



THE CASE OF MANUEL NORIEGA [1991–1992]

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“I Fought the Law and the Law Won.”

Christmas Eve, 1989: One of the most bizarre scenes in the history of American warfare unfolds. Hundreds of heavily armed U.S. soldiers surround the Vatican embassy in Panama City, Panama, and take control of the area with an iron grip. They shut down traffic, lay barbed wire in the streets around the embassy, and set up a team of sharpshooters in a nearby parking garage.¹ They cut shrubbery around the embassy to improve their view and clear a nearby soccer field so helicopters can land to deliver fresh troops and supplies. And when the soldiers fail to get what they came for, they set up loudspeakers in a vacant lot across the street from the embassy and begin playing rock music, including popular tunes with not-so-subtle messages: “You’re No Good,” “I Fought the Law and the Law Won,” and “Working on a Chain Gang.”² For variety, the loudspeakers occasionally break away from a ditty by The Pretenders to blare radio news reports and excerpts from speeches by President George H. Bush.³

The goal of these eccentric exercises is the capture of General Manuel Antonio Noriega, the former Panamanian dictator, who sits in a room inside the embassy, a U.S. federal indictment against him and a million-dollar bounty on his head. Only a few days earlier, on December 20, a U.S. force of 24,000 invaded Panama by air and sea. It took only a few hours for the troops to secure the small country and the Panama Canal. President Bush told Americans that “Operation Just Cause” had been launched to protect American lives, to defend democracy, to ensure that the Panama Canal treaty

was followed, and to stop drug trafficking. And to get that pesky Noriega fellow.

U.S. officials believed that Panama's chief drug trafficker was Noriega; they'd accused him of racketeering and drug trafficking by taking money to protect cocaine shipments through Panama for much of the 1980s. Despite the overwhelming use of force, however, U.S. troops did not capture Noriega in the invasion. He escaped and hid in various locations, including a graveyard. He believed Americans wouldn't search a graveyard in the dark: "Americans are afraid of death even during the day, let alone in the shadows," he stated in 1997.⁴

The next day, Noriega jumped into a Vatican flag-bearing car at a Panama City parking lot and was driven to the embassy, where he hoped to be granted protection from the U.S. forces. He was armed with an Uzi and a hand grenade.⁵

Who was this man hiding in the Vatican embassy? Was he, as he claimed, the military leader of a small country who was not involved in drug trafficking but who became a U.S. prisoner of war in an American move designed to keep control of the Panama Canal?⁶ Was he, in the view of the intelligence head for the Joint Chiefs of Staff, "a corrupt, debauched thug"?⁷ Was he an insane voodoo-practicing pervert whose seized stash of animal parts, sex toys, and cash was displayed by U.S. Army troops to American television audiences?⁸ Or was he just an unfortunate Latin American official who had refused to play ball with the United States?⁹

This much was known about Noriega: He had been indicted in February 1988 on 11 counts of drug trafficking, conspiracy, and money laundering. The government said he had accepted \$4.6 million in bribes to protect cocaine shipments from the Medellin cartel in Colombia through Panama and then into the United States. He had gone to Cuba to meet with Fidel Castro in 1984. And there was some not-so-secret speculation that he had once been so close to high-ranking U.S. officials that he had been on the government payroll.

There are many ways to judge Manuel Noriega, as many today as there were in 1989. In 2002, Noriega is 10 years into the 30-year sentence he received at his U.S. trial in 1992. Should he live to be released, he faces 90 years in a Panamanian prison for convictions on homicide, drug trafficking, and other charges.¹⁰ He waits for what he calls fair play, hoping "that people will come to understand the colossal injustice of what happened."¹¹ Of all the questions Noriega asks about his indictment, arrest, and trial, perhaps none is more enduring and puzzling as this one: Does one nation have the right to invade another country, capture a fugitive, and take him to justice outside his own country?

When Noriega went into the Vatican embassy, he proved to the world he was no fool. He was seeking sanctuary in a sovereign state that considers itself a moral leader in a secular world. As long ago as Old Testament times, accused

criminals used churches and church-established institutions to gain protection from law officers and others trying to find them. Later, during medieval times, all a fugitive had to do was grab a ring attached to a church to gain religious protection.¹² Noriega's flight into the Vatican bought him time and forced the United States to negotiate for his surrender. Those negotiations took place at the highest levels in Washington, D.C., and Rome and even caused the U.S. ambassador to the Vatican to miss part of Christmas Eve Mass at St. Peter's Basilica.¹³

But as the talks continued, so did the loudspeaker blasts. "They're a form of torture, meant to drive him crazy," said a man who lived near the embassy. "And they could drive him crazy."¹⁴ Noriega claimed to be unaffected by the noise, but it bothered Vatican Ambassador Jose Sebastian Laboa so much that he told the Americans he could not negotiate amid the noise.¹⁵ In the United States, television viewers saw the spectacle and laughed at the concept of rock music being used as psychological warfare. The *Toronto Star*, in a tongue-in-cheek editorial, called the military's strategy proof that rock music was the equivalent of bamboo slivers being driven under the fingernails. No human being that age, the newspaper wrote, "should be subjected to Hit Parade music with speakers turned full up even if he is a dope-dealer, a dictator, an abuser of human rights and an all-round rotten person."¹⁶ On the third day of the music marathon, the Vatican issued a statement saying that an occupying force could not interfere with the work of diplomacy.¹⁷ The Pretenders, Carly Simon, and others stopped singing.

