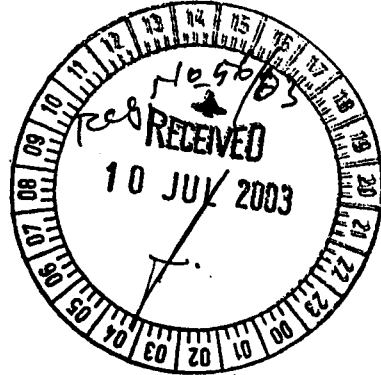


DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

Case No: 20/2003



INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

Against

DOMINGOS ALBERTO CARLOS

CARLOS JOSE, and

ALMEIDA MARTINS aka ALMEIDA SOARES

I. INDICTMENT

The Deputy General Prosecutor for Serious Crimes pursuant to his authority under UNTAET Regulation 2000/16 and 2000/30 (as amended by UNTAET Regulation 2001/25) charges:

Domingos Alberto Carlos, Carlos Jose and Almeida Martins aka Almeida Soares

WITH

CRIMES AGAINST HUMANITY: MURDER

as set forth in this indictment.

II. NAME AND PARTICULARS OF THE ACCUSED

1.

Name: **DOMINGOS ALBERTO CARLOS**
Sex: Male
Date of birth/age: Approximately 50 years
Place of birth: East Timor
Present location: Believed to be in Atambua, West Timor
Function at the time of the events: TNI Sergeant, and Babinsa of Aisirimou Village, Aileu Sub-district, District of Aileu.

2.

Name: **CARLOS JOSE**
Sex: Male
Date of birth/age: Approximately 33 years
Place of birth: East Timor
Present location: Believed to be in Atambua, West Timor
Function at the time of the event: AHI Militia member in Aileu Sub-district, District of Aileu

3.

Name: **ALMEIDA MARTINS aka ALMEIDA SOARES**
Sex: Male
Date of birth/age: approximately 30 years
Place of birth: East Timor
Present location: Believed to be in Atambua, West Timor
Function at the Time of the event: AHI Militia member in Aileu Sub-district, District of Aileu

III. INTRODUCTORY STATEMENT OF FACTS

1. In 1999, a widespread or systematic attack directed against the civilian population was committed in East Timor. This attack occurred during two interconnected periods of intensified violence. The first period followed the announcement on 27 January 1999 by the Government of the Indonesia, that the people of East Timor would be allowed to choose between autonomy with Indonesia or Independence until 4 September 1999, the date of the announcement of the result of the popular consultation in which 78.5 per cent voted against the proposed special autonomy within the Unitary State of the Republic of Indonesia. The second period followed the announcement of the result of the popular consultation on 4 September through 25 October 1999.
2. The attack against the civilian population of East Timor was part of an orchestrated campaign of violence, that included, among other things, incitement, intimidation, threats to life, murders, assaults, rapes, kidnappings and other forms of violence, carried out by pro-autonomy militia, members of the Indonesian Armed Forces, ABRI (*Angkatan Bersenjata Republik Indonesia*), renamed TNI (*Tentara Nasional Indonesia in 1999*), and of the Indonesian Police Force (POLRI) with the acquiescence and active participation of Civilian and Military Authorities.
3. With the backing of the TNI and the civil administration, more than twenty-five militia groups existed and operated in East Timor. Their goal was to support autonomy within Indonesia. These militia groups were organized under the pro-integration forces (*Pasukan Pejuang Intigrasi or PPI*) and were allowed to act with impunity.
4. The large-scale attack was directed against civilians of all age groups, predominantly against individuals who supported or who were perceived to support independence and resulted in lethal injury including death by sharp force injury, gun shot injury, blunt force trauma or a combination of the three.
5. As part of the widespread or systematic attack against the civilian population attacks were also carried out against property and livestock, including mass destruction of houses by fire, stealing of property and the killing and stealing of livestock.
6. The widespread or systematic attack resulted in the internal displacement of thousands of persons (IDPs). Additionally, the forcible transfer and deportation of the civilian population within East Timor and to West Timor, Indonesia was an essential feature of the orchestrated campaign of violence.
7. The Indonesian Military in East Timor consisted of both regular territorial forces and special combat forces i.e. the Strategic Reserve Command (KOSTRAD), (*Komando Strategi Angkatan Darat*) and Special Force Command (KOPASSUS)(*Komando Pasukan Khusus*) all of which had units, staff officers and soldiers stationed in East Timor.
8. From February 1999 to October 1999, the Indonesian Police Force (POLRI), the state agency for upholding law and public order were also present in East Timor. It

included a Mobile Police Brigade (Brigade Mobil) whose units and members were stationed in East Timor.

