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Dead DEA Agent Wins Vindication In His Dismissal

By Morton Mintz

Washington Post Staff Writer

Celebrated federal narcotics agent Sante Alejandro Bario won a posthumous vindication yesterday when an administrative law judge reversed his firing by the Drug Enforcement Administration and ordered the DEA to pay tens of thousands of dollars in back pay and survivors' benefits to his widow and three children.

Judge John J. McCarthy of the Merit Systems Protection Board issued his decision after the agency repeatedly disobeyed his orders to produce documents sought by the survivors for a hearing that was to establish the truth or falsity of charges that Bario took \$9,000 in bribes.

The case arose from a surprise indictment of Bario, winner of a presidential achievement award for his infiltrations of the underworld, and his bizarre death while awaiting trial.

His indictment was based on testimony by a DEA confidential informer known as Claude Picault in April 1978. Picault alleged, Bario allowed him to keep five grams of cocaine rather than seize them.

Four months later, according to DEA files, Picault first mentioned this to a DEA agent and said Bario—whom at first he did not identify—"wants money."

The DEA later began an investigation in which Picault, wired for sound, alleges that in meetings on Oct. 1 and 7, 1978, Bario accepted bribes of \$9,000 for having let Picault hold back the cocaine.

Bario was arrested on the day of the second meeting and put in a solitary cell in the Bexar County Jail in San Antonio, where he steadfastly asserted his innocence.

According to his widow, Joanne, a writer, he told her that the only after hours food he could get was cookies. But on a December night nine weeks after being jailed, he was eating a peanut butter sandwich when he choked, had convulsions and lost consciousness. He remained in a coma until his death in April 1979.

An early laboratory report suggested that he had suffered strychnine poisoning. After an autopsy, however, the court medical examiner said that a "near-toxic level" of Elavil, an antidepressant, was present in Bario, that the drug produces severe dryness of the mouth and difficulty in swallowing, and that he otherwise "probably would have been able to take care of that sandwich."

The widow asked the merit board to award her

and their son, 3, the benefits they would have had if the DEA hadn't fired Bario. His former wife, Patricia, joined the action in behalf of his two children by their marriage.

But the DEA, saying it must seek to protect pertinent data on its confidential informers, refused to release key documents relating to Picault that the women said they needed to show whether Bario had been framed or unjustly treated.

The women's lawyers, former Watergate prosecutor Richard Ben-Veniste and Howard E. O'Leary, cited "highly questionable, if not inherently incredible" circumstances, such as these:

Picault's months-long delay in telling the DEA of Bario's alleged misconduct; a bribery accusation "completely inconsistent with an illustrious 14-year federal law enforcement career," and what they saw as the implausibility of Bario traveling to Chicago and San Antonio to take the "paltry" \$9,000 that he could have taken in Mexico, where he was stationed.

A DEA spokesman said an appeal of the ruling is being considered.