Noriega finally had silence but few options. He could not stay at the Vatican embassy indefinitely. The Vatican had made that clear when it proclaimed Noriega had neither political nor diplomatic asylum; he was "a person in refuge against whom there were political charges."¹⁸ He could give himself up to Panamanian authorities and try to avoid being taken to the United States. The new Panamanian president, Guillermo Endara, who had been installed in office by U.S. troops during the invasion, said he would not extradite any Panamanian citizen, that he would put Noriega on trial in his homeland. The last option for Noriega was to surrender to U.S. troops, and, inside the Vatican embassy, that is what he was being encouraged to do.

Ambassador Laboa met with Noriega on January 2, 1990. The priest told the general about Americans threatening to remove immunity from the Vatican embassy, thereby opening doors and allowing angry Panamanian mobs to lynch Noriega, à la Benito Mussolini. Noriega remembered Laboa's words: "There's nothing I can do."¹⁹ Before Noriega surrendered the next day, Laboa gave him a Bible and a rosary and told him God would not abandon him.²⁰ Noriega gave Laboa a letter addressed to the pope, thanking him for the sanctuary and "for the bright light that you gave me."²¹

Noriega negotiated a few terms for his surrender. He was assured that he would not face the death penalty in the United States. He asked for and received a telephone to make two calls: one to his wife and family, the other

to his mistress. He was allowed to change from the undershirt, green shorts, and sneakers he had worn during most of his time in the embassy²² into a full Panamanian military uniform. His weapons, including the Uzi he had kept under his pillow, were confiscated by workers in the embassy. Finally, Noriega was allowed surrender to a U.S. officer of equal rank. When he reached the embassy gate, he was seized, searched for weapons, and put on an army helicopter for the flight out of Panama.

Noriega had not yet had his day in court, but the cost of his capture was mounting. The invasion left 26 American service personnel dead and 300 wounded. The United States claimed 516 Panamanians were killed. Critics said the number was much higher.²³ In monetary terms, the price was staggering. The Defense Department estimated the invasion cost \$163.6 million.²⁴

The American people had heard thousands of news reports about the Panamanian strongman and his criminal government, his murderous Panamanian Defense Forces, and his millions in drug-running profits. In addition, U.S. law enforcement agents had worked countless hours and more than two years to put Noriega in a U.S. courtroom. In the end, all efforts to get him out of power without force had failed. In *Divorcing the Dictator*, author Frederick Kempe wrote that Noriega was “a new breed of despot: a combination of ghetto street-fighter, Oriental mystic, intelligence agent, and Mafia godfather.”²⁵ He had, perhaps, been made larger than life in the eyes of some Americans, including one of the federal agents working on the case against him. Kenny Kennedy, a Drug Enforcement Administration (DEA) investigator in Miami, said that when Noriega landed in Miami in chains, he was surprisingly small and ugly with skin like a “horned toad.”²⁶

News reporters descended on Miami as soon as word of Noriega's surrender was out. Television satellite trucks filled the Miami courthouse parking lot; 200 journalists and courtroom sketch artists signed up for the 40 seats reserved for the press at the arraignment.²⁷ The hearing was scheduled before Judge William Hoeveler, a Carter appointee who had been assigned the Noriega case two years earlier. He had not thought this day would come, having told his wife, “It'll never go to trial. They'll never get him.”²⁸ But at age 67, Hoeveler was about to handle perhaps the toughest, longest, and most contentious case of his career.

U.S. Attorney Dexter Lehtinen and his chief assistant, Myles Malman, headed the prosecution. Noriega's team was led by Frank Rubino, who had represented Noriega in negotiations with the United States before the invasion. Miami lawyer Steve Kollin provided assistance. Rubino and Kollin had a plan for the first hearing: keep Noriega out of the courtroom. Judge Hoeveler, however, was having none of that.

“Where is the defendant?” Hoeveler asked.

“At this time, General Noriega would waive his right to appear,” Rubino replied.

“This is not a case I want to go by waivers,” the judge said, and he ordered Noriega into the courtroom.²⁹

Noriega’s comments in court that morning were in Spanish and were translated for the judge by an interpreter. Rubino told Hoeveler that Noriega would not enter a plea, that he was in court under protest. Noriega was a political prisoner, Rubino argued, adding a caveat that became the core defense argument. Noriega, explained Rubino, should have immunity under his status as Panama’s head of state. Judge Hoeveler entered a plea of not guilty on behalf of the court, and the first hearing in the case of the *United States v. Manuel Antonio Noriega* was completed in 20 minutes.³⁰

On February 8, 1990, Judge Hoeveler ordered Noriega to stand trial on drug-trafficking charges.³¹ For the first time, Noriega appeared in court with five codefendants named in his drug-trafficking indictment in February 1988. But Noriega was clearly the focus of the bond hearing, and the proceedings that day would be anything but routine.

Noriega dressed as he had the day of his arraignment: green army slacks with a short-sleeved shirt bearing the four stars that signify a general’s rank.³² His choice of clothing was calculated apparently to provide a backdrop for the fireworks display Rubino would soon launch. Moments into the hearing, Rubino walked to the lectern before the judge.

“His name is Manuel Antonio Noriega,” Rubino deadpanned. “His rank is four-star general. His serial number is 0001. . . . The government of the United States must immediately repatriate General Manuel Noriega to a third country or to his own homeland. General Noriega, commander-in-chief of the Panamanian Defense Forces of the Republic of Panama, hereby claims the status of prisoner of war.”³³ Rubino’s goal? Blanket Noriega in the special rights afforded by the Geneva Convention.

