

# CONVERGENCE

## *The Christic Institute*

Spring 1990

One Dollar

Washington, D.C.

## Hull faces murder indictment

INSIDE



Wife of slain Philippine activist

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## *Prosecutors' report in Costa Rica confirms Christic charges*

By RICK EMRICH and ANDY LANG

The Costa Rican state prosecutor's office has requested murder indictments against North American rancher John Hull and Cuban-American mercenary Felipe Vidal, two key defendants in the Christic Institute's La Penca lawsuit.

Costa Rican prosecutors say the two men, who worked for Oliver North's illegal operation to equip the *contras*, planned the 1984 terrorist bombing in La Penca, Nicaragua, which killed United States journalist Linda Frazier and several others. The prosecutors' 54-page report, released in early January, is the most dramatic confirmation to date of the basic charges outlined by the Christic Institute when the La Penca lawsuit was filed in Miami Federal court in May 1986 on behalf of journalist Martha Honey and her husband, Tony Avirgan. Avirgan was one of the reporters wounded in the explosion.

The report says that the bombing was organized by a network operating inside Costa Rica with links to the Central Intelligence Agency and former Panamanian strongman Manuel Noriega. In addition to Hull and Vidal, it recommends the indictment of 28 Costa Rican and United States citizens for a number of crimes, including murder, violations of Costa Rican neutrality, dereliction of duty and graft.

Seven of the 28 are defendants in the La Penca lawsuit.

Hull, who owns a sprawling ranch in northern Costa Rica near the border with Nicaragua, is now a fugitive from Costa Rican justice. He fled the country last year after a judge released him from prison where he was awaiting trial on charges that he trafficked drugs and violated Costa Rican neutrality. A Costa Rican court later dropped the drug charges on technical grounds, but authorities are now moving to extradite Hull from the United States on the neutrality indictment.

Hull's ranch was both a supply depot for the *contras* and a staging area for cocaine flights to the United States.

Hull says the murder allegations against him are the result of a communist plot. "I think the same thing I've always thought," he told the *Bay Guardian* newspaper in January. "The government down there is infiltrated and manipulated by communists led by the Christic

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# 'National security' obstructs Iran-contra trials

By TIA LESSIN

White House abuse of "national security" claims has protected those responsible for widespread drug trafficking, arms smuggling and political assassination, sending a clear message to intelligence agencies and private mercenaries: You are above the law.

"The Bush Administration has obstructed full prosecution of these and other individuals implicated in the Iran-contra scandal by refusing to release classified materials deemed relevant to their defense," says Sara Nelson, the Christic Institute's executive director. "The Christic Institute's La Penca lawsuit against many of the same defendants is fast becoming the last hope for comprehensive exposure and prosecution of their crimes and the criminal enterprise they created."

Free from political pressures imposed on the independent counsel and Congress, Christic Institute investigators contend that the Iran-contra scandal is just the tip of the iceberg. The Institute's civil racketeering lawsuit names 29 defendants who have engaged in a broad pattern of criminal activity traceable to covert wars in Southeast Asia, Cuba and Central America.

Evidence produced by the Christic lawsuit, congressional hearings and other investigations reveals flagrant violations of the Arms Export Control Act, the Neutrality Act and Federal statutes prohibiting narcotics trafficking. The original indictments issued by the office of Independent Counsel Lawrence Walsh ignored these revelations, limited the scope of the charges and named only a select few of those actually implicated in the scandal.

The attorney general's repeated intervention in the Iran-contra trials further narrowed the prosecution, leading to the dismissal of what was termed "the heart of the case"—the illegal sale of weapons to Iran and the diversion of profits to the Nicaraguan *contras*. The Justice Department's refusal to release documents on the grounds of "national security" forced Walsh to reduce a wide range of serious criminal offenses to petty misdemeanors and low-level felonies.

In effect, the Reagan and Bush Administrations pardoned Oliver North, Richard Secord, Albert Hakim and Joseph Fernandez for their involvement in the gravest constitutional crisis since Watergate. A review of the indictments, convictions and sentences is revealing.

■ Had **Joseph Fernandez** been tried and convicted of the two counts of obstruction of justice and two counts of false statements originally filed against him, the former C.I.A. station chief in Costa Rica could have been sentenced to 20 years in prison and \$1 million in fines. But Federal District Judge Claude Hilton dismissed the entire case against Fernandez in November 1989 after the attorney general blocked the disclosure of classified information that was ruled relevant to his defense.

■ Originally charged with five felonies, businessman **Albert Hakim** bargained the Justice Department down to

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## CONVERGENCE

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# Islanders versus developers

## *C.I. South works to empower blacks in South Carolina*

By TIA LESSIN

Ella Mae Stevens has lived her life on Daufuskie, a small barrier island off the South Carolina coast. Stevens doesn't want to sell her family home, but she may have no other choice. The value of her small plot of land jumped by 700 percent last year—from \$11,500 to \$97,300—and she can't afford to pay the new taxes.

Sixty-year-old Bertha Stafford lives on two acres that have been in her family for over a century. Recently widowed, Stafford may soon lose her home to tax collectors because the 400-percent increase in the recent property assessment far exceeds her meager income.

Skyrocketing property taxes fueled by speculators and developers are driving many other longtime residents out of their homes and off the sea island.

Lewis Pitts, director of Christic Institute South, charges that Government officials on the mainland are simply confiscating property from poor blacks like Stevens and Stafford for resale to developers. C.I. South, the Institute's office for racial justice and community empowerment, is providing legal and organizing assistance to native islanders.

Daufuskie Postmistress Henrietta Canty says the inflated land values smack of racism, cronyism and corruption. She compared assessments and found that land owned by blacks on the island's interior was appraised at a higher value than waterfront land owned by white developers.

