

# SELECTIVE PROSECUTION & MY DEATH SENTENCE

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*"You've never lived till you've almost died. For those who fight for it, Life has a flavor, the protected will never know."*

*Jim Lamotte & Ricardo Davis  
Green Berets in Vietnam*

**July 04, 2009**

As I stand in the cross hairs of those who target Second Amendment freedoms, I realize that firearms trafficking is not the only grievance my government holds against me.

Having spent years as an "expert witness" for the defense, I still believed in our judicial process. The function of justice is to serve truth. However, at the end of the day, it had become obvious that my case had become "business as usual," and that our government was continuing to tear the fabric of our Constitution. Our Constitution was written to protect American citizens from our government.

Many people have asked me why I did not contest my case in a jury trial. To begin with, I did not have the funds to take my case to trial. I hired my attorney, **Roberto Eddie de la Garza** on **April 14, 2008**, for a plea agreement for approximately \$5,000. In addition, my 84-year-old mother asked me to accept a

plea agreement because she did not want to pass away while her only son was incarcerated.

On January 30, 2009, my appeal attorney filed an Amended Motion for Release Pending Appeal citing my Sixth Amendment right to effective representation.

In January of 2009, the Honorable Judge Royal Furgeson ordered a hearing on the motion for February 19, 2009.

On February 18, 2009, Assistant United States Attorney, State Bar 24062266, Mark Roomberg, filed a Government's Response to Defendant's Amended Motion for Release Pending Sentence.

On February 19, 2009, the Honorable Judge Royal Furgeson did not rule on my motion for release pending appeal; he intended to wait until he had heard a brief from my attorney for a later date. However Judge Furgeson did extend my self-surrender date to July 20, 2009, giving me the opportunity to assist my attorney on the case. The reason given was that my former attorney, de la Garza, had hijacked my file from October of 2008 to February of 2009.

On October 22, 2008, on my attorney's advise, I pled out to two counts:

Superseding Information:

- **Count One:** Conspiracy to Traffic in firearms without a Firearms License;
- **Count Two:** Trafficking in Firearms without a License.

I was sentenced to 37 months incarceration. The Honorable Judge Royal Furgeson had at first ordered my self-surrender to take place on March 5, 2008.

On **June 18, 2009**, Public Defender, **Judy Fulmer Madewell**, my appeal attorney, filed a Appeal Brief with the Honorable Judge Royal Furgeson in reference to my appeal on the grounds of Ineffective Counsel, “conflict of interest” and the district court’s error in applying a four-level increase to the offense level.

On June 30, 2009, the judge ordered a Setting Status Conference for **July 10, 2009**, ten days before my self-surrender date of **July 20, 2009**.

## History of the Case

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On **March 6, 2008**, I was illegally arrested in San Antonio, Texas by Bureau of Alcohol, Tobacco, Firearms, & Explosives Special Agent **Allen Darilek** and ICE Special Agent **Marcus Sexton**. Their criminal complaint was filed on **March 05, 2008** and signed by United States Magistrate Judge, John W. Primomo. The said complaint was authored by agent **Darilek**.

As I read the complaint, I could not believe the absurd and outlandish allegations that he had sworn.

- **COUNT ONE: (PERJURY):** *The act or an instance of a person deliberately making false or misleading statements while under oath. AGENT Darilek swore to this criminal complaint.*

First and foremost, **Darilek** alleged that I had conspired with a convicted felon, **Dominick Colombrito**, in purchasing weapons at a gun show. I attempted to convince **Darilek** that Mr. Colombrito was not a convicted felon. Indeed, he

sold weapons with a Federal license. I questioned **Darilek** as to whether Mr. Colombrito had been taken into custody. Agent **Darilek** assured me that he had been arrested. **Darilek** displayed a phony mug shot of Mr. Colombrito. On **April 03, 2008**, I received a telephone call from Mr. Colombrito assuring me that he was not a convicted felon and that he has never been arrested by a federal agency. In my opinion, agent **Darilek** manufactured this evidence because this was the only way he could arrest me. I was not a prohibited person, and neither was the individual who had sold me the weapons. Agent **Darilek** knowingly and intentionally violated my constitutional rights. The question is did the Assistant United State Attorney **Mark Roomberg** approve the complaint before it was sworn to? According to the **Domestic Operations Guidelines**: "*The United States Attorney shall be consulted...shall be furnished progress reports of the investigation at regular intervals to ASSURE APPROPRIATE PARTICIPATION BY PROSECUTING OFFICIALS.*

- **COUNT TWO**: PROSECUTORIAL MISCONDUCT is a procedural defense; via which, a defendant may argue that they should not be held criminally liable for actions which may have broken the law, because the prosecution acted in an “inappropriate” or “unfair” manner. Such arguments may involve allegations that the prosecution withheld evidence or knowingly permitted false testimony.

