He promised the investors large returns on their investments in a short time frame. The evidence showed that no such investment programs existed and that Schellhaas completely defrauded the investors. U.S. District Judge Melinda Harmon sentenced Schellhaas to190 months after he was convicted by a jury of wire fraud and money laundering. The sentence imposed in this case is one of the longest in a fraud case in the district. AUSA: Julie Bowen Stern; AGENCY: IRS.

Counterfeit Securities

Seven individuals all pled guilty to possessing various counterfeit securities. Juan Ramon Castro, aka "Chino" and his girlfriend, Rosa Jaimes, led five others in a conspiracy to obtain money from various merchants and banks by passing counterfeit payroll checks of Manpower, Inc. The indictments resulted in the seizure of $17,000 in currency. The monetary transactions in this case demonstrated $2.5 million in fraud by the organization. Castro and Jaimes each received a three-year sentence and were assessed $17,884 in restitution after pleading guilty. The remaining defendants received sentences ranging from 5 to 18 months in prison. AUSA: Jon Muschenheim; AGENCY: Corpus Christi PD & U.S. Secret Service.

PUBLIC CORRUPTION

Those who hold public office, whether elected, appointed or hired, bear special responsibilities in their positions. Prosecutors pay special attention to any violations that involve abuse of office by a public employee.

Criminal wrongdoing by any public official, especially one with law enforcement responsibilities, seriously undermines the trust which communities place in public officials. Prosecutors in the Public Integrity Unit of the Special Prosecutions Section work with agents to investigate charges of public corruption.

Webb County Corruption

In September 2000, five defendants were found guilty of conspiracy to commit Hobbs Act violations in a case-fixing scheme involving the Webb County District Attorney's Office in Laredo. This trial was part of an extensive public corruption investigation that became public with the execution of federal search warrants at the Webb County District Attorney's Office, the office of local bail bondsman Gregorio Jesus Castaneda, the Laredo law office of Ruben Garcia, and the home of Jose Rubio, Sr., the father of the Webb Co. District Attorney.

Laredo Morning Times

We're your hometown newspaper and more

Y, January 19, 2001

Rubio Sr., Castañeda sentenced

BY KELLY HILDEBRANDT
Times staff writer

Jose Rubio, Sr. and Jesus Castañeda both walked out of the Federal Court House Thursday after their sentencing hearing.

Although Judge George Kazen sentenced Castañeda to 60 months and Rubio Sr. to 51 months, he released them on bond pending a ruling from the 5th U.S. Court of Appeals, which could affect whether they go back on trial regarding the inter-state commerce charges brought against them.

Both men were found guilty in August of several counts related to case fixing. While Castañeda was found guilty on all counts, Rubio was acquitted of one charge.

Rubio was fined $10,000 on each count while both

(See "RUBIO Page 14A)

Times staff photo by J. MICHAEL SKOFF

AFTER COURT: Lead Federal Prosecutor Don DeGabrielle, right, speaks with the news media following sentencing of Joe Rubio, Sr., father of Webb County District Attorney Joe Rubio, Jr., and former bail bondsman Jesse Castañeda in federal district court in Laredo Thursday.

In 1998, attorney and former State District Judge Ruben Garcia pled guilty to a criminal information charging him with case fixing under the Hobbs Act. That same year a federal grand jury sitting in Laredo returned an indictment charging Webb County Assistant District Attorney Ramon Villafranca and others with conspiracy to commit Hobbs Act violations in the case fixing scheme with Ruben Garcia. Villafranca stood trial in Laredo in 1999 and was found guilty. The later trial stemmed from the July 1999 indictment of ten defendants with 21 counts of Hobbs Act and conspiracy violations relating to case fixing in Webb County. Those charged included two Webb County Assistant District Attorneys, three District Attorney Investigators, a bail bondsman, and the father, brother and cousin of the District Attorney. Jose Rubio, Sr. was sentenced to 51 months, Castaneda received 5 years, and defendant Carlos Rubio was sentenced to 32 months. AUSA: Don DeGabrielle, Marina Marmolejo-Garcia & Trey Martinez; AGENCY: FBI, Laredo PD, U.S. Customs, U.S. Border Patrol & IRS.

TDHCA Board Member Convicted of Bribery

Florita Bell Griffin, a board member of the Texas Department of Housing and Community Affairs (TDHCA) and her business partners were found guilty of bribery, theft, mail fraud and money laundering. Griffin was found guilty of accepting money and property in exchange for her support of an application for tax credits submitted to the TDHCA board which voted on approval of those applications. She was convicted of conspiring with co-defendants to form a company which would be a part of a development team that would submit a proposal to TDHCA to build low income housing, the award of which would result in receipt of valuable tax credits.

