

US Supreme Court refuses to take up case of the “Cuban 5”

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The US Supreme Court on Monday refused to consider the case of five Cubans arrested on espionage charges in 1998. Attorneys for the five, who were charged with spying on Cuban exile groups implicated in acts of terrorism against Cuba, had appealed their 2001 conviction, arguing, among other things, that they had been denied a fair because of the trial judge’s refusal to move the proceedings out of Miami. The city has a population of 700,000 Cuban-Americans and is the base of numerous right-wing anti-Castro exile groups.

The Supreme Court did not feel itself obliged to justify its decision, despite the fact that the conviction and prolonged imprisonment of the five Cubans has been condemned by the United Nations Human Rights Commission and the petition for the court to consider the case had been supported by amicus briefs from a dozen different countries and 10 Nobel Prize winners.

The five—Ruben Campa, Rene Gonzalez, Gerardo Hernandez, Luis Medina and Antonio Guerrero—had admitted at trial to being part of Cuban intelligence group known as “The Wasp Network.” They denied, however, charges that they had spied on US military facilities and that they had played a role in the shooting down of two civilian planes flown by anti-Castro exiles in February 1996, resulting in the deaths of four men.

The flight, organized by a group called “Brothers to the Rescue,” was part of a wave of terrorist attacks and provocations by anti-Castro organizations. These included a string of bombings in central Havana that killed an Italian tourist, wounded others and caused extensive damage. The “Brothers to the Rescue” group, founded by a Bay of Pigs veteran and charged by the Cuban government with involvement in various terrorist plots, had repeatedly violated Cuban airspace,

dropping anti-government leaflets.

The five Cubans were part of an intelligence operation directed at monitoring the anti-Castro exile groups, which included organizations, such as Alpha 66, which have a long history of armed terrorist attacks against Cuba and Cuban overseas targets.

Information gathered by the network was transmitted to the Cuban government in Havana, which in turn passed it on to the Federal Bureau of Investigation in the US. Instead of using this information to pursue the anti-Castro terrorists or prevent new attacks, the FBI used it to roll up the Cuban intelligence network.

After repeated appeals by lawyers for the five Cubans, in August 2005 a three-judge panel for the US Court of Appeals, 11th Circuit, ruled in their favor, overturning their convictions and ordering a new trial.

The panel based its decision on the argument of defense attorneys that the widespread negative publicity and poisonous political atmosphere in Miami had made it impossible for the Cubans to get a fair and impartial trial.

In their decision, the judges cited the responses of prospective jurors to the question of whether they could be impartial. A number of them indicated that they would fear for their personal safety if they failed to deliver a guilty verdict.

In August 2006, however, the full appeals court upheld the earlier convictions.

In June 2008, another three-judge appeals court panel upheld the convictions once again, while vacating the sentences for three of the defendants, including two who had been given life in prison. The judges found that the sentences, which were even more severe than those requested by the prosecution, were unjustified because no “top secret information was gathered or transmitted.” A decision by the full court is still

pending.

The five Cubans have been subjected to abusive treatment by US authorities, held in solitary confinement for nearly a year-and-a-half and denied any visits by their wives or children.

The Cuban government condemned the Supreme Court's refusal to consider the case. "The judges chose to do what the Obama administration requested them to do: refusing to review the case of the five," said the president of the Cuban parliament, Ricardo Alarcon. He called the US judicial system corrupt and hypocritical.

There is speculation in the media that the case of the Cuban 5 will figure in the limited moves by the Obama administration towards easing the US sanctions imposed on the island nation for nearly four decades. Cuban President Raul Castro has indicated that he is prepared to release Cubans being held on charges of acting as agents for the US in exchange for the release of the Cuban 5.

Meanwhile, in Miami, right-wing Cuban-American political figures celebrated the high court's inaction. Republican Representative Ileana Ros-Lehtinen issued a statement declaring, "Let this be a lesson to those who continue spying for the Cuban regime and other state sponsors of terrorism."

The reality is that the five Cubans who remain imprisoned had worked to prevent acts of terrorism, while notorious CIA-sponsored terrorists such as Luis Posada Carriles and Orlando Bosch remain free in Miami. Both men are responsible for numerous terrorist attacks going back to the early 1960s. They were responsible for organizing the 1976 bombing of a Cuban civilian airliner in which all 73 passengers were killed.

In 1990, President George H.W. Bush pardoned Bosch on all pending terror-related charges in the US, over the objections of his own Justice Department, which wanted him deported for having "repeatedly expressed and demonstrated a willingness to cause indiscriminate injury and death."

The government of Venezuela, the country from which the 1976 airline bombing was launched and where Bosch and Carriles had gained citizenship and worked with the country's repressive secret police, has repeatedly requested the extradition of Carriles to stand trial there for the 1976 airline bombing.

The Obama administration, like the Bush White

House before it, has stonewalled Venezuela's requests, violating a treaty between the two countries.

In a farcical attempt to cover up its continuing shielding of this terrorist, the Obama administration has charged Carriles not with terrorism, but merely with having lied to immigration authorities when he denied responsibility for a series of bombings at hotels, restaurants and bars in Havana in 1997.

The government on Monday announced that Carriles' trial has been postponed until February 2010. In the meantime, he remains free on bail in Miami. Federal prosecutors also filed a motion seeking to suppress the release of evidence in the case, including government documents on his "long-term association with US intelligence and law enforcement agencies."



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