9. Under the terms of the 5 May 1999 Agreements, between Indonesia, Portugal and the United Nations on the Popular Consultation, the Indonesian security authorities (TNI and POLRI) had the responsibility to ensure a safe environment devoid of violence or other forms of intimidation as well as the general maintenance of law and order. The Indonesian security authorities failed to take the necessary measures to meet their obligations and made no attempt to disarm or neutralize the militia groups.
10. For each count charging Crimes against Humanity, the acts or omissions by the accused persons were undertaken as part of a widespread or systematic attack directed against the civilian population, with knowledge of the attack.

IV. SPECIFIC STATEMENT OF FACTS

11. The District of Aileu is divided into four Sub-districts: Aileu, Lequidoe, Remxio and Laulara.
12. During 1999 the AHI (Aileu Hidup Dengan Indonesia/*Intergrasi-Aileu Lives with Indonesia*) militia members operated in the District of Aileu.
13. The AHI militia was formed in Aileu in 1999. The supreme Commander of the AHI militia was Tomas Mendonca. **Carlos Jose**, and **Almeida Martins aka Almeida Soares**, Oscar Carlos, Miguel De Araujo, Celestino Mendonca, Horacio Mendonca were the other leaders of AHI militia in Aileu District.
14. In 1999 the AHI militia in Aileu operated in close cooperation with the TNI and carried out widespread and systemic attacks against the civilian population. A major aspect of the widespread or systemic attack was to target and find out individuals believed to be supporters of independence by militia and TNI in the District. The members of AHI militia were looking for CNRT and Falintil supporters. If found, they were arrested, detained, tortured and, in some cases, killed.
15. After the result of popular consultation, the situation became worse in Aileu. The attacks were more intense in the Aisirimou village of the Sub-district of Aileu where AHI militia members with cooperation of TNI killed people, burnt houses, forced the women, children and other people to leave their houses and forcefully deported them to West Timor.
16. **Domingos Alberto Carlos** was a member of the TNI and Babinsa stationed in Aisirimou Village, Aileu. **Carlos Jose**, and **Almeida Martins aka Almeida Soares** launched joint operations with the TNI in the Sub -district of Aileu and its surrounding areas.

Murder of Elias De Araujo

17. Elias De Araujo was a member of FRETILIN and later of CNRT. After the vote on 30 August 1999, AHI militia members Julio Pantai, Celestino Mendonca, Horacio Mendonca, and Mohamad Safudi came to his house in Aisirimou Village, Aileu Sub-village, District of Aileu, to look for him.
18. In fear of his life, Elias De Araujo and his family went into hiding in a rice field near his house in Aisirimou. On 5 September, Elias returned to his home with his family in Aisirimou to look for food; they spent the night there. Elias De Araujo left his house early in the morning for hiding again as he was afraid of being attacked by AHI militiamen.
19. On 6 September 1999, Teresa Da Conceao Esposto, the wife of Elias De Araujo, and children left their house in the morning and went to the Protestant Church in Aileu. They took their cart with them with some belongings in it.
20. After a while Teresa decided to go back home to collect more belongings. When she was pushing the cart along the main road between Aileu and Aisirimou she met her husband Elias De Araujo.
21. Elias De Araujo took the cart from his wife and went to the house to collect their belongings and his wife returned to the Church.
22. The same day **Domingos Alberto Carlos** who was Babinsa of Asirimou village came to Malere village and asked the people who were there to go with him to Aisirimou.
23. **Domingos Alberto Carlos, Carlos Jose, Almeida Martins** and about 15 other militiamen met Elias De Araujo at the bridge of Aisirimou coming from the opposite side.
24. When **Domingos Alberto Carlos** reached near Elias, he called out at Elias very loudly to stop. Elias just stood there. **Domingos Alberto Carlos** then yelled at Elias De Araujo saying "Where are you going, you have won, why do you run away". Elias De Araujo said in reply "I want to take my baggage to the town because the situation is not normal".
25. **Domingos Alberto Carlos** then shot twice with his rifle at Elias De Araujo. Elias De Araujo died as a result of the injuries he sustained from the gunshots.
26. **Domingos Alberto Carlos, Carlos Jose, Almeida Martins** and other militiamen left the dead body of Elias De Araujo near the Aisirimou bridge.
27. Later, the same day afternoon, Teresa Da Conceao Esposto was informed that her husband Elias De Araujo was killed.
28. On the 7 September 1999 the family members buried the dead body of Elias De Araujo in a grave near the bridge.

29. On 12 October 1999 the body of Elias De Araujo was brought from the grave near the bridge and reburied at the cemetery in Aisirimou.