**Roomberg** failed to report to the court and the defense that agent **Darilek** had manufactured evidence in his complaint. The law is very clear. ***If a federal employee receives information that another federal employee committed a crime and fails to report it, he himself has just committed a crime.***

**de la Garza** also failed to bring this information to the court.

- **COUNT THREE:** CIVIL RIGHT VIOLATION (Fourth Amendment) prohibiting unreasonable searches and seizures.

In the “**end justifies the means,**” BATFE agent Daniel **Casey** (McAllen Field Office) conducted one of the most grievous atrocities any agent can commit. On **March 06, 2008**, he illegally searched my residence by coercion. He threatened the owner that if she did not give permission to search the house, he was going to call the police, news media, and wait for my grandkids to get home so they could witness the search. This allegation was made in front of the other agents, which included ATF agent Robert **Flores**.

- **COUNT FOUR:** SELECTIVE PROSECUTION *is a procedural defense in which a defendant argues that they should not be held criminally liable for breaking the law, as the criminal justice system discriminated against them by choosing to prosecute. In a claim of selective prosecution, a defendant essentially argues that it is irrelevant whether they are guilty of violating a law, but that the fact of being prosecuted is based upon forbidden reasons. Such a claim might, for example, entail an argument that persons of different age, race, religion, or gender, were engaged in the same illegal actions for which the defendant is being tried and were not prosecuted, and that the defendant is only being prosecuted because of a bias. In the U.S., this defense is based upon the 14<sup>th</sup> Amendment, which requires that “nor shall any state deny to any person within its jurisdiction the equal protection of the laws.”*

For several months the informant in this case, Jay **LeMire**, was not arrested in my case until I threatened to expose it to the judge. The government in an attempt to avoid this violation was forced to arrest **LeMire**. The injustice becomes evident when you are made aware that **LeMire** received five years’ probation for the same violations I had been charged with.

- **COUNT FIVE: PERJURY**

Another allegation on Darilek's complaint was that I had sold weapons outside the United States.

This allegation was without merit or any evidence whatsoever. U.S. Magistrate John W. Primomo did not buy into it and dismissed the charge. Yet, Judge FURGESON took the allegation to weigh against me into the federal guideline on my sentencing.

**Brief for the Defense/Appellant In the United States Court of Appeals for the Fifth Circuit U.S. v. Celerino Castillo, III**

**Page 7: No. 08-51144**

***The Government admitted that it had no “proof that he was selling to prohibited person.” “We suspect and we can’t prove that, yes, these guns were going south of the border.”***

On May 29, 2008, I met de la Garza at the Embassy Suites in McAllen, Texas. de la Garza was in town for a meeting with head of the U.S. Attorney Office in McAllen (Leonard). I questioned de la Garza what his business was with the U.S. Attorney. Finally, de la Garza confessed that his son, Andrew de la Garza, Criminal No. **M-07-141-2** had been arrested on February 2007 in South Texas by BATFE. He had been arrested for straw purchases and other serious gun violations by the BATFE. I warned de la Garza that he needed to address the court to see if there was a conflict of interest on his behalf. It was later reveal that there were allegations that two BATFE agents Robert Flores and Daniel Casey had been involved in both of our cases. See BATFE EF

3120.2 REPORT OF INVESTIGATION, prepared by SA Robert **Flores**, dated 03-06-08: on the consent search of my parent's residence. Also see BATFE EF 3120.2 REPORT OF INVESTIGATION prepared by SA Daniel P. **Casey** dated 03-06-08 on the consent to search my residence. He assured me that there was no conflict. This should have been my first red flag on what I suspected **de la Garza** was up to. I also requested that he file a motion on Outrageous Government Conduct in regard to the Criminal Complaint. Our lunch was cut short; because he had the appointment at 1:30PM with the U.S. Attorney's Office. **de la Garza** admitted that both he and **Leonard** had gone to law school together. He also stated that he had paid **Jack Wolf** \$50,000.00 to make sure that his son got off the criminal charge. As of this month **de la Garza's** son is down to one count of the 5 (five) counts he had originally been charged with.

- **COUNT SIX: PROSECUTORIAL MISCONDUCT**

I requested from my attorney a copy of the Grand Jury transcripts concerning the criminal indictment, in other words, what agent **DERILEK** and AUSA MARK **Roomberg** had testified to. I suspect the Government had failed to turn over the Grand Jury transcripts on discovery for obvious reasons. **de la Garza** assured me that there were no grand jury transcripts. That should have been the second "red flag" for me, but I trusted **de la Garza** because our families went way back in history. As you will learn later, I was deeply mistaken. **de la Garza** continued to promise that he would file the Motions.

