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NEW JERSEY STAR-LEDGER
15 DECEMBER 1981

Justices spurn former spy on suing the CIA

By STANLEY E. TERRELL

The U.S. Supreme Court yesterday left intact a ruling by a lower court that bars former CIA agents from suing the spy agency for back pay, expenses and negligence.

The justices without comment rejected an appeal by Carmen Mackowski, 45, formerly of Perth Amboy and now living at an undisclosed New Jersey location, who charged that inadequate training by the CIA landed her in a Cuban jail for 8 years.

Mackowski says she was a CIA agent in Cuba from 1964 until she was arrested and imprisoned by Cuban authorities in 1969. She was released in 1977, she claims.

The high court let stand lower court decisions that concluded federal judges do not have authority to intervene in CIA employment matters that might result in the release of intelligence information.

That ruling is based on a century-old legal precedent involving a Civil War case. The case involved the estate of a Union spy who unsuccessfully sued the government for money allegedly owed as a result of espionage work for President Lincoln.

Mackowski's attorney, William Shulman of the firm of Greenberg and Feiner in West New York, said he was "disappointed and sorry" that the high court failed to act on the matter. "It's a regrettable and unfortunate situation," he said.

Shulman said he had believed the case to have "a lot of merit" and that "an injustice had been rendered" upon his client, but added, "At this point, there doesn't seem to be any other legal avenues."

Mackowski filed suit at the U.S. District Court in New Jersey in September 1980, claiming her CIA training was "shortsighted" and "did not adequately prepare" her for the risks of her job.

In addition to negligence and seeking reimbursement for "medical disabilities" sustained during the prison term, Mackowski said the CIA had not paid her all of her salary and expenses for her work in Cuba.

Mackowski also said the CIA "misrepresented" to her that should she be detected, the agency "would see to it and make sure . . . that (it) would arrange for the immediate release of (her) and prevent (her) from undergoing any incarceration."

Mackowski said she was recruited by the CIA in the summer of 1964 while she was married to Alfredo Ruiz, one of Fidel Castro's intelligence chiefs. She said her undercover work lasted four years before being discovered by Cuban counterintelligence agents.

She was arrested in 1969 and sentenced to a 20-year prison term. At the time of her release in 1977, Mackowski was the first American citizen convicted of espionage to be released from Cuban custody, according to the State Department.

The former spy, who was born in Cuba but became an American citizen in 1944, lived with her first husband in New York in the 1950s. There she met Castro. A former Castro organizer, Mackowski moved to Cuba when Castro took over the government, and was approached by the CIA five years later, she said.

A federal district court judge ruled that he lacked jurisdiction over the case, and Mackowski went to the U.S. Court of Claims, which also dismissed the suit.

In her appeal to the Supreme Court, Mackowski argued "The fact that state secrets or national security" is involved in her suit should not curtail her right to sue for "just compensation."

She also noted she had signed an agreement with the CIA not to reveal the most sensitive aspects of her

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