

Congress of the United States
Washington, DC 20515

November 20, 2008

Mr. Ronald L. Rodgers
Pardon Attorney
Office of the Pardon Attorney
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Dear Mr. Rodgers:

It has become customary during the final days of a President's term to grant clemency in criminal cases. We are writing today to ask you to issue two recommendations for commutation in the cases of Ignacio Ramos and Jose Compean. A bipartisan resolution with this same request was filed on December 6, 2007. You can find the text of the resolution attached. Since its introduction, the list of cosponsors of H. Con.Res. 267 has grown to eighty-two Members of Congress and its supporters represent the entire political spectrum of this body.

We recognize that this resolution does not bind the executive branch, and the prerogative to issue commutations rests with the President, not with Congress. Although we ran out of time for its consideration on the House floor, we have no doubt it would have passed overwhelmingly. But you do not need passage of the resolution to do the right thing. You, Mr. Rodgers, are in the unique position to buttress that decision by making a direct recommendation to the President supporting our request.

A brief summary is important to explain the rationale for our request.

Ignacio Ramos and Jose Compean were United States Border Patrol Agents who worked on the U.S. border with Mexico. On February 17, 2005, near Fabens, Texas, Agents Ramos and Compean, along with other Border Patrol Agents, were involved in the pursuit of Osvaldo Aldrete-Davila, a Mexican national they suspected of smuggling drugs.

After a high speed vehicle chase, Aldrete-Davila abandoned the van he was driving – which was later discovered to contain 743 pounds of marijuana, worth approximately \$1 million – on the U.S. side of the border and fled on foot towards the border with Mexico.

Ramos and Compean exited their vehicles and continued the pursuit on foot, with Compean attempting to intercept Aldrete-Davila while Ramos chased Aldrete-Davila directly.

During the course of the effort to apprehend Aldrete-Davila, both Ramos and Compean discharged their service weapons. Ramos testified later that he believed Aldrete-Davila had a gun in his hand, while Compean testified that he saw something “shiny” in Aldrete-Davila's hand. But no weapon was recovered presumably because Aldrete-Davila absconded to Mexico.

According to forensic evidence, Aldrete-Davila was struck by a bullet from the gun of Agent Ramos. However, both Agents later testified that they did not realize at the time that he had been hit, and Aldrete-Davila fled across the border into Mexico.

When the Department of Homeland Security learned of the incident – via a Border Patrol Agent who was a childhood friend of Aldrete-Davila’s – an investigation was launched in conjunction with the office of the U.S. Attorney for West Texas.

Ramos and Compean were arrested and charged with multiple crimes. Months after the original charges were obtained, the Government drastically increased the charges by securing a superseding indictment pursuant to 18 U.S.C. 924 (c), “discharge of a firearm in commission of a crime of violence,” which carries a mandatory 10-year minimum sentence. It is this charge we find most unjust.

Although the punishment was set by Congress, we believe the application of 18 U.S.C. 924 (c) in the case of Ramos and Compean is outside its original legislative intent. The legislation’s chief sponsor, Rep. Richard Poff specifically stated during debate in 1968 that §924(c) was intended to “*persuade the man who is tempted to commit a federal felony to leave his gun at home.*” Other lawmakers, including Rep. Thomas Meskill echoed this sentiment: “*We are concerned...with having the criminal leave his gun at home.*”

Clearly, law enforcement officers should not leave their guns at home, rather they are required to carry them and permitted to discharge their weapons in the line of duty when warranted. We do not believe Ramos and Compean were rogue or corrupt officers who used their guns in a patently unlawful way to commit a crime of violence, therefore, we respectfully ask that you recommend the 10-year mandatory minimum sentence enhancement be considered for commutation.

The U.S. Attorney’s office based its prosecution primarily on the testimony of Aldrete-Davila, to whom it had given a broad grant of immunity. In November 2007, Mr. Aldrete-Davila was arrested, charged with smuggling drugs subsequent to that grant of immunity, pleaded guilty and has been sentenced to 9 ½ years in prison – less time than Ramos and Compean.

During the trial, Ramos and Compean admitted that they did not fully adhere to Border Patrol policies with regard to reporting the incident, an error that usually would have led to a written reprimand, suspension, or dismissal. But at the trial’s conclusion, Ramos and Compean were found guilty of several charges, including violating 18 U.S.C. 924 (c). With the 10-year mandatory minimum sentence for that violation, their total punishment amounted to 11 years and one day for Ramos and 12 years for Compean.

Mr. Rodgers, we feel that it is important to inform you of the average sentences for other crimes in federal courts, so that you can understand why the punishment received by Agents Ramos and Compean troubles us so deeply. According to the United States Sentencing Commission, in 2006 (the latest year for which data was available):

- In cases of sexual abuse, the average sentence was eight and one third years;
- For manslaughter, it was just less than four years;
- For assault, it just less than three years; and
- For cases involving firearms, the average sentence was three years.

In this light, it is clear that the sentences imposed on Agents Ramos and Compean are profoundly disproportionate based on the totality of the circumstances and sentencing guidelines. Their sentences were, quite simply, a gross miscarriage of justice and outside the intent of the statute as passed by Congress.

Numerous observers have agreed that the penalty was unwarranted. Former Deputy Chief Luis Barker, who headed the Border Patrol office in the El Paso sector at the time of the incident, stated before the Senate that he agreed that their sentence was disproportionate. U.S. Attorney Johnny Sutton – whose office prosecuted Agents Ramos and Compean – as recent as November 14, 2008 said, *“The only question, I think a legitimate question, is ‘is the punishment too harsh?’ I have always said the punishment in this case was harsh...”* Mr. Sutton has repeatedly made this claim, including in his July 17, 2007 Senate testimony where he stated, *“Some say it's just too much time, and I have some sympathy for that.”* He also implied had the jury been aware of the 10-year mandatory minimum sentence, they probably would not have convicted Ramos and Compean. Even Aldrete-Davila told a reporter that he thought the penalties were excessive.

Nevertheless, Ramos and Compean have been incarcerated since January, 2007. Ramos has been assaulted in prison. Both have remained in solitary confinement because of the danger they face due to their law enforcement background. The stringent conditions these men are forced to endure in solitary confinement are designed for short term, disciplinary cases, not for long term protection, essentially imposing a “double” sentence on them.

As of this writing, Ignacio Ramos and Jose Compean will have served their punishment for all of the crimes for which they were found guilty – except for the charge imposing the mandatory minimum. These men have already lost their jobs and had their lives ruined, and their families have suffered terribly. No useful purpose is served by their continued incarceration.

Mr. Rodgers, we respectfully request that you correct this injustice by recommending to the President, the immediate commutation of the sentences of Ramos and Compean to time served.

Sincerely,



William Delahunt
Member of Congress



Dana Rohrabacher
Member of Congress



Ed Royce
Member of Congress



John Culberson
Member of Congress

Enclosure

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