

By way of background, what is known publicly about Posada is that as a young man he worked in Havana in enforcement for the Batista regime, and came to US in 1960. In the CIA directed Bay of Pigs invasion, he and his partner Orlando Bosch joined CIA Operation 40, made up of sharpshooters whose job was to murder the leaders of Cuba's government. When the invasion failed, the CIA sent him to Ft. Benning, Ga. ("School of the Americas") where he was trained in explosives and interrogation by torture. Allegedly, Posada was seen in Dealey Plaza, Dallas, on November 22, 1963, the place and day Lee Harvey Oswald killed John F. Kennedy. During the 1960's Posada was involved in CIA's Operation Mongoose (murderous incursions into Cuba). He also ran the CIA's demolition school in Florida and made several deadly forays into other countries, such as blowing up the Soviet library in Mexico City, the Cuban embassies in Argentina, Peru and Portugal and the Costa Rica-Cuba Cultural center. In 1972 CIA sent him to Caracas with substantial bomb making materials and equipment to work with the Venezuelan intelligence agency, DISIP. The head of DISIP, one Joachim Chaffardet, made Posada the chief of his "special services," which involved teaching demolitions and interrogation by torture.

In 1975 Posada left DISIP and opened a detective agency in Caracas (in reality a CIA cover) with Chaffardet as his silent partner. On October 6, the two employees of the agency, former DISIP agents Lugar and Ricardo, placed a bomb in the restroom of a civilian Cubana airliner which blew up in midair after leaving Barbados for Havana, killing all 73 civilians aboard. After apprehension, Lugar and Ricardo confessed that Posada and Bosch had directed the operation, and this participation is

confirmed by recently declassified parts of CIA, FBI and State Department reports. All four were charged in Venezuela, the other three were convicted, but Posada escaped in 1985 shortly before his verdict was to be rendered. CIA allegedly bribed the guards. Venezuelan law prevented proceeding with Posada's case in his absence.

Posada went directly to work in El Salvador in the Iran-Contra drugs-supply operation being run out of El Salvador by CIA agent Felix Rodriguez (who had killed Che Guevara in Bolivia in 1967) and by Col. Oliver North out of the White House. Subsequently Posada helped in Operation Condor (involving CIA, DISIP and DINA, the Chilean intelligence service), which exterminated many South American progressives. He also worked as security agent for the Guatemalan dictatorship in the late 1980's. From El Salvador he masterminded and directed the 1997 Havana tourist hotel bombings. He was finally caught in 2000 in Panama City with 37 lb. of C-4 explosives in his car, intending to kill Castro and hundreds of students at a speech to be given at a local university. Last year the US friendly president of Panama pardoned Posada and his three Miami cohorts, and he returned to US this March. After a Miami press conference in May, Homeland Security took him into custody and charged him with failure to report to them on entry.

In reviewing Posada's publicly known career, the Bush family name occasionally appears. In 1960 Bush Senior was running his oil company, Zapata Drilling, out of Houston. He was also recruiting for the CIA's planned Bay of Pigs invasion, and some CIA meetings allegedly were held in Zapata offices. Bush Senior was critical of the Kennedy Administration's effort therein and he urged a new invasion of Cuba. A memo by FBI Director J. Edgar Hoover dated 11/28/63 refers to him as "George Bush of the CIA." In

1976, when Bush Senior was made CIA Director, he put in charge of CIA special operations the head of the Miami CIA station, who had been and continued to be Posada's direct supervisor. CIA had urged the various violent anti-Castro groups in Florida and New Jersey, such as Omega 7 and Alpha 66, to merge under one authority, which was called CORU and was headed by Bosch. At that time Zapata had drilling contracts in Venezuela, and Jeb Bush, now governor of Florida, was working for a Texas bank in Caracas. According to the recently declassified reports, CIA, which had offices, operatives and assets in Caracas besides Posada, was at least aware of the two failed attempts to bomb Cubana civilian airliners in the summer of 1976, and about a week before the successful bombing on October 6 it received a report from Posada &quot;We're going to hit the Cuban airliner.&quot;

As CIA Director, Bush Senior did not warn potential passengers of any of the pending attacks on Cubana airliners, nor did he advise President Ford of the project. CIA tried to get Posada and Bosch out of Venezuela before they could be charged and was involved in the successful efforts to delay the court proceedings. Bush Senior was Vice President in 1985 when Posada was helped to escape Venezuelan custody. In 1985-87 Bush Senior's Washington assistant was getting direct reports from Posada's partner Felix Rodriguez (a Bush Senior personal friend) in the Iran-Contra supply operation. Bush Senior was president in 1990 when he deferred Bosch's deportation, thereby allowing him to live freely in Miami. This overruled the strong recommendation of his own Justice Department, which had implicated Bosch in over 50 terrorist crimes. Bush Junior was President last fall when the outgoing president of Panama pardoned Posada. She now lives on Key Biscayne.

