

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-23376-Civ-LENARD
(Criminal Case No. 98-721-Cr-LENARD)

RUBEN CAMPA (Fernando Gonzalez),

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

MOVANT'S REPLY TO GOVERNMENT'S RESPONSE TO 28 U.S.C. § 2255 MOTION

Movant, Ruben Campa (Fernando Gonzalez), hereby replies to the government's response to his § 2255 motion, renews his requests for an evidentiary hearing and discovery, and says:

A. GOVERNMENT-PAID JOURNALISTS PUBLISHING PREJUDICIAL MATERIAL.

1. The government claims that despite the national level of U.S. government decision-making in regard to this FISA-involved case – as to filing of the charges, the number and identity of defendants, its political and legislative implications, and its foreign relations nexus – the government's funding of the very journalists whose articles created the risk of prejudice that this Court determined to be of great concern should not be attributed to the government because the government proffers that the trial prosecutors did not know about payment to journalists as part of the government's coordinated actions in relation to Cuba and its agents. The government seeks the shelter of a body of law that has no application here: this is not a case in which one prosecutor has no knowledge about what another prosecutor is doing in a tangentially-related case. This case was approved at the highest levels of the national government, not merely a local prosecutor. And this

case concerned not some discrete criminal incident, but was merely one aspect of a particularly important national objective with regard to the Cuban government, dealing with matters that included the singular events of the BTTR shutdown and a purported espionage conspiracy; the agencies at issue were not mere “components of the same federal government,” DE:9:34, but were working toward the same end. *See* Gail Epstein Nieves, Alfonso Chardy, Cuban Spies Convicted, *Miami Herald*, June 9, 2001, at 1A (press conference at which government announces that prosecution “protected the community from ‘Castro’s tentacles’”).

2. For the government to seek to dissociate trial prosecutors from the national government in flooding the local media with money to advance the government effort to undermine the legitimacy of the Cuban government (or “GoC,” as the government referred to Cuba throughout the appellate process) is to ignore everything that made this case so important to the government in the first place. The government told this Court the community was not monolithic in its Cuba opinions, even as it paid journalists seeking to advance the monolithic view. The Court should reject the government’s unsupported claim that payment to the journalists was unknown to the plaintiff, the United States, in the context of this case involving multiple agencies. At a minimum, an evidentiary hearing is required as to government knowledge.¹

3. While claiming lack of knowledge of hiring *Miami* (and not Fort Lauderdale)

¹ The government concedes oversight of the Cuban journalist payments by a State Department inspector and does not dispute that the prosecutors coordinated with the State Department in this case. DE:9:31. A review of the trial transcript shows at least 150 references to the State Department during trial. This case notably involved the passing of information to Cuban diplomats. More generally, in cases with such implications, the United States Attorneys’ Manual indicates that “two communities [law enforcement and intelligence, including components of the State Department] occasionally find themselves mutually affected by a criminal case,” with the instant case bearing all the hallmarks of such cooperative information sharing. *See* U.S. Attorneys’ Manual 9-90.210.

journalists to propagate effective anti-Cuban government messages via Radio and TV Marti so as to sustain them as they reported similarly in this community, DE:9:32 (suggesting ambiguously that its files would reflect that the payment data constitute “far-flung information not possessed by the prosecution team”), the government illogically asserts that the *defense* should have known about the large undisclosed sums of money funding the journalists. But to imagine that the defense would have known in 1999 or 2000 what the Miami Herald published as front page news about its own reporters in 2006 exceeds anything even remotely addressed in the case law on which the government relies.

4. Similarly, the government’s thesis that this is merely a Sixth Amendment claim, just like that raised on direct appeal or part of the government-estoppel claims raised as part of the motion for new trial, ignores that this claim is grounded primarily under the Fifth Amendment due process clause, a structural violation in the government’s payment, *and* suppression of its payment, of money to the very journalists seeking to prejudice the defendants on trial. The § 2255 motion is not a re-litigation of anything. It is an exposure of something that no State that voted for the Bill of Rights in the 18th Century could have believed would be true at the close of the 20th Century: that a constitution meant to preserve the presumption of innocence could tolerate secret payments by the government to journalists seeking to prejudice defendants prior to and during their trial, in a novel prosecution that at least some appellate judges found was a perfect storm of prejudice even without knowing how much money the government had spent to seed the storm. To discount the importance of the money the government spent on local journalists whose writings this Court so strongly sought, *see* App. A (trial transcript excerpt) to protect from influencing the jury during trial disturbs the constitutional balance of justice and freedom that Americans treasure.

