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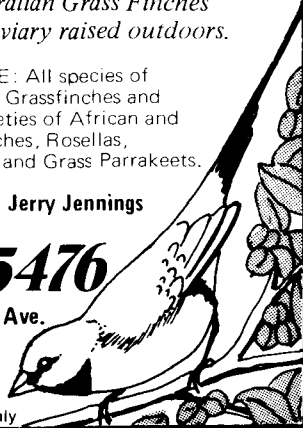
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A Summary of
Criminal Cases
Involving Birds in 1980

by Clifton R. Witt
Maryland

Most of you are aware that 1980 saw more activity regarding the investigation, prosecution, and conviction of those involved in illegal activities with birds than in, perhaps, all of our years of history combined. The credit for this goes directly to a small group of prosecutors in the U.S. Dept. of Justice headed by their Chief, Mr. Kenneth Berlin. It is known as the Wildlife Section of the Land and Natural Resources Division.

The Wildlife Section was formed in October, 1979 at the urging of former President, Jimmy Carter. We in AFA welcomed it enthusiastically since it represented another hope that perhaps the government might finally begin to take bird smuggling seriously. Ken Berlin and his group have far exceeded any expectations we might have had. Their dedication and hard work resulted in approximately 35 prosecutions and over 100 import-related forfeiture actions. They also have miraculously overcome the impossible obstacles created by a bureaucracy that keeps the various government agencies of USDA, the U.S. Fish and Wildlife Service, and the U.S. Customs Service from working effectively with each other to successfully investigate and prosecute bird cases.

The need for interagency cooperation led to the formation of the Wildlife Law Enforcement Coordinating Committee which has developed guidelines for interagency enforcement efforts and established a Texas Task Force to help stem the heavy illegal traffic along the many miles of the Texas-Mexico border. Similar task

forces are to be set up in other parts of the country this coming year.

Every aviculturist in this nation owes Ken and his group a real debt of gratitude. We are finally getting some protection for the tax dollars we pay out. But we can give the Wildlife Section something very important as well: OUR COOPERATION. Below is a summary of the major prosecutions from October, 1979 to November, 1980 (Birds Only). Several of these were successful because of help from AFA members who called in information on illegal activities they were aware of, or suspicions they had, or information they had. These calls were sometimes anonymous, sometimes not. Many AFA people allowed themselves to be interviewed at great length by Fish and Wildlife Agents or Customs Agents as part of the effort to slow down the traffic in illegal birds. If we have one less case of Exotic Newcastle or one less case of Pacheco's or Avian pox this year because of their efforts, it was all worth it.

To you people who called in tips on smuggling or aided in the investigations, I say thank you. Thank you so much. You may have saved the aviaries of many of us, not to mention your own. And to everyone else, I urge you to report *any* information you may have about smuggling or other illegal activities with birds to your local Customs Office, Fish and Wildlife Office, or, if you prefer, to me directly. I will see to it that your information gets to the right people and fast. My number is (301) 774-0303. You need not identify yourself. You may request your name be withheld,

if you wish. The important thing is to stop the smuggler. He continues to bring us disease that results in untold grief as we have recently seen once again this past summer and fall. The smuggler that indirectly caused the infection of Pet Farm and caused the loss of 30,000 birds in over 500 locations in 45 states probably is not on the list below. *Let's make sure he/she is there next year at this time!*

The following is a summary of the major prosecutions of the past year up to November 1, 1980. It is taken from a report of the U.S. Department of Justice, Land and Natural Resources Division Journal. It does not include the results of certain recent important indictments of which you may be aware. We hope to report these when they come to trial. In accordance with the AFA Code of Ethics, as printed in each issue of the WATCHBIRD magazine since April 2, 1977, it has been the policy of AFA to disqualify or expel from advertising or membership any applicant who has been convicted of violation of any State or Federal law concerning the importation, interstate shipment, possession, or inhuman treatment of any avian species.

SUMMARY OF PROSECUTIONS:

United States v. Nieto-Tapia, (S.D. Cal.). On April 23, 1980 this individual and one other person were indicted for smuggling 50 macaws from Mexico into Southern California. On July 21, 1980, Nieto-Tapia was sentenced to serve three months of a two-year term followed by three years' probation.

