

Friday, May 11, 2007

The legal proceedings behind the Posada dismissal.

The Bill of Rights. (From the public domain.)
On May 8, United States District Court Judge Kathleen Cardone dismissed the immigration fraud prosecution against Luis Posada Carriles, for such Constitutional violations as violations of Mr. Posada's Fifth Amendment right to remain silent and the government's failure to provide sufficient interpretation when he was being interviewed for his naturalization application. Many who brand Mr. Posada a terrorist are upset over the dismissal. (He apparently told the New York Times that the CIA taught him everything he knows about violence; I have only read a little bit about him so far.) However, the Constitution is not permitted to be skewed against a dismissal no matter how unsavory the defendant is claimed to be. For any reason that the Bush II administration and its predecessors have anything to do with protecting, aiding, and conspiring with Mr. Posada, then that action did not come from the courts. The indictment for this case confirms that the dismissed prosecution was exclusively an immigration fraud case. It is not an extradition case, and it is ultimately up to the executive branch, not the judicial branch, whether to seek to extradite him. Not in my name, the leadership of the National Lawyers Guild, to which I belong, last month announced its support of the decision to deny Mr. Posada bail in this now-dismissed immigration fraud case by the Fifth Circuit after the trial court granted home detention. The National Lawyers Guild, which considers itself a progressive organization, best be careful about any harsh orders it seeks from the Fifth Circuit, lest such harshness return to bite Guild members' criminal defense clients in the butts; this is, after all, a court that affirms countless executions. The order dismissing Mr. Posada's immigration fraud prosecution is here. More information on Mr. Posada is here. Jon Katz.

Posted by Jon Katz in Criminal Defense at 01:10