5. The government claims that the evidence is not newly discovered, i.e., was not “news.” But the very employers of the journalists did not even know their reporters’ objectivity was being undermined by the secret payments. And when one such employer, the Miami Herald, made it front page news, DE:9-1 (“The payments to journalists were discovered in documents recently obtained by The Miami Herald as a result of a federal Freedom of Information Request filed on Aug. 15 [2006].”), it was not because the community already knew it: instead, reporters *concealed* it from the public. The government’s factual dispute on this and other points requires an evidentiary hearing.

6. The government disputes the structural effect of the impropriety in the government’s urging that a Cuban agent prosecution be held in the one venue in which the government is paying journalists who support the government’s anti-Cuba policy. The government notes the absence of any precedent for addressing the government’s undertaking such conduct, even though such government media influence runs directly counter to the Court’s specific, and the Local Rules’ general, restriction on fomenting news coverage likely to prejudice the defendant. But on neither ground is the government’s position solid. To permit the government to do what it did here would be to permit a corporate plaintiff, owned by a media holding company, to be free of any restriction on paying journalists who promote their litigation position in the very community where trial is held. Even in a civil case, this Court would never permit such a thing. The government’s efforts to push the venue envelope in this case treats the case in a manner to be written off as a one-time occurrence that no other defendant or party will ever confront. But the principles at issue go much deeper.

7. The government’s response to the *other* overarching question of whether, had the journalist payments been disclosed, the defense could have done more to protect the defendants procedurally is lacking in appreciation of the skills and competence of counsel (in direct

contradiction of the government's view that the defense was deficient in failing to know in 2000 what was disclosed in 2006 about the journalists' receipt of large payments from the government). In fact, with evidence of government funding of hostile media, the defense could have more appropriately responded to the government's unusual intrusion into issues of defense funding to show community attitudes by way of a survey. The inadequacy of that survey was noticeably a factor in this Court's denial of a change of venue and the Eleventh Circuit's ultimate decision that this Court did not abuse its discretion based on the information before it at the time. If in addressing the effect of paid media on the community, the defense had been able to track what it otherwise believed to be independent journalism, the showing could more readily have been made for either a change of venue or presentation of a viable record for appellate review.

8. The government's various procedural arguments lack merit. As noted, there are several, in part alternative, bases to overcome both the law of the case and habeas-specific cause and prejudice arguments. The journalistic manipulation and payment evidence is newly discovered and uniquely significant. Alternatively, if the government's unsupported view that the defense should have discovered it were sustained, its fundamental nature would compel a finding of ineffective assistance excusing the failure to previously raise the matter. However, resort to such excusal doctrines is unnecessary where the evidence is so clearly newly discovered as here. Nor would the law of the case doctrine, even if it were applicable in the context of these claims, impede either the due process or other components of claims that rest on newly discovered evidence. *See Southeast Florida Cable, Inc. v. Martin County, Fla.*, 173 F.3d 1332, 1336 (11th Cir. 1999) ("If there has been 'a ... modification of significant facts creating new legal conditions, res judicata is no defense.") (quoting *Manning v. City of Auburn*, 953 F.2d 1355, 1359 (11th Cir. 1992)).

9. The government discounts, without addressing individually, the specific instances of improper prosecutorial appeals to community prejudice that went unobjected to at trial and were not raised in the initial appellate brief filed by the undersigned or in the initial appellate brief filed by any other attorney or party in this case. *See* DE:9:43-44. The government refers to the untimely raising of such prosecutorial excesses after the *en banc* matter was decided. *Id.* (referring to attempted supplemental briefing by subsequent counsel, as to which the panel that rendered the final appellate decision deemed the matters already resolved by the *en banc* court and thus untimely raised in the supplemental briefing). Consequently, despite the government's attempt to avoid discussion of the multiple unaddressed issues of improper appeals to prejudice throughout trial, appeals that fit well within the very journalistic practices for which specific local reporters were put on the government payroll, the question of how the very specific list of instances of government would have been received on appeal had there been awareness of the other due process violations by the government, such that the totality of the violations would have been preserved and raised on appeal cannot be disposed of by saying the Court would have been more attentive than the defense to what neither the Court nor the defense was aware of, the extent to which permeation of government policy in the local media was effected through significant financial backing.

