

DISTRICT COURT OF DILI

BEFORE THE SPECIAL PANEL FOR SERIOUS CRIMES

CASE NO: 11/2004

## INDICTMENT

THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES

-AGAINST-

CESÁRIO TILMAN (1)

LIEUTENANT JULIUS ADU (2)

### I. INDICTMENT

The Deputy General Prosecutor for Serious Crimes of the Democratic Republic of East Timor, pursuant to his authority under UNTAET Regulations 2000/16 and 2000/30 as amended by UNTAET Regulation 2001/25 charges:

CESÁRIO TILMAN (1)

LIEUTENANT JULIUS ADU (2)

WITH

**CRIMES AGAINST HUMANITY OF:**

**MURDER, IMPRISONMENT OR SEVERE DEPRIVATION OF LIBERTY,  
FORCIBLE DEPORTATION AND PERSECUTION**

as set forth in this indictment.

## II. NAME AND PARTICULARS OF THE ACCUSED

1. Name: **Cesário TILMAN (1)**  
Sex: Male  
Nationality: Indonesian  
Address: Indonesia  
Occupation: In 1999, was TNI Soldier, Village Chief of Leolima Village, Company "A" Commander of Mahidi Militia based in Hataudo Sub-District.
  
2. Name: **Lieutenant Julius ADU (2)**  
Sex: Male  
Nationality: Indonesian  
Address: Indonesia  
Occupation: In 1999, was sub-district military commander or "DANRAMIL" in Hataudo Sub-District, Ainaro District

## III. INTRODUCTORY STATEMENT OF FACTS

1. Military, police and militia forces carried out a widespread and systematic attack on the civilian population of East Timor in 1999. The attack began following the announcement on 27 January 1999 by the Government of Indonesia that the people of East Timor would be allowed to choose between autonomy with the Republic of Indonesia or independence. It intensified after the announcement on 4 September 1999 of the result of the popular consultation in which 78.5 per cent voted against the autonomy proposal.
  
2. The widespread and systematic attack was part of an orchestrated campaign of violence, carried out by members of the pro-autonomy militia, members of the Indonesian Armed Forces, ABRI (*Angkatan Bersenjata Republik Indonesia*) renamed TNI (*Tentara Nasional Indonesia*) in 1999, and members of the Indonesian Police Forces (*POLRI*) with the acquiescence and active participation of civilian and military authorities. The attack was directed against civilians of all ages, but predominantly against individuals who were believed to be independence supporters. The attack resulted in massive and widespread destruction of property, the internal displacement or forceable transfer outside of East Timor of thousands of persons and the infliction of serious injury or death on thousands of victims.

#### IV. BACKGROUND FACTS: HATAUDO SUB-DISTRICT

3. Ainaro is one of the thirteen districts of East Timor. Hataudo is one of the sub-districts in Ainaro District.
4. **Lieutenant Julius ADU (2)** was the "Danramil" (Sub-District Military Commander) based in Hataudo and had effective authority, command and control over TNI soldiers stationed in Hataudo Sub-District, including **Cesário TILMAN (1)**.
5. In 1999, the Mahidi militia (*Mati Hidup Demi Integrasi*) ("Die or Live for Integration") operated in Hataudo Sub-District.
6. **Cesário TILMAN (1)**, in addition to being a TNI member, was appointed the Commander of Company "A" of the Mahidi militia. Company A operated in Leolima Village in Hataudo Sub-District where **Cesário TILMAN (1)** was also the village chief.

