

**BEFORE THE
UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

**Statement of Walter B. Jones
U.S. House of Representatives
3rd Congressional District of North Carolina
July 17, 2007**

Madame Chairman —

Thank you for the opportunity to submit a statement on the unfair prosecution and unjust conviction of two United States Border Patrol Agents — Ignacio Ramos and Jose Alonso Compean.

Before submitting my statement, I would also like to thank you, Senator Feinstein, for scheduling this public hearing.

For nearly a year, I have been concerned about the prosecution and conviction of agents Ramos and Compean on firearms charges that did not make sense to me. As I looked into the case, I learned an illegal alien drug smuggler — who had brought 743 pounds of marijuana into the country — was shot by one of the agents in an attempt to stop him from escaping back across the border. I also learned that the case against the two agents rested primarily on the testimony of the Mexican drug smuggler, who was granted full immunity from prosecution in exchange for his testimony at trial.

People in my district, and across the country, were amazed to discover that this same drug smuggler received full medical care for his wounds — at American taxpayers' expense — was permitted to return without penalty to Mexico, continued to smuggle drugs into the United States, and — on top of this — is now suing the United States Border Patrol for \$5 million for violation of his civil rights.

Something is wrong here and I hope this Committee and the House Subcommittee on Crime, Terrorism, and Homeland Security get to the bottom of this.

The major charge in the indictment against the two agents was the firearms enhancement statute, which carries a minimum 10-year sentence and applies only when a person is engaged in drug trafficking, a crime of violence, or terrorism. How perverse it is that this statute is now being used against law enforcement officers who were trying to stop drug trafficking. But I want to focus on one aspect of this travesty, which came to my attention after my office worked on this case for months. Ten years of the agents' respective 11- and 12-year sentences were imposed on the basis of a conviction for a Federal crime that does not exist.

The two agents were each charged with having violated 18 United States Code Section 924(c)(1)(A) which, as enacted by Congress, prohibits "using" or "carrying" a firearm during and in relation to a crime of violence or, in the alternative, the "possession" of a firearm in furtherance of a crime of violence. In the two Counts of the criminal indictment against agents Ramos and Compean you will not find these key words — using, carrying or possession. At the time the two agents encountered the illegal Mexican drug smuggler, they were in lawful possession of their firearms in furtherance of their duties as U.S. Border Patrol agents – carrying their firearms in relation to their official duties, not in relation to the commission of any crime. Even when the agents discharged their firearms to stop the smuggler, they were using their weapons in relation to their duties as border agents.

While the two agents may have violated U.S. Border Patrol policy with respect to the use of their weapons, the United States Attorney had no business charging them with a crime that Congress clearly designed to apply only to individuals who are possessing, using, or carrying firearms for the purpose of facilitating the commission of a crime – **not** to federal law

enforcement agents who are supposed to carry firearms, and who risk their lives daily to defend our borders from illegal entries and activities. There is no doubt in my mind that the U.S. Attorney misapplied this law, ignoring the key elements of the crime to obtain a conviction at any cost.

Agents Ramos and Compean are now incarcerated in a federal prison, a particularly dangerous place for law enforcement officers and agents. Not only are they suffering, but their family members are likewise worried about their safety and well-being. For the sake of these agents and their families, I urge this Committee to dig deeply into the background of this case to discover what really moved the U.S. Attorney to prosecute this case and let a known drug smuggler go free.

In my capacity as a member of the United States Congress, I, along with two of my colleagues — Congressman Virgil Goode of Virginia and former Texas state judge, Congressman Ted Poe — joined together and filed a friend of the court brief in the United States Court of Appeals for the Fifth Circuit in support of the agents' appeal of their unjust conviction. At the heart of our brief is the contention that no person should stand charged with, and convicted of, a crime that was never defined by Congress. Indeed, in our system of separation of powers, the rule of law demands that prosecutors enforce the law as Congress has defined it, not as the prosecution would like it to be. (I have appended a copy of the amicus brief to my statement.)

Mr. Goode, Mr. Poe and I have been joined in this effort by Gun Owners Foundation, a Second Amendment-based organization with a long and distinguished history of working to correct prosecutorial and judicial abuses associated with the mandatory-minimum penalties now attached to certain offenses involving firearms. Indeed, just 20 days before our brief was filed in

the Fifth Circuit, Gun Owners Foundation filed a friend of the court brief in Watson v. United States, urging the U.S. Supreme Court to require prosecutors to strictly conform their indictments to the ordinary meaning of the exact words in 18 United States Code Section 924(c) — the very statute misused in the case against agents Ramos and Compean.

My House colleagues and I have also been joined in the Fifth Circuit appeal by U.S. Border Control and U.S. Border Control Foundation, two nonprofit, tax-exempt organizations. Both of these organizations have been working for justice for agents Ramos and Compean and their families, by mobilizing a massive campaign to pardon these agents, to bring to light similar cases brought against other agents and to expose those responsible for this terrible injustice. U.S. Border Control is in its 20th year of work to protect our porous borders and to support the agents who are on the front lines to defend them, with special concern of late for agents Ramos and Compean.

Another of our co-amici on the brief, Conservative Legal Defense and Education Fund, has now worked for 22 years to support a textual approach to interpreting both the U.S. Constitution and federal statutes.

In short, I believe that the United States Attorney has put the government in a bad position in this case, contributing significantly to the demoralization of our border patrol officers. The question is how long this Justice Department will stand on the sidelines as a major drug smuggler is rewarded with amnesty, while two decorated Border Patrol agents languish in federal prison.

My House colleagues — Congressmen Goode and Poe — along with Gun Owners Foundation, U.S. Border Control and U.S. Border Control Foundation, and the Conservative

Legal Defense and Education Fund have taken action to persuade a federal court to reverse the unjust conviction of these two agents. We hope that this effort will be successful.

I pray that this Committee will take action to further investigate the abusive and illegal indictment brought in this case, and will convince the President to pardon Ignacio Ramos and Jose Alonso Compean.