



Written by [Alex Newman](#) on July 18, 2012

With Judge's Comments, Calls to Free Jailed Border Agent Grow

After an appeal hearing for jailed Border Patrol agent Jesus "Chito" Diaz, Jr., supporters of the former officer are speaking out and demanding that he be immediately released and reinstated to his job protecting the U.S. border. And after the federal judge presiding over the appeal indicated that the government may have gone overboard in the case, hope among his supporters remains.



According to critics of the prosecution, Diaz was inappropriately persecuted by the Department of Justice for doing his job — [at the behest of the notoriously corrupt Mexican government](#). Last year, despite a tsunami of public outrage over the controversial felony charges, the former agent was [handed a stiff 24-month prison sentence](#) for allegedly using excessive force — pulling on a suspected drug smuggler's handcuffs in an effort to locate contraband — after an illegal immigrant was apprehended near the border with narcotics.

During the ongoing appeal, however, Diaz's supporters found cause for optimism. "The question is it just sounds more like a misdemeanor instead of a felony to me," opined Judge E. Grady Jolly during the hearing. While Judge Jolly also noted that Diaz may not have done the "right thing," from the judge's comments, it did not seem like he believed the alleged act should have been classified as a felony, which carries jail time.

In recent days, lawmakers supporting Diaz expressed hope about the jailed former agent's prospects. "It's good to see that this case may be finally receiving the impartial attention and due process it deserves, both for the personal respect of Agent Diaz and his family, and for the 'far-reaching implications on law enforcement personnel,' as the defense stated in its appeal," said Rep. Duncan Hunter (R-Calif.), who has led the congressional inquiry into the controversial prosecution. "I'm looking forward to the court's decision, which I'm confident will be in Agent Diaz's favor."

Activists who have taken up Diaz's cause seized the opportunity to call for more action, too. The non-profit [Law Enforcement Officers Advocates Council](#) (LEOAC), which has been serving as a public advocate for Agent "Chito" Diaz outside of the courtroom, released a statement demanding that the jailed agent be immediately released, exonerated, and reinstated with full back pay. The group is also seeking a formal apology from the U.S. government to Agent Diaz and his devastated family.

"We, LEOAC, have long investigated this pattern of government protecting illegal alien drug cartel smugglers by the Justice Department, which prosecutes Border Patrol agents instead of bad guys," said LEOAC President Andy Ramirez. "Agent Diaz' case screams for oversight review, as an innocent agent has been imprisoned for 16 months including jail time."

According to Ramirez, Agent Diaz's case is yet another "overreach by DOJ" to "give the Mexican government a scalp" while it protects drug smugglers and criminals. He also said that a key point in the appeal surrounds multiple "errors" by Judge Alia Moses, who originally heard the case, including



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filtering key evidence that would have shown the government's claims of premeditated malice on Diaz's part to be absurd. Citing court transcripts, Ramirez said the judge "might as well have prosecuted the case for the government, her former employer, given her countless rulings in the favor of the government."

Countless other critics lambasted the judge's behavior in the case as well.

The law-enforcement advocacy organization is now seeking to have the controversial prosecution referred to the House Oversight and Government Reform Committee, as well as the Judiciary Committee, for a full review. According to the LEOAC statement, it is "imperative" that Congress properly investigate the case — especially in light of Judge Jolly's comments during the hearing. The eerie similarities between Diaz's case and the now-infamous, widely criticized prosecution of Border Patrol agents Ignacio Ramos and Jose Compean has also been seized upon by critics to call for further action.

"Agent Diaz is not guilty of any injury to the 'victim,'" said retired Supervisory Border Patrol Agent Dave Stoddard, who also serves as vice president for the LEOAC. "This certainly was not a premeditated act as claimed by DOJ during the appeal, other than perhaps hurting the victim's feelings while [drug-smuggling suspect] Bernal along with his accomplice and co-conspirator 'Sanchez' were apprehended by USBP agents in the process of committing a felony."

The case is about more than just Diaz, too, Stoddard explained. "Ultimately, the brave men and women who serve in the U.S. Border Patrol are put into the untenable situation of having to act with political correctness while risking their lives for the American people, as evidenced by the murder of Agent Brian Terry who was ordered to utilize non-lethal bean bags while dealing with known and heavily armed drug smugglers and rip crews," he concluded, referring to the Border Patrol agent who was killed in late 2010 with guns now known to have been provided to criminals by the U.S. government under operation "Fast and Furious."

LEOAC and numerous other organizations have long complained that Border Patrol agents are being prevented from properly doing their jobs by political leaders in Washington. And this case, Diaz supporters argue, illustrates that perfectly: A drug smuggler is caught at the border, and instead of prosecuting him, the government gives immunity to the trafficker and prosecutes the agent for allegedly pulling on the suspect's handcuffs.

Ramirez said it is time for that to stop. "Our Border Patrol Agent sources continue to report the grave dangers on the U.S.-Mexico Border and how they are not backed up by the Justice Department when assaulted, rocked, or shot at by illegal alien drug smugglers, human traffickers, and other individuals who have waged this war against our agents," he concluded. "The message sent to agents in the form of such a prosecution is very clear: 'thou shalt not apprehend illegal alien drug cartel smugglers.'"

In correspondence with *The New American*, Ramirez said the Diaz prosecution was part of a disturbing pattern originally set in motion under the George W. Bush administration — especially in the Western District of Texas then led by the infamous U.S. Attorney Johnny Sutton. "It's all for politics," he explained. "A doper committed a felony by bringing dope into the U.S. from Mexico and was protected by DOJ, which invented a prosecution from it and turned on Diaz."

LEOAC, Diaz's family, and concerned members of Congress have vowed to continue pursuing justice in the case until it is finally served. But while there appears to be some tepid optimism following the federal appeal hearing and the judge's comments, a victory for Diaz is far from assured at this point. A



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ruling by the three-judge panel is expected in the coming months.

Citizens interested in getting involved can visit [FreeAgentDiaz.com](#) to learn more. Andy Ramirez, who also serves as a national correspondent for the [Liberty News Network](#), will have more on the case in the not-too-distant future.

Photo of U.S. Border Patrol agents: AP Images

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