

Journalists Win Appeal In FBI Brutality Case (6/19/2008)

ACLU Lawsuit Charges Excessive Force Violates Fourth Amendment

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SAN JUAN, PR - A federal appeals court ruled yesterday that an unprovoked attack on journalists by FBI agents would clearly violate the Fourth Amendment. The U.S. Court of Appeals for the First Circuit reversed an earlier decision to dismiss a lawsuit brought by the American Civil Liberties Union on behalf of journalists who were kicked, punched and pepper sprayed by FBI agents as they attempted to report on the search of a San Juan apartment.

"This decision makes clear the FBI cannot exert excessive force and intimidation every time it wants to avoid public scrutiny," said Catherine Crump, staff attorney with the ACLU First Amendment Working Group. "By reinstating our lawsuit, the appeals court will let us continue fighting for the principle that reporters should be able to approach law enforcement officers without fear of harassment."

In February 2006, several journalists approached FBI agents leaving a San Juan apartment that was being searched to ask for their comments. The FBI agents responded by, among other things, spraying pepper spray in the journalists' faces, covering the lens of a camera and pointing an automatic rifle at one of the journalists.

In September 2006, the ACLU filed a lawsuit on behalf of the journalists, asserting that the FBI agents had violated their First Amendment right to gather news and their Fourth Amendment right to be free from excessive force. An earlier ruling by the U.S. District Court for the District of Puerto Rico sided with the FBI agents, ignoring important constitutional issues raised by the journalists and throwing out the case. Yesterday, the appellate court reversed that decision, reinstating the case and noting that if the journalists can prove they were "without provocation, pushed, punched, hit by metal batons, and pepper sprayed in the face by federal agents," it would be a clear violation of their Fourth Amendment rights.

"Unprovoked violence against journalists to keep them from doing their jobs is a blatant violation of their constitutional rights," said William Ramirez, Executive Director and attorney with the ACLU of Puerto Rico. "These reporters deserve their day in court, and now they will have it."

In addition to Crump and Ramirez, attorneys in the lawsuit are Aden Fine of the ACLU First Amendment Working Group, Josué González of the ACLU of Puerto Rico and Nora Vargas-Agosta. The Reporters' Committee for Freedom of the Press has filed an amicus brief in the case.