

THE INFORMANT RACKET AND THE SCARY IRAN PLOT

Jeralyn Merritt has been focusing closely on the DEA's use of informants of late. And as part of a discussion of how much the DEA informant in the Viktor Bout case, Carlos Sagastume, has made off his lucrative informant career (\$8 million and counting, with much of that coming in the Monzer al Kassar case), she wondered whether Sagastume might be Narc, the informant in the Scary Iran Plot. [Update: Jeralyn now thinks Narc can't be Sagastume.]

A prior "catch" of informant Sagastume was Monzer al Kassar, (Indictment [here](#).)who was convicted and sentenced to 30 years following a sting very much like the one used on Bout. Al-Kassar's conviction was upheld last month, and the Second Circuit ruled lies by the DEA to to those it is trying to trap in order to get jurisdiction in the U.S. are okay. The opinion is [here](#). An interesting sidenote: one of the three judges affirming al-Kassar's conviction was District Court Judge Shira A. Scheindlin, sitting by designation. She is the trial judge in Viktor Bout's case.

As for why Sagastume has received \$8 plus million for his informant work, I suspect it's likely that he's getting a percentage of property ordered forfeited. In cases of criminal forfeiture, like al-Kassar and Viktor Bout, the Government must get a conviction on the criminal charge in order to succeed on the forfeiture. So if Bout were to be acquitted, there would be no forfeiture. That gives the informant a personal stake in seeing Bout convicted.

[snip]

One last note on Sagastume and Al Kassar. Al-Kassar sold weapons in a lot of countries over his 30 year career, including Iran. Was Sagastume involved in the recent sting involving the alleged plot to kill the Saudi Ambassador? While Sagastume is not the only informant the DEA used in al-Kassar, Bout and similar arms cases, he speaks Spanish, is experienced in the world of Mexican drug smuggling and could play the role of a Zeta as easily as a FARC operative, and could probably convincingly claim to have Iranian connections. It seems likely to me there must be a limited number of DEA informants with the savvy to bridge such disparate groups as the Zetas and Iranian secret forces. It's not like the DEA just calls Central Casting.

Mind you, Jeralyn is just speculating, but I find it interesting speculation for several reasons.

First, because Jeralyn points to the Circuit decision in the al Kasser case. It held that the US government could charge non-Americans in stings conducted entirely outside of the United States so long as the government had demonstrated a clear intent to hurt the US.

In an opinion on Wednesday, the 2nd U.S. Circuit Court of Appeals in New York affirmed the increasingly prevalent government tactic of using sting operations to trap arms and drug traffickers worldwide.

[snip]

Kassar's attorneys argued on appeal that U.S. prosecutors were not allowed to charge non-U.S. citizens caught in a sting operation abroad. The appeals court conceded that Kassar "never came

close to harming any U.S. person or property,” but concluded that was “irrelevant for conspiracy offenses, which often result in no palpable harm.” Instead, the court said the government had clearly established Kassar’s intent to harm the U.S.

The circuit also found the government had not “manufactured” jurisdiction by creating the chance for Kassar to break the law.

“While it is true the DEA agents lied to the defendants, this does not make the nexus (to the U.S.) artificial or invalid.”

Now, this decision is unnecessary to ensure the government could convict Manssor Arbabsiar. He’s an American citizen (though the only overt act he committed in the US was a money transfer). But they’re on shakier ground with Gholam Shakuri. At least given what the government has presented in the complaint, there’s zero evidence that the Quds Force set out to assassinate Adel al-Jubeir in the US. I’ve noted that Narc invented all the most spectacular elements of the plot—including the civilian casualties, the dead Senators, and apparently the WMD. And while you might assume soliciting a North American cartel to carry out the kidnapping (or assassination) of a US-based Ambassador would imply an attack in the US, there is no evidence in the complaint that Arbabsiar’s handlers specifically asked for that. None. But by charging this in NY, you can rely on the al Kasser decision, point to the fictional dead Senators, and worry less about including Shakuri in the sting.

None of that has to do with the possibility that Sagastume was the Narc in this case. But Jeralyn’s comments about Sagastume’s effectively working on spec does. As I noted, there was almost nothing new in the indictment presented on Thursday.

Almost.

Except a forfeiture provision, calling for Arbabsiar and Shakuri to forfeit any property tied to a terrorist attack on the US.

That's still not a tie to Sagastume, necessarily. And given the money already transferred—just \$100,000, as far as we know—that's chump change for someone like Sagastume, who has already made millions for his narc work. But who knows? Maybe there are big proceeds from the opium deal the government doesn't want to tell us about.

That still doesn't say anything interesting about Sagastume.

But the timing might.

I've been trying to figure out why the government decided to spring this sting on October 11. After all, it has had the most critical pieces of evidence since August 9. Narc first raised the possibility that Arbabsiar would have to fly to Mexico to guarantee payment on August 28. And yet the sting waddled along, as Shakuri's urgency increased, but with no resolution. And what dictated the timing after Arbabsiar was arrested on September 29? Why wait until October 11, four days after the last (mentioned) unsuccessful attempt to get Shakuri to send more money, before you announce the charges? And given that the government had had all this evidence for months, why had, according to Preet Bharara, "None of the people that have been mentioned by me and others [who investigated the case] [] gotten much sleep lately"?

If Sagastume were Narc, it might explain the government's (though not Shakuri's) urgency. The government announced the charges on October 11. On October 12, Viktor Bout's trial started. I can see how the Bout trial date would serve as an artificial endpoint to the Scary Iran Plot investigation. And if I'm reading the reports from the trial correctly, Sagastume testified on Tuesday and Wednesday of last week. Then the

trial broke for the week, as opposed to on Thursday, which might be more normal. On Thursday, the fairly simple Indictment (one that might take just a few hours to present) came out. And yesterday and today, Sagastume's back on the witness stand in Bout's case. In other words, the Scary Iran Plot and the Bout trial coincide in ways that would make it very easy to manage the star Narc's testimony across both cases, in one tidy trip to the US before he goes off to whatever swank retirement the government has arranged for him.

Again, both Jeralyn and I are speculating, nothing more (though her comments about informants are worthwhile reading and applicable more generally). But it all would fit rather nicely. And if Sagastume stands to make millions—as he has from prior stings—it might add another layer of intrigue to the Scary Iran Plot.