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Let's Prosecute Drug Smugglers, Not Border Guards

by Phyllis Schlafly February 21, 2007

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With mounting bipartisan criticism from Republican Congressmen and Democratic Senator Dianne Feinstein, the Department of Justice has stepped up an unprecedented public relations campaign to defend its prosecution of Border Guards Ignacio Ramos and Jose Compean, now serving 11- and 12-year prison terms. But new facts keep emerging to prove that this prosecution was a gross injustice.

CNN judicial expert Jeffrey Toobin described it as "one of the most unusual prosecutions I've ever seen ... I am baffled why this case was brought." So am I.

The government prosecuted Ramos and Compean criminally for acts that called only for an administrative reprimand, based the case on the testimony of an admitted drug smuggler brought back from Mexico and induced to testify by a grant of immunity, withheld crucial evidence from the jury, used the wrong law (that carries a mandatory additional 10-year sentence), and now won't release the transcript of the trial without which the border guards cannot appeal.

The smuggler's reward for his testimony was immunity, U.S. medical treatment, and a government-issued border pass.

Meanwhile, the Department of Homeland Security (DHS) now admits that its official lied to Congressmen in claiming that Ramos and Compean had confessed, lied, destroyed evidence, and said they did not believe the smuggler was a threat. No evidence ever existed for those damaging accusations.

The government denied their freedom pending appeal and put Ramos in a prison where five criminal illegal aliens took their opportunity to severely beat him up and kick him with their steel-tipped shoes. No prison guards defended him from this attack.

Prosecutor Johnny Sutton claims that Ramos shot an unarmed drug smuggler in his rear end as he was running away. But the ballistics report did not prove that the bullet came from Ramos' gun, and the medical report showed that the bullet entered the smuggler's buttock on his side at an angle consistent with Ramos's contention that the smuggler was turning around with what looked like a weapon in his hand.

Ramos and Compean didn't believe they wounded the smuggler because he kept running and escaped across the border into a waiting vehicle. The doctor's description of the trajectory of the bullet he removed from the smuggler's body casts doubt on the whole assumption that his wound came from shots fired by the border guards.

Sutton claims that Ramos and Compean were prosecuted because they "lied" and covered up their actions. The alleged lie was that they gave an incomplete report of their confrontation with the smuggler on Feb. 17, 2005.

But a recently released DHS memo dated May 15, 2005 shows that the two border guards did give a prompt, complete oral report to their supervisors, who actually were present at the Feb. 17, 2005 event. The supervisors decided not to make a written report.

Failing to make a written report isn't a crime anyway. It is merely a violation of a DHS memo stating that the penalty is merely internal disciplinary action, which is not criminal prosecution.

The big question is, why didn't the government prosecute the drug smuggler and give immunity to the border guards (who had good service records), instead of vice versa? The smuggler admitted his illegal-drug project to a Border Patrol agent before Sutton gave him immunity, and the prosecutor did not bother to investigate this drug smuggling by checking the cell phone left in the smuggler's van, or by ordering a fingerprint search of the van until a month after it entered the U.S., and even then didn't have it done by the FBI.

A few days before the Ramos-Compean trial began on Oct. 17, 2005, the same drug smuggler was caught bringing in a second van loaded with nearly 1,000 pounds of illegal drugs, but he was not arrested so as not to interfere with his role as star witness against the border guards. To preserve the smuggler's credibility, Judge Kathleen Cardone sealed the record about the second van so it could not be mentioned at the trial, and she put the families of the defendants under a gag order not to discuss it.

The judge also kept from the jury the smuggler's confession that he and his friends had considered a "hunting party" to go shoot some U.S. Border Patrol agents.

The failure to release a transcript of the trial one year after the trial took place is an outrage that prevents Ramos and Compean from starting their appeal. Nor has any hearing been scheduled on the assertion by three jurors that they were coerced by the jury foreman to vote for a guilty verdict.

The longer President Bush waits to remedy this injustice perpetrated by his two appointees, prosecutor Sutton and Judge Cardone, the more he convinces the public that the answer to our bafflement about this prosecution is that the Bush Administration policy is to intimidate the Border Patrol from stopping the entry of illegal aliens and illegal drugs.