In **June 2008**, I pled out to the two counts of a federal indictment. Guilty pleas in the absence of trial prevented the judicial search engine from finding out what actually had happened, thus impeding the pursuit of truth. In other words, I pled out to two bogus charges.

For this hearing, the government gave a heads up to a young female reporter, who walks the halls of justice for last minute hearings on a Friday afternoon. I noticed **Roomberg** texting on his cell phone. Within one hour after my plea, it was on the radio airways. By the time, I got home, (four hours later) it was on the local television station. The following morning it was in the local newspaper. I certainly would love to pull **Roomberg's** cell phone calls/texts to see whom he was calling while in the courtroom. I certainly hope that this information will be revealed when an inquiry is initiated on to how my case was mishandled by the government.

Could there also have been a telephone call or text to AUSA Toni **Trevino** of the McAllen office? She is the prosecutor who is now being sued by a former client (defendant) because she withheld evidence in his trial, plus other serious allegations where transcripts were allegedly altered. The federal courts of appeals are just sick to death of prosecutorial misconduct and not being able to do anything about it in the Bush administration. This is a shot across the prosecution's bow. This AUSA allegedly had a meltdown in federal judge Ricardo Hinojosa's courtroom. The allegation is that she started to cry because she had lost a case and started blabbering, "*it's not fair*". She is the same AUSA who had a DEA agent, Amanda **Davis**, commit perjury before a grand jury. This is a fact. AUSA **Trevino** also allegedly received information that someone had changed the transcripts of a hearing, where she had been chastised by a federal judge for breaking a plea agreement. She failed to report this allegation to the proper authorities for criminal investigation. AUSA **Trevino** is married to Benito **Trevino**, an alleged former Republican chairman for Starr County. This picture should start to get clearer. **Trevino** once forewarned a defense attorney (Shelby Wisefield) that I had "best be careful in what I did against the government, because she was going to do everything in her power to get me arrested." The picture is not that blurry now.

For the past several months, I vigorously attempted to address my concerns to the government through my attorney. I felt my attorney was reluctant to carry out my instructions.

On **September 2008**, I received a telephone call from **de la Garza**, who stated that the government was dismissing my criminal case because they had failed to charge me with the proper charges. According to **Roomberg**, their office had allegedly been the first to initiated **Polk vs. U.S.** back in the late 1990s. So if they are the experts on *Polk vs. US*, why the eight months delay?

**See attached copies of Transcripts “Guilty Plea” dated October 01, 2008: Page 2: Line 3.**

**Roomberg:**

*We filed a motion to dismiss – he’d pled guilty but we filed a motion to dismiss indictment on a case that was pointed out to me...*

*Let me take one step back. The reason we superseded was because our office discovered the Polk case, because the plain language of the statute with which the defendant was initially charged...*

**UNITED STATES V POLK**

***“Precludes an individual being charged with [a crime] where the straw purchaser bought a firearm for an individual who was not a prohibited person [such as a convicted felon]. The defendant [Castillo] was not a prohibited person.” [U.S. Attorney Johnny Sutton]***

**Also see copies of Transcripts “Sentencing hearing dated October 22, 2008: Page 7: line 14**

Go figure, on their intelligence or boldness of outrageous government misconduct. If our government becomes a lawbreaker, it breeds contempt for law; it has invited every man to become a law unto himself; it invites anarchy. The record will reflect that this district office of the criminal law continues that the “end justifies the means”. This would bring terrible retributions and unrestricted secrecy in unlimited corruption, as we can clearly see in this case.

According to a ***New York Times***, story dated April 15, 2009, by James C. McKinley Jr. “*At gun shows in these states, (Texas) there is even less regulation. Private sellers, unlike licensed dealers, **are not obligated to record the buyer’s name**, much less report the sale to the A.T.F.*”

**Roomberg** made the case that I had not documented any names of the people I had sold guns to. I was given four-level increase for trafficking in firearms. My base offense level was 12 and then was shot up to 21.

