

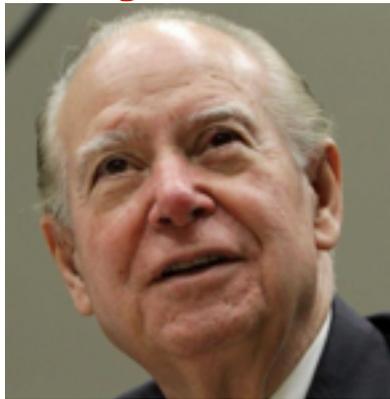


National Committee To Free The Cuban Five

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Tue., Jan. 6, 2014

The U.S. judges who sought clemency for the Five



Former Calif. Sup. Court Justice Reynoso

By Steve Patt

It couldn't be known until now.

A San Francisco Chronicle article on Jan. 1, 2015 has revealed that former U.S. judges requested clemency for the Cuban Five in early 2014 by a letter hand-delivered to President Barack Obama.

Nine retired appellate court judges from California, Washington, Montana and Iowa submitted the Feb. 24, 2014 letter to Obama, urging clemency for the three remaining members of the Five, a deed that only became public after Gerardo Hernández, Ramón Labañino and Antonio Guerrero were home.

The letter, titled "Justices for Clemency" was personally delivered to Obama, Secretary of State John Kerry and U.S. Attorney General Eric Holder by an unnamed senior U.S. Senator.

Prominent among the letter's signers is former California Supreme Court Justice Cruz Reynoso, the first Latino in that court and recipient of the Presidential Medal of Freedom, the U.S. highest civilian honor, for his life's work advocating social justice.

According to the Chronicle, Justice Reynoso was "also dismayed by post-trial disclosures that some Miami journalists - whose reports during the trial further inflamed the atmosphere, according to advocates for the defendants - were on the U.S. State Department payroll."

The letter to Obama is impressive for the detailed study of the appellate record by the nine justices, including the issue of the U.S.-paid journalists:

"Each of us has examined the relevant appeals record in the case of the 'Cuban 5'. We concur with the August, 2005, unanimous opinion of the three-judge panel of the 11th Circuit Court of Appeals, (No. 01-17176) that pervasive community prejudice, intense and inflammatory publicity - in part funded by the federal government - prosecutorial misconduct and denial of multiple motions for change of venue, denied the defendants their constitutional right to a fair trial. We do not agree with the subsequent, divided *en banc* decision that extensive voir dire cured these fundamental defects."



Brian Kahn

Montana attorney, journalist and documentary filmmaker Brian Kahn organized the campaign after he learned about the Cuban Five case in 2013. He interviewed Bill Norris, Ramón Labañino's attorney, for his radio program, "Home Ground Radio" on Yellowstone Public Radio in late February 2013. Kahn says, "I felt they'd clearly been denied a fair trial. I felt the most credible source to appeal to the President would be retired appellate justices. A senior Senator - not from Montana - confirmed this, so I set about to find them."

"The justices deserve deep appreciation for their commitment to justice, and putting their names on the line."

Reaching out to 20 judges in the space of a year, Kahn gave them legal documents from the case, including the 2005 three-judge unanimous decision overturning the Five's conviction and the facts of the Miami journalists who received U.S. government pay during the trial.

The National Committee to Free the Cuban Five - together with Partnership for Civil Justice Fund and Liberation newspaper - spearheaded the effort to expose the role of Miami reporters receiving pay from the U.S. government, whose coverage of the Five's arrest and prosecution created a highly-prejudicial atmosphere in Miami that irreparably violated their right to a fair trial.

Gloria La Riva, National Committee coordinator, said, "Exposing the Miami trial farce and the government's misconduct in paying Miami reporters during the Five's trial was critical not only to the appeals process, but to the political struggle for the Five's freedom as well.

"We salute the justices' call for clemency and Brian Kahn for his creative and steadfast effort, one more part of the worldwide wave of campaigns and actions for the Five's freedom."

On December 19, 2014, the justices sent a letter of appreciation to President Obama.

The justices are:

Honorable Cruz Reynoso, Supreme Court of California, Presidential Medal of Freedom

Hon. William Leaphart, Supreme Court of Montana

Hon. Mark McCormick, Supreme Court of Iowa

Hon. James Regnier, Supreme Court of Montana

Hon. Terry Trieweiler, Supreme Court of Montana

Hon. William A. Newsom, California Court of Appeals

Hon. Marc Poche, California Court of Appeals

Hon. John Racanelli, California Court of Appeals

Hon. Robert Utter, Supreme Court of Washington State

[*The justices' letter to Pres. Obama*](#)
[*The S.F. Chronicle article*](#)