

Colombia's Uribe not to testify in human rights case

Joshua J. McElwee | Sep. 15, 2011



Georgetown University students protest Alvaro Uribe's presence on the university's faculty outside the campus' Mortara Center March 23. (Photo courtesy of Sarah Vasquez, Georgetown University)

Alvaro Uribe, the controversial former president of Colombia, does not have to testify in a case before a U.S. court that alleges his administration knew of human rights abuses, a federal judge ruled Sept. 8.

The decision, handed down by Judge John Bates of the U.S. District Court for the District of Columbia, is one of the first to determine immunity for a former head of state since a U.S. Supreme Court ruling last year broadened the scope of incidents for which foreign officials could be subject to prosecution in U.S. courts.

Uribe, who served as president of Colombia from 2002 until last year, had been subpoenaed to testify in a case brought against the U.S. coal mining company Drummond over its ties with a Colombian paramilitary group designated as a terrorist organization by the State Department in 2001. Drummond had hired the United Self-Defense Forces of Colombia to protect the company's property in the country.

Colombian citizens, who say their family members were victims of violence by the paramilitary group, have brought suit against Drummond in the U.S. They claim that members of Uribe's government tried to suppress evidence of Drummond's alleged ties to the illegal militia, and, as such, the former president should be forced to testify regarding his administration's knowledge of events.

In the case of *Samantar v. Yousuf* last year, the Supreme Court ruled that foreign officials do not have blanket immunity from prosecution in U.S. courts. In cases where immunity questions are raised, courts should solicit recommendations from the State Department and decide whether to prosecute on a case-by-case basis, the Court ruled.

In the Uribe case, the State Department sent a letter to Bates in April stating that the former president should enjoy "testimonial immunity" as a former head of state, preventing him from testifying from acts "taken in his official capacity as a government official."

Bates' Sept. 8 ruling followed that recommendation and said Uribe could not be subject to deposition. That decision could prove an important precedent for future cases, a former legal adviser to the State Department told *NCR*

From now on, said John Bellinger, an adviser to the department under Condoleezza Rice, "when the State Department files a suggestion of immunity with a U.S. court with respect to the actions of a current or former foreign government official, we can expect that courts will defer to the State Department's determination."

Plaintiffs had argued that while Uribe's testimony would cover events that took place during his time as Colombia's president, his actions in the Drummond case could be determined to be illegal if they involved human rights abuse, and were therefore not subject to his immunity as a foreign official.

In his decision, Bates wrote that plaintiffs' allegations that Uribe's actions were illegal "do not serve to render an action unofficial for purposes of foreign official immunity."

Moreover, he said, "comity and foreign relations interests" require that all other reasonably available means to acquire such information be exhausted before a deposition is permitted.

The plaintiffs' lawsuit, which was filed against Drummond on behalf of nearly 500 family members of Colombian citizens, covers the company's relationship with the United Self-Defense Forces of Colombia from 1999-2007.

In a press release, Terry Collingsworth, the lead counsel for the plaintiffs, expressed disappointment and said "there is no immunity for illegal acts granted to anyone in this country, not actual, and certainly not former, presidents."

"We are seeking to depose Mr. Uribe on his role in assisting illegal armed groups in Colombia, including those that murdered our clients in the Drummond case," wrote Collingsworth Sept. 9.

"Mr. Uribe's conduct amounts to war crimes, and the law does not grant immunity to war criminals. We plan to appeal the decision as soon as possible."

Uribe was served with the subpoena last November while he was in Washington, D.C, teaching as a "distinguished scholar" at Jesuit-run Georgetown University. His appointment to that post last August had brought objection from a number of Jesuits abroad, Pax Christi USA, School of the Americas Watch, and Georgetown students.

In an e-mailed statement to *NCR* last spring, Georgetown spokesperson Julie Green Bataille confirmed that Uribe would not be returning to the faculty post this fall and said the former leader "was never scheduled to be here more than one year."

It was a Georgetown law student who served the subpoena papers as Uribe was leaving a classroom after giving a lecture on the Georgetown campus.

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