Observers in the courtroom may have been shocked to hear such a pronouncement at a bond hearing, but Judge Hoeveler remained unperturbed. “I don’t find that under the Geneva Convention I must divest myself of jurisdiction,” the judge responded. Noriega maintained a tranquil persona too, calmly thumbing through a Spanish-language copy of the Geneva parleys.³⁴

Later in the day, Rubino made formal his charge that the court had no jurisdiction in the case, filing a motion claiming Noriega to be a prisoner of war. “The plain and simple truth is that no prisoner of war has even been brought before a nonmilitary tribunal of the detaining power to be tried for a crime that was allegedly committed prior to the armed conflict,”³⁵ the motion stated.

Rubino’s comments for the press proved less articulate but more colorful: “I ain’t going to take it sitting down.”³⁶ In a matter of days, the prisoner-of-war question became two separate issues: whether Noriega was a prisoner of war and whether a U.S. federal court could hear his case.

Prosecutors wasted little time in clarifying the first issue when they announced the United States would not object to treating Noriega as a prisoner

of war and giving him privileges described by the Geneva Convention. On February 16, the newly declared prisoner of war got his first visit from the International Committee of the Red Cross. Noriega had been moved from his holding cell in the Miami courthouse to the Federal Metropolitan Correctional Center just outside the city limits. In keeping with Red Cross traditions, a delegate and a medical doctor toured the prison, inspecting the cells and the kitchen. Then they met with Noriega. "We have private talks, and it is very important that they be without witnesses," said Jean-Marc Bor-net, a Red Cross delegate in Latin America. But he assured the press the conversation concerned prison conditions: "It may be about food, about being allowed to go out, or to have contact with families or about medical treatment."³⁷

The answer to the question of a federal court hearing a prisoner-of-war case would have to wait. Noriega's lawyers decided to launch an attack on a new front by questioning the invasion that led to Noriega's capture. Their argument that the invasion was overkill received a public relations boost from an unexpected source on March 29. Former President Jimmy Carter told the Atlanta Press Club that he condemned the invasion, saying the United States should have used diplomatic measures to get Noriega out of power.³⁸ Four days later, Rubino again stood before Judge Hoeveler with what he believed was strong evidence that the United States had acted inappropriately.

Rubino used the news media to make his point. He played videotapes of the invasion used by ABC, CBS, and NBC, stating, "All of the death and destruction the court has seen is for the arrest of one man."³⁹ Rubino then cited a 1974 federal appeals case in which the court ruled that shocking behavior during an arrest could be grounds for dismissal of the charges.⁴⁰ "If this conduct is not shocking, I don't know what is, except nuclear weapons and leveling the earth. Do I have to bring my client here with no arms and legs? The intent was there,"⁴¹ Rubino concluded.

Former U.S. Attorney General Ramsey Clark, speaking as head of the Independent Commission of Inquiry on the U.S. invasion of Panama, then testified. "We have reports of people being cut in half . . . by either something running over them or sometimes by just a slice of metal."⁴²

Hoeveler called it a moving argument but paid close attention to the response of U.S. Attorney William Bryson. "You don't punish society by letting a presumptive criminal go to make another point,"⁴³ he told the judge.

The green Miami spring turned into the green Miami summer as Judge Hoeveler considered the pretrial motions. The media debate over Noriega's guilt or innocence faded into a discussion of the morality of the Panama invasion. Even those who supported the invasion had to wonder how effective U.S. forces had become. On July 2, the *New York Times* reported that a U.S. Air Force general had failed to inform superiors that a bomb dropped during the invasion missed its target by as much as 160 yards. The newspaper also reported that General Robert Russ knew of other problems

with F117A fighter-bombers but kept quiet. This disclosure followed the Pentagon's admission of mishandling invasion press coverage by keeping reporters out of the combat zone.⁴⁴ That the target of the invasion had yet to go to trial had to be a major embarrassment in the top levels of American government.

Noriega spent the long spring days in a secluded cell, afraid of what might happen if other prisoners at the Federal Metropolitan Correctional Center came in close contact. They jeered and threatened him when he arrived at the center, and his lawyers confirmed he was unnerved by the animosity.⁴⁵ Personal insults abounded, such as the nickname "Pineapple Face" (because of his bumpy complexion). He believed the American media unfairly portrayed him as a dangerous, drug-dealing, banana-republic dictator. He wrote to a group of Los Angeles schoolchildren, "The press of your country . . . has misinformed and distorted the image of a nationalistic and patriotic leader who struggled, struggles and will struggle for the sovereignty of his country."⁴⁶

But fear of what could happen to him outside court and inside prison haunted Noriega, perhaps for good reason. He received a letter from Carlos Lehder, a former leader of the Medellin drug cartel, who blamed Noriega for his own drug-smuggling charges. From a prison in Illinois, Lehder suggested to Noriega that he plead guilty and bargain for a cell that would protect him from enemies. "The sorrow of the men of your race whom you turned over to the agents of the DEA awaits you,"⁴⁷ Lehder warned Noriega.

During pretrial maneuverings, two new issues emerged. First, since Noriega had worked for both the CIA and the DEA and had contacts with Cuban leader Fidel Castro, the drug cartels of Colombia, and the contras and the Sandinistas in El Salvador, the evidence against him might include information classified by the U.S. government. Since the prosecution wanted to keep as many top-secret documents sealed as possible, a catch-22 came into play.⁴⁸

The *Miami Herald* twice protested Judge Hoeveler's orders to seal documents. "[W]e've got to let the judge know that the press has an interest in these proceedings and all the documents in them, and before the documents are sealed or hearings closed, we are entitled to a hearing," argued *Herald* attorney Jerry Budney.⁴⁹ For the defense, the problem proved even more daunting since the Classified Information Procedures Act prohibits the disclosing of classified information to anyone, including defense attorneys. Now for the real kicker: Tens of thousands of classified documents existed that might be used by both the prosecution and the defense.⁵⁰

Paying the defense team became the second issue. Noriega's assets had been frozen by the U.S. government, leaving him with no access to cash. On April 30, the defense team asked to be removed from the case because Noriega could not pay his bills, and it accused the United States of sabotaging Noriega's defense. To try Noriega without legal fees was like "shooting a fish in a barrel,"⁵¹ Rubino told the press.

