

UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

COPY

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:97-CR-116

VS.

RODNEY ADAM CORONADO,

Defendant.

Hon. Richard A. Enslin
Chief Judge

GOVERNMENT'S SENTENCING MEMORANDUM

I. Factual Background

Since at least as early as 1984, animal rights activists calling themselves the Animal Liberation Front (known as the ALF) have been engaged in a series of terrorist activities aimed at ending man's "exploitation" of animals. Since 1991, most ALF actions in the United States have followed a set pattern: an arson and vandalism is executed at an animal research facility or a business involving animals. This is followed by a press release in which the ALF claims responsibility for the violent "action", states that the crime was committed to bring an end to animal research and exploitation, and threatens future violence against others if its demands are not met. Both the acts of violence and the corresponding publicity are crucial to the ALF's goals. The violent attacks are designed to end animal exploitation by economically crippling the targeted business or

research facility. Publicizing the attacks and threatening future violence also furthers this goal by intimidating potential victims into abandoning their activities. (Article explaining ALF strategy is attached at Tab 1.)

The FBI has designated the ALF as a domestic terrorist organization. In terms of organization, this designation is particularly apt because the ALF has adopted the "cell" structure of such terrorist organizations as the Irish Republican Army, making investigation of the organization and identification of its members very difficult. As a result, until today, no known member of the ALF has ever been convicted of a felony.

A. "Operation Bite Back"

In 1991, federal investigators became aware that the ALF was targeting universities and private businesses associated with the fur industry in a series of crimes the ALF called "Operation Bite Back." The first victim of this offensive was Oregon State University in Corvallis, Oregon. On June 10, 1991, the University's mink farm was set on fire after a timed incendiary device was detonated. At the same time, research offices associated with the farm were burglarized and damaged, and spray-painted threats typical to ALF actions were found at the scene. Later that day anonymous callers contacted the Associated Press in Portland and television stations KATU and KOIN to direct the media to locate ALF press releases and videotapes dropped nearby. In the press release ALF threatened to continue "until the last

fur farm is burnt to the ground". (Tab 2 contains documents relevant to OSU arson.)

The June 10 OSU attack was followed by another firebombing on June 15, this time at the Northwest Farm Food Cooperative in Edmonds, Washington. NWFFC provided animal feed to fur breeders throughout the Northwest and had provided financial support to OSU's mink research. The incendiary device used at NWFFC was of the same design as that used at OSU. Investigators' suspicions that the same individuals were responsible were confirmed when a press release issued by the ALF stated that NWFFC was targeted because of its association with OSU. (Tab 3 contains documents relating to the NWFFC arson.)

The next victim of Operation Bite Back was Washington State University, located in Pullman, Washington. Like OSU, WSU maintained an fur animal research facility. On August 12, 1991 it was burglarized and vandalized and the crime scene once again had all the hallmarks of an ALF action. Like the previous two crimes, the events at WSU were followed by an ALF press release justifying the action. Like the previous "actions", the WSU press releases made explicit threats that similarly-situated scientists would be attacked in the future: "Until coyotes, and other animals live free from the torturous [sic] hand of humankind, no industry or individual is safe from the rising tide of fur animal liberation." "Davis Prieur, John Gorham, Fred Gilbert, David Shen, William Foreyt and Mark Robinson, beware. ALF is watching and there is no place to hide." Each of the

named individuals is a scientist who engages in research involving animals. (Tab 4 contains documents relating to the WSU attack.)

The WSU attack was followed by an attempted arson at the Fur Breeders Agriculture Co-op in Sandy, Utah on August 28, 1991. This facility sustained property destruction and included the presence of graffiti consistent with an ALF raid. Also present was an undetonated incendiary device. Perhaps due to the limited success of this attack, there was no press release publicizing the Sandy, Utah incident.

A much more successful ALF attack occurred at the Malecky Mink Ranch in Yamhill, Oregon. On the night of December 21, 1991 the privately-owned farm was burned to the ground. That same night a male caller contacted television station KGW, stated that he was a member of the ALF, and reported that the Malecky farm had just been burned. The ALF again accepted responsibility for the Malecky crime in a February 2, 1992 article appearing in the "Earth First! Journal". (Tab 5.)