On **October 1, 2008**, my case was dismissed – but not without a catch. The government was now charging me with Trafficking in Guns without a License and Aiding and Abetting. I had to scan through the new plea agreement while in the courtroom. I asked my attorney how was it possible for the government to prove that I sold a gun. There was never any evidence introduced concerning who I had sold the guns too. He assured me that the government could do whatever it wanted to do. He insisted that if I took the plea, I would more than likely receive probation. This was the real deal, “***the government would dismiss my case, and my attorney would convince me to plea out.***” I argued my point to my attorney that in half of the gun shows, weapons are routinely sold without a license. I soon learned that this was not the first time that this U.S. Attorney’s Office had initiated a plea agreement in the courtroom. The case was the involvement of the **Lampazianie** family who continue to proclaim their innocence – despite the fact that they each pleaded guilty to one count of conspiracy as part of a group plea bargain. The family members contend that

the plea deal was slapped together in the courtroom just before the trial was set to begin in 1999. They also stress that the plea deal was not in writing and was presented to them as a last-chance offer before facing a trial they believed was fixed.

- **COUNT SEVEN: PROSECUTORIAL MISCONDUCT** *“one of the most reprehensible things a prosecutor can do is to attempt to put into evidence before the court his own altered evidence.”*

Prior to signing the agreement, **Roomberg** stated to my attorney that if I pled out to this new agreement that I would **NOT** lose my benefits. **Roomberg** assured my attorney that Jay **LeMire** was pleading to a similar charge, so that he would not lose his Social Security benefits. My attorney failed to obtain a written entry of my benefits into the plea agreement. **de la Garza** also reported this allegation to Bill Conroy’s story dated February 01, 2009 title, **‘Iran/Contra whistleblower Cele Castillo increasingly looks like a framed man.’** *“De La Garza also claims that in a discussion outside the courtroom that day, Oct. 1, Roomberg told him that Castillo would keep his benefits if he pled out to the new charges. And De La Garza says he relayed that information to Castillo.”*

#### **THE COURT:**

*...I – I **will not** in any way do anything to remove your benefits, but there – there are instances where I understand in a sentencing a federal judge can remove the benefits that people receive from either Social Security, the Veteran’s Administration, or whatever. It’s not my plan to do that. Is the Government planning to ask for that?*

#### **Roomberg:**

*No, Your Honor, In fact, in regards to the superseding information, the reason these particular charges were chosen, we could have picked another charge causing a false entry – causing a licensed firearm dealer to put a false entry into their book which would be more of a falsity crime and which to my understanding from talking to other attorneys would have a far greater impact than this would because it is not a criminal falsity crime, either the conspiracy or the one*

*substantive count, it would not impact on that. I'm not an expert on that. We're not taking a position on it. We're certainly not seeking that from the Court. But that – That's our position.*

### **THE COURT:**

***“Well, that's helpful, and I would not order it anyway. You've earned those benefits and –“***

My attorney once again assured me that there was no reason why the judge would not place me on probation, because I had no previous criminal record plus my health issues would be brought into consideration. He stated that in the worst scenario, I would get one year, and that I would self surrender in **March of 2009**.

Between the 1<sup>st</sup> and the 22 of **October 2008**, I checked with the appropriate departments to recheck the status of my benefits. I checked with the Office of Personal Management (**OPM**) Government office and they advised me that I would lose every aspect of my retirement annuity if I was to be incarcerated for a felony charge. Never to get those benefits again. This would include my family's health and life insurance (**half a million dollars**) that I have had for the past 28 years. I then proceeded to check with the Veterans Administration Benefits, and I was assured that my benefits would be reduced upon my incarceration in excess of over 60 days for a felony conviction. The amount not payable may be apportioned to a spouse, dependent children or parents. I finally contacted the Social Security Administration about my benefits and asked them if I was incarcerated, would I lose my benefits? The individual further stated that no government court order would change their policy. The question remains as to how **Roomberg** was able to make these far-fetched statements about me not losing my benefits.

***If our courts lose their authority and their rulings are no longer respected, there will be no one left to***

***resolve the divisive issues that can rip the social fabric apart...The courts are a safety valve without which no democratic society can survive.***

*Rose E. Bird,*

*Chief Justice, Supreme Court of California*

On **October 13, 2008**, when I realized that **de la Garza** had failed to address my concerns to Judge Furgeson, I decided to address them in a letter to Judge Furgeson. On Oct. 22, 2008, Judge Furgeson confirmed that he had received my letter of concern.

On **October 22, 2008**, I presented myself for my arguments on my sentencing before Judge Royal Furgeson. We proceeded to address our five arguments (objections) that had been implemented in the new Pre Sentence Investigation Report during an unprecedented two hour sentencing. (See attachment.) My attorney and I (mostly I) vigorously attempted to make my case on the following objections.

The **first** was my objection to the number of weapons that the government said were involved. The government could only submit proof of the last eight weapons that I had purchased from **LeMire**. Only four of those weapons were seized. **Roomberg** kept using the phrases to support the government's position as "***we believe,***" "***we think,***" & "***we suppose.***" The judge, without any evidence, rejected our arguments.