But on May 21, prosecution and defense reached a back-scratching deal: The government would pay Noriega's legal fees, which could run as high as \$3 million, and the defense would not subpoena documents that might show the CIA and other federal intelligence agencies had paid him for information. Addendum to the deal: If Noriega is acquitted, his assets will be returned, and he pays the legal bill.

U.S. Attorney Lehtinen called the agreement "reasonable"; David Keating of the National Taxpayers Union in Washington called it "incredible" and questioned how the government could agree to pay the legal bills of "one of the most notorious accused criminals of our time."⁵²

Murky waters further muddled when on May 24 Judge Hoeveler said the agreement was illegal and Noriega would have to pay his lawyers. Hoeveler's decision hit both sides hard. Prosecutors faced the highly embarrassing probability that they would have to reveal Noriega had been paid millions of dollars for his cooperation—by the United States. A prosecutorial nightmare awaited: explain in open court how the government had a dictator on its payroll yet spent millions of dollars and lost American lives just to try him in a federal court.

The defense lawyers surely viewed their situation as far worse. They might not get paid. They faced the possibility that Hoeveler would provide Noriega with court-appointed attorneys and that they would never be paid the fees for the work they had done since January. "This is manifestly unfair," the acerbic Rubino said in court. "This man is only indigent and unable to pay his lawyers because of action by the U.S. Justice Department in seizing his property."⁵³

To the American taxpayers, the Noriega case appeared to be one of the strangest criminal cases on record. And rightly so. But news is a fleeting, incorporeal thing, particularly when it becomes the minutiae of a pretrial legal fight. The flashy holiday season invasion of Panama and the Christmas Eve race to the Vatican embassy were fading from the public mind, and the images plastered across front pages and on television nightly news was that of three-piece suits carrying briefcases into a federal court. The remaining images of Noriega? Two stale pictures: a drawing by a courtroom sketch artist of a short, pock-faced man in a general's getup or television file footage of the belligerent dictator raising what looked like a sword above his head. And those images would soon dissolve with the emergence of a bigger, badder story as the United States slid toward another international crisis with a man named Saddam Hussein.

Judge Hoeveler ruled in early June: The U.S. district court had jurisdiction over the Noriega case. "Given the serious nature of the drug epidemic in this country, certainly the efforts of the United States to combat the problem by prosecuting conduct directed against itself cannot be subject to the protest of a foreign national profiting at U.S. expense,"⁵⁴ the judge wrote in his dismissal of the defense argument.

As for the defense contention that Noriega's arrest had been shocking, Hoeveler wrote, "Noriega's complaint is a challenge to the very morality of war itself. This is a political question."⁵⁵ The same day, one of Noriega's codefendants pled guilty and agreed to testify that Noriega assisted him in operating a drug-trafficking ring—a double whammy for the defense.

On the other hand, all was not bad for the defense. Noriega's lawyers would be paid. Hoeveler ruled that Noriega needed his frozen funds to pay for his defense, and on June 20, the government agreed to free up \$6 million of his assets.

In this goofy case, however, good news always seemed to preface bad news. And it did once again when the new Panamanian government informed Judge Hoeveler it would sue Noriega for extortion, fraud, and murder, charging him specifically with killing the leader of a failed coup attempt just two months before the American invasion.⁵⁶ It would be a civil lawsuit asking for more than \$5 billion of Noriega's assets. (The actual lawsuit filed in November asked for \$6.5 billion.) Even his loudest detractors did not say he had that much. At least not yet.

Media attention quickly shifted away from Noriega in early August as Iraq invaded Kuwait. Comparisons between Iraqi warlord Saddam Hussein and Noriega proved inevitable, however, as editorial writers speculated how President Bush would handle this latest international crisis. "Unfortunately, because of the American hatred of Iran during the 1980s, the U.S. government backed the Iraqi leader to the hilt, making him today the Mideast equivalent of Manuel Noriega," wrote Robert Hunter, a vice president at the Center for Strategic and International Studies, in *Newsday*.⁵⁷ "The issue underlying President Bush's moves in the Persian Gulf is not Kuwait or Saudi Arabia or even oil. It is Saddam Hussein, the Noriega of the Middle East,"⁵⁸ opined Harvard's Bernard Trainor in the *New York Times*.

Washington Post columnist William Raspberry wrote that Hussein had replaced Noriega as "the number one barbarian of the Universe . . . [but] the point is to avoid the American habit of substituting villains for solutions."⁵⁹ Sam Keen, the author of *Faces of the Enemy: Reflections of the Hostile Imagination*, saw strong similarities between the dehumanization of Hussein and Noriega. "All the talk about voodoo and weird pants made it easier for us to forget how long Noriega was on our payroll."⁶⁰ Meanwhile, Noriega's date with justice crept ever further into the future. Judge Hoeveler had set a January 27, 1991, date for the trial, but behind the scenes the legal system had ground to a halt. Rubino complained that Noriega was facing a bureaucratic and diplomatic tangle in trying to get access to his money. Rubino also complained that all requests for top-secret government documents were tied up in sealed motions before the court.⁶¹

Inside the Federal Metropolitan Correctional Center, Noriega had telephone privileges that allowed him to make long-distance calls through his lawyer's office. That privilege would soon ignite a firestorm, delay the legal process further, and return Noriega to the front page.