State agency official convicted of bribery

She peddled influence for cut of business

Sentencing is set for March 2001. She faces up to 55 years imprisonment and fines up to $2 million. AUSA: Gary L. Cobe; AGENCY: FBI & DPS.

Agent Sentenced in Murder-For-Hire Plot

Chief U. S. District Judge George Kazen in Laredo sentenced Salvador Martinez, a former DEA agent, to 87 months in federal prison. Martinez was charged in December 2000, with hiring an individual to kill Miguel Flores. Martinez suspected Flores murdered Martinez's cousin in a 1995 robbery incident. In a detailed plea agreement, Martinez admitted that he had promised to pay a source $10,000 in "investigative expenses" for Flores to be killed.

Ex-DEA agent apologizes for plot

He gets 7 years for seeking hit man to avenge cousin's death

By MARK SMITH
Houston Chronicle

LAREDO – A former federal drug agent stood before a judge Friday and turned down a chance to prove his innocence, apologizing for trying to hire a hit man to avenge the 1995 slaying of his cousin.

Salvador Martinez's sentence of seven years in prison was the result of a guilty plea three months earlier. This could be the end of a tragic and complex border family saga.

But it probably isn't.

Another cousin of Martinez's is the retired head of the Dallas office of the Drug Enforcement Administration, Phil Jordan. It was the shooting death five years ago of Jordan's younger brother, Bruno, that Martinez was trying to avenge.

Salvador Martinez still recalls the day his cousin was slain – he learned about it on his wedding anniversary.

The way Jordan sees it, there are now two injustices: the murder of his 27-year-old brother, which he believes was financed by a drug cartel, and the prosecution of his cousin, Sal, the result of an ongoing feud between the DEA and the FBI.

"When the FBI first got wind that Sal was talking recklessly, they should have notified the DEA, and Sal should have been ordered to return immediately to the United States, where he would have been disciplined and received counseling," Jordan said. "The FBI should have handled this much like they have for their own agents – keeping the matter internal."

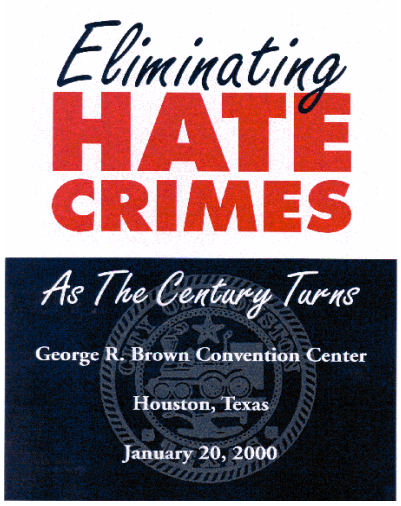
Prosecutors have said that Martinez's plot was outrageous and demanded criminal prosecution. Said FBI Special Agent John De Leon in McAllen, "We took the

See DEA on Page 18A.

In September 1999, Martinez contacted the source by phone and the two agreed to meet in McAllen. Martinez met with the source, handed him an envelope and indicated that the envelope was regarding "El Primo" (the cousin). From October to December a series of conversations between Martinez and the source were recorded with the assistance of the FBI, which substantiated the existence of the agreement to kill Flores. Martinez was arrested after a search of his office at the U. S. Consulate in Monterry, Mexico. Evidence from the search confirmed Martinez's plan to have Flores killed. AUSA: Mary Lou Castillo; AGENCY: FBI & DEA.

Texas Rangers Team with IG in Investigation of Federal Couple

Brian Brown and his wife, Sylvia Longoria Brown accepted a $3,500 bribe in return for providing information related to the sentencing of a federal defendant. Brown was a Special Agent with the U. S. Customs Service, and his wife, Sylvia Brown, was a contract employee with the U. S. Marshal's Service for the Southern District of Texas. AUSA: Larry Eastepp; AGENCY: OIG & Texas Rangers.



CIVIL RIGHTS

The Civil Rights Unit is responsible for prosecution of those who violate the civil rights of others. These federal offenses can be by officials acting under color of law or by those who seek to deny civil rights to others on the basis of race, religion or national origin. Cases presented in 2000 represent both forms of civil rights violations.

The office also sponsored a major seminar in Houston *Eliminating Hate Crimes*, to enhance public awareness and to promote prevention measures for these crimes.

Cross Burning In Katy Brings 10 Year Sentenced

Cross-burner gets 10 years

Group's leader apologizes to Ross family, city of Katy

By JO ANN ZUÑIGA
Houston Chronicle

The last of a group of young white men who burned a cross in the front yard of a black family in Katy was sentenced to 10 years in federal prison Monday.

Matthew Curtis Marshall, 21, considered the leader of the five men, was sentenced for burning a 6-foot cross in Dwayne and Maria Ross' front yard June 19, a day that commemorates the freeing of slaves in Texas.