#### V. STATEMENT OF FACTS

##### ARRESTS & DETENTION IN LEOLIMA VILLAGE

7. Mahidi militia members under the command and control of **Cesário TILMAN (1)** participated in the detention of villagers from Leolima Village suspected of supporting independence. Among those forcibly detained were Fernandes Xiemenes aka "Adao", Natalino Gomes and Ostarlin De Araujo aka Alin.
8. Sometime in April 1999, Fernandes Xiemenes, also known as "Adao", and Natalino Gomes were taken to the Mahidi militia post in Leolima Village. **Cesário TILMAN (1)** interrogated both of the two detained men. A TNI soldier beat the two detainees.
9. A few days after their arrest, Fernandes Xiemenes and Natalino Gomes were taken to the POLRI station, where they were further interrogated by police about their pro-independence activities. Fernandes Xiemenes and Natalino Gomes were forced to sign a document admitting guilt for participating in pro-independence rallies and promising that they would join the Mahidi militia. The document was also signed by **Cesário TILMAN (1)**. After the interrogation the same POLRI officers returned the victims back to their place of detention at the Leolima Mahidi militia camp. Fernandes Xiemenes and Natalino Gomes were detained for about one week.

10. Ostarlin De Araujo aka "Alin" was arrested sometime in April 1999 by members of the Mahidi militia under the command and control of **Cesário TILMAN (1)**. Ostarlin De Araujo aka Alin was taken to the Leolima Mahidi militia camp where he was interrogated about his pro-independence activities, and was beaten by **Cesário TILMAN (1)** and militia acting under his command. Ostarlin De Araujo aka Alin was detained for about one week.

---

## **MURDERS**

---

11. Between March and October 1999, **Cesário TILMAN (1)** went from sub-village to sub-village on pro-autonomy campaigns with members of the Mahidi militia. During these campaigns, **Cesário TILMAN (1)** threatened the villagers that those who did not support pro-autonomy would be killed.

### **MURDER OF CONSTANTINO DE ARAUJO**

12. Constantino De Araujo in 1999 was living in Leolima Village and was a known pro-independence supporter.
13. On or about 12 September 1999, Constantino De Araujo went to the Youth Action Centre in Grotu, a sub-Village of Leolima Village in Hataudo. At about 6pm, Constantino De Araujo went to the living quarters of the Danramil **Lieutenant Julius ADU (2)** to watch television.
14. While, Constantino De Araujo was watching television, Mariano Da Costa, a militia member and two TNI soldiers forcibly took Constantino De Araujo outside.
15. **Lieutenant Julius ADU (2)** was present. He called Constantino De Araujo a "Maubere!" (commonly used to refer to Falintil supporters). **Lieutenant Julius ADU (2)** ordered the TNI and militia to kill Araujo.
16. In the presence of **Lieutenant Julius ADU (2)**, Mariano Da Costa then beat Constantino De Araujo, and killed him by stabbing Araujo with a sword.

### **MURDER OF OCTAVIO DE ARAUJO, VIRGILDO QUINTAO & MOISES MARTINS**

17. Octávio De Araújo, Virgildo Quintão and Moisés Martins were pro-independence supporters.
18. At noon on or about 19 September 1999, Octávio De Araújo, Virgildo Quintão and Moisés Martins and other villagers returned from a CNRT security meeting to Bismata Sub-Village.

19. At the same time, a TNI and Militia convoy led by **Cesário TILMAN (1)** arrived. The TNI and militia began shooting at Octávio De Araújo, Virgildo Quintão and Moisés Martins. Luis Alves aka Luis Break, a militia member under the command of **Cesário TILMAN (1)**, hacked Octavio De Araujo with a machete, severing his head.
20. Octávio De Araújo, Virgildo Quintão and Moisés Martins died as a result of the injuries sustained during the attack.

### **MURDER OF JOANINHO GOMES**

21. Joaquinho Gomes was a known pro-independence supporter who had been living in Airmeleu sub-village.
22. On or about 19 September 1999, Joaquinho Gomes returned to Aimerleu sub-village together with Benjalino Barros aka Beni and Miguel Barros to collect whatever belongings and livestock they could find. At about 4pm, TNI soldiers, **Cesário TILMAN (1)** and members of the Mahidi militia spotted the three men and started to shoot at them.
23. **Cesário TILMAN (1)** killed Joaquinho Gomes by shooting him in the stomach and in the back of the head.