On Tuesday, November 6, two reporters from CNN went to Rubino's office for an interview. Marlene Fernandez and John Camp played an audio recording for Rubino in which Noriega discussed his legal strategy with defense investigator Jim Hawkins. But how could this be? Surely the government knew that recording such a conversation violated attorney-client privilege. Didn't the government understand it jeopardized its own case by leaking illegal material to the press?

A month earlier, unidentified sources had told the news media that Noriega was passing coded messages to his supporters in Panama. But the idea of government eavesdropping on Noriega's discussion with his legal team infuriated Rubino. "It's the most grave violation of constitutional rights I have ever seen," he told CNN.⁶² Before the end of the day, Rubino approached Judge Hoeveler to ask that the court stop CNN from airing the tapes. By 7 A.M. the next day, the world knew what CNN had. The network aired a report saying that Noriega had been planning a coup in Panama and that the Bush administration had found out about it by recording his telephone calls.⁶³

Hours later, CNN aired excerpts from the tapes despite the fact that Judge Hoeveler had issued a ban on playing the recordings. In the tape, Noriega could be heard talking with a member of his defense team. CNN was violating two of Judge Hoeveler's orders: to stop airing excerpts and to turn the tapes over to the court. Rubino smelled a possible dismissal of the charges against Noriega. "The government is an eighty-headed snake,"⁶⁴ he said in raging Rubinese.

But the public would learn more about CNN's First Amendment rights than Noriega's Sixth Amendment rights. Newspapers and broadcast networks came to CNN's defense, pointing out the newsworthiness of the tapes and how the court had no right to prevent them from being aired (apparently forgetting that they were aired in defiance of court orders, thereby breaking the law). "Let's remember, there's an important news story here and the news story is that the government may have acted improperly by listening to conversations between the defendant and his counsel,"⁶⁵ said Timothy Dyk, who represented the National Association of Broadcasters and the American Society of Newspaper Editors.

Despite the support, CNN lost its appeals in the 11th Circuit and the U.S. Supreme Court. For the first time, the Supreme Court formally upheld an order barring the publication or broadcast of information.⁶⁶ CNN said it was stunned by the decision, and free-speech advocates condemned the court's action. "The court that decided the Pentagon Papers case would not have done this,"⁶⁷ said Gene Nichol, dean of the law school at the University of Colorado.

The CNN tapes diverted attention only temporarily from the defense attorneys' pay crisis. After 11 months without compensation, Noriega's lawyers pled with Judge Hoeveler for relief and tried a new tactic: have Noriega speak to the judge. Neither Hoeveler nor the prosecution objected when, on No-

vember 16, Rubino asked Noriega to step up to the lectern. In his full military uniform, with its four stars, Noriega stood erect and spoke in Spanish.

“When I was brought to the United States in a U.S. Army airplane, I mistakenly believed that I would be able to receive a fair trial,”⁶⁸ Noriega said. “The U.S. government has done as much as possible to deprive me of a fair trial . . . the government of the United States does not wish that I defend myself.”⁶⁹ Complaining of “psychological warfare” and how the government still blocked the release of his funds, he explained how he was prevented from hiring lawyers of his own choice. He then dismissed government explanations of diplomatic problems with foreign banks. “I know that when the government of the United States wishes something to be done, they obtain it,”⁷⁰ he said. Noriega portrayed himself as the victim. “The battle I am facing is very similar to the invasion my country suffered. And this battle is unfair, also. I find myself at the mercy of a totally unfair system.”⁷¹

Judge Hoeveler listened silently as Noriega spoke, and a few moments passed before he responded. When he did reply, he assured Noriega he would have “top flight” defense attorneys. “I want the defendant to understand he is not being cast adrift by the court, the judicial system. So I say this for his benefit, the case will not lag. He is entitled to a trial. He is entitled to a fair trial.”⁷²

Before the end of the month, two separate newspaper reports would put the pretrial posturing and courtroom dramas into some sort of perspective. *La Prensa* (Panama City) wrote that in the year since the U.S. invasion of Panama, impressions of the invasion had changed in Panama. According to the journal, in January 1990, 89 percent of the nation favored the invasion; in December, only 37 percent believed the invasion brought more benefits than problems to Panama.⁷³

On December 12, 1990, *USA Today* published an investigative report showing Noriega’s worth to be at least \$31.5 million at the time of the invasion. The money rested safely in 16 separate accounts in Luxembourg’s Bank of Credit and Commerce International (BCCI).⁷⁴ In addition, BCCI officials had pled guilty to laundering cocaine money in January.

Richard Koster, author of *In the Time of the Tyrants*, said Noriega probably had more money in other bank accounts.⁷⁵ Combined with his two homes in Panama; his property in Israel, the Dominican Republic, Venezuela, and Japan; and his business interests, Koster said, Noriega was no millionaire but a billionaire.

Rampant speculation followed. What, exactly, was this guy? A crooked politician or just a crook? Or both? Worth \$163 million of American taxpayers’ hard-earned dollars to bring to justice? Perhaps. Panamanians answered no, but Americans would have to wait and see.

