

Border Agents' Prosecutor on Sentencing for Drug Smuggler's Shooting

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FOX NEWS

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ALAN COLMES, CO-HOST: Two U.S. Border Patrol agents who were jailed two years ago after shooting a Mexican drug smuggler were back in court this week. Jose Compean and Ignacio Ramos were looking to have their original 11- and — 10- and 11-year sentences reduced after a number of their convictions were thrown out.

Judge Kathleen Cardone showed no mercy, however. The — she left the original sentences unchanged. The agents maintained that admitted drug smuggler Osvaldo Adlrete Davila was armed and non-compliant at the time of the shooting. Take a look.

(BEGIN VIDEO CLIP)

IGNACIO "NACHO" RAMOS, JAILED BORDER AGENT: The last thing I see is Agent Compean and the drug smuggler go over the levee when — so I ran to their last location.

As I get over to the other side of the levee, all I see is Agent Compean on the ground and the drug smuggler running from them. I gave chase to the drug smuggler. I gave him one command to stop, and that's when he turned and pointed a gun at me. And that's when I fired.

(END VIDEO CLIP)

- [Video: Watch Sean and Alan's interview with U.S. Attorney Johnny Sutton](#)

COLMES: You can also check out the rest of this exclusive interview at HannityandColmes.com.

With us now is the man who prosecuted the agents, United States attorney Johnny Sutton.

Sir, you've come under a lot of fire because of prosecuting this case. And a lot of people seem, of course, to side with the agents over the drug smuggler, who was testifying at his trial. How do we explain to people what's going on here and that the law has to be enforced?

JOHNNY SUTTON, U.S. ATTORNEY: Well, unfortunately, there's been a huge amount of misinformation just like that little clip you played right there about Agent Ramos explaining what happened, that the dooper had a gun.

He never mentioned anything about a gun until a month after the shooting. They covered it up. He never mentioned to any of his co-conspirators that the dooper had a gun. None of that made sense. That was a story that came up later.

And this was a two-and-a-half week jury trial. That's the thing that's kind of tough about this case, is the facts don't come out.

One thing that's important to say is that the court of appeals has reviewed the entire transcript. And they've affirmed all the substantive charges of the case and determined that these two guys got a fair trial. The judge made correct rulings.

And the dooper, who everybody has complained about so much, who I said as soon as I can put him in prison I would, we've moved mountains to get this guy convicted. And we did. He's convicted, and he got a nine-and-a-half-year sentence.

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COLMES: The same judge, as I understand it, too, by the way. And using a weapon in commission of a felony is an automatic 10 years. So the judge didn't have a lot of leeway in terms of sentencing, correct?

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SUTTON: Yes, that's why this, it shouldn't be a shock to anybody that these guys got the same thing that they got before. The sentencing guidelines are very tough in this area. There's a 1-year mandatory minimum. She already made a dramatic departure to get them down to one and two years. Their guidelines were up around, I think, five and six years. She dropped way down to give them one and two years, and then of course, that mandatory minimum is what hits them.

But, again, if anybody is complaining about that, they need to talk to Congress. I mean, Congress has ramped up those laws. They apply to cops. Anyone who tells you different is just not reading the law. It's — the court of appeals lays it out clearly in the opinion. And I encourage everybody who's interested in this case to go get that Fifth Circuit opinion and read it.

HANNITY: You and I have gone around and around about this now that it's in the news.

SUTTON: We have.

HANNITY: And we went over this. We've gone over it in the past. The person we're talking about, by the way, has admitted to smuggling several hundred pounds of marijuana on the day he was shot. And by the way, he was shot in the buttocks. He wasn't killed. You know, so this seems excessive to me.

And then here we have an admitted drug smuggler, and what frustrates me is that a lot of other people, as you — he was flown in to testify. And his testimony, you know, was, I guess, believed by other people over, you know, law-enforcement officials. And I have a hard time giving this man any credibility, considering he was bringing drugs into our country at the time. He was bringing drugs in here illegally. That bothers me.

SUTTON: He was, Sean.

HANNITY: I don't — you know, I don't have a lot of sympathy for him.

SUTTON: And neither do I. I mean, if these agents had done their job, we would have had him in prison long ago, back when we originally caught him.

But because, instead of doing their job, they committed a bunch of serious crimes. They shot an unarmed guy running away with — 15 times they shot at this guy with .40 caliber.

