



Law Enforcement Officers Advocates Council

A Nonprofit Law Enforcement Advocacy Corporation
Supporting Officers Defending America

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BP Agent Gets 24 Months in Federal Prison for Lifting Cuffs - Really?

You might think this is something out of the "Twilight Zone" of yesteryear, but yesterday, October 20, 2011, Border Patrol Agent Jesus E. "Chito" Diaz, Jr received 24 months in prison for deprivation of rights under the color of law in allegedly lifting the arms of an illegal alien drug smuggler. A charge for excessive use of handcuffs would never have flown for one could see that on any episode of COPS, or other law enforcement reality program. Obama's Justice Department used the "civil rights" charge a pattern that goes back to the Clinton Administration.

The facts in this matter as presented by the government are disputed by the defense, the Diaz family, and our organization. We have reviewed the paperwork (or discovery) as well as the official court transcripts. As an aside, our organization requires such documentation prior to accepting a case, which goes back to the Ramos/Compean prosecution. It allows our organization a proper and thorough independent review.

The government's case is based on false testimony that is contradicted by the facts. This includes the charge that Agent Diaz was physically abusive to the then minor "MBE" as noted by court documents and transcripts in that Diaz allegedly put his knee on his back and pulled back on his handcuffs.

However, given the time of day during the incident, October 16, 2008 at about 2am and lack of lighting it would be impossible to have actually seen much if anything. The agent who stood next to Mr. Diaz, Marco Ramos testified that he did not see anything that was claimed to have taken place.

Other witnesses made claims that were contradictory amongst each other, and some later admitted in court to having perjured themselves, including Gabriel Lerma. Such admissions were ignored by the court and government who continued the prosecution having filed charges against Mr. Diaz for lying to investigators.

Additionally, if one goes back to the Johnny Sutton argument repeatedly stated during Ramos/Compean as to the one hour to report an incident, those probationary agents (or trainees) who claimed to have witnessed the assault failed to do so with an on-duty supervisor until hours later. Nor did they raise any objection during the alleged incident when they claimed it happened. Instead they went off-duty to a local "Whataburger" restaurant, got their stories straight and reported it hours later to an off-duty supervisor at his home. Then the "witnesses" went back to the station and reported their allegations. At the same time the Mexican Consulate in Eagle Pass also filed a formal complaint.

The doper claimed he suffered no injuries during his testimony during the trial. He was sore from his shoulders. However, that was due to the weight of the drug load, approximately 75 lbs that he carried across the border. There were 2 dopers apprehended during the incident and 150 lbs total drugs seized. The court sealed the pictures of the doper, which would corroborate the defense that there were no injuries received or bruising to his lower arms where the handcuffs were placed nor any bruising resulting from the alleged knee on his back. The only marks on his body came from the straps of the pack he carried containing the drugs.

The then-minor lied in his statements to the agents in the field, at the Eagle Pass-South BP Station, to the government, and to the Mexican Consulate. Additionally, he lied before the Grand Jury and then admitted to his lies during the first trial in 2010 after being granted immunity. In fact, trials transcripts state that "MBE" was promised by the consulate that he would "not be delivered to the mouth of the lion" meaning U.S. DOJ for prosecution in the presence of the investigator representing the U.S. Government (Source: Trial Transcripts).

The government claimed that Agent Diaz lied to investigators. We dispute this given the above facts, and the fact that his story never once changed during the investigation, trials, or in our organization's discussion with Mr. Diaz himself. His statements have been consistent since the beginning unlike the government's star witnesses. Yet, Agent Diaz was prosecuted and convicted on 5 counts, while everyone who perjured themselves and admitted to it, have yet to be charged, prosecuted, or even "Giglio'd" for their lies.

"We are content with the sentence, though we know it could have been far worse. Yet, it could have been better, as the court could have released him with time served. This is a bogus case to begin with as the facts clearly showed," stated Diana Guadarrama Diaz, wife of Agent Diaz.

"We will continue to lead this fight and stand by Chito, Diana, and their children until his name is cleared. Having worked on as many cases as we have, this one is without question, the most atrocious yet. It is clear that our government gave Mexico City the scalp of yet another agent. We would not have imagined such a case taking place after the pattern was so identified to the American people during the 2nd term of the Bush Administration", stated Andy Ramirez, LEOAC President and Diaz family advocate.

"While the sentence was light compared to what it could have been, Agent Diaz is a hero and this case never should have gone forward even at an administrative level against Chito, which was recommended by the Office of Professional Responsibility to CBP Internal Affairs. Chito was cleared previously by the Office of Inspector General and OPR regarding prosecution. So how this became a criminal case demands intense scrutiny and oversight. It should have been prosecuted against the dopers, and since then, those star witnesses who perjured themselves. Where is the justice in this case? Once again, our government is far more concerned with the so-called rights of criminal illegal alien dopers than our agents who continue to be prosecuted for doing their job. Congress needs to investigate this case and the pattern of misconduct and abuse that has resulted in an innocent agent going to prison yet again", concluded Ramirez.

Mrs. Diaz is a Field Operations Supervisor with the Border Patrol having served in the agency for over 15 years. Any statements by Mrs. Diaz are made as wife, and not on behalf of the Border Patrol.

The Law Enforcement Officers Advocates Council is a non-profit organization dedicated to the support of law enforcement officers, at all levels of government. The Diaz Family has authorized LEOAC to represent them in all non-court matters as advocate as notarized in the State of Texas. LEOAC is comprised of civilian experts, retired senior managerial federal law enforcement officers, and defense counsels. Our highly experienced team advocates, educates, investigates, and reports our findings back to the American people. We also litigate and provide amicus curiae (friend of the court) briefs where appropriate and necessary.

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