In the days leading up to Operation Desert Storm, American newspapers speculated as to when the U.S.-led coalition forces would attack Iraq. Readers may have missed a small article in mid-January, something about the U.S.

government admitting to having this Noriega guy on its payroll for 31 years. It seems that from 1979 to 1985, the CIA paid Noriega just under \$2,000 a month. But the good news was that his income was supplemented by the U.S. Army. Although the government never revealed what the payments were for, it provided a total earning statement not unlike a W-2 form: \$320,000 received in cash and gifts.⁷⁶

For months, there had been speculation that the United States had paid Noriega millions of dollars for his help in the war on drugs. The ever-brash Rubino termed the total far too low, candidly adding that the “prosecutors knew less than I thought.”⁷⁷

In early January, the start of Noriega’s long-awaited trial was delayed. Again. The pretrial proceedings had gone on for more than a year, and the *New York Times* described the judge as “weary and angry.”⁷⁸ Hoeveler set a new trial date for June 24. Meanwhile, defense attorneys continued to claim that the airing of the CNN tapes had damaged Noriega’s right to a fair trial. At a January 11 hearing, Rubino questioned Michael P. Sullivan, now leading the prosecution team, about how the government had handled the taping of Noriega’s conversation. “Mr. Sullivan is the most adverse witness I’ve faced in 17 years of practicing law,”⁷⁹ Rubino snapped. It was, as the *Times* put it, “a growing hostility.”⁸⁰

But good news arrived from Austria. That European country, hidden safely away from the never-ending story that came to define the Noriega case, released \$1.6 million from one of the Panamanian general’s bank accounts. Finally, the defense’s angst could be somewhat assuaged.

The fight(s) over government documents continued. In April, Rubino dropped another bombshell, saying that government documents seized in the Panama invasion proved Noriega helped in the war against drug trafficking. It was a prelude to a request that the government release other documents that Rubino said outlined assassination plots against Noriega and his predecessor, General Omar Torrijos. Noriega rose to power in Panama after Torrijos died in a 1981 plane crash. The defense also asked for files detailing Noriega’s meeting with then Vice President George H. Bush. Prosecutors objected, saying they had already given defense attorneys 7,000 pages of government material.⁸¹

Judge Hoeveler considered the defense demand until May. He summed up the problem for Rubino and his team: “What you are seeking is a couple of truckloads of materials, about 98 percent of which would not be admissible in any way.” The flamboyant Rubino, demonstrating his ability to manufacture a quote in almost any circumstance, felt compromising. “Let us scale it down. I am not going to try to stand here and feed you some garbage. . . . We are more than willing to go back to the drawing board . . . and try to scale it down.”

The scale-down strategy worked, and by the middle of May the judge had given the defense team much of what it wanted.⁸² But haggling over specific documents continued throughout July, putting off the trial. Again.⁸³

As any lawyer will say, a delay need not be a hurdle but rather a stepping-stone. And the prosecution had used the delays to build an impressive case. Through a series of plea bargains, a long list of witnesses who might be able to connect Noriega directly with the Medellin drug cartel had been compiled.

An attorney for a Noriega codefendant, Amet Paredes, said, “They [the prosecution] have left no stone unturned. The slimmest of eels and the most honest types, they’ve knocked on all their doors and given away the courthouse—within the rules, of course.”⁸⁴

The biggest gun in the prosecution’s arsenal was secured just before the trial began. On August 28, Ricardo Bilonick, the Panamanian ambassador during the Torrejos and Noriega administrations, pleaded guilty to drug charges and agreed to testify that Noriega took \$10 million to protect almost 15 tons of cocaine bound for the United States. The defense publicly dismissed Bilonick as another criminal with a “get-out-of-jail-free” card.⁸⁵

September 4, 1991. More than 20 months after Noriega had surrendered to U.S. forces in Panama City, more than 20 months after rock music had rocked the Vatican embassy, the once-powerful Panamanian dictator waited, meekly, for his trial to begin. Finally.

Noriega sat quietly, listening via headphones to a Spanish-language translation of the proceedings. He took notes on a legal pad. The courtroom filled with journalists, but few curiosity-seeking spectators attended, a staple at high-profile trials. “Es nada,”⁸⁶ one man told a reporter outside the courthouse.

Inside, Rubino hammered away at what he considered a crucial point—Noriega’s right to a fair trial. He could not receive one, Rubino claimed. Why? Because one of Noriega’s attorneys was a government informant when he encouraged the general to surrender on January 3, 1990, Rubino explained. Raymond Takiff had resigned from the defense team shortly after Noriega’s arrival in the United States, but it was months later when the public learned that in 1989 Takiff began working for the Justice Department as part of a plea agreement to avoid tax evasion charges.⁸⁷

As for the possibility of Noriega copping a plea, that matter had ended with finality two weeks before. Rubino offered up a guilty plea on one count in exchange for time served. “You have to be kidding,”⁸⁸ was the prosecution’s response. Sullivan was willing to offer 10 to 15 years for a guilty plea on two charges. “Sorry,” Rubino replied, “my client is innocent.”⁸⁹

As the trial began, public attention turned elsewhere. U.S.-led forces liberated Kuwait from the clutches of Saddam Hussein, while on the home front politics became the topic of conversation as the Democratic Party searched for someone to defeat President Bush.

But many in the media still saw the Noriega trial as pure drama with a sleazy sideshow, a performance rife with the possibilities of backroom deals embarrassing to the U.S. government. The defendant’s physical bearing—short and physically unattractive—provided novelty value. Then there was

the occult/religious thing. As Otis Pike of the *Seattle Times* wrote, “The prosecution contended that Noriega had placed voodoo curses on the trial judge and the prosecuting attorney. That sure gets an impartial jury in Miami. . . . Noriega’s lawyers say he has become a born-again Christian. A spell in the pokey before trial often brings out the best in folks.”⁹⁰

Jury selection took six days. Gender breakdown: nine women and three men. Racial makeup: eight blacks, two Hispanics, and two whites not of Latin origin.⁹¹ When they walked into the courtroom on the first day of the trial, several appeared visibly shaken by the number of reporters and courtroom artists present.⁹² More than 50 news organizations had representation, but only a few covered the case from gavel to gavel.

