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## Five Cubans Found Guilty

by LADB Staff

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A federal court in Miami found five Cubans guilty of espionage and other charges June 8. Defense attorneys tried to show the five acted to defend Cuba against Cuban-exile terrorist attacks, but the prosecution stuck to the confessions by the defendants that they were unregistered agents of a foreign power. A murder conviction against the group's leader has encouraged exile leaders to press for a murder indictment against Cuban President Fidel Castro. The FBI arrested 10 Cubans on spy charges in September 1998.

The FBI report on the case said the ten were spying on exile organizations in Miami, MacDill Air Force Base in Tampa, the Naval Air Station at Boca Chica outside Key West, and the Southern Command headquarters in Miami (see EcoCentral, 1998-09-24). The response from Cuba was to admit it sent spies to the US to infiltrate "counterrevolutionary" organizations such as Hermanos al Rescate and the Cuban American National Foundation (CANF), but not to gather US military secrets. Five of the ten accepted a plea bargain agreeing to testify against the other five in exchange for lighter sentences (see EcoCentral, 1998-11-05).

In February 2000, US District Court Judge Joan Lenard sentenced them for conspiracy and failure to register as foreign agents. Joseph Santos received a four-year sentence and his wife Amarilis Silverio Santos 42 months. Linda and Nilo Hernandez were sentenced to 13 years. Alejandro Alonso received seven years. Gerardo Hernandez, the leader of the group, was arrested under the name Manuel Viramontez and charged with espionage. Federal prosecutors later identified him as a Cuban military officer sent to the US in 1992. After his arrest on spying charges, prosecutors added the charge of plotting with the Cuban military to kill Hermanos al Rescate pilots in the February 1996 shutdown by Cuban jet fighters (see NotiSur, 1996-03-01).

Hernandez faces life imprisonment. Ramon Labanino and Antonio Guerrero were convicted of spying on military facilities. They also could be sentenced to life. Fernando Gonzalez and Rene Gonzalez were convicted of conspiracy and failing to register as foreign agents. They face 10-year terms. Sentencing is scheduled for September and October. Four others allegedly involved in the spy organization called Red Avispa (Wasp Network) are in Cuba and were not tried.

The prosecution's case rested largely on the defendants' admissions that they had spied for the Cuban government. However, prosecutors also presented email and other evidence showing details of how the spy ring operated. Rather than contesting the espionage charges, the defense put US Cuban policy and the tactics of Hermanos al Rescate on trial. Hernandez's attorney Paul McKenna accused Hermanos leader Jorge Basulto of causing the fliers' deaths in 1996 by his aggressive flyovers, repeated violations of Cuban airspace to drop propaganda leaflets on Havana, and ignoring warnings from the Cuban government and the US Federal Aviation Administration (FAA) to cease the provocative flights.

Basulto maintained that Hermanos al Rescate was dedicated exclusively to humanitarian work such as helping rescue Cuban refugees at sea, but McKenna said, "Mr. Basulto is a known terrorist and a wanted man." He also got Basulto to acknowledge that in 1,800 consecutive flights since 1995, Hermanos pilots located only one rafter at sea. McKenna tried to undermine the claim of humanitarian work by asking Hermanos member Arnaldo Iglesias why the Hermanos had stuffed PVC pipes with 12-gauge shotgun shells and test fired them. McKenna called them "anti-personnel devices" and contended that they were intended to be air-dropped to Cuban dissidents. "Isn't it a fact you were testing something that could be used to hurt people?," McKenna asked. Iglesias said, "No."

An Hermanos spokesperson told The Miami Herald that the devices were to be dropped to refugees at sea who could use them to kill fish and protect themselves from sharks. Violation of airspace a contentious issue Iglesias, who was in Basulto's plane during the shutdown, admitted that Hermanos pilots probably entered Cuban airspace in previous flights but said they had remained over international waters during the 1996 incident. However, the Federal Aviation Administration and the UN International Civil Aviation Organization (ICAO) confirmed Cuban claims that Basulto's plane had flown about 3 km into Cuban airspace. McKenna read into the record from an ICAO report showing that Cuba had sent diplomatic notes to the US about repeated violations of its airspace by the Hermanos and warning that Cuba would respond to such incursions in the future.

