

Letelier Convictions Overturned by Court

By Laura A. Kiernan
Washington Post Staff Writer

The U.S. Court of Appeals yesterday overturned the convictions of three anti-Castro Cubans jailed for the 1976 car-bombing assassination of former Chilean Ambassador Orlando Letelier in a midmorning terrorist attack on Embassy Row.

The court ordered new trials for two of the men, Guillermo Novo Sampol and Alvin Ross Diaz. It said their convictions for murder were based on "major evidence" from jailmates who acted as government informants and the evidence should not have been allowed in the trial.

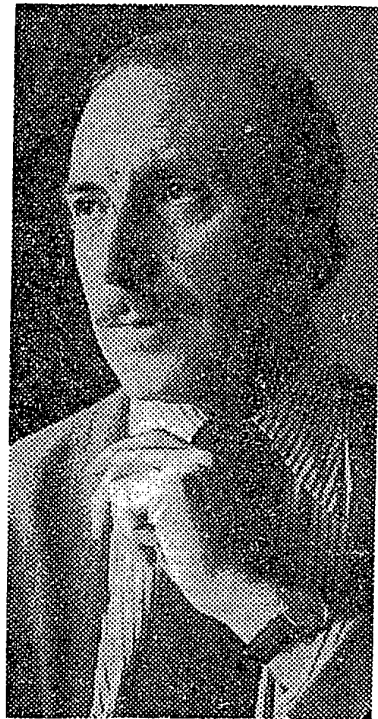
The court also said that U.S. District Judge Barrington D. Parker should have granted the request of

the third defendant, Ignacio Novo Sampol, for a separate trial because he faced lesser charges — perjury and concealing information about the crime from prosecutors.

"The whole thing is wiped out," said Michael Young, who along with other New York lawyers represented Guillermo Novo and Ross.

Assistant U.S. Attorney E. Lawrence Barcella Jr., who prosecuted the case along with former U.S. assistant attorney Eugene M. Propper, said he was "tremendously disappointed" with the decision. Barcella said the government must first decide whether to ask the full court to review the case or whether to seek a hearing in the U.S. Supreme Court before it makes any determination on new trials.

See APPEAL, A14, Col. 4



ORLANDO LETELIER
... assassinated in 1976

Letelier Convictions Reversed

APPEAL, From A1

Although the appeals court reversed the murder convictions, the judges noted in their written opinion that both the circumstances that led up to the assassination and the evidence that Guillermo Novo and Ross participated in the murder conspiracy "all support the conclusion" that the two men were guilty of the killings.

Supporters of Letelier, who had been one of the most outspoken critics of the Chilean military dictatorship of Gen. Augusto Pinochet, yesterday blamed the appeals court decision on "minor procedural irregularities."

"The appeals court does not say the men are innocent; it confirms their guilt," said Saul Landau, a spokesman for the Institute for Policy Studies, where Letelier once worked, and the coauthor of a book on the Letelier assassination.

The six-week trial here in January and February of 1979 had capped the most notorious act of international terrorism ever committed in the nation's capital. Letelier, 44, and a colleague, Ronni Karpen Moffitt, were killed Sept. 21, 1976 when a bomb attached to their car exploded as they rounded Sheridan Circle on their way to work at the Institute for Policy Studies, a leftist think tank.

In a trial marked by unusually tight security, the government had contended that the Chilean secret police, known as DINA, orchestrated Letelier's murder.

The government's key witness, American-born DINA agent Michael Vernon Townley, testified that he had recruited the Cubans to help carry out an assassination plot directed by DINA superiors.

In August 1978, Townley, in exchange for the government's promise to recommend that he be paroled after serving the minimum amount of a 3½- to 10-year prison term, had pleaded guilty to murdering a foreign official.

Much of the government's case rested on Townley's testimony and other evidence collected during a 22-month investigation that resulted in the indictments of five Cubans and three Chileans in August 1978.

The decision which overturned the murder convictions rested on the testimony of the two government informants who were put on the witness stand at the close of the prosecution's case and only after lengthy hearings before Judge Parker on the admissibility of their testimony. It is that testimony which the appeals court said should not have been admitted into evidence during the trial.

The two informants, Sherman Kaminsky and Antonio Polytarides, both convicted criminals, spent time with Guillermo Novo and Ross at the Metropolitan Correction Center in New York City.

Kaminsky met Ross in the New York City prison in the spring of 1978 and the two men "began to talk . . ." the appeals court noted. Kaminsky said Ross told him that he was involved in the murder of Orlando

Letelier, that he provided two wires that were used in the bomb to kill him, and "said he was glad Letelier was dead," the appeals court wrote.

Polytarides testified at the trial that during a 1978 conversation, at the same New York City jail, Guillermo Novo had told him that the anti-Castro Cuban Nationalist Movement had "been betrayed by some people in my case but we will pay them back."

Basically, the appeals court said that Kaminsky and Polytarides acted as government agents soliciting information when they spoke to the two defendants in the prison.

The court said that a U.S. Supreme Court decision issued last June found that such statements are not admissible as evidence during a trial because they resulted from actions that violated the defendants' constitutional right to have a lawyer present during conversations with the government.

The court noted that Judge Parker at first had refused to allow Polytarides' testimony, saying that Guillermo Novo had been sought out by the informant. Later, however, Parker changed his mind and agreed to allow the jury to hear it. Yesterday, the appeals court said Parker was right the first time and should have totally excluded Polytarides testimony.

Moreover, the appeals court said, Kaminsky's testimony also affected Guillermo Novo by implying that he was involved in the Letelier murder through his association with the Cuban Nationalist Movement. Judge Parker's attempt to protect Guillermo Novo from that implication by a special instruction to the jury members was inadequate, the appeals court said.

Appeals court judges George MacKinnon and Roger Robb participated in yesterday's decision along with U.S. District Judge Howard Corcoran, who was sitting on the appeals court by special designation. All three judges

participated in writing the court's 124-page opinion.

The court upheld the arguments of the third defendant, Ignacio Novo Sampol, that his defense was prejudiced by the judge's refusal to grant him a separate trial.

The court noted that the "bulk" of the evidence during the trial involved conspiracy and murder charges against Ignacio Novo's brother, Guillermo Novo, and Ross. Although he faced much less serious charges, Ignacio Novo was nevertheless forced to try to counter the implications that must have arisen in the minds of the jury during the joint trial, the court said.

"He (Ignacio Novo) was not charged with the conspiracy or murders, but still he was required to sit in court while the emotion-charged testimony was unveiled to the jury . . ." the court wrote. Ignacio Novo has been serving an eight-year sentence at a federal penitentiary in Terre Haute, Ind.

In its decision yesterday, the appeals court granted Ignacio Novo's motion for release on bail pending appeals in the case. The court said the amount of bond would be left to the trial court. Guillermo Novo is currently at the federal penitentiary at Leavenworth, Kan. and Ross at the federal prison at Marion, Ill. Both men were serving two consecutive life terms in prison for the murder convictions.

The appeals court said yesterday that the government is prohibited from using the testimony of the two informants if it decides to conduct new trials for Guillermo Novo and Ross.

Prosecutors yesterday played down the importance of the evidence provided by the two informants. But Defense lawyer Young said the court decision rules out alleged "confessions" made by the two men to the informants, which "are always treated as very damaging by a jury."