Until recently, Daufuskie Island was safe from the

resort development that has blighted neighboring Hilton Head. Relatively isolated from the mainland, some native islanders still speak the "Gullah" dialect of their West African ancestors who were brought to Daufuskie over two hundred years ago as slaves.

But developers, who have acquired more than two-thirds of the island through speculation, are changing the face of Daufuskie. Haig Point, a subsidiary of International Paper Corp., is bulldozing Daufuskie woodlands to build private tennis courts, golf courses and beachfront condominiums. The Melrose Company is rerouting a beach access road through Daufuskie's fragile wetlands, paving the way for the privatization of scenic Bloody Point, a popular local beach.

The erosion of beaches, the destruction of turtle nesting grounds and the widespread use of pesticides by developers concerns Yvonne Wilson, president of the Daufuskie Island Community Improvement Club.

"In a land where oysters and other marine life were plentiful, we have faced the closing of fisheries due to pollution," said Wilson. "We have become a people afraid of what we eat and drink."

Last month, Greenpeace U.S.A. joined C.I. South and Daufuskie residents in publicizing the environmental damage caused by large scale resort development.

They face an uphill battle. The South Carolina Coastal Council, a state commission charged with the protection of beaches, dunes and wetlands, has as its vice chair William Jones Jr. He also serves as the general counsel of the Melrose Company, the largest developer on Daufuskie.

"It's a classic case of the fox guarding the hen house," says Gayle Korotkin, assistant director of C.I. South. "There is evidence that Jones is using his insider's position on the Coastal Council to lobby for approval of Melrose's multi-million dollar projects from which he

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*Strachan mansion offers luxury dining, drinking and guestrooms for members of the Haig Point development on Daufuskie Island. The mansion was transported by barge from a plantation on the mainland to provide a gracious setting for social gatherings.*



*Most native islanders, however, live in homes like this. Three generations live in this house, located on land owned by the family since Reconstruction.*



## DAUFUSKIE

■ *Continued from page 1*

himself stands to gain financially."

In May 1989 Jones played a key role in helping Melrose contractors obtain permits to fill-in endangered wetlands.

Organizers have had better luck before the county council than with the coastal council. In November 1989, Community Improvement Club members campaigned successfully against a proposed ordinance which would have restricted docking at Daufuskie's public dock and imposed a user's fee. After community organizers circulated petitions and testified before the county council, the ordinance was defeated overwhelmingly.

The public dock is the sole point of access to the mainland for poor residents and serves as a marketplace for local fishermen and the women who earn their living selling crab cakes to tour boats. Dock restrictions would have driven away the tour boats and benefited developers' plans to build an exclusive marina.

The dock is one of the few public facilities on the island. Since there is no public water system, garbage collection or sewage treatment on Daufuskie, many native islanders have done without basic services.

The island received its first public garbage dumpster recently, but only after residents badgered county officials for nearly two years and finally threatened to sue. The dumpster's arrival signaled the second victory of the Daufuskie Island Community Improvement Club in its efforts to regain control of the island.

"Although it was too small, there was only one for the entire island and it was in the wrong place, at least it was a start," said Czerny Brasuell, development director for Christic Institute South. "Many people realized that the only reason they got even this much from the county was because they began to organize and fight back."

Daufuskie's history typifies that of other Sea Islands. Inhabited by Native Americans for thousands of years, the first white settlers arrived in 1740 after an English trader took possession. White plantation owners brought African slaves to Daufuskie during the 1800s for the indigo and cotton harvests. After the Civil War, former slaves worked the lands abandoned by whites and later purchased small family plots.

During the 20th century, the island's farmers, loggers and fishermen have endured successive disasters: the Depression, the boll weevil infestation and the destruction of oyster beds by pollution. "Daufuskians have held onto their land through war, hurricanes and economic adversity," observed Korotkin. "Developers pose the gravest danger yet."

Christic Institute South was organized in 1985 to defend people under attack for their involvement in the region's movements for racial, political and economic justice. In addition to the residents of Daufuskie, C.I. South currently represents:

■ The black-led town government of Keysville, Ga., whose legitimacy has been repeatedly challenged in court by the town's white minority.

■ Earl Jones, a black city councilman from Greensboro, N.C., who is one of four targets of an F.B.I. probe of alleged political corruption.

■ Jeanne Lenzer, a North Carolina state mental health

worker who was fired from her job after she reported the sexual abuse of patients at an Alcohol Rehabilitation Center.

C.I. South is headed by attorney Lewis Pitts, who was chief counsel in the "Greensboro Massacre" case. The office's assistant director is attorney Gayle Korotkin, a poverty law attorney for the Vista program in New York before moving to North Carolina to work on the Greensboro case. Czerny Brasuell, a former director of the Third World Center at Princeton University, is development director. □

## DOMINGO

■ *Continued from page 11*

United States who boasted of his close relationship with the dictator. He was arrested after police traced the murder weapon to him, but was not charged by Government prosecutors in the case.

Baruso was linked with the Mabuhay Corp., a front headed by San Francisco businessman Leonillo Malabed that raised funds for Marcos' intelligence operations in the United States. Baruso's trip to the Bay Area just two weeks before the murders coincided with a \$15,000 expenditure from the Mabuhay fund and was one of many crucial facts that helped convince the jury of the association between Marcos, Baruso and the three men originally convicted of murder.