Killing of Evaristo Lere Barreto

30. On the 6 September 1999, as the situation was tense due to escalating violence in Aileu, Evaristo Lere Barreto told his family to flee to the bush near Barsati, a part of Aisirimou village, Aileu Sub-district, District of Aileu. Evaristo Lere Barreto's wife Teresina along with her children went to the bush. Evaristo Lere Barreto remained at home.
31. The same day, a group led by **Domingos Alberto Carlos** together with **Carlos Jose, Almeida Martins** and others went from Aileu to Waho located near Saboria, a part of Aisirimou Village,
32. When the group arrived at Saboria riverbed, they met Evaristo Lere Barreto coming from Asumou, another area of Asirimou Village.
33. **Domingos Alberto Carlos, Carlos Jose and Almeida Martins** asked Evaristo Lere Barreto where he was going. He replied that he was going to take care of his buffalos and would come back to Asirimou.
34. **Domingos Alberto Carlos** then ordered **Carlos Jose and Almeida Martins** to kill Evaristo Lere Barreto. **Carlos Jose and Almeida Martins** hit Evaristo Lere Barreto on the neck with machete. Evaristo Lere Barreto died as a result of the injuries.
35. The dead body of Evaristo Lere Barreto was left in the Saboria riverbed.
36. **Domingos Alberto Carlos** and other members of AHI militia continued their way to Aisirimou. On the way they met the wife of Evaristo Lere Barreto and other persons who were there in hiding in the bush in Barsati, a part of Aisirimou Village.
37. **Domingos Alberto Carlos** and other militiamen informed Evaristo Lere Barreto's wife that her husband was dead.
38. **Domingos Alberto Carlos** and other militiamen took Evaristo Lere Barreto's wife and the others to the Saboria riverbed to show them the dead body of her husband.
39. Upon reaching the Saboria riverbed **Domingos Alberto Carlos** told Evaristo Lere Barreto's wife that he killed her husband.
40. The dead body of Evaristo Lere Barreto was then brought and buried in Waho, a sub-village of Aisirimou village.
41. In October 1999, the family exhumed the dead body of Evaristo Lere Barreto and reburied it in Aisirimou.

V. CRIMINAL RESPONSIBILITY

INDIVIDUAL CRIMINAL RESPONSIBILITY

42. The accused **Domingos Alberto Carlos, Carlos Jose and Almeida Martins** are individually responsible for the crimes charged against them in this indictment pursuant to Section 14 of UNTAET Regulation 2000/15. Under the Section 14 individual responsibility results if an individual:

- "(a) commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;*
- (b) orders, solicits or induces the commission of such a crime, which in fact occurs or is attempted;*
- (c) for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;*
- (d) in any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
 - (i) be made with the aim of furthering the criminal activity or criminal Purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the panels; or*
 - (ii) be made in the knowledge of the intention of the group to commit the crime..."**

Pursuant to the above, the Deputy General Prosecutor for Serious Crimes

VI. CHARGES:

Domingos Alberto Carlos, Carlos Jose and Almeida Martins with

COUNT 1: CRIMES AGAINST HUMANITY: MURDER

By his act or omission in relation to event described in paragraphs 22 to 26, **Domingos Alberto Carlos** is responsible, for the murder of Elias De Araujo, committed on 6 September 1999, at Aisimirou Bridge, Assimirou Village, Aileu, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a CRIME AGAINST HUMANITY, murder, a crime stipulated in Section 5.1 (a) of UNTAET Regulation 2000/15 and for which he is individually responsible pursuant to Section 14 and which is punishable in reference to Section 10.1 of UNTAET Regulation 2000/15.

COUNT 2: CRIMES AGAINST HUMANITY: MURDER

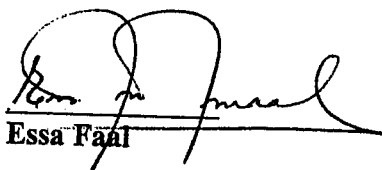
By their acts or omissions in relation to event described in paragraphs 32 to 35, **Domingos Alberto Carlos, Carlos Jose and Almeida Martins** are responsible for the murder of Evaristo Lere Barreto committed on 6 September 1999, at Saboria Riverbed, a part of Aisirimou Village, Aileu, as part of a widespread or systematic attack against a civilian population, with knowledge of this attack and thereby committed a **CRIME AGAINST HUMANITY**, murder, a crime stipulated in Section 5.1 (a) of UNTAET Regulation 2000/15 and for which they are individually responsible pursuant to Section 14 and which is punishable in reference to Section 10.1 of UNTAET Regulation 2000/15.

VII. WITNESS AND EVIDENCE

Pursuant to UNTAET Regulation 2000/30 Section 24.2 (as amended by UNTAET Regulation 2001/25), the list of witness and evidence that support this indictment is contained in Annex A, which forms an integral part of this indictment.

VIII. REQUEST FOR TRIAL

The General Prosecutor hereby requests the Special Panel for Serious Crimes of the District Court of Dili to try this case expeditiously.


Essa Faal

Acting Deputy General Prosecutor for Serious Crimes

Date: 30 June 2003