

SALVADOR CIENFUEGOS ZEPEDA: BILLY BARR GOES SOFT ON CRIME

Bill Barr just let a key cog in Mexican drug trafficking go free.

Yesterday, prosecutors in Brooklyn requested that Judge Carol Amon dismiss the prosecution of Salvador Cienfuegos Zepeda, Mexico's former Secretary of Defense indicted in August 2019 for narcotics trafficking and money laundering and arrested, while on a trip to Los Angeles, this October.

A detention memo from October described Cienfuegos' role in protecting the H-2 cartel during the period he was Secretary of Defense.

Evidence obtained by law enforcement officials, including the interception of thousands of Blackberry Messenger communications, has revealed that, while he was the Secretary of National Defense in Mexico, the defendant, in exchange for bribe payments, assisted the H-2 Cartel in numerous ways, including by: (i) ensuring that military operations were not conducted against the H-2 Cartel; (ii) initiating military operations against its rival drug trafficking organizations; (iii) locating maritime transportation for drug shipments; (iv) acting to expand the territory controlled by the H-2 Cartel to Mazatlán and the rest of Sinaloa; (v) introducing senior leaders of the H-2 Cartel to other corrupt Mexican government officials willing to assist in exchange for bribes; and (vi) warning the H-2 Cartel about the ongoing U.S. law enforcement investigation into the H-2 Cartel and its use of cooperating witnesses and informants—which ultimately resulted in

the murder of a member of the H-2 Cartel that the H-2 Cartel senior leadership incorrectly believed was assisting U.S. law enforcement authorities.

Among the many communications captured during the course of this investigation are numerous direct communications between the defendant and a senior leader of the H-2 Cartel, including communications in which the defendant discussed his historical assistance to another drug trafficking organization, as well as communications in which the defendant is identified by name, title and photograph as the Mexican government official assisting the H-2 Cartel. Due in part to the defendant's corrupt assistance, the H-2 Cartel conducted its criminal activity in Mexico without significant interference from the Mexican military and imported thousands of kilograms of cocaine, heroin, methamphetamine, and marijuana into the United States.

These thousands of intercepted communications amongst the members of the H-2 Cartel are corroborated by numerous drug seizures of hundreds of kilograms of cocaine, heroin and methamphetamine, as well as the seizure of hundreds of thousands of dollars in drug proceeds in the United States. In addition, witnesses have provided a wealth of information to the government about the operations of the H-2 Cartel, its regular employment of violence to further its drug trafficking, its use of bribery to ensure government protection, as well as the assistance of the defendant to the H-2 Cartel and other drug trafficking organizations.

The motion to dismiss explained that after Cienfuegos was arrested, Mexican government officials told the US that their own government

had started an investigation. Purportedly, the US is dismissing this prosecution so Mexico can carry out its own investigation.

Following the arrest of the defendant, officials for the government of Mexico, which was not aware of the sealed indictment against the defendant at the time of the arrest, engaged in discussions with United States government officials concerning the pending charges against the defendant in the United States. During the course of those discussions, the United States was informed that the Fiscalia General de la Republica of Mexico had initiated its own investigation into the defendant's alleged conduct. As a result of these discussions, the government of the United States concluded, with the concurrence of the government of Mexico, that the United States would seek to dismiss the indictment against the defendant without prejudice, so that Mexico could proceed first with investigating and potentially prosecuting the defendant under Mexican law for the alleged conduct at issue, which occurred in Mexico.

A joint statement from Barr and Mexico's Fiscalía General of Mexico Alejandro Gertz Manero yesterday spoke – among other things – of cooperation on all forms of criminality and “sovereignty.”

In recognition of the strong law enforcement partnership between Mexico and the United States, and in the interests of demonstrating our united front against all forms of criminality, the U.S. Department of Justice has made the decision to seek dismissal of the U.S. criminal charges against former Secretary Cienfuegos, so that he may be investigated and, if appropriate, charged, under Mexican law.

At the request of the Fiscalía General de la República, the U.S. Department of Justice, under the Treaty that governs the sharing of evidence, has provided Mexico evidence in this case and commits to continued cooperation, within that framework, to support the investigation by Mexican authorities.

Our two countries remain committed to cooperation on this matter, as well as all our bilateral law enforcement cooperation. As the decision today reflects, we are stronger when we work together and respect the sovereignty of our nations and their institutions. This close partnership increases the security of the citizens of both our countries.

This morning, Judge Amon found no evidence of bad faith and so dismissed the indictment (without prejudice, so the US could refile it if Mexico does not prosecute him).

It's a stunning turn of events, particularly given the slim likelihood that Mexico really will prosecute Cienfuegos (and they make no promises they will).

For the purposes of this post, I will assume this is all about Mexico's displeasure at being surprised by this indictment, as NYT reported on the move, reflecting a justifiable sensitivity about the footprint that DEA has in the country.

Mexico's anger at the charges stemmed from largely being kept out of the loop on the case, officials have said. Mr. López Obrador himself expressed some surprise at the detention of a military leader who had long commanded respect inside Mexico.

Mexican officials have said privately that they were angry at a lack of communication by Justice Department officials on a case that had clearly taken time to build, given how closely

the two countries collaborate in fighting organized crime.

I will assume this is *not* why Billy Barr swapped in Seth DuCharme to oversee EDNY in July. I will assume there's no deal for a Trump golf course in Cancun. I will assume this involved no call between Trump and Andrés Manuel López Obrador (who, almost alone with Vladimir Putin, has not yet congratulated President-Elect Biden) on which Trump said, "I'd like to do us a favor, though."

We can't rule those things out, because twice before, with at least Turkey and Ukraine, Barr and other Trump AGs have intervened to facilitate Trump's personal corruption with foreign leaders.

But for the moment, I will assume Barr made this move for precisely the reason his joint statement claimed he did, because Mexico views this as an issue of sovereignty and the US needed to make this concession in order for Mexico to continue partnering on law enforcement, including narcotics trafficking.

Even still, it is either a testament to an unbelievable fuck up by the Trump Administration, an abject failure at diplomacy to lay adequate groundwork to avoid shocking Mexico with this arrest. And/or it is a testament that Trump has squandered our privilege (for better and worse) of playing policeman of the world.

For decades, the United States has been able to find crimes that impact America and others – particularly drug trafficking – and reach overseas (or wait for a timely visit) to pluck citizens of other countries up and try them in our justice department. Other countries rarely complained, much less our weaker neighbors in the hemisphere.

Admittedly, Cienfuegos was very senior. But so, too, was Manuel Noriega, among others.

Yet, today, a DOJ that has almost never set limits on its reach, bowed down to Mexico and let a powerful alleged criminal go free.