In a separate decision, Baruso and Malabed were both found liable of conspiracy on Jan. 12, 1990, by United States District Court Judge Barbara Rothstein. Judge Rothstein handed down a memoranda verdict finding Malabed liable of negligence in connection with the Domingo-Viernes murders and fined the two men \$8.4 million. Another decision is expected in March on an aggravated murder charge brought against Baruso in King County Superior Court in Seattle.

Cindy Domingo, who headed C.J.D.V.'s effort to bring the case to court, said after the legal victory: "It is possible to get justice in this country. It is not easy or fast, but it has been done. But we are only half-finished. We also want to show that the United States government played a role in this."

The lawsuit originally filed by the plaintiffs charged that the United States Government cooperated illegally with the Marcos regime, both by sharing reports on United States citizens and Filipino exiles with Marcos' security service and by allowing Filipino agents to operate without interference in the United States. But United States District Judge Donald Voorhees dismissed that portion of the suit against the United States Government in 1983, citing "national security" obstacles.

"It is clear from the evidence that we gathered," said Jeff Robinson, one of the plaintiffs' attorneys, "that the F.B.I. and other intelligence agencies were aware of the Marcos Government agencies' activities, and that United States agencies themselves were carefully monitoring the anti-Marcos activists in the United States."

Ironically, at the same time that police were investigating the murders, then-Vice President George Bush told Marcos during a state visit to Manila that "I love your adherence to democratic principles and to the democratic process." □



# Sanctions order challenged

*Public-interest groups, religious organizations support Christic appeal*

By TIA LESSIN

A Federal judge's attempt to force the Christic Institute to pay more than \$1 million in punitive sanctions to key figures in the Iran-*contra* scandal has been challenged in court by leading public-interest organizations, law professors and religious groups.

In *amicus curiae* ("friend-of-the-court") briefs filed in November, the groups warn that a rash of sanctions imposed by judges against public-interest litigants could have a chilling effect on politically controversial lawsuits.

The judge's punitive order is without merit, the *amicus* briefs argue.

In February 1989 Federal District Judge James Lawrence King ordered the Christic Institute, its leading attorney, and plaintiffs Tony Avirgan and Martha Honey to pay more than \$1 million in punitive sanctions to 15 defendants named in *Avirgan v. Hull*. The order was handed down after King's surprise dismissal of the lawsuit in June 1988, just four days before the trial was scheduled to open in Miami Federal Court.

The Institute has appealed both rulings. The Federal Appeals Court in Atlanta will decide later this year whether to revoke Judge King's sanctions ruling and order the lawsuit to trial.

Among the defendants are most of the leading personalities implicated in the Iran-*contra* affair, including retired Air Force Maj. Gen. Richard Secord, retired Army Maj. Gen. John Singlaub, rancher John Hull, and political consultant Robert Owen, who acted as Oliver North's liaison with the *contras*. The Institute alleges these men formed a criminal racketeering enterprise that smuggled weapons, trafficked in drugs, laundered money and planned several murders.

*[Editor's note: Costa Rican prosecutors have asked the courts in their country to add murder charges to a standing indictment that John Hull violated Costa Rican neutrality. An official police investigation there has concluded Hull and several other defendants in Avirgan v. Hull planned the La Penca bombing, which claimed several lives. For details, see the story on page 1.]*

*"We were ready to shut them down. We were ready to seize all their assets: their town-house office building in Washington, their computer, their furniture, their mailing list—anything and everything they owned. . . . [W]e could have closed down the Christic Institute. It would have ceased to exist, and the General would be rid of his torment."*

Lawyer for Maj. Gen. John K. Singlaub in a fundraising letter mailed late last year

A barrage of court-ordered sanctions has targeted other prominent public interest and civil rights attorneys in recent months, including

■ A.C.L.U. lawyers representing AIDS victims in southern Texas.

■ Former Attorney General Ramsey Clark, who represented victims of the United States bombing of civilian targets in Libya.

■ N.A.A.C.P. Legal Defense and Education Fund Director-Counsel Julius Chambers, who litigated an employment discrimination case in North Carolina.

■ Attorney Lewis Pitts, director of Christic Institute South, who sued North Carolina officials for the harassment of African-Americans and Native Americans who had exposed drug corruption in Robeson County, N.C.

Civil rights litigants have been especially vulnerable

to sanctions, in part because of the increasingly conservative judiciary which hears their cases. More than half of all Federal judges now in office were appointed during the Nixon, Reagan or Bush Administrations.

"Legal scholars have documented how sanctions are disproportionately entered against civil rights lawyers," says Pitts. "While this seriously affects lawyers, the real victims are citizens seeking justice through the courts who will now find it more difficult to obtain lawyers willing to represent them in controversial cases."

*Amicus* briefs supporting the Institute's appeal to reverse the sanctions order were filed by Trial Lawyers for Public Justice, a nationwide association of attorneys; the Alliance for Justice, a coalition of 30 public-interest groups, and Public Citizen Litigation Group, a nonprofit law firm founded by consumer activist Ralph Nader. A separate brief was filed by three legal scholars—

Hastings School of Law Prof. Melissa Nelken, University of Montana Prof. Carl Tobias and University of Florida Prof. Mary Twitchell.

Ten churches and religious organizations also contributed a brief supporting the Institute. They are the National Council of the Churches of Christ in the U.S.A., Church of the Brethren, Maryknoll Fathers and Brothers, the Women's Division of the United Methodist Board of Global Ministries, Church Women United, Disciples of Christ Peace Fellowship, General Conference Mennonite Church, the Unitarian Universalist Association, and two umbrella organizations representing Roman Catholic monks, friars and nuns—the Leadership Conference of Women Religious and the Conference of Major Superiors of Men.

