

By: Berman

H.C.R. No. 13

CONCURRENT RESOLUTION

1 WHEREAS, United States Border Patrol Agents Ignacio Ramos and
2 Jose Compean worked on the United States border with Mexico; and

3 WHEREAS, David Aguilar, the chief of the Office of Border
4 Patrol, testified before the United States Senate that "Border
5 violence incidents are perpetrated against our agents on an all too
6 frequent basis . . . from February 1, 2005, through June 30, 2007,
7 there have been 1,982 incidents where border patrol agents have
8 been assaulted. These assaults include rockings, physical
9 assaults, vehicular assaults, as well as shootings and assaults
10 with other weapons. . . . Border patrol agents have responded with
11 the use of deadly force on 116 occasions, with 144 agents
12 discharging their weapons during these 116 incidents"; and

13 WHEREAS, This information would support the premise that
14 border patrol agents operate in a climate of tension, danger, and
15 even fear for the safety of themselves and others; and

16 WHEREAS, On February 17, 2005, near Fabens, Texas, Agents
17 Ramos and Compean, along with other border patrol agents, were
18 involved in the pursuit of Osvaldo Aldrete-Davila, a Mexican
19 national they suspected of smuggling drugs; and

20 WHEREAS, After a high speed vehicle chase, Aldrete-Davila
21 abandoned the van he was driving on the United States side of the
22 border and fled on foot toward the border with Mexico; and

23 WHEREAS, Agents Ramos and Compean also exited their
24 respective vehicles and continued the pursuit on foot, with Agent

1 Compean attempting to intercept Aldrete-Davila while Agent Ramos
2 chased Aldrete-Davila directly; and

3 WHEREAS, During the incident, both Agents Ramos and Compean
4 discharged their weapons, and Agent Ramos testified later that he
5 believed Aldrete-Davila had a gun in his hand, while Agent Compean
6 testified that he saw something "shiny" in Aldrete-Davila's hand,
7 but no weapon was recovered; and

8 WHEREAS, According to forensic evidence, Aldrete-Davila was
9 struck by a bullet from the gun of Agent Ramos, but both agents
10 later testified that they did not realize at the time that he had
11 been hit; and

12 WHEREAS, Aldrete-Davila fled across the border into Mexico;
13 the van driven by Aldrete-Davila was discovered by other border
14 patrol agents to contain 743 pounds of marijuana, worth
15 approximately \$1 million; and

16 WHEREAS, Following an investigation by the United States
17 Department of Homeland Security's Inspector General and the office
18 of the United States Attorney for the Western District of Texas,
19 Agents Ramos and Compean were arrested approximately one month
20 after the incident; and

21 WHEREAS, Serious questions have been raised about the manner
22 in which the office of United States Attorney Johnny Sutton
23 prosecuted the agents, basing his cases largely on the testimony of
24 Aldrete-Davila, testimony for which he was granted "limited use
25 immunity" by United States Attorney Sutton's office; and

26 WHEREAS, Aldrete-Davila was not required to fully honor his
27 immunity agreement and testify about his alleged involvement in

1 drug trafficking after the events of February 17, 2005, and before
2 the trial of Agents Ramos and Compean began; and

3 WHEREAS, Aldrete-Davila was arrested in the United States on
4 November 15, 2007, and charged with conspiracy to possess marijuana
5 between June 1, 2005, and November 30, 2005, and also charged with
6 smuggling approximately 750 pounds of marijuana, worth over \$1
7 million, in October 2005, during the period he possessed "limited
8 use immunity" for his testimony against Agents Ramos and Compean;
9 and

10 WHEREAS, Among other charges, Border Patrol Agents Ramos and
11 Compean were charged by the United States Attorney's office under
12 Section 924(c), Title 18, United States Code, with "Discharge of a
13 firearm in commission of a crime of violence," which carries a
14 10-year mandatory minimum sentence; and

15 WHEREAS, Agents Ramos and Compean admitted that they did not
16 fully adhere to border patrol policies with regard to reporting the
17 incident, an error that usually would have led to a written
18 reprimand, suspension, or dismissal; and

19 WHEREAS, Agents Ramos and Compean were found guilty of
20 violating Section 924(c), Title 18, United States Code, and
21 received the 10-year mandatory minimum sentence; and

22 WHEREAS, Agents Ramos and Compean were also convicted on
23 other charges, so that their total sentences amounted to 11- and
24 12-year terms, respectively; and

25 WHEREAS, According to the United States Sentencing
26 Commission, the average sentences in federal cases of sexual abuse
27 averaged 8-1/3 years in 2006, the last year for which data is

1 available; and

2 WHEREAS, According to the United States Sentencing
3 Commission, sentences in federal cases for manslaughter averaged
4 just less than four years in 2006; and

5 WHEREAS, According to the United States Sentencing
6 Commission, the average sentences in federal cases of assault
7 averaged just less than three years in 2006; and

8 WHEREAS, According to the United States Sentencing
9 Commission, sentences in federal cases involving firearms charges
10 averaged three years in 2006; and

11 WHEREAS, The sentences imposed on Agents Ramos and Compean
12 are profoundly disproportionate based on the totality of
13 circumstances and sentencing guidelines; and

14 WHEREAS, These disproportionate sentences constitute a
15 miscarriage of justice; and

16 WHEREAS, Former Deputy Chief Luis Barker, who headed the
17 border patrol office in the El Paso sector at the time of the
18 incident, stated before the United States Senate that he agreed the
19 penalty received by Agents Ramos and Compean was disproportionate;
20 and

21 WHEREAS, United States Attorney Sutton, referring to the
22 sentences received by Agents Ramos and Compean, said, "Some say
23 it's just too much time, and I have some sympathy for that"; and

24 WHEREAS, Aldrete-Davila was reported in a press account to
25 have stated that he thought the sentences were excessive; and

26 WHEREAS, Agents Ramos's and Compean's motions to remain free
27 on bond while they appeal their sentences were denied; and

1 WHEREAS, Agents Ramos and Compean have been imprisoned since
2 January 17, 2007, awaiting appeal; and

3 WHEREAS, Agent Ramos has been assaulted by other inmates in
4 prison, and both men are at risk in prison given their law
5 enforcement background; now, therefore, be it

6 RESOLVED, That the 81st Legislature of the State of Texas
7 hereby respectfully request that the president of the United States
8 immediately commute the sentences of Agents Ramos and Compean to
9 time served and grant a full pardon to both agents; and, be it
10 further

11 RESOLVED, That the Texas secretary of state forward an
12 official copy of this resolution to the president of the United
13 States of America.