The **second** objection pertained to the trafficking in arms. We made the argument that I did not sell to a prohibited person or to any person who was going to commit a crime with the guns, criteria for trafficking in arms. Once again, the government kept saying, "***we believe,***" "***we think,***" and "***we suppose.***" The motion was denied. I started to realize that the cards were stacked against me. It was not going to make a difference what we argued; all our arguments were going to be denied.

See transcripts on "Sentencing" dated Oct. 22, 2008

**Page 11; Line12:**

**Roomberg:**

*"...normally I don't discuss this in open court but since the defendant raised it himself at sentencing..."*

*Do we have proof that he was selling them to prohibited persons? **NO!***

**Clarification** \_\_\_\_\_: This is what I said in regards to the above statements by **Roomberg** at my sentencing.

**Sentencing Transcripts October 22, 2008**

**Page 22; Line 14:**

**Castillo**

*...The Government knows who it is You know, and he didn't – didn't break the law, you know. He bought them from me just like – just like another person. He has a Texas driver's license, he's from the U.S. and He's not a prohibited person.*

**NEVER** did I mention that I spoke with the government. My explanation was that the surveillance units had seen me meeting with the individual and had identified him through his license plate.

**Roomberg** knew exactly whom the guns went to, because the agents had followed me on surveillance when I delivered the shotguns in **January of 2008**. Two agents, from two different agencies, have written reports [REPORT OF INVESTIGATION] to that effect. There is no doubt that the individual who took custody of the guns did in no way shape or form break the law by taking custody of the guns. He was not a prohibited person, and the government knew this to be a fact. The agents on surveillance did not witness any guns changing hands between this individual and me. This can be confirmed in their surveillance report. Once again the judge ruled against us.

**Page 29; Line 10:**

**Roomberg:**

*this person who has dealt the majority – what he just said in court, the majority of these guns he only knows by a **nickname** and a **general area where they live** ... **The types of guns are the FN 5.7 and the P 90 which are the assault rifles.***

**Roomberg** intentionally, knowingly, and recklessly lied to the court.

**Roomberg** lied about the **P90** rifle. This weapon is nowhere to be found in my case. He just plain made up this allegation.

**PAGE 35; LINE 13**

**THE COURT:**

*You know, this – this is a **close call** for me. And it – I have struggled with it and struggled with it...*

## **THE COURT:**

*...I'm just struggling with this. It seems to me that – if I can have more information about the purchaser, but the problem is that information seems to be pretty elusive.*

- **COUNT SEVEN : PROSECUTORIAL MISCONDUCT**

My attorney argued that under relevant conduct issue of trafficking that I should not be held accountable for conduct that has no basis or evidence to support the allegations the government was making that I was involved in trafficking of weapons outside the U.S. **Roomberg** addressed to the court that the government had no idea who the guns went to and that they only had a nickname to go by. Again, the judge ruled against us.

On **February 19, 2009**, before the Honorable Judge Royal Furgeson, **Roomberg** made a serious allegation against me. He alleged, without any proof to the court, that since by the time of my sentencing, the BATFE had traced two of the weapon in my case to Mexico. He identified them in his **GOVERNMENT RESPONSE TO DEFENDANT'S AMENDED MOTION FOR RELEASE PENDING SENTENCE; DATED February 18, 2009**. The weapons in question were one **FN-5.7x28** and a **P-90** assault rifle. I warned my attorney that the **P-90** assault rifle had no bearing in my case. This weapon was never mentioned in my case, and that I strongly believed that **Roomberg** was once again lying to the court. **Roomberg** never mentioned if these weapons were used in a crime, just that they had been found. If **Roomberg** documented the P-90 from BATFE records indicating that they had been seized in Mexico, he should had gotten the serial number and the model number. He failed to properly identify these weapons with serial numbers. It is a good indication that he was just manufacturing evidence. He never produced any identification for the courts. When I was first arrested by BATFE, their first statement was that they had found

one of the guns in Mexico. This is the M.O that BATFE uses to intimidate a citizen.

