

New Tactics Led to Acquittal in Letelier Case

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On Feb. 14, 1979, Guillermo Novo Sampol believed he would be convicted of murder and conspiracy in the car-bombing assassination of former Chilean ambassador Orlando Letelier and his young aide Ronni Karpen Moffitt.

"It's sure that they screwed us," he said in Spanish to friends in the hushed courtroom moments before the jury returned a verdict.

"Viva Cuba!" shouted Novo's codefendant Alvin Ross Diaz, his fist raised, after the jury foreman confirmed the verdict Novo thought was coming: guilty on all counts.

On Saturday, those two men — spared from life prison terms and granted a new trial by the U.S. Court of Appeals — heard that a second jury had reached the opposite conclusion. "Not guilty," foreman Catherine Nicholson calmly repeated 10 times over the muffled sobs of Ross' wife and Novo's girlfriend. The jury convicted

Novo only on two charges of making false statements to a grand jury. Novo and Ross are members of the anti-Castro Cuban Nationalist Movement based in northern New Jersey.

The stunning reversal concluded a three-week retrial that was distinctly different from the original — there was new evidence; new defense strategy and tactics; a new, more highly educated, younger jury; and prosecution witnesses from the

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first trial who were banned from the second. Even before the verdict was announced, these changes had convinced prosecution and defense lawyers that the retrial was a "real horse race."

Defense lawyers Paul A. Goldberger and Lawrence A. Dubin completely changed their theory about who had orchestrated the Letelier murder. Instead of blaming the U.S. Central Intelligence

Agency, as they did unsuccessfully in the first trial, they blamed Letelier's murder on the Chilean government; its secret police, once known as DINA; and on Michael Vernon Townley, the key prosecution witness.

Townley, an American-born DINA agent, testified that he recruited the Cubans to help him carry out the Letelier murder on orders from his DINA superiors. Letelier, an outspoken critic of the military government of Chilean President Augusto Pinochet, had been labeled an enemy of the country and targeted for murder, Townley told the jury.

The defense, now given a second chance to attack Townley's story, said Townley was lying to protect himself. They argued that Townley had implicated the Cubans to shield the Pinochet government.

"If you don't swallow Townley," said defense
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Discrediting Townley Was Key to Letelier Verdict

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lawyer Dubin yesterday, "You don't swallow the case."

The turning point in the defense's assault on Townley's credibility came when they convinced Judge Barrington D. Parker to allow the jury to hear evidence he had not allowed at the first trial about a taped telephone conversation between Townley and a friend in Santiago, Chile.

On the tape, the jury heard Townley tell his friend that he would recruit people to threaten Parker so the judge would remove himself from the case.

The tape was given to the defense during the first trial by an attorney for Juan Manuel Contreras Sepulvada, the former head of DINA, who was indicted in the Letelier case with two other DINA officials, all of whom Chile refused to extradite for trial. Parker, however, refused to allow the tape to be heard at the first trial, a decision the appeals court said was wrong. At the retrial, Parker refused to let the prosecution explain that the tape had come from Chile, that its source was unknown, or that it had been passed along by an attorney working for the former head of DINA.

The prosecution's case remained basically the same, except for testimo-

ny about incriminating statements Novo and Ross had allegedly made about the Letelier murder to fellow inmates at a New York City jail. This testimony was prohibited by the appeals court.

Despite changes in evidence, strategy and witnesses, the defense lawyers considered jury selection the most important part of the trial. Because of the complexities of the case — the intricate murder plot, which included phony names and passports, aborted schemes, clandestine meetings and the grisly assassination itself; the underlying political intrigue and the shadowy cast of characters — the lawyers looked for jurors who could penetrate the flaws in the government's case.

They found them in a government lawyer, a man with a prestigious graduate degree in business, an investigator for the local Alcoholic Beverage Control board and a jury foreman with an Ivy League college degree.

"We just wanted some smart people," Dubin said.

When that jury returned from 17 hours of deliberations, 10 deputy U.S. marshals were posted at the entrances to the courtroom and beside the two defendants. This time, however, when the decision was announced, the marshals stepped aside.