



Law Enforcement Officers Advocates Council

A Nonprofit Law Enforcement Advocacy Corporation
Supporting Officers Defending America

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LEOAC has released BPA Chito Diaz case discovery to the public

LEOAC has released the discovery documents in the case of U.S. vs Border Patrol Agent Jesus E. "Chito" Diaz, Jr, case # DR-09-CR-1469 AM to the public via our FreeAgentDiaz.com website, the purpose of which is to educate the public about this gross abuse of authority on the part of the government.

LEOAC received this material mid-March 2011. This date is important as it is clearly before the Nov. 9, 2011 Order of Protection as requested by the U.S. Attorney's Office for the Western District of Texas, which was granted on the same day by U.S. District Court Judge Alia Moses in Del Rio, TX.

The ruling states as follows: ORDERED that Defendant and Defendant's attorneys shall not disclose any part of the discovery materials related to this cause number previously disclosed or disclosed later to Defendant, to anyone other than the Defendant's attorneys or the Court.

Therefore, it is our contention that such order does not apply as we received this material nearly eight months prior to Nov 9, 2011 the date in which it was enacted by the court and that it solely applies to the defense and their counsel on and after that specified date.

Dave Grossi, use of force expert, contends that the judge deliberately withheld evidence from the jury: <http://www.policeone.com/border-patrol/articles/4646997-Epilogue-Justice-for-Border-Patrol-Agent-Jesus-Diaz/>

After reviewing trial transcripts and discovery, we concur with expert Grossi that key facts were filtered by the court to prevent the jury from learning the truth.

It is unconscionable that such statements be allowed as **evidence** against Agent Diaz given not only the amount of hearsay by government witnesses but also the repeated perjury and lack of credibility among witnesses. This includes, **1) the failure to report the alleged incident immediately, thereby failing to report the alleged abuse of a prisoner within one hour as is required by Border Patrol policy, let alone intercede when it happened if it was such an inappropriate act. 2) The hours that passed gave time for those "witnesses" to get their stories straight, and then strayed from proper protocol by going to the home of an off-duty supervisor, rather than return to the station and speak with an on-duty supervisor.**

Given the testimony of the drug smuggler, then juvenile, M. B. E. (the "B" stands for Bernal), during the 2nd trial in which he states that his feet were not held and he was not kicked or abused, this case does not pass the smells test.

The complaint by the **Mexican Consul** to Eagle Pass South Station PAIC Brashear states as their fact that they were not notified by official B.P. channels as to the alleged incident, but by an outside source. The only ones who knew were those agents, SBPA, journeyman and trainees, making the allegations.

It was when the government saw that the document was published on the internet (World Net Daily) on November 9, 2011 that the US Attorney's Office filed their motion. This key document by the DHS Office of Professional Responsibility identified that their part in the case was closed and that the narco-trafficker "MBE" was deemed not a credible witness. It also stated that they were recommending the case to CBP Internal Affairs solely for administrative action. This means investigation for discipline, not prosecution. Discipline could have been from "don't do it again", to suspension (or "time on the beach" as it is called internally), to termination of employment.

In the same document, it is stated that the U.S. Attorney's Office had also declined prosecution. OIG and OPR both passed on the case but CBP IA accepted it when suddenly the **Mexican Consulate** notifies IA that they have located Bernal? That dog don't hunt with us. OPR stated Bernal had no credibility and the case would have transferred to San Antonio and out of Del Rio. They waited until the case was picked up by IA, triple jeopardy in our assessment, and after making a deal for Bernal, provided him to IA with immunity guaranteed for a drug smuggler. Then the USAO indicted Diaz one year after the incident. If he had really committed the acts as alleged, Agent Diaz would not have remained on duty with his badge, credentials, and sidearm for the one year (or thereabouts) that he did.

This ruling is about suppression as the documents show a case that screams to be brought to public scrutiny given the inconsistencies in the statements by several government witnesses who contradict their own statements as well as each other.

The allegations in this case as presented by the government are disputed by Agent Diaz, his family, and our organization, as well as questioned in a letter to President Obama by 37 Members of Congress.

Again, we reviewed all of the discovery (and later the trial transcripts), which were provided to our organization over 8 months prior to this highly questionable request by U.S. Attorney Robert Pittman who was nominated by President Obama and confirmed in October 2011. It must be noted that 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.

We contend that the 5 additional counts for lying to investigators are without merit given the facts of the case and that these charges were solely filed in retaliation for Agent Diaz' refusal of the plea bargain offered by the USAO.

What is more clear is that such records as the discovery in the prosecution of Agent Diaz, as well as the file in the murder of Border Patrol Agent Brian Terry, which was also sealed as reported by the Arizona Daily Star only further prove that transparency on the part of the Obama Administration means to hide or prevent such facts from being revealed to the American people, where it can be scrutinized by the Court of Public Opinion.

Our organization has provided non-court related assistance. No legal counsel from our organization has represented the defendant, Agent Jesus E. Diaz, Jr. before the courts. We know as you read and review this material in the case of U.S. vs. Jesus Diaz, Jr. you will discover a questionable investigation. - Law Enforcement Officers Advocates Council, Nov. 22, 2011

Visit AdvocatesCouncil.us or FreeAgentDiaz.com for more information and to download documents.

End of Release