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## Organizing ideas

# Pass a resolution to end the links between covert operations and drug traffickers

Senate reports, Costa Rican investigations and the Christic Institute lawsuit all point to the same conclusion: among the victims of covert operatives and the secret wars they wage are the families and communities devastated by the crack epidemic. The floodgates on the cocaine deluge were opened in the early 1980's by an alliance of *contra* supporters and narcotics traffickers engaged in guns-for-drugs operations. The Bush Administration's "war on drugs" seeks more judges and jails to punish the "casual user" while turning a blind eye to these deadly alliances.

With so much at stake, we must raise a unified voice to demand an end to the link between covert wars abroad and the massive influx of drugs into our country. You can help refocus the drug crisis debate onto the source of the epidemic by passing a version of the sample resolution (see next page) in your city council, religious conference, labor union or other community organization. Resolutions not only express the views of hundreds or thousands of individuals, they are also valuable tools for educating and organizing people not yet familiar with these issues or the Christic Institute's La Penca lawsuit.

## Organizing tips for passing a resolution

- 1. Decide which body should pass the resolution.** Target the body that represents the largest number of constituents. Consider working for passage at your town or city council. Also consider regional and/or national conventions of your religious denomination, labor union, political party, professional organization or other community group. Become familiar with the decision-making procedures and timelines of the forum you have targeted.
- 2. Adapt the resolution to your community.** Research the local effect of the drug crisis and/or the policy positions of your organization.
- 3. Educate your community.** Distribute Christic Institute brochures, information packets and other materials, show the video "Crack, Covert Operations and the Constitution" and give presentations about the connection between covert wars and drug trafficking.
- 4. Gather widespread support.** Encourage key individuals or groups to support the resolution. You may want to circulate petitions that summarize your resolution or work with other organizations to gather endorsements. In order to get a larger organization to pass a resolution, you may need to gather support of several smaller constituent groups.
- 5. Recruit sponsors.** Enlist key people in the organization or on the council to introduce the resolution and to organize for its passage.
- 6. Shore up votes.** Find out who will be voting on the resolution and lobby for their support. Phone calls, letters and meetings may help to persuade delegates to vote "yes."
- 7. Maximize the impact of your resolution.** Send a copy of your resolution to the Institute. Also, make your state and national legislators aware that your community has taken a stand. Communicate your victory to the press.

*Consider joining one of the Christic Institute's citizen action networks. See the attached flyer if you are interested. Contact our Outreach Department at (202) 797-8106 for other organizing ideas.*



# Sample Resolution

**WHEREAS** the current drug crisis has condemned many people to lives of violence and despair, destroyed families and communities nationwide and become a national priority; and

**WHEREAS** the availability of cocaine has increased 1000% nationwide since 1980 and \_\_\_\_ % in (your town); and

**WHEREAS** all current administration anti-drug programs overlook a critical component of the drug crisis — specifically, that the influx of drugs into our country has been fueled by government agency relationships with drug traffickers in the name of national security and under the cover of covert operations; and

**WHEREAS** a recent report by the Senate Foreign Relations Subcommittee on Narcotics, Terrorism and International Operations, the findings of the Christic Institute and other independent investigations establish the following to be true:

- 1) U.S. government officials have turned a blind eye to drug trafficking by allies — including the *contras* in Nicaragua, the rebels in Afghanistan, government officials in the Bahamas and until 1988, General Manuel Noriega of Panama — in exchange for support of U.S. foreign policy goals.
- 2) Drug money has become an integral financial component of covert military operations for the past twenty years, funding covert activities from the Vietnam War in the 1960's to the *contra* war against Nicaragua in the 1980's.
- 3) Drug traffickers have been employed to carry out covert operations on behalf of our government; many of the pilots who smuggled for the major cocaine cartels also transported arms for the *contras*, often landing drug shipments at U.S. airports with government protection.
- 4) Federal officials have protected drug smugglers and undermined drug investigations for foreign policy purposes; in Mena, Arkansas, a local law enforcement investigation of drug running from a nearby airport was derailed by federal agencies in order to protect a drug trafficker who was also a transporter of *contra* supplies.
- 5) The State Department paid over \$800,000 in U.S. tax dollars to companies owned by known drug kingpins in return for their support of the *contras*; one of these companies was owned by Juan Ramon Matta who, at the time of the payments, was under investigation by the Drug Enforcement Agency (DEA) for his key role in the assassination of a DEA agent; and

**WHEREAS** these relationships with drug dealers have led to a significant increase in the flow of drugs into the United States, opening our borders to traffickers who come and go with little fear of detection or prosecution; and

**WHEREAS** these relationships have made it difficult, if not impossible, for U.S. officials to rein in members of drug cartels and drug-corrupted foreign government officials with whom they have been involved in the past; and

**WHEREAS** government collusion with drug dealers could indeed be continuing today given the history of these relationships and the consistent failure to prosecute known criminal activity;

**THEREFORE BE IT RESOLVED THAT** (your group) call on the President, the Congress of the United States and all appropriate federal agencies to pledge publicly to end all support of and involvement with individuals engaged in drug trafficking and to end support for drug-corrupted military allies; and

**BE IT FURTHER RESOLVED THAT** (your group) call on the House and Senate Judiciary Committees to investigate and support the prosecution of government officials who have worked with drug traffickers or have obstructed the prosecution of drug traffickers; and

**BE IT FURTHER RESOLVED THAT** (your group) allocate funds to 1) send a representative to communicate this resolution directly to our lawmakers and public officials in Washington, D.C. and 2) educate its membership about the connection between drugs and covert operations.



# SANCTIONS

## ■ Continued from page 5

The unprecedented order—the largest sanctions award in history—demanded payment of an amount nearly four times greater than the net assets of the Christic Institute. If enforced, the court's ruling would have forced the Institute to transfer its bank accounts, property and office equipment to the defendants.

