

CONGRESSIONAL REFERENCE
TO THE
UNITED STATES COURT OF FEDERAL CLAIMS

Congressional Reference No. 98-887 X

RICHARD M. BARLOW,
of Santa Fe, New Mexico,

v.

THE UNITED STATES

(Senior Judge Bruggink)

DECLARATION OF ROBERT M. HATHAWAY

1. I am 54 years old and reside at 12103 Snow Shoe Court, Herndon VA.
2. I am currently employed as Director of the Asia Program at the Woodrow Wilson International Center for Scholars in Washington, D.C.
3. From October 1986 until the end of 1992, I worked simultaneously as a professional staff member for the House Subcommittee on Asian & Pacific Affairs ("Subcommittee") and as press secretary for Representative Stephen J. Solarz.
4. Rep. Solarz was the Subcommittee chairman. The Subcommittee had jurisdiction over issues related to both Pakistan's nuclear capability and its efforts to illegally procure nuclear weapons technology or materials (i.e. issues relating to the Pressler and Solarz Amendments), and held highly-classified, closed-door briefings by CIA, State Department, and DOD personnel, among others, concerning such issues.

5. During this time, I attended most or all of the closed-door Subcommittee briefings relating to Pakistan. The briefings were held periodically, when Congressman Solarz requested updates on information pertinent to Pressler and Solarz Amendment issues or other matters. Typically, these briefings included only a few of the approximately thirteen members of the Subcommittee and one to three of the five professional staff members. The clearance level of the briefings was announced ahead of time. Clearance levels for such briefings were either at Top Secret/SCI or Top Secret level because the information was so sensitive. To the best of my recollection, they were never held at just the Secret level.

6. Clearance levels for participants were confirmed ahead of time. Subcommittee members were presumptively cleared to the Top Secret level to hear information relating to Solarz and Pressler Amendment issues. The majority of subcommittee staff members were also cleared to hear such information. There were one or two staffers who did not have Top Secret clearance and, those staffers were not permitted to attend the briefings.

7. On occasion, during a Top Secret briefing, an issue arose calling for briefing at the SCI level. When that occurred, those participants who did not have the appropriate SCI accesses were asked to leave. Then, the compartmented information was briefed to the remaining participants. To the best of my knowledge, there were no occasions when a briefer submitted supplemental written information to the Subcommittee after a briefing simply in order to provide additional details that were too highly-classified and in compartmented channels for them to be provided during the briefing itself.

8. During this time, I had Top Secret clearance with code word (SCI) access on issues related to Pakistan's nuclear capabilities and illegal procurement efforts. Attached is a true and correct copy of a letter from the CIA confirming such access in 1987.

9. During this time I knew and worked with Arch Roberts, who was a staff consultant to the House Foreign Affairs Committee, and specialized in nuclear proliferation and Asian issues. It is

my recollection that Mr. Roberts also had Top Secret code word clearances at least at the same level as mine, if not greater, that would have normally allowed him access to information relating to Pakistan's nuclear capabilities and illegal procurement efforts. I know this because Mr. Roberts attended the same highly classified briefings regarding Pakistan that I did.

10. To the best of my knowledge, the Subcommittee was not told that any classification or access issues limited its ability to obtain intelligence relevant to its analysis of the Pressler and Solarz Amendment issues related to Pakistan. The Subcommittee had jurisdiction to hear all relevant information regarding such issues, and I am unaware of any classification or other limits on our ability to receive full information on those topics. To the best of my knowledge, we were not told that only the House Permanent Select Committee on Intelligence, which had oversight jurisdiction over the intelligence community, could be provided with the full picture of Pakistan's nuclear capabilities and illegal export activities. That would have been peculiar, given Congressman Solarz's jurisdiction over and interest in enforcing the Solarz Amendment.

11. One of the primary issues that we were always trying to resolve was the number of potential Solarz Amendment violations relating to Pakistan (*i.e.* what the intelligence showed regarding efforts by Pakistan to illegally procure nuclear weapons technology). While, I do not specifically recall the July 12, 1989 briefing given to the Subcommittee by [redacted], I do recall such briefings generally during the 1987-92 time period.

12. Congressman Solarz frequently asked briefers to identify current investigations into possible Pakistani export violations. We were usually told that there were a handful of "worrisome" incidents under investigation. The greatest number of "worrisome" Pakistani nuclear export activities I ever recall we were told about was perhaps a half dozen or so.

13. At no time do I recall the Subcommittee ever being informed that there were several dozen current investigations into potential Solarz Amendment violations.

14. At no time do I recall the Subcommittee ever being informed of a potential violation of the Solarz Amendment directly linking a specific Pakistani Intelligence Service set-up in Washington, DC to illegal efforts to obtain nuclear technology. That is something that I definitely would have remembered because it would likely have shown a direct link between the illegal export activity and the Government of Pakistan, an important fact for triggering the Solarz Amendment. If there was such evidence, it should have been reported to the Subcommittee, but was not.

15. There were also occasions that I recall where we were told that certain cases had been referred to the Justice Department and that the agency or department briefing the Subcommittee could not go into further detail. Although there might have been a policy of not discussing cases referred to the Justice Department, it would not have prevented the Subcommittee from being briefed beforehand on the intelligence while it was being developed.

16. Also, during this time, I do not have any recollection of Mr. Barlow ever disclosing (or threatening to disclose) sensitive classified information to me regarding Pakistan and I had no knowledge or information leading me to believe he might be a security risk.

I, Robert M. Hathaway, declare under penalty of perjury that the foregoing is true and correct. Executed on May 22, 2002.



Robert M. Hathaway

Central Intelligence Agency



Washington, D.C. 20505

MAR 17 1987
COMMUNICATIONS SECTION

11 March 1987

The Honorable Dante B. Fascell
Chairman
Committee on Foreign Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is to advise that Mr. Robert Hathaway of your staff has been approved and was briefed for SCI accesses on 13 February 1987.

Sincerely,

A handwritten signature in cursive script that reads "David D. Gries".

David D. Gries
Director of Congressional Affairs