

Lawsuits against Tahoe Resources in B.C. court, for shootings and repression by Tahoe security guards in Guatemala

- Below, various articles.

Tahoe is a Canadian/U.S. gold and silver mining company established by former Goldcorp CEO Kevin McArthur who departed from Goldcorp in 2008, as Tahoe was being incorporated, and took with him one of Goldcorp's ill-gotten concessions, that has since become the #1 operation of Tahoe Resources. Lots of profits for investors, lots of repression locally by Tahoe's private security and by Guatemalan soldiers and police. This is how mining works in Guatemala.

Guatemalan protestors to appeal B.C. court decision: Seven who allege security at Canadian-owned mine shot them with rubber bullets want case heard in Canada

By James Munson, October 31st, 2016

<https://ipolitics.ca/2016/10/31/guatemalan-protestors-to-appeal-b-c-court-decision-to-toss-out-their-case/>

Lawyers for seven Guatemalan men who allege a Canadian mining company attacked their protests will appeal a B.C. Supreme Court's decision to throw out their claims in Vancouver tomorrow.

Lawyers from Camp Fiorante Matthews Mogerma will argue the court erred in November when it decided that Guatemala was the proper forum to hear allegations that security guards at the Escobal mine, owned by Vancouver-based Tahoe Resources Inc., shot the seven men on April 27, 2013.

Transcripts from audio recordings of security personnel submitted during the trial allegedly include the head of security bragging about shooting the protestors with rubber bullets. Alberto Rotondo, the mine's then head of security, has since fled Guatemala.

The appellants' legal team will argue endemic corruption and flawed legal procedures run the risk of denying the seven men a fair trial.

"The issue that is being analyzed is whether there is a real risk of an unfair trial in Guatemala if this case were to proceed in Guatemala," said Matt Eisenbrandt, legal director the Canadian Centre for International Justice, a human rights NGO supporting the seven men.

The appellants are also arguing that technical procedures in the Guatemalan legal system make British Columbia the better jurisdiction for hearing a human rights case of this kind, he said.

In November, the B.C. Supreme Court decided that Guatemala was the more appropriate forum even if B.C. courts have jurisdiction over the case, said Eisenbrandt. The court found that Guatemala has a functioning judicial system and that Canadian courts need to respect foreign courts and be cautious about criticizing them, he said.

“The evidence that we’ve put in and continue to rely on includes detailed reporting about the concerns about corruption and lack of impartiality in the Guatemalan judicial system,” he said.

Adolfo Garcia, one of the appellants, and Rafael Maldonado, Garcia’s lawyer in Guatemala, are travelling to Vancouver to take part in the appeal hearing but will not testify during the proceedings, said Eisenbrandt.

Rotondo, the mine’s head of security who allegedly ordered the shooting of rubber bullets, left Guatemala in the months after the B.C. Supreme Court decision. He was awaiting trial in Guatemala over charges stemming from the attack. INTERPOL agents in Peru intercepted him in January, according to the Guatemalan press.

The appeal hearing is expected to last one day and a decision could take several months, said Eisenbrandt. Tahoe did not respond to a request for comment sent via email before press time.

The trial is one of three in Canada involving mining companies and alleged human rights abuses overseas. A civil suit launched by dozens of Eritrean nationals against Vancouver-based Nevsun Resources over alleged human rights abuses at the company’s Bisha mine was allowed to continue after a ruling in Vancouver earlier this month. Another civil suit over alleged deaths and gang rapes at the hands of security personnel working for the Fenix mining project in Guatemala, once owned by Toronto-based Hudbay Minerals, is still winding its way through Ontario courts.

Eisenbrandt said he would not discuss how Garcia and Maldonado were financing their trip to Canada

Seven men allegedly shot during protest at a Canadian-owned mine in Guatemala appeal stay ruling

By KEITH FRASER, November 1, 2016

<http://vancouversun.com/news/local-news/seven-men-allegedly-shot-during-protest-at-a-canadian-owned-mine-in-guatemala-appeal-stay-ruling>

Lawyers for seven men allegedly shot during a protest against a Canadian-owned mine in Guatemala were in court Tuesday attempting to overturn a decision staying their lawsuit in B.C.

In November 2015, B.C. Supreme Court Justice Laura Gerow agreed with lawyers for Tahoe Resources Ltd. — a Vancouver-registered mining company — that the case would be better heard in the Central American country.

The plaintiffs, all Guatemalan citizens, had sued the company for damages, claiming they were shot by mine security personnel on April 27, 2013 on a road outside the high-grade silver, gold, lead and zinc mine in southeast Guatemala.

They argued that the case should be heard in a Canadian court because they lacked faith in the Guatemalan legal system to hold the company accountable.

But the judge found that Guatemala was clearly the more appropriate forum for the determination of the issues in dispute and stayed the legal action.

The plaintiffs launched an appeal of Gerow's decision and on Tuesday their lawyers appeared before a three-judge panel of the B.C. Court of Appeal in Vancouver.

Joe Fiorante, a lawyer for the plaintiffs, said that the shooting was deliberate and calculated to suppress local opposition to the mine.

"The plaintiffs seek justice in the courts in British Columbia against Tahoe, the owners of the mine, because they face barriers to justice in Guatemala," Fiorante told the panel.

"The Guatemalan judicial system is weak and lacks judicial independence, resulting in a problem of deep-seated impunity for powerful actors."

The plaintiff's lawyer told the panel that Gerow had incorrectly put the plaintiffs to the test of showing that justice could never be done in Guatemala.

"The correct test is whether the evidence discloses a real risk of an unfair trial process in the foreign court."

Fiorante quoted from wiretap intercepts of Alberto Rotondo, the mine's security manager. The wiretaps were captured by Guatemalan authorities, who subsequently arrested Rotondo.

Rotondo, a retired captain in the Peruvian navy alleged to have special training in psychological operations and counter-terrorism, is heard boasting about the shooting incident.

Fiorante argued that the circumstances in the case had changed "dramatically" since the hearing before Gerow, with Rotondo escaping house arrest in Guatemala and returning to his home in Peru.

He said the criminal prosecution against Rotondo, which might have resulted in civil damages being awarded in addition to any criminal penalty, had been suspended and he sought to have the evidence about Rotondo's new circumstances included in the panel's consideration.

But Peter Reardon, a lawyer for Tahoe, opposed the introduction of the fresh evidence about Rotondo, noting that an arrest warrant had been issued for the security manager and that Guatemala had launched extradition proceedings against him.

Reardon told the panel that criminal proceedings against Rotondo are ongoing and there is no evidence he can't be tried in absentia.

The company's lawyer said that Gerow had set out the proper legal framework and had considered all of the relevant factors she needed to consider in reaching her decision.

The actions complained of by the plaintiffs took place in Guatemala and the judge found that virtually all of the evidence was in Guatemala, or in Reno, Nevada, where the company's operations are based, said Reardon.

For information:

- about the community struggle and related updates: tahoeontrial.net
- from the Canadian legal team: <http://www.ccij.ca/cases/tahoe/>

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