United States v. Gutierrez, (W.D. Tex.). On January 4, 1980, Adolf Gutierrez was arrested for the smuggling of 150 birds. The birds involved: double yellow headed, red headed, and yellow-cheeked parrots worth approximately \$75,000. As a result two people were indicted. In late February, Gutierrez pled guilty to conspiracy, 18 U.S. C. 371.

He has also agreed to abandon any claims to the smuggled birds involved in the case.

United States v. Lopez, (S.D. Tex.). A major bird smuggling investigation in Texas concluded with the sentencing of ten individuals. Otoniel Lopez and Orville Passmore, two principals in the case, smuggled five hundred parrots on at least eight occasions. The birds were brought up from the interior of Mexico and smuggled across the Rio Grande into Texas on an inner tube. Lopez received a five year sentence; Passmore received a three year sentence and \$4000 fine. Nine vehicles were seized in the course of this case.

United States v. Global Zoological Imports, LaBlue, Dorfman, Colombo, and Brown, (C.D. Cal.). These individuals and several foreign wildlife dealers were indicted in a four-count indictment charging conspiracy to submit false documentation in violation of 18 U.S.C. § 542, a conspiracy to import endangered species in violation of 16 U.S.C. § 1538(a), and the underlying substantive offenses. The case involves a large commercial shipment of birds purchased in Singapore and India and then transshipped through the Philippines with allegedly false documents. At the end of a two-week trial, the jury found LaBlue guilty on all counts, but dismissed the case against Dorfman, Colombo, and Brown. LaBlue received four six month sentences, three of which are concurrent, and one consecutive.

United States v. Global Zoological Imports, LaBlue, Ashway, et al., (C.D. Cal.). LaBlue, several individuals, and two corporations were indicted in November 1979 for numerous wildlife and customs violations. The indictment charged conspiracy to import several hundred birds into the United States through the filing of false documentation with the Customs Service, importation of endangered species, theft of birds from LaBlue's quarantine station, receipt by LaBlue of stolen birds that he knew were infected with Exotic Newcastle Disease, and obstruction of justice. On January 28, 1980, the jury convicted each of the defendants who went to trial. LaBlue and Global Zoological Imports, the principal defendants, were convicted on all nine counts, eight of which were felonies. On February 11, 1980, LaBlue was sentenced to an 18-month jail term, an additional 3½ years' suspended sentence, and was enjoined from trading in wildlife for five years. Defendant Ashway received a three-year sentence — 40 days of consecutive weekends to be served in jail and the remainder of the time suspended. Carr received a two-year sentence — 20 days of consecutive weekends in jail and the remainder suspended. The court ordered both Carr and Ashway to devote 1500 hours to public service approved by their probation officers. The case was a significant one. It led to discovery of serious flaws in the United States quarantine program and was the first to involve thefts of diseased birds from quarantine.

United States v. Martin, (S.D. Cal.). On September 2, 1980, a bird dealer, James Lawrence Martin, had his probation revoked after a hearing in which the District Court for the Southern District of California found that Martin was again dealing in birds for which he had no proper

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record. Martin pled guilty in 1979 to violating 18 U.S.C. § 2232, a misdemeanor offense covering destruction of property to prevent seizure. The property involved was smuggled birds. He was sentenced to serve 60 days of a one-year sentence and ordered to keep careful records. In July 1980, Customs agents discovered and seized 32 fledgling parrots, for which Martin could produce no adequate records. As a result, the court revoked Martin's probation and ordered him to serve the remaining 305 days of his term.

United States v. Rives, (S.D. Cal.). On April 2, 1980, David Rives was indicted under 18 U.S.C. §545 for smuggling over 250 parrots infected with Exotic Newcastle Disease from Mexico into Southern California. All the birds died from the disease. Following a trial in which the facts were stipulated, the district court found Rives Guilty. On August 25, 1980, he was sentenced to serve six months of a three-year term followed by five years' probation.