Before he was sentenced, Marshall read a statement apologizing to the Ross family and to the city of Katy "for scarring its image."

"I am not a racist," he said, and juana.

"I did this with an altered mind, not a hateful heart," Marshall said, calling the incident "a gross misunderstanding."

"But I did hurt you, and I did break the law. I hope you can put this ugly nightmare behind you," he said.

Marshall had pleaded guilty to conspiracy, willful intimidation because of race or color and using fire in the commission of a felony. After Marshall completes his prison term, he will serve three years of released supervision.

At Marshall's sentencing Monday, U.S. District Judge David Hittner said Marshall — using a racial slur — suggested he and his friends "go burn a cross in some (black's) yard." Hittner, reading from court documents, said helped ignite the blaze.

Marshall also chided his friends as "wimps" and other derogatory terms until they agreed to do his bidding, the judge said.

Hittner pointed out that during the investigation, Marshall said he would "kill anyone" who reported the group.

The judge quoted Marshall's father, who testified in an August detention hearing that he regularly used racial slurs to describe blacks, Hispanics and Chinese-Americans.

"It seems the seeds of his (the defendant's) racism were sown at home," Hittner said.

The night of the incident, Marshall took a post-hole digger to place the cross in the center of the yard, the judge

On the night of June 19, 2000 five young men set a six-foot cross on fire at the home of an African-American family living in Katy, Texas. The FBI, acting on information obtained from a confidential informant, arrested the men soon after the incident. They were charged with violating the civil rights of the African-American family by infringing on their right to occupy their home without intimidation and interference because of their race and color. The co-conspirators received sentences ranging from 13 months to 37 months after pleading guilty. The lead defendant, Matthew Marshall, received10 years for using fire in the commission of a felony. AUSA Ruben R. Perez and Daniel Velez, DOJ Criminal Civil Rights Section; AGENCY: FBI & Harris County Precinct 5 Constable's Office.

Houston Police Officer Guilty of Civil Rights Violation

Cedric Rodgers, of Houston, will be spending the next 41 months in prison. Following a four day trial, a jury found Rodgers guilty of depriving another person of civil rights while acting under color of law. The jury found that Rodgers, a Houston Police Officer since 1983, conspired to steal $30,000 from a drug dealer. Rodgers used his authority as a police officer to stop the car, thereby allowing his co-conspirator to steal $30,000 in cash and place the money in Rodgers' unmarked police car. Rodgers' plan unraveled when other police officers arrived on the scene and discovered the money. AUSA: Gerald Doyle and Mai Linh Spencer, DOJ Criminal Civil Rights Section; AGENCY: FBI, DEA, & HPD-IA.

ENVIRONMENTAL CRIMES

The Environmental Crimes Unit works to prosecute crimes concerning the release of hazardous waste into waterways, illegal transportation of hazardous waste and violations of the laws protecting endangered species.

Significant environmental cases in 2000 involved smuggling and illegal dumping. A Denver businessman, Kenneth McManus, was convicted under the Clean Air Act of smuggling 2,400 pounds of dichlorodifluoromethane, also known by the trade name Freon-12, from Saudi Arabia into the U.S.

A Los Angeles woman was convicted for smuggling 1500 sea turtle eggs from El Salvador into the United States. Sea Turtle eggs are prohibited from being imported without the appropriate permit because of their status as threatened or endangered wildlife.

The owner of a sewage removal and transportation business was convicted under the Clean Water Act of dumping sewage removed from septic systems into the San Jacinto River instead of disposing of it properly at a licensed facility. The San Jacinto River empties into Lake Houston where the City of Houston obtains a substantial amount of its drinking water.

A ship captain and his chief engineer were convicted of dumping fuel oil residue in the Atlantic. In a separate case, a ship and barge cleaning company was convicted of a Clean Water Act violation and paid a $25,000 fine and agreed to pay a total of $975,000 to the Coastal Conservation Association and the Galveston Bay Foundation to demonstrate its commitment to a better environment.

POST-TRIAL LITIGATION

Successful prosecution of criminal offenses regularly involves post-trial litigation. Criminal appellate litigation is the responsibility of the Appellate Division. The work of these attorneys before the Fifth Circuit Court of Appeals clarifies issues and sets standards that guide criminal procedure.

In 2000, the U.S. Attorney's Office litigated 355 criminal appeals before the Fifth Circuit Court of Appeals. In addition to the criminal appeals, the Appellate Division manages a full docket of other post conviction matters. In 2000 there were 161 such matters involving primarily habeas corpus petitions under 28 U.S.C.§ 2255.