HANNITY: OK. But you're putting this...

SUTTON: And instead of reporting it they covered it up.

HANNITY: But you weren't there. So we're taking the word of a convicted drug pusher over the...

SUTTON: Sean...

HANNITY: Hang on a second. Wait a minute, but you're taking his word, because he was flown into come testify, with immunity at the time, flown in to come into this country and testify against law enforcement agents. And for whatever reason, people took his word against theirs. I don't get it. I'll be honest.

SUTTON: Quit saying he was flown in. I mean, we walked him across the border at Juarez into El Paso. I mean, we do this all the time.

HANNITY: OK. You bring in the illegal immigrant, the drug pusher, in to testify against the law-enforcement agent.

SUTTON: Of course. And we do that — and he wasn't the only witness. There's other agents at the scene that testified against this agent. Agent Juarez was standing right there right next to Agent Ramos during this entire shooting. I mean, those agents testified against Compean and Ramos.

HANNITY: You don't think this was excessive?

SUTTON: I mean, what — how do you explain this cover up? That was the most damning piece of evidence, Sean. Explain to the public why these guys, if this dooper had a gun, why did they cover it up? We've cleared 20 agents out there...

HANNITY: I understand — I understand...

SUTTON: ... including four that...

(CROSSTALK)

HANNITY: I'm going to tell you something.

SUTTON: We do not prosecute agents for shooting people...

HANNITY: I understand.

SUTTON: ... that are causing them danger.

HANNITY: I understand.

SUTTON: The only...

HANNITY: I understand all your arguments. I've heard them again and again.

SUTTON: We don't do this. Look, I take no pleasure in prosecuting federal agents. We defend them every day. We prosecute the criminals that they arrest. We lead the nation in drug prosecution. We're the ones that started project...

HANNITY: You know something, though?

SUTTON: We're on their side.

HANNITY: Listen, listen. Let me get a point in here. You know, this is all well and good. But I'm going to tell you, it's really easy for everyone to sit here in the comfort of our television studio, your television studio, your D.A. office, and sit here and second-guess and judge the split-second decisions that police officers and law-enforcement officers have to make every day.

And let me tell you something. Here's a drug dealer. Here's a drug pusher. Here's a guy that was — wanted to poison our children. And you know something? He gets brought in to testify against — against our agents. You've got to see something wrong with that. You've got to tell me that something about that bothers you, because it certainly bothers me.

SUTTON: Yes. It bothers me that these agents committed crimes.

HANNITY: No, no. Does it bother you...

SUTTON: We would have had him in custody from the start.

HANNITY: ... that you're using, in part, the testimony of a drug pusher to convict agents and you're second-guessing them?

SUTTON: Remember, Sean, I did not pick the drug pusher to be the witness. Agents Compean and Ramos picked him to be to be the witness...

HANNITY: Doesn't matter.

SUTTON: ... when they shot him and they covered him up. No, I...

HANNITY: He's going into America.

SUTTON: Look, I get the cases as they come to me. Right, Sean. That's the witness. When you shoot a guy who's running away, you cover it up, you destroy the evidence and file a false report, that...

HANNITY: You're — you're passionate. You're convinced they did it. I'm not — I'm not a believer that — I don't...

SUTTON: It's not me, Sean. It's a jury.

HANNITY: Doesn't matter. You bought into this.

SUTTON: A jury convicted.

HANNITY: I understand that.

SUTTON: A court of appeals affirmed it. This is not something I made up.

HANNITY: In large part because of your passion and your belief and your ability to argue a case. I have a different point of view, and many other people do. And hope the president pardons them, to be honest with you.

SUTTON: Sean, my career prosecutors tried this case. I'm the leader of these career prosecutors. All I'm doing is trying to get the facts to the

public.

HANNITY: All right, Johnny.

SUTTON: Read the transcript. Read the court of appeals.

HANNITY: I've read everything. We've been over this. I've read it.

SUTTON: If people read it they will understand why we prosecuted it.

HANNITY: But I appreciate. I appreciate it.

SUTTON: The jury, Sean, the jury rule of law. Remember that: the jury, rule of law.

HANNITY: I understand that, but you know what? Sometimes people can also be so persuasive that, you know what? Sometimes juries get it wrong. I think they did here. I think the O.J. jury got it wrong. Appreciate your time.

SUTTON: They rarely get it wrong. They rarely get it wrong.

HANNITY: Thanks for being with us.

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