**PAGE 9 of said motion: Governments Response to Defendant's Motion on February 19, 2009**

**Roomberg:**

*Based on new developments in this case, the government believes the **defendant is a danger to the community** as well. As discussed at sentencing, the government speculated that the guns which Defendant, a resident who lived close to the Mexican border, was purchasing in San Antonio via the straw purchaser were being smuggled to Mexico for nefarious purposes. Since sentencing, B ATFE has traced and located two of the "mata policias," "cop killer," weapons to Mexico-a FN 5.7 pistol and a **FN PS-90** assault rifle...*

- **COUNT EIGHT: PROSECUTORIAL MISCONDUCT**

**Page 19: line16:**

**Roomberg:**

***"That's what these cop killing guns are meant for. They are not meant for shooting bambis. Bambi doesn't wear flak jackets. You don't need armor piercing bullets to go hunting."***

During my sentencing and at the latest hearing, **Roomberg** testified on numerous times the wrong amount of weapons I was being charged with. The official total was 35 weapons. He mentioned nine (9) times that there were 32

guns. He also falsified testimony on numerous occasions that that the FN 5.7x28 used armor piercing rounds, which it does not. And about Bambi doesn't wear flak jackets, it certainly would not matter because flak jackets are not bullet proof. According to Wikipedia, the free encyclopedia, ***a flak jacket vest is a form of protective clothing designed to provide protection from shrapnel and other indirect low velocity projectiles.*** But how would Roomberg know, he never served his country. I still own a Vietnam era flak jacket.

**Page 20: line: 7**

**Madewell:**

***"I would like to point out that it had Government's response they mention two guns, one of which was an FN PS 90 assault rifle, but if you will look in the plea agreement and the indictment, there's no such weapon mentioned. I would also like to point out that, although the prosecutor called the guns at issue cop killers, that according to the ATF government website, the FN 5.7, 5x7 times 28 – I don't know to pronounce that part – millimeter is imported into the United – approved for importation into the United States as a sporting firearm. The ATF website also says the only ammunition that is approved for import into the United States is not armor piercing ammunition. That's from the ATF's own website.***

On January 13, 2009, I received a telephone call from Mrs. Madewell who advised me that she had for the past several months attempted to contact de la Garza to no avail. She stated that she has not worked on my appeal because de la Garza had not turned the file over to her or even spoken to him. She stated however, that her secretary had contacted him on several occasions, and he had promised to turn the file over to them. The appeal attorney claims that her office has offered to send one of their investigators to pick up the file; but he has

declined. I asked her if he had to turn the file over to her, and she replied that she thought that he did not have to. I then asked how she was going to file the appeal. She stated that she could not file the appeal without knowing the proper information. An appointment was made to meet with her the following week.

On **March 03, 2009**, two days, before my first self-surrender, I finally received my attorney's notes dated **June 26, 2008**. The notes will prove without reasonable doubt that **Roomberg** lied to the court. *The notes indicate: the **full name** of the individual that purchased said weapons from me. **Second:** The surveillance unit had identified his truck with paper plates. (See surveillance reports by agents) **And most significantly:** **Roomberg** made **MapQuest** from his computer in identifying the individual.*

- **COUNT NINE: OBSTRUCTING JUSTICE**

*The act by which one or more persons attempt to prevent, or do prevent, the execution of lawful process.*

At the prosecutor's table, ICE agent Marcus **Saxton** sat in on both my plea hearing and my sentencing, and he never once corrected **Roomberg's** untruthfulness. Case agent Allen **Darilek** never showed up for my last three court proceedings.

The **third** objection was to relevant conduct-leadership role. The gun deals were between the "snitch," Jay **LeMire**, and me. The government once again said such things as "**we believe**," "**we think**," and "**we suppose**." If the government was adamant about not knowing who I was giving the guns to, how could there be leadership involvement between **LeMire** and myself? We were once again denied.

Finally, we objected to a downward departure due to health and family under **Sec. H of the sentencing guidelines & USC 3553**. After suffering Post Traumatic Stress Disorder in Vietnam and with the Drug Enforcement Administration, the judge found no compassion for a worn out veteran of three wars, who had placed his life on the line on several occasions to preserve his country. Apparently, it was not good enough. Denied.

The Honorable Judge Royal Furgeson strongly denied that I was a danger to the community and so did the Probation Department.

There is no proof the **32 guns** he bought through a straw purchaser ended up in cartel hands. "BUT PROSECUTOR SAYS THAT CAN BE ASSUMED BECAUSE MANY OF THEM – 23 WERE HANDGUNS **THAT CAN FIRE ARMOR-PIERCING AMMO...**"

I was sentenced to **37 months** incarceration for my actions. The judge was kind enough to allow me to self-surrender and ordered my surrender for **March 05, 2009**. The question is how did **de la Garza** know this back in October 2008 as to when I was going to self-surrender in March?

The **Narco News** Story wrote a story in regards to the wrong doing in my case reference to The United States Attorney's Office. Both **de la Garza** and I were interviewed for said story. I assumed it was okay to do the interview since **Roomberg** had been interviewed by the **San Antonio Express News** on their story of gun running, dated **December 14, 2008**. The next three entries are from the newspaper story.

