

Does the rule of law in the United States apply to fugitive terrorist Posada?

Published: Friday, April 15, 2005

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VHeadline.com guest commentator Arthur Shaw writes: Luis Posada Carriles' Miami attorney Eduardo Soto told the Miami Herald (*April 6, 2005*) that Posada is fact in the United States.

Posada, 77, has been living ... according to subsequent press reports ... in the south Florida area for the last three weeks ... that means Posada arrived in the United State on March 25 or on what the Christians call "Good Friday."

Attorney Soto said Posada will ask the United States for political asylum and cites his alleged services for the Central Intelligence Agency (CIA) as one of the grounds for asylum.

There is little doubt that Luis Posada Carriles has , for many years, lived outside of the law or, in others words, as an outlaw ... he has been accused numerous murders as well as attempted murders, drug trafficking, breaking out of jail, and series of bombings.

This is an incomplete list of his highly publicized sins. But is he now ... after all of these sins ... above the law?

Does the rule of law in the United States apply to Posada?

- Specifically, is he above 8 USC 1226a, a provision of the Immigration Law of the United States?

The Section 1226a certification proceeding is an entirely separate proceeding from Posada's immigration case which attorney Soto will handle.

Under the provisions of 1226a, the attorney general of the United States may certify an alien as a criminal or terrorist if the attorney general has reasonable grounds to believe that the alien has engaged in criminal or terrorist activities.

- Section 1226a calls for the mandatory detention of suspected terrorists whom the attorney general has certified as such.
- Section 1226a prohibits the attorney general from delegating the authority to make criminal or terrorist certifications of aliens to anyone except to the deputy attorney general and the deputy cannot delegate the authority to anyone else.

- Section 1226a requires that the attorney general place the detained alien in removal proceedings from the United States or charge the detained alien with a criminal offense, not later than 7 days after the commencement of detention.
- Section 1226a provides that judicial review of any action or decision relating to 1226a is available exclusively in habeas corpus proceedings.

So, the question is whether US Attorney General Alberto Gonzales has reasonable grounds to believe Luis Posada Carriles, a Cuban national, has engaged in criminal or terrorist activities.

If so, Gonzales should certify Posada as alien who has engaged criminal or terrorist activities or both -- in case of Posada -- and detain him!

Posada himself in the July 12 and 13, 1998 edition of the New York Times confesses or, more correctly, **boasts** about some of his criminal and terrorist accomplishments, including his role in a series of bombings in Cuba.

- Once he realized that his confessions hurt his immigration case, Posada tried to take back some of his admissions to the New York Times.

But there is plenty of corroboration, including from accomplices, to support Posada's July 1998 claims about his prowess as a terrorist.

In addition to the crimes and terrorist activities for which Posada confesses, there is a mountain of evidence ... much of it already published ... that proves Posada has done criminal and terrorist acts for which he has not as yet confess, at least, he has not confessed publicly.

The Venezuelan government, for instance, states that Posada broke out of a Caracas jail in 1985 during the course of a criminal proceeding in which Posada was charged with the murder of 73 people.

Posada argues in his defense that he broke out of the Venezuelan jail before the court there could convict him of murdering 73 people ... so, those murder charges don't count.

Venezuela is seeking the extradition of this beast.

- At a very minimum, Posada's status as a fugitive from Venezuelan justice itself implies a criminal activity.

The Cuban government, over the years, has also collected information about the criminal and terrorist activities of Posada ... and the Cuban government has publicly offered to furnish US authorities with the information.

There are authors who, over the years, have published books and articles about Posada's many criminal and terrorist adventures.

It therefore seems that Gonzales, the US attorney general, has reasonable grounds -- and a lot more -- to believe that the alien, Luis Posada, has engaged in criminal or terrorist activities.

Clearly, Attorney General Gonzales should detain Posada and place him in removal proceedings or charge him with a crime ... there are plenty of crimes to pick from.

But for the last 20+ days, Gonzales has pretended like he didn't know the world famous terrorist -- Luis Posada Carriles -- had slipped into the United States, so the attorney general acted as if the question of certifying Posada under Section 1226a as a terrorist or as a criminal has never arisen.

Yes, the media, especially the south Florida pro-GOP media, has picked up the story about Posada's presence in the United States and his intention to seek political asylum. But this news coverage that Posada gets from the GOP-oriented media doesn't exert the slightest pressure on the attorney general to commence a 1226a certification proceeding. The media portrays the murderous Posada as if he's more saintly and angelic than the late John Paul II. Indeed, the media in south Florida under the domination of the Miami mafia, makes posada, this mass murderer, look as if he were immaculately conceived.

Posada is being whitewashed by an propaganda operation of the Miami mafia.

But Posada, so far, hasn't filed any document or piece of paper that officially establishes his presence in the US and compels Gonzales to respond to Posada request for relief under US immigration law.

Until Posada or his attorney Eduardo Soto files this little piece of paper with the US immigration authorities, the attorney general may either

- (1) keep pretending that Posada isn't in the country, or
- (2) make a finding preemptively before the immigration case begins that there are not reasonable grounds to believe that Posada is a criminal or terrorist, or
- (3) make a contrary finding and detain Posada until he's removed from the US or charged with crime.

All the signs suggest that Gonzales, the attorney general of the United States will keep pretending that Posada isn't in the country.

"Although the United States would be unlikely to hand Posada over to Cuba, Venezuela is another matter because it has an extradition treaty." the Associated Press wrote Wednesday, April 13.

Venezuelan Vice President Jose Vicente Rangel said (April 13) his nation's extradition request for Posada "is still pending" and added that President Bush should hand over the criminal.

- However, Venezuela is understandably waiting for the United States to officially acknowledge that Posada is under US jurisdiction before Venezuela really presses its outstanding request for the extradition of the monster.

If Venezuela sought to extradite Posada based on the published rumors that he's in the United States, Posada can just disappear again.

Whether Posada will be certified as a criminal or terrorist under Section 1226a is Gonzales' call. But whether Posada will be extradited to Venezuela is George W. Bush's and Condoleezza Rice's call.

Clearly, the attorney general's strategy is to run and hide until the problem of what to do with Posada lands on the desk of Bush or Rice, most likely, the latter.

Perhaps, the only thing that will compel the elusive attorney general of the United States to take cognizance of Posada presence before the immigration case begins is a bunch of requests from members of congress that the attorney general stop running and make a determination whether Posada should be certified as a criminal or terrorist as the law requires.

Whatever decision Gonzales would reach about certification -- for or against -- would have a tremendous impact on Posada immigration case which his attorney Eduardo Soto will file.

If the attorney general finds **FOR** Posada in a certification proceeding, the judge in the subsequent immigration case will see that Posada is above the law with regard to 1226a, so the judge may treat Posada as if he's also above the law with regard to the provisions of immigration law that apply the case in which judge is presiding.

On the other hand, if the attorney general finds **AGAINST** Posada in a certification proceeding, there won't be a subsequent immigration case except for a removal proceeding to kick Posada out of the United States.

Otherwise, he would be charged with a crime and prosecuted.

Posada has a number of financial backers (*some of whom are drug dealers like he is*) and other supporters, especially the politically powerful Miami mafia ...

these backers are now gleefully giving Posada lavish material support ... welcome home, from the boys.

The Miami mafia backers and the attorney general are fully aware that if Posada is certified as a terrorist under 1226a, the backers will become subject to criminal prosecution for providing material support to an individual certified as terrorist by the attorney general, an act that is prohibited under the so-called USA Patriot Act of 2001.

Given this, it appears that Posada is above -- way above -- Section 1226a and all the other laws of the United States.

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