Each of these attacks was a prelude to the February 28, 1992 arson, burglary and massive property destruction that occurred at Michigan State University. AS it had with its previous targets, the ALF used a timed incendiary device to destroy the offices of MSU scientists Dr. Richard Aulerich and Dr. Karen Chou. The ALF also inflicted extensive damage to the mink facilities operated by MSU. Unlike the other attacks, however, the press release publicizing the MSU attack was released by People for the Ethical

Treatment of Animals ("PETA"), the largest animal rights organization in the United States. PETA announced that it was acting as a media conduit for the ALF and stated that the ALF took its action in order to end MSU's animal research. PETA stated that it possessed photographs of the conditions of MSU's animal facility and reported that "additional details may be forthcoming". (Tab 6.)

According to the ALF/PETA press release, the primary target of the ALF's attack at MSU was Dr. Richard Aulerich, whose office, research and library were completely destroyed in the blaze. However, the firebomb also destroyed the office and research of Dr. Karen Chou, who conducted her research through tests on animal DNA as a method of minimizing live animal experimentation. When the firebomb went off, there were two students inside Anthony Hall. They escaped the fire unharmed.

The MSU action was followed on October 24, 1992 by one final attack, at Utah State University in Millville, Utah. Again, the ALF "action" followed the pattern of a burglary, an arson committed through use of a timed incendiary device, ALF graffiti and a press release.

B. Coronado's Link to the ALF

Linking this series of crimes to the ALF was easy since the organization readily admitted responsibility. The difficulty lay in discovering who belonged to the ALF and which of these people had committed the crimes. Investigators soon saw that the crimes

collectively called operation Bite Back had a common denominator in the defendant.

Rodney Adam Coronado is a long-time advocate of the rights of animals. In 1984, Coronado joined the Sea Shepard Society, an organization aimed at dramatizing the problems associated with whaling and other marine industries. In November, 1986, Coronado and David Hewitt sabotaged a whaling station and sunk two whaling ships in Reykjavik, Iceland. (Tab 7.)

In 1987, Coronado for the first time publicly associated himself with ALF activity by vandalizing nine fur salons in Vancouver, Canada. During this activity, Coronado (and others) smashed windows and spray painted slogans such as "Fur is Deadly" and "ALF" at the businesses. An arrest warrant was issued for Coronado, but he fled the jurisdiction. During 1987 and 1988 Coronado participated in several animal rights protests, including at a December 5, 1987 Bighorn sheep hunt in California and an April 4, 1988 protest at U.C. Santa Cruz. During 1988,

Coronado was arrested three times for participating in minor disturbances associated with animal rights rallies: on September 14 and 29 at U.C. Berkeley, and on December 12 in Georgia.

Federal authorities investigating Operation Bite Back began to focus attention on Coronado when he appeared as a vocal advocate of these arsons. Following the OSU and NWFFC ALF raids, for example, Coronado (using the alias Jim Perez) issued a press release on behalf of the Coalition Against Fur Farms. In this press release, issued August 1, 1991, Coronado recounted the

recent ALF actions and stated that they were "crimes of compassion that every animal advocate should support." (Tab 8.) Following the WSU raid, Coronado was interviewed by television station KGW. He identified himself as someone who was "no stranger to the Animal Liberation Front", acknowledged that he had participated in ALF actions in the past, and did not deny taking part in the WSU ALF action. When asked if he would break the law in the future, Coronado answered, "We have already broken the law, why not do it again." (Tab 9: Transcript of interview.) Coronado was also the individual who publicly proclaimed that the ALF attacks outlined above were part of the ALF's operation Bite Back. (Tab 5.) In another publication, he identified himself as the ALF's spokesperson. (Tab 10.) These statements raised the question of whether the defendant was a mere bystander who approved of ALF actions, or whether he was an active participant in the terrorist campaign.

Once federal investigators began looking closely at Coronado's activities during the ALF arson attacks, it became evident that he was one of the individuals responsible for these crimes. By tracing his use of a telephone calling card, investigators discovered that Coronado was in the vicinity of virtually every ALF attack immediately before or after it occurred. For example, when the ALF struck WSU's Pullman, Washington campus, Coronado and two females were in Pullman "house sitting". The week before the MSU arson, Coronado and two females, Kimberly Trimiew and Deborah Stout, were in Michigan.