- *"We think the person sending the drugs and receiving the guns are the same, "prosecutor Roomberg SAID.*

- *Prosecutors and BATFE said they hadn't heard of Castillo before his arrest in March.*

Both prosecutors and BATFE agents had heard of me prior to my arrest. The BATFE had initiated their case against me back in **January 2008**. Anyone in law enforcement knows that when you initiate a case on an individual, you run his name with all other law enforcement agencies. Because of my activism, and history as an "expert witness" for the defense, they certainly knew of me. I am known in government files, believe me. Let's not forget the sting operation with a television station I was involved with against BATFE at the Pharr gun show in **January, 2008** of that year. The BATFE was allegedly committing racial profiling against U.S. citizens.

As for the prosecutors not knowing me, well how soon do they forget that I testified against the government, as an "expert witness," in the same courtroom where I was sentenced? It was the **Arturo Gutierrez** case. This was where the government was caught breaking the law. This was a sting operation by the FBI against several San Antonio police officers. In that case, the case FBI agent, Manny Ramirez, was fired and his supervisors were asked to resign because of their misconduct.

Now, I am not a conspiracy theorist, but this cannot go unchecked. Let's see if we can use **Roomberg's** allegations or (method of operation) that he used to convict me without any proof. It was revealed that when **de la Garza** took on my case, he was under investigation by the State Bar for stealing approximately \$30,000 from client/clients. For the complete story, visit the Texas State Bar web site and read this month's (January, 2008) magazine.

On **October 15, 2008, de la Garza** received a notice from the Texas State Bar that he was to be suspended for one year, starting **Nov. 01, 2008**. On **October 22, 2008, de la Garza** represented me at my sentencing, still deceiving

me concerning his investigation. During my sentencing, the judge had stated that I have waived the right to appeal my sentencing. As for **de la Garza**, he had misrepresented me from the very beginning.

On **October 28, 2008**, **de la Garza** emailed me and attached documents for my appeal on my sentencing. A note on the email: *"I am enclosing the documents you have requested. Please print, sign where indicated and send to the clerk of the court by FedEx or UPS so it gets there NO LATER THAN FRIDAY. Appears you must personally sign the appeal, etc. The right hand doesn't know what the left hand is saying I guess. Questions-call me. Remember you need to send the original NOTICE OF APPEAL and one copy and the original Motion for Court appointed Attorney and Once Copy. Must sign all in blue."* So, if I gave up the right to appeal my sentence, why is he representing in filing for the appeal? In a phone call, he stated that **Roomberg** had lied to the judge, and that he had the notes to prove he had lied.

In the middle of **November of 2008**, I spoke to my former attorney **de la Garza**. He advised me that he had spoken to the attorney handling my appeal case and that he had turned over the file to her.

On **November 27, 2008**, I received a letter from Public Defender appeal attorney, Mrs. Judy Madewell advising me that she would be handling my appeal on my sentencing. She also stated that if I needed any questions answered to contact her.

Did **Roomberg** and **de la Garza** conspire in order to convict me? Did **Roomberg** ignore the possibility of federal charges, if any, against **de la Garza** on the State Bar's findings? Numerous attempts by the Public Defender and me were made to attempt to retrieve my files from **de la Garza**. He found no concerns or worries that the government would take any action against him. They are hoping that I will go to prison before this is exposed and then, while I am

inside, no one will listen, or I will have an accident. This may be, but all I can say to these individuals is that I am going to become the nightmare that their mothers warned them about.

So here we are at the end of this story. The question to some would be why would the government come after me with bogus charges from the beginning? During the 1980s, I became an **Iran/Contra Whistleblower** against the Reagan/Bush administrations. I exposed our government as complicit in the drug trade and ARMS SMUGGLING. There were several bi-partisan investigations in both the House & Senate which confirmed my allegations against the government. Several individuals involved in these atrocities were convicted, but later pardoned. In addition, some of them continued to work for the Bush administration. Why was I targeted by this outrageous government conduct? I believe that U.S. Attorney Johnny **Sutton** is very close to the **Bush** family and I guess it was payback for all my allegations against the **Bush** family.

