

Judge's sentence creates conflict between Cuba & U.S.

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PABLO ALFONSO**

The ruling handed down two years ago by U.S. Federal Judge James Lawrence King to compensate the families of the pilots of Brothers to the Rescue, who were killed in international waters by Cuban Air Force MiGs, with \$187.6 million has become another point of conflict in relations between Cuba and the United States.

Relatives of the victims are trying to obtain their compensation from money that United States telecommunications companies have to pay to Cuba. Meanwhile, Cuba has threatened to cut off phone service if they do not receive that money

El Nuevo Herald has fragments of the ruling signed by Judge King on December 17, 1997, which provides the base for the claim. The Spanish translation has been duly certified and recognized as authentic.

- "The government of Cuba, on February 24, 1996, in outrageous contempt for international law and basic human rights, murdered four human beings in international airspace over the Florida Straits."
- "As the civilian planes flew over international waters, a Russian-built MiG 29 of the Cuban Air Force, without warning, reason, or provocation, blasted the defenseless planes out of the sky with sophisticated air-to-air missiles in two separate attacks."
- "Because the Court finds that neither Cuba nor the Cuban Air Force is immune from suit for the killings, and because the facts amply prove both Defendants' liability and Plaintiffs' damages, the Court will enter judgment against Defendants."
- "Following an extensive investigation, the ICAO, [English initials for the International Civil Aviation Organization] issued a report in June 1996 concluding that the planes were shot down over international waters."
- "As a result, the FSIA [Foreign Sovereign Immunities Act] now provides that a foreign state shall not be immune from the jurisdiction of U.S. courts in any case in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources ... for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency."

According to Section 1605 (a) (7) of the FSIA, cited by Judge King, the requirements established to meet the above are:

1. The United States must have designated the foreign state as a state sponsor of terrorism.
2. The act must have occurred outside the borders of the foreign state.
3. The applicants and the victims must have been United States nationals when the acts occurred.

"The record of this trial clearly establishes that all of these requirements have been met," affirmed Judge King in his ruling.

In effect, Cuba is one of seven countries designated as sponsors of terrorism in the list drawn up annually by the State Department; the act occurred in international waters a United Nations report established, and three of the four victims were U.S. citizens.

- "Cuba's extrajudicial killings ... violated clearly established principles of international law. More importantly, they were inhumane acts against innocent civilians. The fact that the killings were premeditated and intentional, outside of Cuban territory, wholly disproportionate, and executed without warning or process makes this act unique in its brazen flouting of international norms."

Photo: Federal Judge James Lawrence King giving a speech (N).

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