

LUIS POSADA CARRILES CASE

Judge frees Posada, rips feds' tactics

■ A federal judge in El Paso dismissed a criminal indictment against Cuban exile militant Luis Posada Carriles, who is now free - unless immigration authorities detain him.

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Luis Posada Carriles plans to return to Miami a free man after an El Paso federal judge dismissed immigration fraud charges against the Cuban exile militant Tuesday. The reason: The government translator botched the English-Spanish interpretation of his citizenship interview.

In her 38-page written order scrapping the indictment, U.S. District Judge Kathleen Cardone accused the United States government of engaging in "fraud, deceit and trickery" to indict Posada. She called the gov-

ernment's citizenship interview a "pretext for a criminal investigation" so it could charge Posada.



POSADA

The citizenship interview was a central piece of the government's case because prosecutors had hoped to show that Posada lied under oath about how he sneaked into the United States. The

dismissal is also embarrassing for the Bush administration, which has been investigating Posada since spring

*TURN TO POSADA, 2A

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FEDERAL COURT

Judge hands jailed Posada a legal victory, orders release

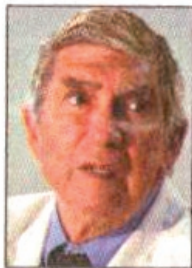
■ District Judge Kathleen Cardone in El Paso ruled that Cuban exile militant Luis Posada Carriles must be released on bond to await his criminal trial.

BY ALFONSO CHARDY
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Cuban exile militant Luis Posada Carriles must be released on bond and allowed to live with his family under house arrest in Miami while awaiting trial for allegedly lying to immigration authorities, a federal judge ordered Friday.

Posada was not freed because the federal government quickly filed a motion asking the judge for a seven-day delay to review the "adequacy" of her release conditions — and to decide whether to appeal. It was also possible Posada could be taken into custody by immigration officials as soon as he posts bond.

Nevertheless, the ruling by U.S.



POSADA

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FEDERAL COURT

Posada is dealt a major victory by federal judge

•POSADA, FROM 1A

District Judge Kathleen Cardone in El Paso was the first major legal victory for the former CIA operative since immigration agents in May 2005 detained him in Miami-Dade County, charged him with illegally being in the country and flew him to an immigration detention facility in El Paso.

"The conventional wisdom was that we would not get bond," said Arturo Hernandez, Posada's Miami-based criminal defense attorney. "But this judge, to her credit, justly considered the facts and gave us a reasonable bond."

In the nine-page ruling, Cardone noted that even if Posada were the daring covert operative of legend, accused of masterminding tourist site bombings in Havana that killed an Italian in 1997 — and even if he did escape from a prison in Venezuela once in connection with the 1976 bombing of a Cuban airliner that killed 73 — all that was in the past. She also noted that the criminal charges against Posada, now 79 and "frail," did not involve acts of violence.

•MORE FRAIL'

Posada, the judge wrote, "has spent his life opposing Fidel Castro. As a result, he has allegedly been involved in and/or associated with some of the most infamous events of the 20th century . . . the Bay of Pigs invasion, the Iran-Contra Affair, the 1976 bombing of Cubana Flight 455, the tourist bombings of 1997 in Havana, and even — according to some conspiracy theorists — the assassination of President John F. Kennedy."

But all those things, she added, have no bearing on Posada's current circumstances.

"He is now older and more frail than he was when those events allegedly occurred," she wrote. "He has ample ties to the community, as evidenced by the thousands of supporters who have signed petitions on his behalf and volunteered their personal resources to aid in his defense."

Hernandez said he had not relayed the news to Posada and doubts the exile militant even knows about the judge's ruling because he is being held in conditions of near isolation in a small cell in a county jail in New Mexico near the Texas border.

"But if he knows, he'll be walking three feet above the prison floor," Hernandez said.

Conditions were better when Posada was in immigration detention, Hernandez said, because he had access to the phone and could indulge in his passion of painting Cuban landscapes. At a court hearing in El Paso Wednesday, Hernandez said, Posada appeared to have lost 30 pounds and seemed subdued but hopeful.

Posada's supporters in Miami cheered the judge's ruling.

•EVALUATING' DECISION

"It's about time they realize that Posada Carriles has always been a man close to the United States, who has rendered services in the war against terrorists and communists," said Miguel Saavedra, president of Vigilia Mambisa.

A U.S. Immigration and Customs Enforcement official in Washington did not rule out detaining Posada — even if he's released on bond.

"We'll be evaluating the judge's decision and will take the appropriate action," said Marc Raimondi, an agency spokesman in Washington.

After he was detained, immigration authorities charged Posada with having abandoned his rights as a permanent U.S. resident and with being in the country without having been admitted or paroled.

Those charges have not been withdrawn, and an immigration judge in September 2005 ordered Posada deported to any country willing to take him — though he prohibited removal to Cuba or Venezuela.

Posada was transferred from immigration detention to the custody of federal prison authorities when a grand jury in January indicted him for allegedly lying about whether he entered the country by boat or by land.

If the judge's ruling stands, Posada can post \$350,000 in bond and then live with his wife at her home in Miami under 24-hour house confinement, leaving only for doctors' appointments or to meet with his attorney. Posada also would be subject to electronic monitoring and not be allowed to contact co-defendants or witnesses.

His trial is set for May 11, and he faces up to 40 years in prison if convicted on all counts.