"It is precisely this type of retributive, excessive, judicial response to imagined cumulative wrongs which is statutorily forbidden and judicially condemned," declared Eugene R. Scheiman, a senior partner at the Wall Street law firm of Baer, Marks and Upham. Scheiman has donated his time to represent the Institute and its plaintiffs, Avirgan and Honey, in the appeal to reverse the sanctions order. Morton Stavis, president of the Center for Constitutional Rights in New York City, is representing Christic Institute General Counsel Daniel Sheehan.

The defendants have said in public that their intention was to shut down the Institute with the sanctions ruling. They were clearly disappointed when thousands of supporters responded to the Institute's appeal for an emergency contribution, which raised the funds needed to post a surety bond and block enforcement of the judge's order. "We were ready to shut them down," lamented General Singlaub's lawyer in a fundraising letter. "We were ready to seize all their assets: their townhouse office building in Washington, their computer, their furniture, their mailing list—anything and everything they owned. . . . [W]e could have closed down the Christic Institute. It would have ceased to exist, and the General would be rid of his torment." Singlaub, former president of the extremist World Anti-Communist League, was the chief fundraiser for the *contras*.

The Christic Institute attorneys posted the \$1.2-million bond in March 1989, preventing the defendants from claiming the Institute's assets before the sanctions order could be appealed.

## Devastating impact

In its *amicus* brief opposing the sanctions, Public Citizen Litigation Group cautions that if allowed to stand, the award would have a devastating impact on public-interest law. "Unless reversed by this court," the group argues, "the sanctions ruling will inevitably result in a dramatic cutback in public-interest litigation because of the fear of financially ruinous sanctions awards if the plaintiffs do not prevail."

The brief filed by the religious organizations raises the same concern: "So long as this million-dollar sanctions order stands, it is a warning to injured parties that they should not turn to the courts to ferret out the truth, if those who injured them have had the assistance of powerful friends to aid them in hiding evidence."

The sanctions against the Institute highlight raging controversies over Rule 11, a Federal provision intended to deter "frivolous" lawsuits. Debates over the provision are being waged between lawyers and within the judiciary itself. "[T]here has been considerable judicial disagreement about the appropriate purpose, amount, and type of sanctions as well as how to calculate the assessments granted," said one legal scholar. According to his research, approximately one thousand reported Rule 11

opinions and countless additional unreported decisions are riddled with errors, confusion and inconsistencies.

## Alleges drug trafficking, arms smuggling

Filed under the Federal Racketeer Influenced and Corrupt Organizations Act (RICO), *Avirgan v. Hull* grew out of an investigation of the May 1984 bombing of a press conference in La Penca, Nicaragua, which claimed several lives. Among the many wounded by the explosion was ABC cameraman Tony Avirgan. He and his wife, journalist Martha Honey, are plaintiffs in the lawsuit against the alleged bomber and his associates in the enterprise.

In the February 1989 sanctions order, Judge King wrote that the Institute and its clients "were unable to produce a single witness who could state that the defendants exploded the bomb or were responsible for the assassination attempt." The judge based the sanctions award on arguments similar to those he used in the June 1988 summary judgment against the plaintiffs. In his dismissal of the lawsuit, King had argued that the plaintiffs had "presented no direct evidence nor eyewitness testimony showing that [the alleged La Penca bomber] was at the press conference, let alone whether he set the bomb."

However, the Institute argues that eyewitness testimony, part of 50 volumes of testimony and documents now before the Atlanta appeals court, clearly establishes the bomber's activities and his connection to the drug-trafficking and arms-smuggling enterprise alleged in the lawsuit. According to the Institute, King's two-page argument for the sanctions order disregards this evidence, misrepresents the record, ignores legal precedent and violates the standards governing how sanctions should be imposed.

"Given the refusal of the defendants to obey legal rules on providing evidence and the court's toleration of their obstruction, plaintiffs nevertheless developed extensive evidence demonstrating the truth of their complaint, evidence that barred imposing sanctions," says Center for Constitutional Rights President Morton Stavis.

Christic attorneys are fighting similar sanctions in a separate case in North Carolina. In September 1989 Federal District Court Judge Malcolm J. Howard invoked Rule 11 and ordered attorney Lewis Pitts, director of Christic Institute South, William Kunstler of the Center for Constitutional Rights and Barry Nakell of the University of North Carolina Law School, to pay more than \$122,000 in sanctions to county, state and Federal authorities.

The attorneys had filed a lawsuit on behalf of eight residents of Robeson County, N.C., who were seeking relief from intimidation and harassment suffered as a result of their efforts to expose corruption, violence and drug trafficking by local officials. The sanctions order was recently stayed pending an appellate court ruling.

Over 100 pages of sworn statements from residents and legal experts established that the lawsuit, *Robeson Defense Committee et al. v. Britt, et al.*, had been carefully researched and thoroughly investigated. Ignoring these affidavits, Judge Howard wrote a 24-page order berating the lawyers.

The North Carolina Civil Liberties Union and the North Carolina Chapter of the National Lawyers Guild are expected to submit *amicus* briefs in support of the civil rights attorneys. □



# MURDER CHARGE

■ Continued from page 1

Institute."

*Avirgan v. Hull* was dismissed in June 1988 by a Federal judge who said there was no evidence linking Hull, Vidal and the other defendants to the La Penca bombing. The Institute is asking the Federal Appeals Court in Atlanta to reinstate the charges. A decision is expected later this year.

