

U.S. drops car-bomb indictment

Suspects won't face trial in Milian attack.

By JIM McGEE 9-14-83-1
Herald Staff Writer

A two-year-old secret indictment of two suspected anti-Castro terrorists for the 1976 car bombing of Miami newscaster Emilio Milian was dismissed Tuesday at the request of U.S. Attorney Stanley Marcus.

The action came several hours after The Herald asked Marcus to comment on his decision not to arrest suspects Gaspar Jimenez

and Gustavo Castillo and prosecute the indictment.

Former U.S. Attorney Atlee Wampler obtained the four-count grand jury indictment on April 30, 1981, hours before a five-year statute of limitations would have made any future prosecution impossible.

The indictment, charging Castillo, Jimenez and an unnamed third person, was originally sealed to ensure the two suspects would not evade arrest after completing jail terms in Mexico in an unrelated terrorism case.

The three men were charged with conspiracy in the attack. Jimenez was accused of placing the bomb under Milian's station

wagon in the WQBA parking lot.

The two defendants, unaware of the secret indictment, returned to Miami earlier this year. A new team of prosecutors reviewed the case. Chief Assistant U.S. Attorney Gerald Houlihan said staff attorneys formally recommended that Marcus dismiss the indictment in late July or early August.

Houlihan cited problems with the credibility of an eyewitness who claimed to have seen Jimenez working on Milian's car within one hour of the explosion.

"It was determined there was insufficient evidence to proceed against them," Houlihan said. "It lacked prosecutive merit."

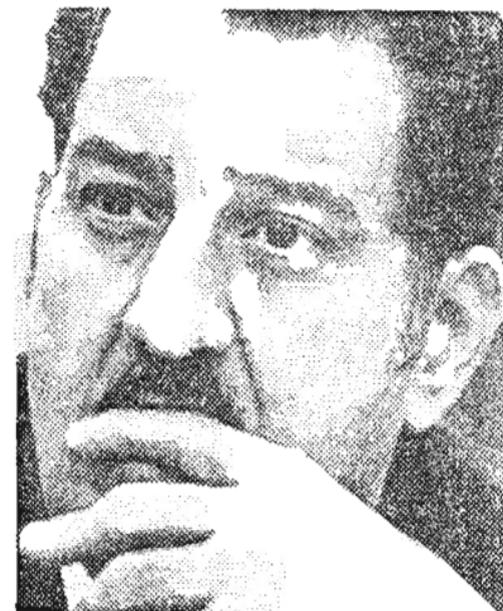
Tuesday, Houlihan personally delivered the motion to U.S. District Judge James Kehoe, who signed it at 5 p.m., several hours after The Herald's inquiry.

"It [presenting the motion] was done in response to your call," Houlihan said. "The actual decision [to dismiss the indictment] was done [in July]."

The secret indictment was handed down five years to the day after Milian's legs were shattered by a dynamite blast that is still considered Miami's worst terrorist attack.

If the statute of limitations deadline had

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Emilio Milian: Injured in 1976 bombing.

U.S. drops indictment in bombing

Prosecutors say lack of evidence, doubts about witness prompted move.

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passed without an indictment, prosecution in the case would have been impossible. With Tuesday's action, the Milian investigation is effectively ended.

Marcus could not be reached for comment.

Both Jimenez and Castillo have repeatedly denied involvement in the Milian case. Their defense attorney, Jeffrey Weiner, said neither would comment further.

"I commend them [federal prosecutors] for making this determination," said Weiner, who added that he had been unaware of the indictment.

"I'm sure that if there was any evidence, real conclusive evidence, I'm certain they would have prosecuted," Weiner said. "It was a case that the whole community would have liked solved. Plus it would have been a feather in the cap of the U.S. attorney's office."

Wampler said he was confident in the government's case at the time the indictment was requested.

"Perhaps he [Marcus] reviewed the prosecutive position we took at the time," Wampler said. "I wouldn't have signed it if I didn't think it was true . . . this was a very serious decision.

"I signed the indictment, and if I did that, it was my official position at the time [that probable cause existed]."

Shortly before the bombing, Milian had been warned by members of a terrorist coalition to stop his editorials against a series of bombings then besieging Miami. The respected Cuban-American journalist's career was scuttled by the attack.

Milian said he was never told of the indictment, which remained a closely guarded secret. Tuesday he bitterly blamed the failure to prosecute on official reluctance to antagonize Little Havana terrorists.

"The reason is they [prosecutors in the U.S. attorney's office] are afraid of the reaction of the terrorist element here," Milian said. "They are afraid. This is not the first time this has happened."

Earlier this year, The Herald reported that a witness who passed 10 polygraph tests told police he saw Jimenez in the WQBA parking lot working on Milian's car within one hour of the explosion.

That segment from The Herald's series, "The Face of Terror," quoted from a previously secret Justice Department memorandum that clearly indicated officials considered Jimenez and Castillo the "action men" in a terrorist conspiracy to silence Milian.

But the article also described the weaknesses in the case, including an alibi supported by witnesses who would testify Jimenez was aboard an airline flight when the

bomb exploded and FBI doubts about the credibility of the eyewitness.

In Tuesday's motion, prosecutor Frederick Mann enlarged on the credibility problems of the eyewitness, who was not named.

He said the eyewitness admitted stealing "a substantial amount of money over a period of four years" and admitted on May 13, 1983, to "having committed perjury before a federal grand jury in an investigation of an unrelated criminal matter."

Of the two named defendants, the case against Castillo was weaker, and Weiner says that led prosecutors in 1981 to offer Castillo immunity from prosecution if he would testify against Jimenez.

"He was offered a free pass," Weiner said ". . . and a guarantee he

would not be extradited to Mexico [in an unrelated case]." But there was no deal, Weiner said, because Castillo knew nothing about the Milian bombing.

"In this country, people are presumed innocent unless and until they are found guilty," Weiner said.

The diverging views of the case are typical of disputes that plagued the Milian investigation from the beginning between federal officials in Miami and administrators in Washington at the Department of Justice and FBI headquarters.

Marcus and Wampler are not the only U.S. attorneys to make decisions about the case. At one point in 1979, former U.S. Attorney Jack Eskenazi overruled a recommendation from former Assistant U.S. Attorney Jerome Sanford to close the case.