---

### **FORCIBLE DEPORTATION & DESTRUCTION OF PROPERTY**

---

24. After the 4 September 1999 announcement of the results of the Popular Consultation, **Cesário TILMAN (1)** ordered the villagers of Leolima Village, Hataudo Sub-District to go to West Timor.
25. On or about 16 September 1999, **Cesário TILMAN (1)**, and Mahidi militia under his command went to Airmeleu Sub-Village and Lesse Sub-village, Leolima Village.
26. At Airmeleu Sub-Village, **Cesário TILMAN (1)** ordered the villagers to prepare themselves to go to West Timor and said that vehicles would be arriving to take the villagers to West Timor. **Cesário TILMAN (1)** threatened the villagers that those who did not follow these orders would be killed. The Mahidi militia then burned houses in Airmeleu sub-village.
27. On or about 19 September 1999, **Cesário TILMAN (1)** and members of the Mahidi militia under his command and control participated in the burning of dwelling houses in Bismata sub-village.
28. From about 9pm onwards on 16 September 1999, Mahidi militia burned the houses in the sub-village of Lesse, in Leolima Village, Hataudo Sub-District.

29. The villagers of Hataudo Sub-District who were not able to escape into the jungle were all taken to West Timor against their will by members of the TNI and Mahidi militia under the command and control of **Cesário TILMAN (1)**.

#### IV. GENERAL ALLEGATIONS

30. For each count charging crimes against humanity, the acts or omissions of the accused were undertaken as part of a widespread and systematic attack directed against the civilian population of East Timor, with knowledge of the attack.

#### V. CRIMINAL RESPONSIBILITY

##### INDIVIDUAL CRIMINAL RESPONSIBILITY

31. For each accused charged with individual responsibility under this indictment, the accused is responsible under Section 14 UNTAET Regulation 2000/15, if he:

- "(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*
  - (ii) purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the panels; or*
  - (iii) be made in the knowledge of the intention of the group to commit the crime; ...."*

---

## SUPERIOR CRIMINAL RESPONSIBILITY

---

32. **Lieutenant Julius ADU (2)** and **Cesário TILMAN (1)** are criminally responsible as superiors for the acts of their subordinates. Section 16 of UNTAET Regulation 2000/15 provides that a superior is criminally responsible for the acts of his subordinates if the superior "*knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof*".

<b>VI. CHARGES</b>
--------------------

**PURSUANT TO THE ABOVE, THE DEPUTY GENERAL PROSECUTOR FOR SERIOUS CRIMES CHARGES:**

**Count 1      Crime Against Humanity: Murder** [of Constantino De Araujo]

By his acts or omissions in relation to the events described in paragraphs 12 to 16, and with knowledge that the crime was committed in the context of a widespread and systematic attack on a civilian population, **Lieutenant Julius ADU (2)**, is responsible as an individual under Section 14.3(a) and (d) and as a Superior under Section 16 of UNTAET Regulation 2000/15 for the murder of Constantino De Araujo on 12 September 1999 in Hataudo Sub-District, Ainaro District, and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

**Count 2      Crime Against Humanity: Murder** [of Octavio De Araújo]

By their acts or omissions in relation to the events described in paragraphs 17 to 20 and each having knowledge that the crime was committed in the context of a widespread and systematic attack on a civilian population, **Cesário TILMAN (1)**, is responsible as an individual under Section 14.3(a) and (d) and as a superior under Section 16 of Regulation 2000/15 and **Lieutenant Julius ADU (2)** is responsible as a superior under Section 16 of Regulation 2000/15 for the murder Octávio De Araújo on 19 September 1999 in Hataudo Sub-District, Ainaro District, and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

**Count 3      Crime Against Humanity: Murder** [of Virgildo Quintão]

By their acts or omissions in relation to the events described in paragraphs 17 to 20 and each having knowledge that the crime was committed in the context of a widespread and systematic attack on a civilian population, **Cesário TILMAN**