## Attempt to assassinate Pastora

The bombing was an attempt to assassinate Edén Pastora, a renegade *contra* commander whose small guerrilla army operated from bases in Costa Rica. The prosecutors' report says the attempt was made on Pastora's life because he opposed drug funding for the *contras* and resisted C.I.A. plans to merge his force with a larger *contra* army controlled by the United States Government.

Pastora was meeting with reporters from several countries when the bomb exploded. He survived the blast, but Frazier and two Costa Rican reporters were killed along with several Pastora supporters.

The link between the bombing and Hull's drug-trafficking and gun-smuggling network was first uncovered by Honey and Avirgan in their 1985 study, *La Penca—Report of an Investigation*. The two journalists later asked the Institute to represent them in a civil lawsuit against the bomber and his associates.

The Costa Rican prosecutors' report is the result of a criminal probe by the Judicial Investigation Organization (O.I.J.), the Costa Rican equivalent of the F.B.I. Earlier attempts to investigate the bombing were thwarted by a coverup engineered by a C.I.A. agent stationed in the Costa Rican capital, the report concludes.

The report recommends sweeping indictments against the arms and drug network in Costa Rica. Its recommendations include:

■ Hull and Vidal should be indicted for murder.

■ Five other defendants named in the Christic Institute lawsuit—Robert Owen, Rene Corvo, Moises "Dagoberto" Nuñez Ruiz, Tom Posey and Bruce Jones—should be charged with violations of Costa Rican neutrality. Owen, Oliver North's liaison to the *contras*, probably knew in advance about the bombing, the report says.

■ A top associate of Manuel Noriega, Panamanian Defense Forces officer Luis Cordova, should be indicted for the murder of a Panamanian citizen, Dr. Hugo Spadafora. Spadafora, who fought with Pastora's guerrillas, was reportedly preparing to expose Noriega's involvement in drug trafficking.

■ A special prosecutor should be appointed to investigate "the Babies," a secret antiterrorism squad in the Costa Rican Office of Intelligence and Security trained and funded by the C.I.A. The report says that members of the unit blocked earlier investigations of the bombing on the instructions of Dimitrius Papas, then a C.I.A. agent in Costa Rica.

"The Babies" surfaced in the media recently when Federal charges in the United States were dropped against Iran-*contra* defendant Joe Fernandez, who served as C.I.A. station chief in Costa Rica. Following the pattern established in earlier Iran-*contra* cases, prosecution of Fernandez was thwarted when the Justice Department

refused to release documents to the court on the grounds of "national security." The principal reason for blocking the case against Fernandez, *Newsweek* magazine reported on Feb. 12, may have been his knowledge of the United States Government's relationship with the secret unit in Costa Rica.

The C.I.A.'s influence over security officers in Costa Rica is a sensitive issue in the country, which has no army and tried to preserve its neutrality during the United States Government's undeclared war against Nicaragua. Although the Reagan-Bush Administration failed to draw Costa Rica into the conflict, Pastora's force and other *contra* units operated for several years from bases on Costa Rican territory.

## Latest independent confirmation

The prosecutors' findings are the latest independent confirmation of key allegations in *Avirgan v. Hull*, which alleges that anticommunist extremists—including retired military officers and senior officials in the C.I.A.—formed a criminal enterprise to smuggle weapons and drugs through *contra* base camps in Central America.

The first official inquiry into the charges against Hull and his associates came in 1986, when the rancher sued Avirgan and Honey in a Costa Rican court for libel after publication of their report on the La Penca bombing. In May 1986 the court ruled that Avirgan and Honey had sufficiently proven their charges against Hull and dismissed his complaint.

The Institute's Federal lawsuit was filed in Miami the same month. Besides Hull, defendants named by the Institute included retired Air Force Maj. Gen. Richard Secord, businessman Albert Hakim, Robert Owen and several others. Their names became household words six months later when newspapers in the United States published the first reports about the Reagan-Bush Administration's use of illegal profits from the sale of missiles to Iran to buy military supplies for the *contras*. Congressional investigations that followed in 1987 confirmed the existence of the criminal enterprise exposed by the Institute.

In December 1988 the Senate Judiciary narcotics subcommittee chaired by Sen. John Kerry, Democrat of Massachusetts, officially confirmed one of the Institute's main charges against the defendants: that Colombian drug traffickers were systematically using *contra* bases in Central America to smuggle cocaine into the United States.

In July 1989 the Costa Rican Legislative Assembly concluded in an official report that Hull was trafficking drugs through the country on behalf of the *contras*. The report accused Oliver North, Robert Owen and General Secord, along with former National Security Adviser John Poindexter and former United States Ambassador to Costa Rica Lewis Tambs, of responsibility for the arms-smuggling operation that was used as a cover for drug shipments, and urged the Government to bar the five men permanently from the country.

"The Costa Rican prosecutors' report is one of the most important independent probes vindicating the Institute's case against the criminal enterprise which carried out the bombing at La Penca," says Sara Nelson, the Institute's executive director. "Their findings strengthen an already

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# MURDER CHARGE

■ *Continued from page 9*

solid case as we ask the Federal appeals court to order the lawsuit to trial."

Federal Judge James Lawrence King, who blocked the lawsuit in 1988 and later attempted to confiscate the Institute's funds as punishment for filing a "frivolous" case against the defendants, based his decisions on one issue: the identity of the La Penca bomber and his connection with the defendants.

The Institute charges that Hull and several other defendants hired a professional assassin known as Amac Galil, who posed as Danish journalist "Per Anker Hansen," to bomb the press conference. But Judge King ruled there was no evidence either that "Hansen" detonated the bomb or that there was a causal link between the defendants and the alleged bomber.

In its appeal to the Federal court in Atlanta, the Institute argues that King improperly ignored critical evidence linking Hull and Galil to the bombing.