The cases below represent the types of issues addressed in criminal appeals taken before the Fifth Circuit:

In *U.S. v.Chavez-Chavez*, 205 F.3d 145 (5th Cir.2000), the Fifth Circuit upheld an investigatory stop by experienced Border Patrol agents of a van that was being driven early in the morning outside of Corpus Christi. Notwithstanding that the stop occurred 150 miles north of the border, the court found that regular use of the highways for alien smuggling activity coupled with the unkept appearance of the passengers, the nervous appearance of the driver and the rigid suspension of the van, supported the finding of reasonable suspicion of criminal activity. Briefed by AUSA Jeffery Babcock.

U.S. v. Tovias-Marroquin, 218 F.3d 455 (5th Cir. 7/11/2000). The court held that a 8 U.S.C. § 1326, illegal reentry, did not create a "status offense" in violation of a defendant's right to due process of law. Defendants are required to commit an act, to wit, reentering the U.S. without permission. Briefed by AUSA David Peck.

U. S. v. Drones, 218 F.3d 496 (5th Cir. 7/25/2000). The government appealed the district court's vacatur of conviction grounded on ineffective assistance of counsel. District court grounded ineffective assistance finding on counsel's failure to investigate and present voice identification evidence. The court of appeals reversed noting that "the uncertainty of the current state of the law regarding the reliability and admissibility of expert voice identification evidence" led to the conclusion that counsel's failure to pursue that defense was not unreasonable. Briefed and argued by AUSA Kathy Snyder.

U.S. v. Deavours, 219 F.3d 400 (5th Cir. 7/13/2000). The court held that the appropriate measure of "intended loss" for purposes of sentencing a defendant involved in a Ponzi scheme is the amount the defendant placed at risk by misappropriating money or other

property and is not reduced by any sum returned to investors in the form of payments to further promote the scheme. Briefed by AUSA James Turner.

U.S. v. Wise and Grebe, 221 F.3d 140 (5th Cir. 7/31/2000). The court of appeals made two significant holdings in this case involving terrorist threats. First, the court held that the phrase "without lawful authority" in 18 U.S.C. § 2332a is an affirmative defense, not an element of the offense. Second, the defendants could be convicted of aiding and abetting of knowingly and intentionally threatening to use a weapon of mass destruction, even though the principal was a government agent authorized by the FBI to send threatening e-mails. Briefed by AUSA Paula Offenhauser and argued by AUSA Tony Roberts.

U.S. v. Guerrero, 234 F.3d 259 (5th Cir. 11/22/2000). The court upheld a conviction for making a false statement on an ATF form in connection with the attempted acquisition of a firearm, a violation of 18 U.S.C. 922(a)(6), noting that the fact that a background check was required under the Brady Act did not preclude a finding that a false statement was likely to deceive a dealer. Briefed and argued by AUSA Jim Powers.

U.S. v. Lyckman, _ F.3d _ (5th Cir. 12/7/2000). This appeal was from a judgment of conviction for distributing or receiving child pornography. The court held that sexual penetration of a prepubescent female qualified as "sadistic or violent" conduct within the meaning of the sentencing guideline applicable to material portraying sadistic or masochistic conduct or other depictions of violence. Briefed by AUSAKathy Snyder.

U.S. v. Garay, _ F.3d _ (5th Cir. 12/7/2000). The court held a defendant's status as a deportable alien, an inherent element of an immigration offense of which he was convicted, was necessarily taken into account by the Sentencing Commission in establishing the offense level and was not a permissible basis for a downward departure. Briefed by AUSA Tim Hammer.

U.S. v. Guzman-Ocampo, _ F.3d _ (5th Cir. 12/21/2000). The court held that a violation of 18 U.S.C. § 1326 is a general intent offense and the government need not allege a specific intent to re-enter the U.S. illegally. Briefed by AUSA Kathy Snyder.

U.S. v. Reyes-Lugo, _ F.3d _ (5th Cir. 1/3/2001). The court held that a federal sentencing court was not required to run a federal sentence concurrently with an undischarged state term. Briefed by AUSA Katherine Haden, argued by AUSA Tony Roberts.

U.S. v. Marek and Cisneros, _ F.3d _ (5th Cir. 1/4/2001). In a 10-5 decision, the *en banc* Fifth Circuit Court of Appeals upheld two murder-for-hire convictions holding that even intrastate use of any facility of interstate commerce will permit a federal court to exercise its jurisdiction. Briefed and argued by AUSA Kathy Snyder.

U. S. v. Ceballos-Torres, 218 F.3d 409 (5th Cir. 2000). One of the first cases to construe 18 U.S.C. § 924(c)(1)(A)(i) after *Bailey v. U.S.,* 516 U.S. 137 (1995). The court held that possession of a firearm is in furtherance of a drug trafficking offense when it furthers, advances, or helps forward the narcotics offense. The weapon was found on the defendant's bed while the agents were performing an immigration check. The court of appeals upheld the district court's finding that the weapon was used to protect the contraband and the money from robbery. Briefed and argued by AUSA Jeffery Babcock.