The night before the MSU fire, Coronado and Stout checked into a hotel in Ann Arbor.

Coronado's active participation in Operation Bite Back became more apparent when investigators began to question witnesses to the various crimes. For example, witnesses to the OSU fire recalled seeing a female and a male similar in appearance to Coronado acting suspiciously in the vicinity of the attack immediately before the blaze. As stated previously, the WSU attack was followed by ALF press releases which threatened future attacks against six other scientists. The press releases had been sent from a commercial copy center. Coronado was identified as one of the three individuals who composed and sent these press releases. After the December 21, 1991 arson at the Malecky mink ranch, a reporter at television station KCW received a telephone call from a male individual claiming responsibility for the destruction and identifying himself as a member of the ALF. Telephone records indicated that Coronado made that telephone call.

Forensic evidence discovered during the investigation confirmed that Coronado played an important role in planning and executing the ALF's campaign of terrorism. Investigators learned that immediately before and after the MSU arson, a Federal Express package had been sent to a Bethesda, Maryland address from an individual identifying himself as "Leonard Robideau". The

first package went to Ingrid Newkirk, PETA's founder. The second package was intercepted by employees of Federal Express after they discovered that a phony account number had been used to send the package. This second package contained documents that had been stolen from Dr. Aulerich during the MSU raid. Also in this package was a videotape of a perpetrator of the MSU crime, disguised in a ski mask. It had been sent from a drop box adjacent to the Ann Arbor hotel where Coronado had rented a room. Analysis of the handwriting on the freight bill for the Federal Express package showed it to be Coronado's.

Search warrants also disclosed evidence that the defendant was an active participant in illegal activity on behalf of animals. The first warrant was executed at the home of Maria Blanton, a longtime PETA member who had agreed to accept the first Federal Express package from Coronado after being asked to do so by Ingrid Newkirk. Records found during the search of Blanton's home demonstrated that Coronado and others had planned a raid at Tulane University. These records showed that Coronado, Alex Pacheco (another PETA founder) and others had planned a burglary at Tulane University's Primate Research Center in 1990. (In 1990, Tulane housed the "Silver Springs Monkeys", a group of lab monkeys that had been the focus of furious criticism by PETA.) The records seized included surveillance logs; code names for Coronado, Pacheco and others; burglary tools; two-way radios;

Significantly, Newkirk had arranged to have the package delivered to her days before the MSU arson occurred.

night vision goggles; phony identification for Coronado and Pacheco, and animal euthanasia drugs. The Tulane burglary did not occur, presumably because the monkeys were sent elsewhere immediately before the raid was scheduled to occur.

Further evidence of Coronado's direct involvement in Operation Bite Back was discovered during a search of a storage locker rented by him in Talent, Oregon. Found in the locker was a typewriter. Forensic examiners were able to reconstruct the text of what had been typed on the ribbon of this typewriter. This reconstructed letter revealed that Coronado had targeted two Montana fur farms for arson and had solicited funds to bankroll the operation. One target for arson was the Huggans Rocky Mountain Fur Farm in Hamilton, Montana, which the defendant described as the

LARGEST ... largest fur processors in Montana. After my investigation I discovered that all the fur farmers in Montana used the same company to prepare pelts for auction. The Huggan's Rocky Mountain Fur Company is a building I have been in before. It is all wood, with no alarms and no close proximity to animals. The targeted building contains all the drying racks, and drums used in pelt processing. If we could cause substantial damage to that equipment, we would cause a serious disruption in the pelting season, and also push the Huggan's family (third generation trappers) into a position closer to bankruptcy.

Coronado went onto explain that this and similar "actions" could also prevent consumers from buying fur products "for fear of ALF." Coronado also stated that if he could obtain funds, he would mount other attacks "against the fur farm industry this

winter." (Tab 11: Text of typewriter ribbon.) Investigators learned that in late 1990, Coronado had in fact visited the Huggan's facility using the alias "Jim Perez" and posing as a fur buyer. While there, Coronado photocopied a list of addresses for all fur breeders in the Northwest. On December 12, 1991 the Huggans farm was burglarized, but the perpetrators were detected and fled before any significant damage was done.