A government witness, Charles Leonard, said that, in the 1996 shutdown, Cuba had violated international rules by not warning the Hermanos pilots before attacking their planes. But under cross examination, Leonard admitted that Cuban authorities had warned the US government about the overflights and that US officials had passed the warning on to Basulto. "Isn't it true, sir," McKenna asked Leonard, "that Brothers to the Rescue planes ignored warnings and entered an area that was activated as a danger area?" "They entered that area, yes sir," said Leonard and admitted that Cuban air-traffic control had also warned the Hermanos pilots just before the shutdown. In reply to the warning, Basulto told the air-traffic controllers that he had a right to be in Cuban airspace.

Former White House advisor on Cuba Richard Nuccio testified that the FBI had intelligence information that Havana warned the Cuban agents in Florida who had infiltrated Hermanos not to fly over Cuba in late February because of possible reprisals. Nuccio said the information was not passed on to the White House. An FBI court filing said the encrypted messages were not decoded and interpreted until long after the shutdown. Nuccio also said that one day before the planes were shot down, he sent an email to then national security adviser Sandy Berger advising him that Cuban air force planes might attack the Hermanos. Nuccio said he received no response. Defense witness former FAA officer Charles H. Smith testified that he had warned Basulto as early as 1995 that the incursions over Cuba were dangerous.

FAA documents showed the State Department was frustrated that the FAA was not acting more aggressively to ground Basulto. Nevertheless, FAA officials said they needed more evidence against Basulto before they could lift his pilot's license. His license was not revoked until May 1996, three months after the shutdown.

To show the spies acted in defense of Cuba, lawyers introduced some of the history of US attempts to overthrow the Castro regime and to assassinate Castro and cited examples of the violent acts committed by some Cuban exiles. A defense witness, former FBI agent Stuart Hoyt, said that the US knew of violent acts against Cuba by exile organizations and that the two governments had exchanged information on such groups from time to time and as recently as two years ago.

Among the Cuban exiles targeted for surveillance by Cuban spies was Guillermo Novo, a member of Omega 7. He was convicted for the 1976 murder of Chilean diplomat Orlando Letelier but acquitted in a retrial of the case. Novo was arrested last November in Panama in an alleged plot to kill Castro (see NotiCen, 2000-11-30). Another was Luis Posada Carriles, also imprisoned in Panama. He is allegedly the leader of the assassination plot. Posada is a former CIA operative with a long history of terrorist attacks including bombings of Havana tourist sites in 1997 (see EcoCentral, 1997-10-02). A third is Orlando Bosch, who along with Posada has been charged with the 1976 bombing of a Cuban airliner that killed 73 passengers.

After the trial, McKenna asked Judge Lenard to overturn the Hernandez verdict on grounds that the jury did not follow her instructions in their deliberations. The instructions required the jury to acquit if it did not find Hernandez closely tied to the downing of the two planes, whereas, according to McKenna, the shutdown was a response by Cuba to earlier airspace violations. Exile leaders call for Castro's indictment When the conspiracy indictment against Hernandez was unsealed last May, Hermanos lawyer Ralph Fernandez said Castro should also be tried in the US for the 1996 killings.

CANF president Francisco Hernandez said the sentences marked the first step in the process of bringing Castro up on criminal charges and called on Florida Gov. Jeb Bush, President George W. Bush, and the Justice Department "to take the necessary steps." US Attorney Guy Lewis said the trial showed that "there was a conspiracy to commit murder that had been approved of and ordered by the highest levels of the Cuban government," and that an indictment against Castro on murder charges was possible.

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