Then at 10:07 A.M., September 16, 1991, the trial of the *United States v. Manuel Antonio Noriega* began.

The prosecution wasted no time in telling the jury Noriega was a “crooked cop.” While Noriega may have never seen or used cocaine, “he recruited others to engage in illegal conduct, and he was paid for it.”⁹³ Sullivan said that while Noriega may have tried to stop narcotics traffic at one time, the Medellin cartel changed that in 1982. “They sat down and decided to either eliminate him or buy him. They decided to buy him,”⁹⁴ Sullivan said. The prosecution, Sullivan claimed, would prove Noriega had gone bad. Lehder would testify, he said, that Noriega received \$400,000 per load for allowing aircraft to carry drugs through Panama.⁹⁵

Rubino waived his opening statement. He believed that if the trial lasted months as predicted, the opening statement would be lost and forgotten in a fog of testimony, objections, and bench deliberations when it came time for the jury to deliberate.⁹⁶

Judge Hoeveler then ruled testimony would begin the following morning, September 17. The first day’s testimony set the pattern for the prosecution’s case as well as for how the defense would counter. The government presented witnesses who had pleaded guilty for drug crimes; the defense attacked their credibility. First up: Luis del Cid, a long-time Noriega associate who said he delivered cartel payments to the general. Then came Max Mermelstein, a former member of the Medellin cartel, who confessed to playing a role in three drug-related murders.⁹⁷ Mermelstein told the court he had seen Noriega’s name on a cartel drug-distribution payment book.

Rubino hammered back, hard: “When all is said and done, you have never in your life met General Noriega and you’ve never seen him commit a crime.” Mermelstein’s curt answer: “That’s correct.”⁹⁸ His testimony seemed further weakened when it was learned the Bush administration had paid him \$250,000 to analyze drug-smuggling ledgers.⁹⁹

The first week went badly for the prosecution. “Although experts still believe General Noriega will be convicted, it is emerging that the government’s case may not be as strong as earlier imagined,”¹⁰⁰ the *Independent* of London wrote. By the second week, however, the prosecution linked Noriega to pay-

offs from the Medellin cartel when Floyd Carlton, a Panamanian pilot, took the stand. Carlton said cartel leaders Pablo Escobar and Gustavo Gaviria had asked him in 1981 about flying drugs from Colombia to Panama.

According to Carlton, Noriega asked what his cut would be. When he told Noriega between \$30,000 and \$50,000, Carlton testified that Noriega asked whether “I was crazy or they were crazy.” No less than \$100,000 would suffice for Noriega, Carlton said.¹⁰¹ Carlton testified that he gave Noriega \$100,000 for one flight and \$150,000 for a second. In cross-examination, Rubino pointed out that Carlton’s testimony hinged on conversations with no corroborating witnesses. Noriega, Rubino explained, received funds but offered no service in return. In short, he provided no protection for the drug flights even though the cartel paid for them.¹⁰²

Adding to the prosecution’s woes was another of its own witnesses. Ricardo Tribaldos admitted on the stand that he thought Noriega had not known about the Medellin drug deals being routed through Panama.¹⁰³

In November, the prosecution played to its strength. Enrique Pretelt, a former Noriega associate, said the general had volunteered to be the “God-father” of the Medellin cartel’s leader in Panama.¹⁰⁴ But the prosecution still had not played its trump cards. The “trial without focus” soon would turn dramatic with testimony from former Colombia drug kingpin Carlos Lehder.

Serving a life-plus-135-year prison sentence for dealing cocaine, Lehder was taken from his Illinois prison cell to Miami. Referring to the defendant as “the criminal, corrupt policeman, officer Noriega,”¹⁰⁵ the flamboyant Lehder unveiled the details of the cartel’s dependence on Panama after the DEA closed the cocaine route from the Bahamas into the United States. He testified that Noriega received five cents on every dollar’s worth of cocaine the cartel flew through Panama. In return, Noriega would “protect” the operation with his police force.¹⁰⁶ Once again, a catch-22 set in for the prosecution. Once again, a seemingly strong government witness helped the defense with his testimony that the Medellin cartel had given U.S.-backed contras in Nicaragua \$10 million during the 1980s. This gave credence to the defense claim that some Central American drug trafficking was allowed by the United States to help the contras.¹⁰⁷ One step forward, two steps back for the prosecution.

The prosecution rested—perhaps thankfully—on December 17. After calling 60 witnesses, it had established a direct link between Noriega and his alleged drug money. At a casual meeting with the judge before the defense began presenting its case, Sullivan joked—one can only assume it was a joke—with Judge Hoeveler: “We want to recall all of our previous witnesses.”¹⁰⁸

Rubino had asked for a delay in presenting his case, saying he needed more time to prepare. That he got. During a break for the holidays, Judge Hoeveler failed a medical stress test and underwent triple-bypass open-heart surgery, pushing the date for resuming the trial from January 6 to at least January 27.¹⁰⁹

It was during the long break that both defense and prosecution became aware of a tidbit that could blow the case wide open. A DEA plan called

“Operation Negocio” (Operation Business) to curtail drug smuggling in Central America revealed that Noriega had provided the agency with information about drug cartel money being routed through Panama.¹¹⁰