During the search of Coronado's storeroom federal authorities also discovered that he had saved an article about the theft of a historical artifact from the Little Bighorn National Park in Montana. The artifact, a notebook carried by one of Custer's slain troopers (and one of the few personal belongings ever recovered from the massacre), had been stolen from its plexiglass case at the battlefield's museum. Although fingerprints were left at the scene, local authorities were unable to determine whose fingerprints they were until the investigators tracking Coronado found this clipping. When Coronado's fingerprints were compared to those discovered on the plexiglass case, a match was made. Coronado has admitted that he stole the artifact, then burned it.

Based upon this and other information discovered about Coronado, he was scrutinized by the various grand juries around the United States investigating the Operation Bite Back crimes. The grand juries investigating the defendant soon found that all individuals associated with the animal rights movement would refuse to provide any information, and four people were jailed

for contempt after refusing to comply with a court order compelling their immunized testimony. These people were Deborah Stout, Kim Trimiew, author Rik Scarce and Jonathan Paul. In July, 1993 the grand jury sitting in the Western District of Michigan indicted Coronado for his role in operation Bite Back.

After charges were filed, federal authorities began to look for the defendant. However, Coronado had previously gone into hiding, claiming that he would not surrender himself until animal research, experimentation and other "exploitation" ceased.

(Attachment 12: Coronado's self-described Terms of Surrender.)

After an intensive search, Coronado was caught in November, 1994 on the Pasqua Yacqui reservation in Arizona, living under the alias "Martin Rubio". On March 3, 1995, he pled guilty to the MSU arson and to stealing and destroying the Montana artifact.

II. Sentencing Considerations

A. Plea Agreement

The defendant has pled guilty to committing arson at Michigan State University, the most serious offense charged

against him.² The Court has expressed concern that the

² . Some might quibble that because the defendant admitted assisting others but not starting the fire himself, he is avoiding full criminal responsibility for this offense. As the Court is aware, one who admits assisting others to commit a crime is called an aider and abettor. See, e.g. Sixth circuit Pattern Jury Instruction §4.01. According to federal law, an aider and

defendant may be receiving a significant benefit from the United States because he will not be prosecuted in other federal jurisdictions if this plea is accepted. In fact, if the plea agreement's recommendations are followed, the defendant's plea will result in at least the same term of incarceration that he would receive if he were separately charged and convicted in every jurisdiction where an ALF attack occurred.

As the Court is aware, this crime is governed by Federal Sentencing Guideline 2K1.4. This guideline calls for a sentence of between 33 and 41 months when the defendant pleads guilty to criminal conduct resulting in losses of more than 2.5 but less than 5 million dollars. The parties and PI Dingwall have agreed that all of the defendant's criminal conduct throughout the United States must be considered as "relevant conduct" as that term is defined in Sentencing Guideline 1B1.3. The parties and PI Dingwall have also agreed that the "loss" generated by this criminal activity total two million five hundred dollars. Presentence Report, P 210. Because all of the defendant's known criminal activities throughout the United States are taken into account in this proceeding, any subsequent sentence in any of the

abettor is punished in precisely the same manner as one who personally commits a crime. 18 USC S 2; U.S.S.G. § 2X2.1. Consequently, the sentence Coronado faces under the plea agreement is the same that he would receive had he admitted starting the MSU fire himself. Even more important is the fact that the defendant acknowledges that he directly engaged in the public dissemination of the arson attacks. As described previously, the threats Coronado circulated were at least as important as the arson attacks themselves since they furthered ALF's goal of threatening violence against other scientists, farmers and consumers if they did not bow to the ALF's demands.

other affected jurisdictions would be concurrent to the one imposed here. U.S.S.G. § 5G1.3(b). See also, Witte v. United States, 115 S. Ct. 2199, 2208-09 (1995). In other words, the defendant could receive no additional prison time even if he were convicted in every other jurisdiction where an ALF action occurred.

