

Bush commutes sentences of two US Border Patrol agents

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George W. Bush commuted the sentences of two former US Border Patrol agents on January 19, his last full day as president. However, Bush left office without granting clemency to any higher-profile figures or government officials facing liability over administration policies.

Jose Alonso Compean and Ignacio Ramos were convicted in the 2005 shooting of an unarmed Mexican immigrant attempting to flee across the US-Mexican border. The campaign for their freedom had become a cause célèbre for right-wing commentators and anti-immigrant groups and had won the support of Congressional Republicans as well as Democrats.

The two agents were convicted of assault and violating the civil rights of Osvaldo Aldrete-Davila, who had attempted to smuggle a van filled with about 700 pounds of marijuana into Texas near El Paso on February 17, 2005. Aldrete-Davila was shot 15 times as he attempted to flee back into Mexico after abandoning the truck, sustaining wounds to his buttocks.

Evidence introduced at trial indicated that when the agents attempted to shoot Aldrete-Davila in the back, they did not know that he had been attempting to smuggle drugs, nor did they know he had entered the country illegally.

According to court records following the shooting, Compean and Ramos disposed of their shell casings and made no further attempt to apprehend the suspect. They then lied to their supervisors about the incident and filed a false investigative report. Compean was sentenced to 12 years in prison; Ramos received an 11-year sentence.

With Bush's commutation, the agents' sentences will now expire on March 20, 2009. The pair still faces three years of supervised release and a \$2,000 fine each. They have not received a full pardon, a fact that has angered their defense attorneys and supporters.

Speaking Monday on condition of anonymity, a senior White House official commented that the president "thinks they were fairly tried and received a just verdict," but that the punishment was "excessive, especially given the harsh conditions in which they have to serve their sentences."

Both have been held in solitary confinement for their own protection for the two-and-a-half years of their imprisonment,

having faced the wrath of prisoners who look unfavorably upon border guards and other police agents. Ramos' relatives reported that once in 2007 he had "let his guard down" and had been stomped and kicked for several minutes by fellow inmates.

According to a Justice Department source, the department's Office of the Pardon Attorney was still reviewing the agents' applications for shorter sentences when the White House announced the commutations. The president was obviously looking to curry favor with the right-wing forces that had lined up to support Compean and Ramos, and leave a good impression with them in one of his final actions.

Many of those campaigning for the border guards' release were anti-immigration advocates, angry with Bush over his proposed—and failed—proposal for a temporary guest worker program.

One of the two agents' most fervent supporters has been right-wing commentator and author Jerome Corsi, co-author of the book *Minutemen: The Battle to Secure America's Borders*, and other ultra-conservative writings. Corsi has claimed that the prosecution of Compean and Ramos was initiated at the behest of the Mexican government.

The National Border Control Council lobbied for more than two years for the border guards' release, arguing they were wrongfully prosecuted. Council President T.J. Bonner commented on Bush's announcement, "Obviously, we're ecstatic for the agents and their families."

He added, "But at the same time, quite frankly, we wonder why it took so long for the president to do the right thing.... The more you find out about this case, the more you wonder why it went to court in the first place."

Federal prosecutors in Texas, however, vigorously defended their case against the agents, saying they couldn't "look the other way" in light of the facts. US Attorney Johnny Sutton, whose office led the prosecution, said Compean and Ramos "lied about what happened, covered up the shooting and then proceeded to write up and file a false report."

In a statement on the case, Richard L. Skinner, inspector general of the Department of Homeland Security, said that Jose Compean stated in a sworn statement that "my intent was to kill the alien... and I think Nacho [Ramos] was also trying to kill

the alien"—referring to Osvaldo Aldrete-Davila.

Despite such details, the campaign for leniency won the support of Congressional Republicans and Democrats alike, eager to polish their chauvinist and "secure border" credentials. At a January 14 press conference lobbying for the border guards' release, Congressman Dana Rohrabacher (Republican, Calif.), stated, "More of us believe, and so many millions of Americans believe, this prosecution was rotten from day one."

Rohrabacher was joined by nine other House Republicans, as well as House Judiciary Committee member Bill Delahunt, a Massachusetts Democrat. Delahunt said that the sentences had "sent the wrong message to our Border Patrol agents and the people who defend that border."

Rep. Brian P. Bilbray, a California Republican, met with Bush several months ago to lobby on the border agents' behalf. Apparently worried that Bush might not grant their clemency petition, he was already working on a plan to take their case to the incoming Obama administration.

Had Bush failed to grant clemency, advocates for Compean and Ramos would have likely found support in the Obama White House for their cause. Former Illinois Rep. Rahm Emanuel, Obama's chief of staff, supported a Republican-sponsored House resolution calling for the convictions to be overturned. And Janet Napolitano, tapped for secretary of Homeland Security in the Obama administration, supported increased militarization of the US border with Mexico in her two terms as Arizona governor.

Bush also appears to have been confident that the incoming Obama White House would not seek retribution for the crimes carried out by his administration over the last eight years, and this was reflected in the pardons the outgoing president chose *not* to grant in his final days in office.

There had been speculation that several former and current administration officials might receive a "preemptive pardon"—a rarely used executive action that provides immunity from future prosecution, even for someone who has not been charged with a crime. Among those named as a possible candidate for such a pardon was former Attorney General Alberto Gonzales.

Gonzales has not been charged, but he is facing a Justice Department probe in relation to the US attorneys scandal. As White House counsel before becoming attorney general, Gonzales helped devise a pseudo-legal justification for preemptive war, indefinite detention of detainees and, most notoriously, torture.

Another widely suggested candidate for a pardon was I. Lewis "Scooter" Libby, Vice President Dick Cheney's former chief of staff. Bush commuted the sentence of Libby, who was sentenced to 30 months in prison on felony counts of perjury for lying to FBI agents and a federal grand jury in an effort to derail their investigation into the leaking of the identity of CIA operative Valerie Plame.

Bush had refused to rule out a potential full pardon for Libby, but in the end chose to let his conviction stand. While convicted

of perjury and obstruction of justice, the lies he told federal investigators were part of a conspiracy to cover up far bigger lies—the lies that were used as a pretext to launch a criminal war.

Many other Bush administration officials—including (but not limited to) Libby, Gonzales, former Defense Secretary Donald Rumsfeld, Cheney and Bush himself—have been equally complicit in this criminal activity. Bush and his handlers' decision not to hand out preemptive pardons is indicative of their belief that the Obama administration will not pursue any of the former administration's personnel on charges of war crimes or violations of constitutional or democratic rights.

Perhaps in an effort to avoid the type of scandal that followed Bill Clinton, who pardoned dozens in his final day in office, Bush chose not to grant leniency in the cases of a number of prominent politicians and businesspeople. Most of these individuals had been convicted of some form of corruption, and had sent swarms of lawyers to the Justice Department and White House to lobby for leniency.

Those not receiving pardons or commutations included:

Former Republican Congressman Randy "Duke" Cunningham, Calif., who pled guilty to receiving over \$2.4 million in bribes; Edwin Edwards, former Republican governor of Louisiana Governor, who is serving a 10-year sentence for conspiring to shake down applicants for state riverboat casino licenses; former Illinois Governor George Ryan, a Republican, serving a six-and-a-half year prison term on corruption charges; and junk-bond felon Michael Milken.

Countless prisoners across the country without such political connections—many unjustly convicted and sentenced, and without a right-wing axe to grind or the financial resources to pursue a presidential pardon—remain behind bars.



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