Meanwhile, the media used the extra time for further editorializing. “Happy Second Anniversary of Operation Just Cause. Forget that one already?”¹¹¹ asked *Newsday*. “Noriega may be the last of a breed. He is fabulously, enchantingly ugly. He is a scared animal, with eyes you can’t see into, a face like a stamp canceled by testosterone,” wrote the *Washington Post*.¹¹² And the *Boston Globe* theorized, “If Noriega had raped an individual, instead of just a country, we’d have heard more about his crimes. From this distance, and from what we hear on the grapevine, the Justice Department turned the case against Noriega into a case of refried beans.”¹¹³ And a juror, as if to make a silent statement that the case had dragged into infinity, was found wandering in a daze outside the federal courthouse. She was dismissed from the case, as had been two others, for medical reasons.¹¹⁴

When it finally had the chance, the defense took only slightly more than one month to present its case. Rubino framed a simple message for the jury: If my client is a criminal, he is a criminal only because he tried to help your country stop Central American drug trafficking.¹¹⁵ The witness list included 16 U.S. government agents, ensuring that some defense witnesses would be hostile. It was a calculated gamble by the defense—pit the government against its own people.¹¹⁶

At this point, the defense dropped a bombshell, announcing Rubino would no longer serve as lead counsel. Replacing him was Jon May, an attorney with less courtroom experience but a more scholarly demeanor than Rubino’s.¹¹⁷ Three days later, Rubino was back in the lead position for good. “I hope you haven’t forgotten me over the last seven weeks,” he quipped to the jury.

“I think the government hopes they have,” joked Hoeveler.¹¹⁸

One by one, Rubino questioned the witnesses. Some admitted they did not want to be there. Some testified that Noriega had helped the U.S. government in its antidrug efforts. One, a former CIA chief in Panama, detailed a meeting between Noriega and then CIA Chief William Casey in 1984 at which Noriega gave Casey details of Castro’s statements about the United States in Central America.¹¹⁹

Interestingly, details of the defense’s case are difficult to find in newspaper archives. In an *ABA Journal* article, “No Longer News: The Trial of the Century That Wasn’t,” Jack Doppelt of the Medill School of Journalism at Northwestern University claims the trial had become a journalistic afterthought.¹²⁰ “Coverage of the trial fell off so dramatically that news organizations had their official press credentials revoked. Only the wire services, the Panamanian news organizations, the *New York Times*, *Miami Herald*, *Fort Lauderdale Sun-Sentinel* and National Public Radio kept reporters there gavel to gavel.”¹²¹ Even CNN was gone. The *Wall Street Journal* left after three weeks. But they’d all be back, hoping for testimony from the celebrity of the case, Noriega.

It was not to be. At a meeting with his defense lawyers, Judge Hoeveler, and several journalists who had been allowed to observe, Noriega announced his decision to stay off the stand. “I am prepared to testify mentally and physically, but based on the laws of the country of the United States, and based also on the Geneva talks for prisoners of war, I would like to take my right not to testify,”¹²² Noriega stated. But, he continued, “I would not want the prosecution or the lawyers present here to interpret my waiver of not testifying as thinking I am hiding from anything.”¹²³

In closing arguments, Rubino, true to form, claimed the case to be politically motivated and morally wrong. He put his arms around a crying Noriega and asked the jury, “Are you going to find him guilty of being a military dictator, or are you going to find him guilty of that indictment?”¹²⁴

In less dramatic fashion, prosecutor Miles Malman reminded the jury of the ties between Medellín and Panama. “The cartel was comfortable in Panama. It was their back yard,”¹²⁵ he explained.

After four days of closing arguments, the fate of Manuel Antonio Noriega finally, thankfully, was placed in the hands of the jury.

For five long days, the jury deliberated in a Miami hotel, alternately crying, praying, and arguing. They pored over the testimony. One juror drew diagrams trying to show how Noriega and the Medellín cartel could be connected.

“We were sick to our stomachs. We had headaches,”¹²⁶ a juror said later.

On the fourth day, the jury had a message for Judge Hoeveler: It was deadlocked. One woman juror, it seemed, had made her decision before the deliberations even began.¹²⁷ Hoeveler was having none of it. He ordered jurors back into deliberation with a promise: “[N]one of you are going home tonight.”¹²⁸

Thirty hours later, the verdict was read. Guilty in 8 of 10 counts. Wearing his four stars as he had throughout the trial, Noriega displayed no emotion. Sullivan said it was all worth it. Rubino countered that the United States should not be playing “the world’s policeman.”¹²⁹ President Bush proclaimed the conviction a victory against the drug lords.

On July 10, 1992, Noriega was sentenced to 40 years in prison for his conviction in the Miami indictments. He read a statement at his sentencing hearing, in Spanish, claiming President Bush had wanted him dead.¹³⁰ His defense attorneys promised to appeal, but government attorneys felt relief that the man who, in their words, “put tons and tons of powdery white death”¹³¹ on the streets of America would be residing in a prison cell for a long, long time.

The Tampa indictment against Noriega was eventually dropped. On December 19, 1994, CNN read a statement repeatedly throughout the day, saying it had been in error when it aired the tapes of Noriega’s telephone conversations from prison. In 1999, Noriega’s attorneys finally won a small victory in the appeals process when his sentence was reduced from 40 to 30 years.¹³²

Noriega now lives in a four-room enclosure at the Miami Federal Correctional Institution. He speaks to his wife and mistress by telephone regularly. He is still the only prisoner of war being held in the United States.¹³³ He is still the only federal prisoner allowed to wear a military uniform. He is still the only federal prisoner to receive regular visits from the International Red Cross.

In 1997, Noriega published his memoirs with ghostwriting help from Peter Eisner, the reporter who covered the trial for *Newsday*. In that book, Noriega still maintains his innocence, insisting that the United States has imprisoned neither his soul, nor his ideals, nor his faith, which “exists in a flight of eternal liberty.”¹³⁴

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