



The Judicial Watch Verdict™

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JW Sues Homeland Security for Documents on Illegal Alien who was Charged with Killing a Virginia Nun

Why did the federal government allow a repeat criminal illegal alien scheduled for deportation to roam free in the United States for almost two years until he killed a nun in a drunk driving accident?

The Obama Department of Homeland Security (DHS), which conducted an investigation of the outrage, surely has all of the answers. But the agency is not telling.

For this reason Judicial Watch filed a new Freedom of Information Act (FOIA) lawsuit on December 2, 2010, against Homeland Security to obtain documents related to its internal investigation of Carlos Martinelly-Montano, the illegal alien who struck and killed a Virginia nun in a drunk driving accident on August 1, 2010. Montano had been arrested on two prior drunk driving charges. He was placed in the custody of federal immigration officials

all the way back in 2008 by the Bush administration and was scheduled for deportation, but was released on his own recognizance pending a deportation hearing that never took place.

Homeland Security Secretary Janet Napolitano huffed and puffed and ordered an investigation the day after the incident to determine why Montano's removal process took so long. But Homeland Security refuses to release a report documenting the results of its probe. As reported in *The Washington Post*:

"The [Montano] inquiry is complete, but Homeland Security does not plan to make the results public, according to the senior official, who spoke on condition of anonymity because he was not authorized to speak about the matter. 'It's a document that includes law enforcement sensitivities, so it

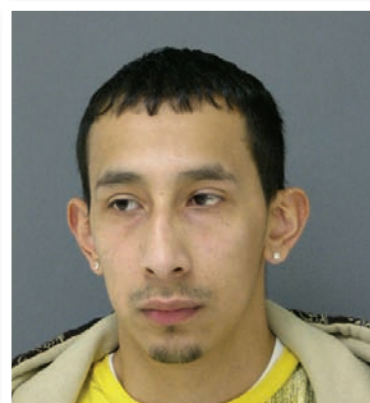


Photo provided by Prince William County Police Department

Carlos Martinelly-Montano

will not be made public,' the official said. He declined to discuss the nature of those sensitivities."

Smelling a cover-up, Judicial Watch quickly requested the Montano report on October 12, 2010. Homeland Security acknowledged receipt of JW's request on October 21, 2010, and granted itself a 10-day extension to respond. By law, a response was due to Judicial Watch by November 26, 2010. However, to date, the agency has failed to provide any records responsive to the request or demonstrate why the records should be withheld, prompting Judicial Watch's lawsuit.

Montano, who entered the country illegally as a child from Bolivia, killed Sister Denise Mosier and critically injured two other nuns while driving

Montano, who entered the country illegally as a child from Bolivia, killed Sister Denise Mosier and critically injured two other nuns while driving drunk in Prince William County, Virginia.

Over the last two years, the Obama administration has actively undermined the enforcement of illegal immigration laws by:

- 1. Enacting Stealth Amnesty:** According to *The Houston Chronicle*: “The Department of Homeland Security is systematically reviewing thousands of pending immigration cases and moving to dismiss those filed against suspected illegal immigrants who have no serious criminal records...” In August 2010, an internal Obama administration memo surfaced outlining a series of strategies devised by Obama officials to by-pass Congress and enact stealth amnesty through “administrative alternatives.”
- 2. Protecting Illegal Alien Sanctuary Cities:** In July 2010, the Department of Justice announced that it will not sue sanctuary cities who refuse to cooperate with federal immigration laws: “There is a big difference between a state or locality saying they are not going to use their resources to enforce a federal law, as so-called sanctuary cities have done, and a state passing its own immigration policy that actively interferes with federal law,” said Tracy Schmalzer, a spokeswoman for Attorney General Eric H. Holder. This misstates sanctuary city policies. Sanctuary cities not only undermine federal immigration laws but actually violate these same laws. Judicial Watch has a five-year track record of success fighting sanctuary cities across the country and holding them to the rule of law.
- 3. Attacking States that Enforce Immigration Laws:** The Obama administration sued the state of Arizona for enacting a new “get-tough” illegal immigration law. Judicial Watch represents Arizona State Senator Russell Pearce, who authored the legislation in the Obama administration lawsuit. The U.S. Chamber of Commerce and Hispanic lobby groups have also challenged another Arizona law authored by State Senator Pearce that punishes businesses that hire illegal aliens and forces them to use a free federal database (E-Verify) to make sure job applicants are legally eligible to work in the U.S. JW filed an *amicus curiae* brief with the U.S. Supreme Court in support of State Senator Pearce, who is now the President of the Arizona State Senate.



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drunk in Prince William County, Virginia. He has been charged with involuntary manslaughter and drunk driving.

In October 2008, Montano was arrested for another drunk driving incident and placed in the custody of Immigration and Customs Enforcement. He reportedly had a previous conviction for drunk driving. He was scheduled for deportation. However, Montano's deportation hearing was delayed three times and never happened.

Importantly, the Obama administration recently ordered federal immigration agents to supposedly focus deportation efforts only on illegal aliens suspected of terrorist activity and those convicted of "violent" crimes. (This new policy was an-

nounced in a June 30, 2010, memo written by Assistant Secretary John Morton.) Unfortunately for the three nuns struck by Montano, this particular illegal alien criminal never made the government's priority list.

"Now we see the deadly consequences of the Obama administration's decision not to enforce federal immigration laws. The Obama administration's irresponsible policy led to the death of Sister Mosier and critical injuries to two other nuns," said Judicial Watch President Tom Fitton. "Homeland Security's refusal to release the results of its investigation of Montano is a cover-up. And once again, Judicial Watch must now go to court to force the 'transparent' Obama administration to follow the open records law."

JW