

Panama Report by Carlos Wesley

Noriega is denied a new trial

Federal Judge William Hoeveler reaffirms the George Bush-era travesty of justice.

Gen. Manuel Noriega told this reporter that Judge William Hoeveler's refusal on March 27 to grant him a new trial was "unfortunate" and "contradictory." Noriega's attorneys had moved for a new trial based on newly uncovered evidence showing that the George Bush administration cut a deal with the Cali cocaine cartel to procure the perjured testimony, "by silver or lead," of former Panamanian diplomat Ricardo Bilonick. In exchange, the U.S. government agreed to reduce the 23-year sentence of convicted drug-trafficker Luis "Lucho" Santacruz Londoño, brother of Cali kingpin Julio Santacruz Londoño.

At hearings in Hoeveler's court in March, witnesses testified that they had given Bilonick a total of \$1.25 million from the Cali Cartel for his testimony against Noriega. In violation of due process, the defense was never told about the deal, which was also kept secret from the jury.

In his March 27 ruling, Hoeveler admitted the bribe allegations were "troubling." But, he sided with the prosecution's arguments that even if Bilonick had been bribed, the defense had failed to prove that "a new trial would produce a different result" than that in 1992, when Hoeveler sentenced Noriega to 40 years in jail, on trumped-up drug-trafficking charges. Hoeveler also sided with the prosecutors in claiming that Bilonick's testimony "was not the substance of the government's case."

This contradicts "what Hoeveler said and did before," Noriega told me by phone from his jail cell. "From reducing the sentence of Santacruz, because of his role in getting Bilonick, the

government's so-called 'dynamite witness,' to testify, to what Hoeveler himself agreed to at Bilonick's sentencing."

In June 1992, when he sentenced Bilonick, Hoeveler had said: "I think that by anybody's standards he is one of the more important witnesses the government presented in the trial of the case." Hoeveler was echoing prosecutor Myles Malman: "The testimony of Mr. Bilonick was probably the most significant and critical element in proving the inair portion of the case."

So important was Bilonick's testimony to the government's otherwise worthless case, according to defense lawyers, that, although he pled guilty to smuggling 22 tons of cocaine, which should have earned him up to 60 years behind bars, Hoeveler gave him a sentence that put him back on the streets in three years.

Former President Jimmy Carter wrote Hoeveler at the time, praising Bilonick's honesty and supporting the prosecution's request for leniency. So did former Assistant Secretary of State and Henry Kissinger's personal lawyer William D. Rogers, as did former U.S. Ambassador to Panama Ambler Moss. Bilonick and his family were given permanent U.S. visas, and he was allowed to keep at least \$4 million in drug money—on top of the \$1.25 million bribe from the cartel to secure his testimony.

Hoeveler also helped prosecutors keep their deal with the Cali Cartel, lopping nine years off Lucho Santacruz's sentence.

"By letting this bribery stand, Judge Hoeveler has gone counter to all the precepts set down in the law books

of the United States," said Noriega, the only official POW being held by the United States. "As my attorney noted, this means that it is now permissible to bribe witnesses so that they can testify at trials, either by 'fuse or dynamite.'"

Noriega said the judge erred in denying him a new trial on the basis that the results would be the same. "What we see in this decision is a judge voicing the same arguments as the prosecutors. We see a judge interpreting how a jury would think, and we see the same judge judging the case. Thus, he is at the same time the pitcher, the batter, and the catcher."

In the documents submitted to Hoeveler, Noriega's lawyers noted that if the "United States can contract with criminal organizations for evidence, there will never be any way to ensure the reliability of the truth-seeking function. Witness intimidation and bribery will become rampant." More damaging, they argued, "is the fact that the United States tried to hide its partnership with the cartel from the jury." They cited *Kyles v. Whitley*, a 1995 U.S. Supreme Court ruling, which held that "the question is not whether the defendant would more likely than not have received a different result with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence." By this criteria, Noriega clearly would seem to be entitled to a new trial.

Considered an "intelligence community" judge, Hoeveler was an active player in Bush's efforts to oust Noriega. He reportedly prefers a higher court, such as the Eleventh Circuit, which is reviewing the case on appeal, to deal with what he calls the "political overtones" of the case, a euphemism for the Bush-era criminal complicity with drug-runners all across Ibero-America.