When it became apparent this spring that Posada was living in

Miami, Venezuela requested that he be extradited to Caracas to complete his trial there, and it asked that he be taken and held in custody until the extradition court determined the matter, which was denied. In May, Secretary of State Rice, who makes the decisions on filing extradition cases, indicated she was going to wait for the immigration matter. On June 15, Venezuela filed with her its formal extradition demand, with 500 pages of overwhelming evidence that Posada directed the 1976 Cubana airliner murders in Venezuela, in addition to interrogating people by torture there. Although US law is clear that extradition takes precedence over deportation, the State Department has neither done nor said anything about extradition, except to indicate its opinion that the law is being followed.

At the deportation hearing in August, Posada agreed his entry was illegal, and during cross-examination he eventually withdrew his claim for asylum, stating through his lawyer that his further testimony on this issue might "embarrass" the US or endanger its security, which he didn't want to do. In fact, asylum can't be granted to someone with a criminal past.

However, Posada continued to seek CAT protection. CAT, the Convention Against Torture, provides that deportation and/or extradition will be deferred where the deportee or accused shows "by a clear probability" that the deportee or accused will be tortured by the receiving country. By illegally refusing to file the extradition case, Secretary Rice assured that this issue be decided by an in-house lawyer, employed at will by the Justice Department to hear Homeland immigration cases, rather than a Federal Judge who handles extradition and is independent because appointed for life.

The only torture evidence offered by Posada was the testimony of

his old friend, lawyer, partner and supervisor in DISIP, Joachim Chaffardet, who opined that Posada likely would be tortured by Venezuela. His opinion was not based on knowledge of the Venezuelan system, but on one case. He said that when he was in court once last year the three men accused of murdering Venezuelan prosecutor Denilo Anderson were brought in three days after their arrest and they had black eyes and lips swollen by tapes. Chaffardet also testified that he "agreed with" a US State Department report which said the three men's "lawyers alleged" they had received electric shocks, and the judge had called for an investigation.

The Homeland lawyers did not cross-examine Chaffardet. He came across as a respected, reputable lawyer. If they had brought out his relationship to the 1976 Cubana airliner bombing, his credibility would have been destroyed. Obviously he doesn't want Posada to face a trial, because his own participation in the bombing, as well as CIA's, would be exposed. Lawyers' allegations are not evidence, and one incident, even if true, does not condemn an entire system, especially where it is being investigated. But Abbott said this was sufficient and he would defer Posada's deportation unless the prosecution convinced him otherwise.

The normal way to establish "country conditions" is to call an expert, such as a judge, professor, or other official who knows how the system treats those in custody. In August the Homeland attorney was not prepared to do this, so Abbott reset the matter for September 26, to allow her to rebut if she desired. On September 26 she had no evidence to offer and he therefore deferred Posada's deportation. This means he can't be held more than 90 days. Unless proved to be dangerous to people in US, an unlikely event, Posada will be allowed to return to Miami and live

freely there with his partner in the airliner bombing Orlando Bosch.

Administered by our Executive Department, immigration law is not formally part of our justice system (Judicial Department), but it purports to produce just results. Our courts can function only with adversarial process. There must be two or more parties with differing claims and goals. Normally this is the only reason parties use courts. In this case Posada and the US government had only the same goals (1) to protect Posada from facing justice for his crimes; (2) to hide the evidence implicating the US and Venezuelan intelligence agencies in his crimes; (3) to make it appear to the public that Posada is receiving justice.

It doesn't seem rational or just to protect a mass murderer and torturer from facing justice out of fear he'll be tortured, where there's no real evidence that he will or might be tortured. Especially when the CIA is using mental torture to interrogate people in US military prisons in Cuba, Iraq and Afghanistan, and when it thinks physical torture is necessary, it kidnaps people and physically tortures them in countries like Egypt and Jordan. If there is no rational explanation, the only thesis must be the Orwellian one: in US today, injustice is justice.

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