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BORDER PATROL AGENTS' SENTENCES ARE COMMUTED, SUPREME COURT REVIEW SOUGHT

(United States v. Compean/Ramos)

In one of his final acts before leaving office, President George W. Bush commuted the prison sentences of two U.S. Border Patrol Agents, Jose Compean and Ignacio Ramos, who were treated with undue harshness for mistakes they made while attempting to defend the U.S.-Mexico border from drug smugglers. The decision was a victory for the Washington Legal Foundation (WLF), which has been working for more than two years to secure leniency for Compean and Ramos.

The legal fight is not over, however. President Bush's action leaves the agents' convictions intact; it merely commutes their prison sentences to time served. With WLF's assistance, Compean and Ramos have been appealing their convictions and sentences in the federal courts. The U.S. Court of Appeals for the Fifth Circuit in New Orleans upheld both the sentences and convictions in 2008, and the agents have filed a petition for review in the U.S. Supreme Court. The Court is expected to rule on that petition by March of this year.

The agents were convicted for chasing down and wounding a drug smuggler from Mexico. The smuggler was transporting almost 750 pounds of marijuana in a van across the Mexico/Texas border. Both Agents testified that they fired shots after seeing a gun in his hand. The smuggler suffered only a minor injury after one bullet hit his left buttock as he turned to run back across the Rio Grande River. The smuggler was later located and given immunity by the Department of Justice to testify against the two agents. Agent Ignacio Ramos received 11 years in prison, and Agent Jose Compean received 12 years for depriving the drug smuggler of his civil rights. The prosecutors invoked a mandatory 10-year prison term law, which Congress intended to apply only against gun-wielding criminals and drug dealers.

"While we applaud the belated commutation, this entire case is an outrageous case of prosecutorial abuse," said WLF Chief Counsel Richard Samp in response to President Bush's action. "Instead of prosecuting the drug smuggler, the Justice Department filed a dozen felony charges against two agents trying to do their job. While the agents may have made mistakes, they did not deserve the harsh treatment they received. Despite the commutation, their unjust convictions still stand and they were forced to spend several years in prison." Samp said.

The case has received nationwide criticism, including calls by Members of Congress for an investigation. Senator Dianne Feinstein, among others, demanded that the Justice Department explain why the drug smuggler was given immunity and medical care, and not questioned about suspected plans by drug dealers to seek retribution and kill border agents.

In its brief urging reversal of the agents' convictions, WLF argued that they received a fundamentally unfair trial because the trial judge did not adequately explain to the jury the circumstances under which law enforcement personnel are entitled to use reasonable force to capture suspected felons. WLF also argued that the mandatory 10-year prison term required for those using firearms while committing felonies was not intended to apply to law enforcement personnel acting in the line of duty.

WLF also argued that unless the convictions and sentences are reversed in this high-profile matter, the case would have a chilling effect on the ability of other border agents (and other law enforcement personnel) to carry out their difficult duties: to protect our dangerous borders against drug smugglers, possible terrorists, and other violent illegal aliens who resist arrest. Agents (and the rest of the country) would thus be exposed to more danger if the convictions are allowed to stand, WLF argued.

WLF is a public interest law and policy center with supporters in all 50 states. It devotes a considerable portion of its resources to promoting America's national security.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.