

Because the Sanctuary case is an "open file case," all materials are supposedly shared by defense and prosecution. In addition, two other legal mechanisms known as Brady and Jencks require that the government turn over any material that would exculpate the defendants or any records of interviews that the government has had with witnesses in the case.

Michael Altman, attorney for Sister Darlene Nicgorski, pointed out that the government's failure to provide the tapes and documents in question is only the most recent in a long series of government improprieties which include Jesus Cruz' perjury, INS investigator Rayburn's failure advise the Court that Cruz was lying, and several other failures by the government to disclose similar information.

Altman asked the Judge when he would begin to consider the cumulative effect of such incidents, and went on to say that he would ask for a dismissal on those grounds. In response to the defense team's arguments, Carroll ordered prosecutor Reno to look into the matter before 8:00 am Wednesday. Reno told the Court that after searching his files on one occasion, he discovered that although records indicate that tapes and transcripts of interviews with Torres exist, they had been removed from the file.

During other testimony Torres told the jury that he came to the United States to find work, but later added that he left El Salvador because of the "political situation there" and because the factories that he could work in had been burned. Defense attorneys stipulated that Torres' brother had been killed by death squads in El Salvador. Torres testified that the Sanctuary workers did not actually help or encourage him to cross into the United States, but did say that Mrs. Aguilar had allowed him to stay at her house in Nogales, Sonora, MEXICO.

Candida Villatoro said that she too had received help from Mrs. Aguilar before crossing through a hole in the fence in June, 1984. However, Candida and another Salvadoran, Julio Cesar Benitez were captured by the INS Border Patrol just before they reached the Sacred Heart Church on the American side. The two were then taken to an INS office where they were interrogated. At that time, the INS agents gave them several documents which advised them of their rights, listed several immigration attorneys, summoned them to appear before an immigration judge at a later date, and gave them permission to travel pending their hearing. The two were then released on their own recognizance.

However, defense attorneys called the apprehension a "pre-arranged, planned, sham arrest" and charged that the INS had staged the incident in an attempt to demonstrate that it does indeed observe the rights of refugees. To back their claim, the attorneys pointed out that government informant Jesus Cruz was with the two both before and after they crossed and knew exactly when they would go and what route they would take. The Sanctuary lawyers also noted that there have been no asylum applications accepted at the border town of Nogales in the past five years, and that Salvadorans who are apprehended are almost never