(1), is responsible as an individual under Section 14.3(a) and (d) and as a superior under Section 16 of Regulation 2000/15 and **Lieutenant Julius ADU (2)** is responsible as a superior under Section 16 of Regulation 2000/15 for the murder of Virgildo Quintão on 19 September 1999 in Hataudo Sub-District, Ainaro District, and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

**Count 4 Crime Against Humanity: Murder [of Moisés Martins]**

By his acts or omissions in relation to the events described in paragraphs 17 to 20, and each having knowledge that the crime was committed in the context of a widespread and systematic attack on a civilian population, **Cesário TILMAN (1)**, is responsible as an individual under Section 14.3(a) and (d) and as a superior under Section 16 of Regulation 2000/15 and **Lieutenant Julius ADU (2)** is responsible as a superior under Section 16 of Regulation 2000/15 for the murder of Moisés Martins on 19 September 1999 in Hataudo Sub-District, Ainaro District, and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

**Count 5 Crime Against Humanity: Murder [of Joaquinho Gomes]**

By his acts or omissions in relation to the events described in paragraphs 21 to 23, and each having knowledge that the crime was committed in the context of a widespread and systematic attack on a civilian population, **Cesário TILMAN (1)**, is responsible as an individual under Section 14.3(a) and (d) and as a superior under Section 16 of Regulation 2000/15 and **Lieutenant Julius ADU (2)** is responsible as a superior under Section 16 of Regulation 2000/15 for the murder of Joaquinho Gomes on 19 September 1999 in Aimerleu village, Hataudo Sub-District, Ainaro District, and thereby committed a CRIME AGAINST HUMANITY, MURDER a crime stipulated under Section 5.1(a) of UNTAET Regulation 2000/15.

**Count 6 Crime Against Humanity: Deportation**

By his acts or omissions in relation to the events described in paragraphs 24 to 26 and 29, and with knowledge that the crime was committed in the context of a widespread and systematic attack on a civilian population, **Cesário TILMAN (1)** is responsible as an individual under Section 14.3(a), (b) and (d) and as a superior for the deportation of civilians from Ainaro District between 5 September 1999 and 30 October 1999 to West Timor, Republic of Indonesia and thereby committed a CRIME AGAINST HUMANITY, DEPORTATION a crime stipulated under Section 5.1(d) of UNTAET Regulation 2000/15.

**Count 7 Crime Against Humanity: Persecution**

By his acts or omissions in relation to the events described in paragraphs 7 to 29 with knowledge that the crime was committed in the context of a widespread and systematic attack on a civilian population, **Lieutenant Julius ADU (2)** and

**Cesário TILMAN (1)** are responsible as individuals under Section 14.3(a), (b) and (d) and as superiors under Section 16 of Regulation 2000/15 for the persecution of civilians in Hataudo Sub-District, Ainaro District between February 1999 and 30 October 1999 as part of a widespread and systematic attack against a civilian population with knowledge of the attack and thereby committed a CRIME AGAINST HUMANITY, PERSECUTION a crime stipulated under Section 5.1(h) of UNTAET Regulation 2000/15. These persecutions of the civilian population of Hataudo Sub-District included:

- a) Illegal detentions and beatings as described in Paragraphs 7 to 10;
- b) Deportations or forcible transfers, as described in paragraphs 24 to 26 and 29;
- c) Destruction of Property, as described in paragraphs 26 to 28; and
- d) Murders, as described in Paragraphs 11 to 23.


## VII. LIST OF VICTIMS

The list of victims, which forms part of this indictment, is attached as Annex "A".

## IX. REQUEST FOR TRIAL

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

Dated this 15<sup>th</sup> day of DECEMBER 2004

  
.....  
**Nicholas Koumjian**  
Deputy General Prosecutor For Serious Crimes