

ALL CHARGES AGAINST BLACKWATER GUARDS IN NISOUR KILLINGS DISMISSED

Judge Ricardo Urbina has dismissed all charges against the Blackwater guards involved in the Nisour Square killings. He explains he has dismissed the charges because the government violated the constitutional rights of the Blackwater guards by using compelled statements against them.

From this extensive presentation of evidence and argument, the following conclusions ineluctably emerge. In their zeal to bring charges against the defendant in this case, the prosecutors and investigators aggressively sought out statements the defendants had been compelled to make to government investigators in the immediate aftermath of the shooting and in the subsequent investigation. In so doing, the government's trial team repeatedly disregarded the warnings of experienced, senior prosecutors, assigned to the case specifically to advise the trial team on Garrity and Kastigar issues, that this course of action threatened the viability of the prosecution. The government used the defendants' compelled statements to guide its charging decisions, to formulate its theory of the case, to develop investigatory leads and, ultimately, to obtain the indictment in this case. The government's key witnesses immersed themselves in the defendants' compelled statements, and the evidence adduced at the Kastigar hearing plainly demonstrated that these compelled statements shaped portions of the witnesses' testimony to the indicting

grand jury.² The explanations offered by the prosecutors and investigators in an attempt to justify their actions and persuade the court that they did not use the defendants' compelled testimony were all too often contradictory, unbelievable and lacking in credibility.

In short, the government has utterly failed to prove that it made no impermissible use of the defendants' statements or that such use was harmless beyond a reasonable doubt. Accordingly, the court must dismiss the indictment against all of the defendants.

Now, I look forward to what our resident defense attorney has to say about this—but my gut feel is that Urbina correctly judged that DOJ screwed up this prosecution.

Nevertheless, I have to wonder whether Erik Prince's threat campaign had anything to do with this. Or whether the brothers Krongard had any role in making sure these guys couldn't be prosecuted.

One thing is clear, though. The executive branch managed to screw this case up. Either State or DOJ used evidence improperly. And as a result, these alleged murderers will go free.