United States v. Frey and MacDonald, 79-CR-79; *United States v. Frey, Cooke, and Sims*, 79-CR-78; *United States v. Ross*, 79-CR-77, (N.D.N.Y.). These three cases involved the smuggling of birds into the United States across the border from Canada. Each of the individuals received probation and fines of up to \$10,000, except for one individual against whom charges were dropped after he passed a lie detector test.

United States v. Burns, (N.D.N.Y.). This individual was indicted on four counts of perjury in connection with her grand jury testimony in the last three mentioned cases. She was convicted on two of the four counts. On August 25 she was sentenced to a six-months' suspended sentence, on year's probation, and a \$10,000 fine.

United States v. McClure, et al., (E.D. La.). Robert F. McClure, the Orleans Avian Institute, Inc., and Howard Voren were charged on August 29, 1980, with violating 18 U.S.C. §542 by submitting import documents to New Orleans Customs that reported less than half of the true purchase cost of two large shipment of birds. In addition, McClure and the Orleans Avian Institute were charged with transporting a false certified check in foreign commerce in violation of 18 U.S.C. § 2314.

United States v. Cabrera-Lopez, (S.D. Cal.). Cabrera-Lopez was indicted on July 30, 1980, on charges of conspiracy, 18 U.S.C. 371, and smuggling, 18 U.S.C. 545. He was charged with illegally bringing 100 yellow-headed Amazons across the border from Mexico.

United States v. Jacobson, (D. Ariz.).

On May 28, 1980, Mickey Johnson and seven associates were indicted under 18 U.S.C. §§ 545 and 371 for smuggling birds across the Mexican border into Arizona. Over 150 birds, principally various species of parrots, were involved in the illegal shipment. The District court Judge in Tucson, however, granted Jacobson's motion to suppress government evidence that Jacobson had smuggled the birds from Mexico. Jacobson argued that the search of his ranch, which disclosed the birds and led to his arrest, violated the Fourth Amendment. The judge agreed, holding that the authority of Customs agents to conduct extended border searched did not extend to a warrantless entry onto Jacobson's ranch for the purposes of search or arrest. The case is being held in abeyance while the government appeals.

Dealer Sentenced Following Conviction on Additional Bird Charges

United States v. Martin, (S.D. Cal.). James Lawrence Martin was sentenced on January 26, 1981 following indictment on charges involving his importation of 32 fledgling amazons. Customs agents seized the parrots for lack of adequate records, a violation of Martin's probation. Martin was sentenced to serve six months of a two-year term with a three-year probationary term to follow. The San Diego U.S. Attorneys Office prosecuted the case.

Forfeiture Ordered After Parrot Seizure

United States v. 53 Eclectus Parrots, No. C. 801546 (N.D. Cal.). on December 18, 1980, the District Court for the Northern District of California granted the government's motion for summary judgment and ordered the forfeiture of 53 eclectus parrots imported into the United States from Indonesia. The court held that the statute providing for forfeiture of wild birds taken contrary to another nation's export law, 19 U.S.C. 1527, does not require proof of intentional disregard of the law, only proof that the particular birds were taken from the wild and illegally exported. Since Indonesia prohibits export of eclectus parrots and the government satisfactorily proved that the birds were wild, the court ordered forfeiture. George Allen, the claimant to the birds, has appealed the decision. Allen's previous civil action challenging the seizure was dismissed without prejudice. Steve Shimberg of the Wildlife Section handled the trial court stages of the case. Kathryn Fuller will handle the appeal.

SEIZURES, FORFEITURES, AND SALES

Macaw Seizure

On January 1, 1981, a Customs agent at Seattle-Tacoma International Airport seized 55 live macaws from David Cantino, doing business as Seattle Avian Imports, for importing the birds in violation of 19 U.S.C. 1527, a Customs statute which requires issuance of a U.S. consular certificate that wildlife is legally taken or exported. The initial export from Bolivia allegedly violated Bolivian law as well. The government presently has the birds in quarantine in Mission, Texas, is expected to seek forfeiture upon their release. Bolivia has request the return of the birds should the United States successfully obtain forfeiture.

Sentence Imposed Following Parrot Smuggling Conviction

United States v. Martin, (S.D. Cal.). James Leonard Martin (unrelated to James Lawrence Martin), who pled guilty on September 29, 1980 to one smuggling count, 18 U.S.C. 545, involving 14 yellow-headed amazons, was sentenced on October 21, 1980. He received a six-month

term, three years probation, and a \$300 fine. San Diego AUSA Maria Arroyo handled the case developed by Customs agents.