It should be noted that the plea agreement contemplates that the defendant could receive some reduction in his sentence if the Court is satisfied that he has clearly accepted responsibility for his offense. U.S.S.G. §3E1.1. The United States recognizes that, ordinarily, a criminal defendant should receive some benefit if he admits guilt and saves judicial resources by pleading guilty to the offense well in advance of trial. Because this defendant entered a plea well in advance of trial, the United States has agreed that acceptance of responsibility is warranted. Presentence Investigator Dingwall has concluded that a sentence reduction is not warranted in this case. PIR at 1 201. The final determination on this point is, of course, for the Court to decide.

From the perspective of the United States, this plea agreement provides the longest period of incarceration permitted by the Sentencing Guidelines under the circumstances of this case. Accordingly, the United States urges the Court to accept the plea and the plea agreement.

B. Upward Departure

It must be emphasized that the plea agreement calls for a harsher sentence than the Sentencing Guidelines would normally require. Where a criminal defendant would normally expect to receive a sentence of between 33 and 41 months according to the sentencing Guidelines, in the plea agreement the parties have agreed that a sentence of between 41 and 51 months is warranted. This is due to the fact that the defendant destroyed the historical artifact that he stole from the Little Bighorn Museum. Had he merely stolen this artifact, his sentence would not be increased according to the Guidelines. Because he burned it, the United States has insisted, and the defendant has agreed, that his sentence must be increased via an upward departure to reflect the added seriousness of this offense. The Sentencing Guidelines contemplate such an upward adjustment when irreplaceable property has been destroyed. U.S.S.G. §5K2.5 and §2B1.1, Application Note 2. See also Application Note 10 to U.S.S.G. § 2F1.1.

The basis for the upward departure lies in the fact that the defendant destroyed the trooper's notebook in addition to stealing it. Sentencing guideline 5K2.5 permits a departure when property damage or loss is not taken into account using the applicable guideline. In this case, the defendant's theft is governed by Guideline 2B1.1. That guideline correlates the seriousness of the crime to the monetary loss resulting from the theft. There is no further adjustment relating to the destruction of a unique historical item such as this notebook.

clearly, the dollar value of the journal does not adequately reflect the historical loss created by Coronado's destruction of it. To use an analogy, if Mr. Coronado had stolen Leonardo de Vinci's "Mona Lisa", the harm caused by the theft could legitimately be pegged to the last price it brought at auction. However, if Coronado destroyed the painting, few would argue that this dollar value simply does not measure the loss, for all time, of the original work. The same holds true here. A piece of history is gone forever and its market value cannot adequately measure this loss. In this case, a very real but intangible harm has been done, and the applicable Guideline does not provide an adequate measure for that harm.

In these circumstances an upward departure is certainly warranted. The standard for departures established by the Sixth Circuit appears in United States v. Joan, 883 F.2d 491 (6th Cir. 1989). Joan instructs the Court to examine three issues: 1) whether the case is sufficiently unusual to warrant a departure, 2) whether the facts relied upon to support departure have been proven and 3) whether the departure is reasonable. 883 F.2d at 494. In this case, it is clear that the first two factors are present -- an historical artifact has not only been stolen but also destroyed, and the applicable Guideline does not address destruction of such an item of unique value. The third prong of Joan is also satisfied if the court agrees that a two-level enhancement is appropriate. The parties have already agreed that

an increase of this magnitude is reasonable. Given these facts, an upward adjustment should be imposed.

C. Adjustment For Role In The Offense

In the presentence report, the defendant was given no adjustment, either upward or downward, for his role in the offense. PIR at Q 213. However, the presentence investigator did assess two additional levels because the offense required "more than minimal planning" as that term is defined by U.S.S.G. § 2B1.3(b)(3). Although the parties stipulated in the plea agreement that the defendant played a leadership role in the ALF crimes described above, the United States does not object to the omission of the leadership increase provided by U.S.S.G. § 3B1.1 because the Sixth Circuit has said it is improper to assess both increases. United States v. Romano, 920 F.2d 164 (6th Cir. 1992); United states v. Carr, 5 F.3d 986 (6th Cir. 1993).

