

Shifts in Novo-Ross trials may have caused acquittals

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Interviews with lawyers and other observers familiar with the Letelier assassination case, in which two local men were acquitted of murder charges on Saturday, pointed up about a half dozen possible reasons why the jury in this retrial differed from their counterparts in the 1979 trial.

News Analysis

In that trial, Alvin Ross Diaz and Guillermo Novo Sampol were convicted after a deliberation of only eight hours.

The main differences cited by lawyers and observers were:

- The defense strategy. In the last trial, the defense argued that star prosecution witness Michael Vernon Townley was a CIA agent who had killed Orlando Letelier without the sanction of the DINA, the Chilean secret police.

The strategy failed at the last trial, observers said, because it was too implausible a theory for the jury to buy. Also, the defense was unable to secure documents to support its claims — if they were true — because so many of the CIA files in the case are secret.

The strategy also put the defense at odds with the prosecution over what was essentially

a side issue for the defendants, whether it was the CIA or the DINA that wanted Letelier killed.

In the new trial, the defense fully espoused the prosecution's argument from the previous trial — that it was DINA that had ordered the assassination. This time the defense argued instead that DINA had perhaps set up the Cuban defendants and had at any rate, tried to make them scapegoats once the jig was up.

All observers agreed that the new strategy was — from a common sense and a legal point of view — much easier to get across to a jury.

- The jury. In the new trial, the panel contained a significant number of professionals, including a lawyer, an investigator for a government agency, an art restorer and a Ph.D. from Howard University.

Defense lawyers said the jury's sophistication would ultimately aid them in the complex case which involved international intrigue, technical questions about explosives, and testimony about secret foreign agents using four or five different Hispanic aliases.

- The appeals court ruling. The new trial was ordered after a U.S. Court of Appeals ruled — in connection with a Supreme Court ruling a few months earlier — that the testimony in the last trial of the two inmates, who had said that Ross and Novo had made incriminating admissions to them, be barred from the new trial.

The evidence, the court said, was inadmissible in part, because the prosecutor in the earlier trial had briefed one of the inmate witnesses on the "nature of the charges" against Ross and Novo before they testified.

- New evidence. On the eve of the new trial, the defense found documentary proof that in 1974 Townley — who admitted he had affixed the remote-controlled bomb that killed Letelier and 25-year-old Ronni Karpen Moffitt — had purchased Fanon-Courier paging systems in the United States before he says he met Ross and Novo. The paging systems were of the type FBI investigators said were used to detonate the bomb.

A receipt for another such paging system, purchased at Grand Central Radio in New York, was said by the FBI to have been found in an apartment on Bergenline Avenue in Union City. In the last trial, the receipt was introduced and the apartment was tied by the FBI to Ross. However, in the new trial, the prosecution was prevented from directly tying the apartment to Ross because of other documents found by the defense.

- Townley's credibility. The key factor in the case both times was Townley's credibility. But the new trial gave the defense yet another opportunity to point out contradictions between previous depositions he had given and those he gave on the stand two weeks ago.

For example, Townley had testified in the last trial that in January or February of 1975, about 18 months before the Letelier assassination, he had come to New Jersey, met members of the Cuban Nationalist Movement, and departed on a mission to Mexico to assassinate some Chilean anti-junta leaders.

However, documents discovered between the two trials showed that Townley's testimony about the date of the Mexico trip had been a month off. Also in the last trial, Townley had testified he personally destroyed a passport which he had used to enter the United States for the Letelier assassination mission.

During the retrial, after new documentation had been unearthed, he had to admit he had sent that passport back to DINA headquarters in Chile.

- Sensationalism. During the last trial, the Letelier assassination was the focus of international attention. Journalists from all over the world attended the court sessions daily to hear Townley tell his stark and evil tale for the first time.

By contrast, in the recent trial, there was minimal press coverage. Supporters and former associates of Letelier and Moffitt — probably more for emotional reasons than from disloyalty — attended only sporadically.

THE DISPATCH

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