Bird Dealer Indicted in Major Import Conspiracy Case

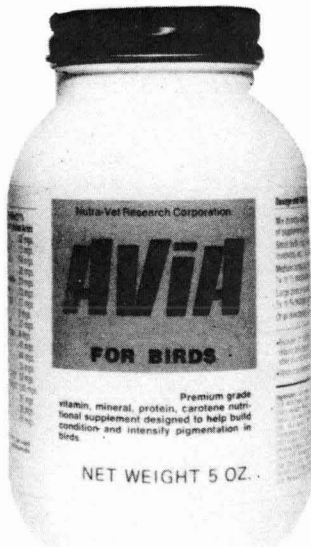
United States v. Slocum, et al., No. 90-8-1-44 (S.D. Fla.). A multi-agency investigation led by agents from the Fish and Wildlife Service, Customs, and the Department of Agriculture culminated in the November 21, 1980 indictment of bird dealer and quarantine station owner Bert Slocum. The 16-count indictment charges Slocum, his wife Louise, son Ray, employees Don Fuller and Francine Miller, and Guyanan exporter Misri Parsad with violation of a variety of customs, wildlife, agriculture, and general criminal statutes. Slocum, along with his wife, son, and employees, allegedly removed birds from quarantine that they knew were exposed to exotic Newcastle disease. The birds were then intermingled with healthy ones at Slocum's Quality Bird Company holding facility. Slocum is also charged with illegally collecting \$290,383 indemnity from the Department of Agriculture for birds destroyed because of the disease, and with obstruction of justice for

his efforts to persuade an employee to give false testimony before the Grand Jury. These allegations are the basis of counts charging violations of 18 U.S.C. 371, 18 U.S.C. 549, 18 U.S.C. 2, 21 U.S.C. 134, 18 U.S.C. 287, and 18 U.S.C. 1503.

In addition, Slocum, his wife, and Guyanan wildlife exporter Misri Parsad are charged with conspiracy to import numerous birds by means of false documentation, in violation of 18 U.S.C. 542 and 2. Slocum and his wife are also charged with importation, trade, and possession of birds including falcons, sparrow hawks, and burrowing owls contrary to the provisions of the Endangered Species Act, the Migratory Bird Treaty Act, 16 U.S.C. 703 and 706(a), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 16 U.S.C. 1538 and 1540(b). Finally, Slocum, his wife, and two employees are charged with conspiracy to hide or dispose of birds that died in quarantine or enroute to the United States in order to prevent examination by a Department of Agriculture poultry disease diagnostician, a violation of 18 U.S.C. 271 and 21 U.S.C. 134(e). The case will be tried by Michael Gewirtz and Alex Aleinikoff of the Wildlife Section ●

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Carotene	0.365 mg.
Canthaxanthin	1.8 mgs.
D ₃	60 IU
Arginine	32 mgs.
Histidine	13 mgs.
Isoleucine	24 mgs.
Leucine	33 mgs.
Phenylalanine	30 mgs.
Tyrosine	33 mgs.
Methionine	12 mgs.
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Threonine	33 mgs.
Tryptophane	9 mgs.
Valine	40 mgs.
Lysine	44 mgs.
Alanine	30 mgs.
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Glutamic Acid	140 mgs.
Glycine	36 mgs.



E	10 IU
K	0.001 mg.
C	6 mgs.
Bioflavonoid Complex	0.85 mg.
Hesperidine Complex	0.735 mg.
Rutin	0.365 mg.
B ₁	0.5 mgs.
B ₂	0.5 mgs.
B ₆	0.5 mgs.
B ₁₂	0.001 mg.
Choline	7.8 mgs.
Inositol	7.8 mgs.

Niacinamide	3.7 mgs.
P.A.B.A.	2 mgs.
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Calcium	170 mgs.
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Magnesium	7.3 mgs.
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Sodium Chloride	25 mgs.
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Silicon	Trace
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Iodine	0.008 mg.
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