Despite his acknowledgement in the plea agreement that he was a leader in the arsons comprising Operation Bite Back, the defendant argues that he is entitled to a downward adjustment because he was only a minor participant in the offense. Defendant's Sentencing Memorandum at 6. This contention cannot survive a careful examination of the facts of this case. When deciding whether a defendant is a minimal participant in an offense, all relevant conduct should be considered. U.S.S.G. § 3B1, Introductory Commentary. The evidence summarized previously conclusively demonstrates that the defendant planned ALF raids and was primarily responsible for intimidating victims of the ALF

offensive by publicizing the arsons and threats of future violence. Given this activity, it is clear that if Sixth Circuit authority did not prohibit it, the defendant would richly deserve an increase in his offense level for being an organizer or leader. At any rate, his active role in these crimes is absolutely inconsistent with that of a minimal or minor participant as that term is defined by U.S.S.G. § 3B1.2. For example, a defendant who merely drives a bomber to the site where the bomb will be placed is not a minor or minimal participant. United States v. Sharp, 927 F.2d 170 (4th Cir.), cert denied, 502 U.S. 844 (1991). where a defendant helped to plan a robbery but only acted as a "look-out" during its commission no reduction is warranted. United States v. Aponte, 31 F.3d 86 (2d Cir. 1994). To give a reduction to this defendant, who played such a pivotal role in these crimes, would be a miscarriage of justice.

D. Loss Calculations

The presentence investigator has concluded that the defendant is responsible for between 2.5 and 5 million dollars in losses for purposes of calculating the defendant's guideline range. FIR at 210. This figure includes losses incurred by Michigan state University totalling \$1,278,000. FIR at 1 108. Michigan State University's losses include physical damage to the buildings, the destruction of equipment and the value of research destroyed by the arson and burglary.

The value placed on the lost research was calculated by professors Aulerich and Chou, based upon their estimation of what

it would cost to re-create the tests and studies destroyed. This method of calculation has been approved in cases such as this, where the lost property is not ordinarily bought or sold. E.g., United States v. Wilson, 900 F.2d 1750 (9th Cir. 1990).

in his sentencing memorandum the defendant claims that the court should reject this calculation, because an MSU administrator gave an opinion to a newspaper reporter that Dr. Aulerich did not lose much of value.³ Defendant's Sentencing Memorandum at 7. This individual, Maynard Hogberg, denies making such a statement and, in any event, has acknowledged that Dr. Aulerich is the only person who could authoritatively state what his research was worth. In light of this, the defendant's request to reject the presentence investigator's conclusion on this point should be denied.

CONCLUSION

A terrorist combines violence and threats so that those that disagree with him are silenced, either because they have been victimized by violence or because they fear being victimized. Since the defendant's indictment and arrest, the firebombings and massive property damage that were a hallmark of "Operation Bite Back" have ceased. However, the intimidation and fear that these crimes were designed to inflict continues to this day. Scientists, business owners and farmers around the United States still live in fear that a bomb will be waiting for them the next

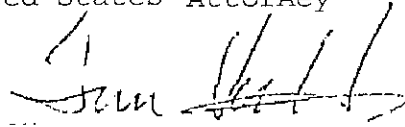
It should be noted that the defendant continues to agree that his conduct resulted in losses of between 2.5 and 5 million dollars. Defendant's Sentencing Memorandum at 9.

time they go to their offices, farms or laboratories. The defendant's actions on behalf of the ALF may not have ended scientific research, but they have succeeded in making ordinary citizens of this country afraid to respond to the ALF's claims that there exist no legitimate reasons to use animals in scientific research. Nowhere is this continued intimidation more evident than in the events that have transpired since the defendant's guilty plea. In several instances, the defendant has appeared in the media to exhort others to take his place as a "hero to the animal and environmental movement." (Tab 13: Defendant's statements to the media). In contrast, the victims of the defendant's crimes remain so afraid of the defendant and others like him that they would not speak to the Court's own presentence investigator unless he guaranteed their anonymity. (PIR, paragraphs 170-198).

In fashioning the appropriate sentence for this defendant, the Court should consider that he has forever brought fear to the lives of ordinary citizens whose only offense was that the defendant did not agree with them. If others are waiting to accept the defendant's invitation to replace him, the Court's sentence must demonstrate that such actions will not be tolerated.

Respectfully submitted,

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United States Attorney



TIMOTHY P. VERHEY
Assistant United States Attorney

Dated: July 31 1995