

Posada Carriles: The double acquittal myth

By Rosa Miriam Elizalde and José Pertierra

CARACAS - The mass media repeats – in radio spots, television reports, wire services, and newspapers stories – the same news that “Luis Posada Carriles was twice acquitted in Venezuela.” We get the impression that Venezuela still persecutes an innocent man.

Google’s search engine yields 1,229 references to the terrorist’s supposed double acquittal – 953 of these in English. A lie, if repeated often enough, turns into truth – the only truth.

A fallacious conclusion always follows from a false major premise. Does it matter that the premise is unsupported by the court files in Venezuela? Does it matter that recently declassified documents from the CIA and the FBI leave no doubt that Posada Carriles is guilty of the murder of 73 people aboard a civilian airliner – including an unborn child in a mother’s womb?

Posada Carriles’ own attorney, Eduardo Soto, fans the fallacy and says to the Miami Herald: “My client was acquitted twice in Venezuela.”

Hardly a coincidence, the State Department repeats the fallacy in a May 27 diplomatic note to the Venezuelan Embassy, when it rejected Venezuela’s first request for the preventive detention of Luis Posada Carriles. “There is no mention,” says the State Department in the diplomatic note “of the fact that Posada Carriles was acquitted by a military tribunal in Venezuela in a previous prosecution, and the legal effect that that decision will have under Venezuelan law.”

Why is this false premise used so cavalierly by lawyers and the government alike? Why does the press today accept as gospel truth something that can so easily be shown to be false? What really happened in Venezuela in the case of Luis Posada Carriles?

The facts

The plot was carried out by two Venezuelans named Freddy Lugo and Hernán Ricardo who boarded a Cuban passenger plane in Trinidad on October 6, 1976. They hid C-4 explosives in a camera that Mr. Ricardo placed in the rear bathroom of the plane. Both men deplaned in Barbados, and the ill fated plane took off, exploding soon after in midair off the sandy beaches of Barbados, killing all 73 aboard, including a pregnant passenger.

Police in Barbados immediately focused their investigation on Lugo and Ricardo and arrested them a few hours after the attack. Under interrogation, both confessed and implicated two others in the plot: Luis Posada Carriles and Orlando Bosch. Venezuelan authorities arrested Posada and Bosch in Caracas. During a search of Posada Carriles’ home and business, police found evidence corroborating the confessions of the men in Barbados.

On August 25, 1977, Judge Delia Estava Moreno referred the case to a military tribunal, charging all four co-conspirators with treason. The military court absolved them, thus giving rise to the origin of the acquittal myth. But that is not the end of the story. Later, the Military Court of Appeals found that the military tribunal lacked jurisdiction to try the men, and nullified the previous proceedings. The Judge ruled that “those prosecuted in the case of the Cubana flight, brought down off Barbados on October 6, 1976, are civilians and the crimes imputed to them are governed by the penal (and not the military) code.” “Military jurisdiction,” said the Court, “is applicable to the military for military infractions. Civilians and common law crimes are not subject to the dispositions of the Code of Military Justice... The Military Court considers it necessary to

clarify that it does not possess the subjective procedural capacity to take on the current judicial process.”

The meaning of the court's ruling

What did the Court mean that it has no “procedural capacity” to try the case? And that the lower Court’s decision is annulled, and that the entire record of the case is void, much akin to the legal effect that an annulment has on an attempt at a marital union. For example, a divorce legally tears asunder a marriage, whereas an annulment legally declares that the marriage never happened.

The four were then charged with aggravated homicide and treason before a Civilian Court: the 10th Superior Court in the Judicial District of the State of Miranda. The litigation began as if for the first time.

The evidence on file and in the Venezuelan press

The evidence from that trial is voluminous and is now corroborated by documents recently declassified by the CIA and the FBI by the National Security Archives of George Washington University. Posada Carriles admitted a scant few days before the downing of the plane, “We are going to attack a Cuban plan, and Orlando (Bosh) has all the details.” Venezuelan court files contain affidavits confirming that the person who actually planted the bomb in the rear bathroom of the plane, Hernán Ricardo, admitted to calling Luis Posada Carriles long distance from Barbados to inform him that the mission to blow up the plane had been accomplished, referring to the murdered passengers as “dogs.”

According to an FBI document dated October 21, 1976, the organization responsible for the bombing of the plane is CORU, a terrorist organization founded a few weeks earlier to carry out terrorist attacks throughout the Western Hemisphere. One of the members of CORU, Secundino Carrera, declared that the “bombing and the resulting deaths were fully justified because CORU was at war against the regimen of Fidel Castro.”

Posada's escape from prison

On the eve of the pronouncement of his sentence on August 8, 1985, he fled from the San Juan de los Morros penitentiary, located in the State of Guárico, where he had been confined after two previous failed escape attempts. No verdict was entered against Posada Carriles because according to the Venezuelan Penal Code judicial proceedings cannot continue without the presence of the accused. The court issued an arrest warrant against him.

His accomplices, Freddy Lugo and Hernán Ricardo, were found guilty of murder on July 21, 1986, and sentenced to 20 years. The judge reduced the penalty to its lowest limit “due to the extenuating circumstance of no prior criminal records.” Orlando Bosch, however, was mysteriously acquitted.

Posada in El Salvador

After fleeing from that Venezuelan prison, Posada Carriles reappeared in El Salvador, using the alias of “Ramon Medina”, a name given to him by the Salvadoran government. According to FBI documents made available by the National Security Archives, he became the “support director” for the illicit contra re-supply operation being run by the Reagan White House out of the the Ilopango airbase in San Salvador. In a 31-page deposition given to FBI agents in Tegucigalpa, Honduras, as part of the Independent Counsel investigation into the Iran-Contra scandal, Posada

detailed his participation in these covert operations, including flying on re-supply missions for contra soldiers in southern Nicaragua.

Posada Carriles continued his campaign of terror from his lair at the Ilopango air base in San Salvador. He admitted to the New York Times on July 12, 1998, that he organized a string of bombings in Havana that led to the murder of an Italian tourist and the wounding of several others. In 2004, he was convicted in Panama for "endangering public safety" in a plot to assassinate Fidel Castro, using powerful C-4 explosives, at the University of Panama, where the Cuban leader was to speak before a large gathering of students. Months later, he was pardoned by the President of Panama.

Posada Carriles in Texas

Posada arrived in the United States several weeks ago, surfacing at a cloak and dagger press conference in Miami on May 17. The Department of Homeland Security arrested him while he tried to flee and charged him only with "entry without inspection," as if he had merely crossed the border illegally to pick artichokes in Salinas. DHS officials say for the record that the U.S. will not deport Posada to either Cuba or (in a not so veiled reference to Venezuela) "to any country that acts on behalf of Cuba."

Yet Venezuela is actively seeking his extradition. It has provided the Department of State with ample evidence to meet the standard for extradition: probable cause that he is wanted in Venezuela for an extraditable offense under the 1922 Treaty between the United States and Venezuela, namely homicide. He has not been acquitted. He is a fugitive from justice. The charges are pending and he is wanted in Caracas for the first degree murder of 73 innocent people.

Posada Carriles is the Osama Bin Laden of Latin America. If the Bush Administration is at all serious about the war of terror, he needs to be extradited to stand trial for the murder of 73 passengers aboard that ill fated plane. His campaign of terror needs to end for the sake of the victims, for the sake of our safety and in the name of justice.

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