing to go to a refugee camp in a
19 third country?

20 A. If I were given the opportunity, why
21 exactly would they send me to a camp?

22 Q. I know it may be difficult for you to
23 understand why you might be sent to another camp,
24 but what I'm trying to find out is whether you
25 have any objection to living in another refugee

1 camp in another country, for example, such as
2 Venezuela or the Dominican Republic or Honduras or
3 any other country in the region that might be
4 willing to accept you.

5 MR. RUBIN: Objection. Improper
6 hypothetical. No foundation as to whether any of
7 those countries would offer resettlement to Miss
8 Pascal.

9 BY MR. FILPUU:

10 Q. I would appreciate an answer, however.

11 A. Now, why would they send me to another
12 refugee camp?

13 It's like taking me from one
14 concentration camp and putting me in another
15 concentration camp.

16 Q. I'd like to turn your attention, Miss
17 Pascal, to your testimony regarding the medical and
18 HIV issues that you testified to about last
19 night.

20 A. Yes.

21 Q. Am I correct, you were informed of your
22 HIV positive status in June of 1992?

23 A. Yes, June 30th.

24 Q. Is it possible it could have been on
25 June 26th?

1 A. Well, on June 27th, I was sent to
2 McCalla and I had the test taken, and on June
3 30th, they called me and they told me that I was
4 HIV positive.

5 Q. You have been prescribed medicine,
6 specifically AZT, for your HIV status; is that not
7 true?

8 A. Yes, they gave me HIV, and against
9 tuberculosis, they gave me INH.

10 Q. Excuse me. Did you say they gave you
11 AZT or HIV?

12 A. They gave me AZT.

13 Q. Do you know why you are on AZT?

14 MR. RUBIN: Objection. The witness did
15 not testify that she's on AZT. She said the
16 doctor's prescribed AZT.

17 BY MR. FILPUU:

18 Q. Miss Pascal, have you taken any of the
19 AZT?

20 A. Yes.

21 Q. Do you know why it was prescribed and
22 why you were taking it?

23 A. I was told it was for low T-cell
24 count.

25 Q. Isn't it true that you've been given

1 AZT prescriptions on several occasions?

2 A. Yes.

3 Q. And isn't it true that these
4 prescriptions started at least in July of 1992?

5 A. Once they gave me the results, because
6 I was given the results on June 30th, right then
7 and there they started giving me -- they started
8 giving it to me.

9 Q. You testified last night that you have
10 received a shot that would work to keep you from
11 becoming pregnant.

12 Do you remember approximately when you
13 took that shot?

14 A. They didn't give it to me exactly to
15 prevent me from getting pregnant. I was told that
16 it would increase my T-cell and it was also good
17 for my health. It was given to me in September.

18 Q. Were you informed at that time that it
19 is not recommended for women who have HIV positive
20 status to get pregnant?

21 MR. RUBIN: Objection. Lack of
22 foundation.

23 BY MR. FILPUU:

24 Q. Please answer the question.

25 A. They had a meeting for the people and

1 they said that there were too many women getting
2 pregnant in the camp. Especially for women with
3 low T-cell count, it would be good not to get
4 pregnant.

5 Q. Did anyone explain to you at the time
6 that getting pregnant posed problems to the baby?

7 MR. RUBIN: Objection. Lack of
8 foundation.

9 THE WITNESS: No.

10 BY MR. FILPUU:

11 Q. Isn't it true, Miss Pascal, that just
12 before you were given the shot, you were informed
13 by a nurse of its side effects?

14 A. No.

15 Q. You testified that you spoke with
16 Doctor Jean-Baptiste; is that correct?

17 A. My lawyer's doctors?

18 Q. Yes.

19 A. Yes.

20 Q. Did Doctor Jean-Baptiste tell you that
21 she believed your pain in your stomach and your
22 weight loss might be related to your HIV
23 infection?

24 MR. RUBIN: Objection. Privileged
25 information. I direct the witness not to

1 respond.

2 MR. FILPUU: Counsel, you've made a
3 number of medical issues the subject of this
4 deposition. You've specifically raised questions
5 with regard to the medical treatment that this
6 witness has received here at Camp Bulkeley and on
7 Guantanamo, and now you are denying me access to
8 information pertaining to those same subjects?

9 I object strenuously and I ask you to
10 withdraw your objection.

11 MR. RUBIN: Well, I won't withdraw the
12 objection and we did not ask her to provide any
13 testimony with regard to what she might have been
14 told by doctors that we brought down to talk with
15 her.

16 MR. FILPUU: Please be advised that one
17 course of action we may pursue is to move to
18 strike any testimony pertaining to medical or
19 other related conditions of this witness.

20 That's all I have.

21 Shall we go off the Record?

22 MR. RUBIN: Yes.

23 (Thereupon, there was a short
24 break taken in the proceedings.)

25 MR. RUBIN: As counsel for the

1 Government was completing his Cross Examination,
2 the witness, Yvonne Pascal, fell unconscious and
3 had to be carried from this room on a stretcher to
4 the hospital. She is presently, therefore, unable
5 to continue the deposition and we request that it
6 be recessed until any further time at which she
7 might be able to continue.

8 MR. FILPUU: Let me just state briefly
9 for the Record that I had completed my examination
10 of the witness prior to her falling ill or going
11 unconscious. She was only briefly unconscious and
12 was conscious when she was being carried to the
13 medical aid station.

14 (Thereupon, the taking of the
15 deposition was recessed.)

16 *****

17 February 23, 1993, 12:10 p.m.

18 MR. RUBIN: The deposition of Yvonne
19 Pascal was continued yesterday after the witness
20 began to experience pain in her neck and
21 subsequently passed out and had to be carried from
22 this room on a stretcher. After consulting with a
23 doctor that we brought with us, Doctor Joseph
24 Paul, who is a certified physician in New York, we
25 were advised that the collapse was likely related

1 to the stress of the situation. We have decided
2 not to continue that deposition and will allow the
3 deposition to conclude as it had yesterday.

4 MR FILPUU: I only object to the
5 attorney for the Plaintiffs bringing in medical
6 testimony, so to speak, through his own
7 statements, but I accept his concluding the
8 deposition.

9 (Thereupon, the taking of the
10 deposition was concluded.)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

READING AND SIGNING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I have read the above transcript, pages 1 through 19, and I find: (MARK ONE)

() The transcript is true, correct, and completely accurate.

() The transcript is true, correct, and accurate, except as set forth in my List of Corrections attached hereto, citing page and line and reason for the correction realizing that, for this purpose, I am still under oath.

(DATE) (Yvonne Pascal)

Sworn to and subscribed before me this _____ day of _____, 1992.

Notary Public
My Commission expires:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TO BE EXECUTED BY THE NOTARY IF THE DEPONENT DOES NOT SIGN:

I hereby certify that a letter with reference to reading and signing deposition was mailed to the witness through his attorney, on _____, 1992, and that the witness
() Witness refused to sign, giving the following reason:
() Neither the witness nor his attorney has responded to request to read and sign.

(DATE) Notary Public

MY COMMISSION EXPIRES: 8/30/93