Costa Rican prosecutors now say it is a "certainty" that "Hansen" is the La Penca bomber and that he was hired by Hull and Vidal to kill Pastora.

## Report confirms drug trafficking

According to the Costa Rican prosecutors' report, the network responsible for the bombing was born partly out of an arms-trafficking operation controlled by General Noriega.

The report portrays Noriega as a war and drug profiteer who would support any side in the Central American conflict. Early on in the Reagan-Bush Administration the United States Government recruited Noriega to supply arms to the *contras* and train *contra* troops at military bases in Panama.

By 1982, the prosecutors' report says, Noriega agreed to use his profitable arms-smuggling operation as a cover for narcotics shipments from Colombia to the United States. He provided protection for drug flights and transformed Panama into a haven for the Medellín cocaine cartel of Jorge Ochoa and Pablo Escobar—also named as defendants in the Institute's lawsuit.

One of the destinations for Noriega's pilots was Hull's isolated ranch in Costa Rica, the report says. Planes from the United States landed with military supplies and took off again with cargoes of cocaine for the return flight. Eventually, the entire *contra* force in Costa Rica was funded largely by businesses used to launder drug profits.

## The attempt to kill Pastora

Spurred on by the murder of his father by the National Guard—the instrument of Anastasio Somoza's dictatorship in Nicaragua—Edén Pastora joined the Sandinistas and served with distinction in the insurrection which toppled the Somoza regime in 1979. He soon became disenchanted with the movement's leadership and the relatively minor role they allowed him in the new Government. In 1981 he left the country to become an "internationalist fighter," resurfacing in Costa Rica in 1982 with a plan to overthrow the Nicaraguan Government.

At first, United States officials supported the erstwhile Sandinista commander. But Pastora was an idealist who proved difficult to control. He resisted pressure to merge

his small force with the Nicaraguan Democratic Forces (F.D.N.), a much larger army based in Honduras and controlled by the C.I.A. The F.D.N. was commanded by remnants of Somoza's National Guard—and Pastora hated the National Guard more than he distrusted the Sandinistas.

According to the Costa Rican report, the United States Government began to pressure Pastora in 1983 to fall in line with its plan to unify *contra* forces under the leadership of the F.D.N. Dewey Clarridge, chief of the C.I.A.'s operations in Latin America, arranged for Pastora and his *contra* rivals to meet in Panama with General Noriega.

When this attempt at mediation failed, Avirgan and Honey learned, Clarridge gave Pastora a 30-day deadline to merge his guerrillas with the F.D.N. The bomb was detonated when the deadline expired.

On the night of the bombing, the Costa Rican report says, Hull was meeting with Rob Owen and several pilots in a C.I.A. safe house in San Jose, the Costa Rican capital. Also present, Owen later testified, was C.I.A. station chief Phil Holtz. When news arrived of the explosion, Hull phoned his associates to instruct that his private plane not be used to evacuate any of the wounded.

## Coverup

According to the prosecutors' report, the initial investigation of the bombing was compromised by police officials who followed instructions from Dimitrius Papas, a C.I.A. official based in San Jose. O.I.J. investigators believe Papas intended to steer the investigation away from the Hull group to protect the *contra* resupply operation.

Papas controlled a 15-officer unit of Costa Rica's intelligence police known as "the Babies." The report says Papas used the group for domestic intelligence operations in Costa Rica, including surveillance of former President Monge and other senior Government officials.

After the bombing, Papas used "the Babies" to generate false leads to throw investigators off the bomber's trail. He also derailed the investigation by exploiting his close relationship with Allán Solano and Albert Llorente, two O.I.J. officials assigned to the case. Papas gave them false leads and United States Embassy funding for trips to foreign countries to pursue the disinformation.

"The prosecutors' report has been welcomed by Costa Rican citizens who have been pressuring their Government for several years to reopen the La Penca investigation," Avirgan told *Convergence* after the report was released to the public. "The efforts of the Costa Rican Journalists Association, the Foreign Press Association and many private citizens, and above all the tenacity of honest police officials in Costa Rica means that the victims of the La Penca bombing may still obtain justice in Costa Rican courts." □

## INTERNS, VOLUNTEERS NEEDED

The Christic Institute is looking for both full- and part-time interns and volunteers. We offer a diverse and enriching experience for persons who share our concerns, and wish to work toward positive change. All inquiries should be directed to Laurel LaPorte-Grimes at (202) 797-8106, or in writing to Laurel at the Christic Institute, 1324 North Capitol Street, N.W., Washington, D.C. 20002. □



# Court rules on Domingo, Viernes

## *Ferdinand, Imelda Marcos held responsible for death of 2 activists*

By CYNTHIA STROM

Friends and supporters of the families of Silme Domingo and Gene Viernes are still feeling the exhilaration of triumph after a Federal jury found Ferdinand and Imelda Marcos responsible for the murders of the two Philippine dissidents.

Domingo and Viernes were gunned down in 1981 outside their Seattle union hall. It took nearly nine years to bring the case to trial. Then, after five hours of deliberation, the jury found the late Philippine dictator and his wife guilty of conspiracy to commit the crime. The victims' families were awarded \$15 million in damages.

The case had supposedly been resolved in 1982, when three members of Local 37 of the International Longshore Workers' Union (I.L.W.U.) were convicted of the murders. State prosecutors argued that the union members had killed Domingo and Viernes, seeking revenge for reforms initiated by the two activists. The reforms included a prohibition on illegal gambling operations in the union.