My fiasco has not been the only case the **Sutton** administration has conducted. There is **The House of Death**, where he allowed an ICE informant to get away with murdering several people in Mexico with the knowledge of their handlers. There is also the prosecution of Border Patrol Agents Ramos and Compean. **Sutton** allowed Osvaldo **Davila** to give false statements against the agents. As **Congressman Rohrabacher** once said, ***“Davila is a rotten habitual drug smuggler who should have been the target of Sutton’s prosecution, instead of the agents.”*** **Congressman Ted Poe** also issued a statement on the Ramos/Compean appeal following a hearing in the 5<sup>th</sup> Circuit Court of Appeals in New Orleans, LA: *“Today, before the 5<sup>th</sup> Circuit Court of Appeals, the US Attorney’s Office admitted that their star witness in the case against the agents, ‘told some lies’. The rest of us call that perjury. The fact that the prosecution knowingly allowed their witness to offer false testimony raises even more red flags about the overzealous prosecution of this case.”*

Many years ago, I took an oath to protect the Constitution of the United States and have gladly fought for it on several occasions. I've continued this struggle. However, this time it's against the criminals in my own government. It certainly looks like I have lost this battle for my freedom, but I am desperately trying to learn to live to fight another day. It also bothers the heck out of me how to interpret this struggle. There is no greater conflict in me than that with regard to how I feel about my government and how my government feels about me. All I have ever asked from the courts was for a chance to prove myself. I asked for a fair and impartial opportunity, nothing that you yourself would not demand. Bottom line, I was invited to a poker game and was handed a fixed deck. I was brought up to believe by my father that beneath it all, we as Americans are decent people, with an abiding scene of integrity and fair play.

Back in **1996**, I went before a Federal Grand Jury in Washington D.C, the same Grand Jury that former First Lady Hillary Clinton testified before on "White Water." I testified concerning the allegations of the CIA's implication in murder, drug trafficking, and arms smuggling. I was granted whistle blower status.

In 1996, a great and honorable man, the Rev. Joseph Lowery invited Dick Gregory, Joe Madison, and me to a press conference at the National Press Club in Washington, D.C. We were protesting the corruption in our government, specifically within the CIA and DEA. On that day, all three of them went to jail for me and for the American people. On **January 20, 2009**, I saw the Rev. Joseph Lowery give the benediction at President's Barack Obama's swearing in. Come July 20, 2009, it will be my turn to carry the cross and become a political prisoner of my government. But before I do, I will utilize one other tool that has always worked on my spirit. I will conduct a pilgrimage to the federal court house in San Antonio.

I certainly know that I am nowhere close to Senator Ted Stevens' accomplishments, but I strongly believe the Prosecutorial Misconduct was more

severe in my case than in his. The judge in his case, Judge Emmet Sullivan, has now held Justice Department lawyers in contempt for their Misconduct and most surprisingly has dismissed the case against Sen. Stevens. His investigation could lead to reprimands, disbarment, even criminal charges. I certainly hope that in the Senator's case, it will lead to more widespread reform – or at least more effective oversight – of a practice that is more common than many would like to admit for quite human reasons. The United States Attorney General has gone where few before him dared to go. Mr. Erik Holder should be praised for his actions on Sen. Steven's case.

**Roomberg** commented in the last hearing *“that it was time for me to go to jail, for my wrong doing.”* That may be so, come **July 20.** In point of fact, our country can only move forward with confidence if it first cleans its own house. Checks and balances are what ordinary people are requesting in our judicial system. Whether **Roomberg** is punished for his action or not, we must never, ever accept the defense that somebody was “just following orders”.

On **April 10, 2009**, my official complaint against the Government was hand carried by two veteran's organization, **Americas Last Patrol** and a member of **American G-I Forum**, to the Office of Inspector General and the Civil Rights division at the Department of Justice. I am requesting an inquiry of how my case was handled by the prosecution. However, I am fearful that the old guard is still present that will protect **Roomberg**. All I know is that I don't want to spend the rest of my life in prison, questioning whether I should have done this or that.

On **February 27, 2009**, I was awarded 100% disability from the Veterans Administration. However, it was not for my Post Traumatic Stress Disorder (50%), but for my coronary artery disease. The VA revealed that I have chronic recurring congestive heart failure with a two vessel coronary artery bypass graft. They also reported that I have chronic congestive heart failure. Most significant I have (left) ventricular dysfunction with an ejection fraction of less than 30

percent. My incarceration will certainly be my death sentence. But, most likely, **Roomberg** would say, “*they have doctors in prison.*” I proudly served my country, so individuals like **Roomberg** are able to have that freedom.

***Democracy is two wolves & a lamb (Castillo)  
voting on what to have for lunch. Freedom is  
an armed lamb contesting the vote.***

A true American patriot must always be ready to defend his country against his Government. I certainly earned those rights, even if it means going to jail.

Respectfully,

**Celerino “Cele” Castillo, 3rd**

Former DEA Agent

United States Army

Infantryman Viet-Nam

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