However, the families, their lawyers and Christic Institute investigators were convinced that a covert operations network, run by Philippine intelligence agencies, had ordered the murders of the two men because of the leadership roles Domingo and Viernes had taken as anti-Marcos dissidents within the United States. The families of the slain dissidents formed a Committee for Justice for Domingo and Viernes (C.J.D.V.) to expose the network they believed was actually responsible for the killings.

The Christic Institute was asked by Seattle attorneys to assist with the investigation and in drafting the complaint. Attorney Jim Douglas, who offered his services to the families soon after the killings said: "In the early days of our case, the Christic Institute's role was absolutely critical. Their investigator uncovered crucial information used to guide the case throughout the entire period."

The Rev. William J. Davis, S.J., director of Christic Institute West, also worked with the team, piecing together leads gathered from his trips throughout the United States and the Philippines.

Domingo's sister, Cindy Domingo, said of Father Davis, "He not only worked with us early on in the investigation but supported our efforts by educating people about our case and participating with us in our commemorations of Silme and Gene."

Even though Marcos in a pretrial deposition had called Domingo and Viernes "laborers in a small vineyard," insisting that they posed no threat for him, the Institute's investigation, along with C.J.D.V. research and trial testimony, showed that Marcos was lying.

The two men were national leaders of the Union of Democratic Filipinos (K.D.P.) and the Committee Against



John Starnes

*Relatives of the slain Philippine activists and their lawyer meet with the press after court verdict. From left: Nemisio Domingo Sr., Silme Domingo's father; Kalayaan Domingo, 9, his daughter; Michael Withey, the plaintiff's attorney; Terri Mast, Domingo's wife, and Cindy Domingo, his sister.*

the Marcos Dictatorship. During a trip to the Philippines in March 1981 Viernes held numerous meetings with opposition groups. Viernes and Domingo had just won union elections that displaced Marcos supporter Tony Baruso as president of Local 37.

In a final threatening challenge, the two dissidents in April 1981 successfully promoted a resolution at the I.L.W.U. convention in Hawaii condemning Marcos and ordering a union team to travel to the Philippines for an investigation of human rights and labor conditions. Six weeks after the passage of this resolution, both men were dead.

C.J.D.V. filed a Federal civil suit in September 1982, naming as defendants Ferdinand and Imelda Marcos, the Philippine and United States Governments, and Tony Baruso, Local 37 president.

The evidence strongly linked Marcos with other key players in the conspiracy. Baruso was a leading Marcos supporter in the expatriate Filipino community in the

*Continued on page 4* ■



# IRAN-CONTRA

## ■ Continued from page 2

one misdemeanor: a charge that he illegally "supplemented" Oliver North's salary. Facing up to one year in prison and a \$100,000 fine, Hakim was sentenced to two years probation and a \$5,000 fine.

■ **Lake Resources, Inc.**, in which Hakim was the principal shareholder, pleaded guilty to a corporate felony of theft of Government property through the diversion of Iranian arms sales proceeds to the Nicaraguan *contras*. The judge ordered that the company be dissolved. Under an agreement with the independent counsel, however, Hakim retains \$1.7 million of the proceeds from the sale of arms.

■ **Robert McFarlane**, the former national security adviser to President Reagan, pleaded guilty in March 1988 to four misdemeanor charges of withholding information from Congress. He was sentenced to two years probation, 200 hours of community service and a \$20,000 fine.

■ **Richard Miller**, head of a Washington public relations firm that promoted the *contras*, and **Carl "Spitz" Channell**, the conservative fundraiser for the National Endowment for the Preservation of Liberty, both pleaded guilty to one-count of conspiracy to defraud the United States Government of tax money by using non-profit corporations to raise more than \$2 million to arm the Nicaraguan *contras*. Each was sentenced to two years probation and a \$50 fine.

■ If convicted of the charges contained in the original indictment, **Oliver North** could have been sentenced to 85 years in prison and fined \$4 million. Because the attorney general stonewalled subpoenas for documents and testimony, the independent counsel dismissed two key charges against North: conspiracy and theft of Government property. North was convicted of three felonies: altering and destroying official documents, accepting an illegal gratuity, and aiding and abetting in

the obstruction of Congress. His sentence was a three-year suspended prison term, two years probation, a \$150,000 fine and 1,200 hours of community service. North also was disqualified from holding Federal office.

■ Original charges against retired Air Force Maj. Gen. **Richard Secord** included theft of United States property, wire fraud, seven counts of perjury, conspiracy to defraud the United States Government and obstruction of justice. In exchange for the dismissal of the remaining 11 more serious charges against him, Secord pleaded guilty in November 1989 to one felony of false statements to the Iran-*contra* congressional committees. The maximum penalty for the 12 felonies would have been 54 years in prison and a \$2.25 million fine. Instead, Secord was sentenced to two years' probation and a \$50 fine.

■ **John Poindexter's** trial, set for March 1990, is the last of Walsh's prosecutions. The former Navy admiral is charged with five felonies: one count of conspiracy (obstruction of inquiries and proceedings, false statements, falsification, destruction and removal of documents), two counts of obstruction of Congress and two counts of false statements. The maximum penalty if convicted on all counts is 25 years imprisonment and \$1.25 million.

Sentences for six of the eight Iran-*contra* defendants amount to a combined total of 3 years suspended jail term, 12 years probation, \$175,150 in fines and 1,400 hours of community service. Secord, the chief operating officer for the contra resupply enterprise, received stiffer penalties for his drunk driving conviction than for obstructing justice. North, the National Security Council's liaison to the *contras*, earned more money on the lecture circuit in 1989 than he was required to pay in fines resulting from his conviction.

Both Secord and North are appealing the cruel and unusual punishments doled out by the courts. □

## The Christic Institute

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