10. The movant's list of prosecutorial excesses, *see* App. B – that no court has yet addressed, *see* DE:9-5 – is specific, is pinpoint record-cited, makes direct reference to well-known Eleventh Circuit and Supreme Court authority, and is not in any way factually disputed by the government. Thus, contrary to the government, such misconduct issues are well preserved in this § 2255 motion and cannot be disregarded on the basis of the government's unsupported theory that the movant “fails to argue the specifics of these claims.” DE:9:45. The totality of all the due

process violations in this case, raised appropriately in the § 2255 motion, warrants relief.

B. DENIAL OF DUE PROCESS, WRONGFUL SENTENCE ENHANCEMENT/INEFFECTIVE ASSISTANCE OF COUNSEL.

11. The government asserts, erroneously, that the Court of Appeals' holding that the materiality of a false statement or incomplete response as part of a *detention hearing* must also carry over to answering to the name under which a person is indicted when called to the bar of the court at an initial appearance. But given the nuanced questions of materiality and, more importantly, the fundamental error in stating that the magistrate judge simply asked an open-ended question as to the defendant's name, the government's obstruction argument in the instant proceeding is defective and for both Fifth and Sixth Amendment reasons, the error should be corrected. The truth is that the magistrate judge referred to the movant as Mr. Campa many times before asking for the full name, i.e, the first name that goes with Campa: Ruben.

12. Review of the transcript shows that the Clerk first labeled the defendant as Ruben Campa, without asking if the name or even its pronunciation were correct. DE:44 (Trans. 9/14/98) at 2. The Clerk then called the defendant to the stand to answer to the charge of "United States of America vs. Ruben Campa." *Id.* at 4. The Clerk then advised that the first speaker would be "Ruben Campa." *Id.* The magistrate judge then asked "Mr. Campa ... Do you plan to hire a lawyer?" *Id.* All of these proceedings were conducted with the aid of a Spanish interpreter. Thereafter, the magistrate judge asked: "**Mr. Campa**, tell me your **full** name, please." *Id.* at 6 (emphasis added). And *without benefit of an interpreter* as to whether the magistrate judge wanted him to restate the entire name under which he was indicted, wanted him to address issues in the indictment concerning his identity, or wanted any specification of "true name" or biographical information, the defendant – after having heard the Court and the Clerk refer to him three times as Ruben Campa and twice as

Mr. Campa – responded “Ruben Campa.” *Id.* At most, the context was ambiguous: was the magistrate judge simply trying to record the full name as he took notes or was he seeking to ask questions about the underlying facts of the case? In this case, a context far from the context believed by the court of appeals, i.e., that of a defendant seeking to win release based on a false identity in a detention hearing, the defendant, following the lead of the magistrate judge stated: *Ruben Campa.*

13. Such a significant obstruction enhancement adding years to the defendant’s sentence for such an ambiguous attempt at responsiveness – without any advice that this was a matter as to which a Fifth Amendment privilege applied, in that the magistrate judge gave the defendant to understand he was not asking about the case – represents exactly the opposite of what is intended by the obstruction enhancement. The defendant, addressed as Mr. Campa by the Court, was asked for the “full” name; without benefit of a Spanish interpreter, he related the first name of Ruben, the only part of the name the magistrate judge had not himself articulated in asking the question. To make the name “Mr. Campa” full, one must add the first name, Ruben. There is no doubt that if the magistrate judge had stated I am going to ask you whether we have correctly identified your true name as Ruben Campa, the magistrate judge would have given a specific Fifth Amendment warning and, in any event, the defendant would have invoked Fifth Amendment rights. That simply was not the context of the question asked by the magistrate judge here.

14. Nor did the magistrate judge precede the question by explaining ‘I will be asking you for information regarding your true identity or information that I will rely on in determining facts pertinent to your case.’ The magistrate judge simply asked “Mr. Campa” to state the full name. To assume an intent to materially mislead the magistrate judge at that stage of the proceedings where the answer was in at least one sense correct is of independent significance. But coupled with the

appellate court's misapprehension that the assertion was made in an attempt to convince the court that the defendant was bondable is plainly wrong.

15. The government claims that this all occurred in the detention hearing, but that is not true. The question of bond was not made known to the defendant until later. Indeed, the magistrate judge did not say why he was asking for the fullness of "Mr. Campa[']s" name for the record. Whether it was because the magistrate judge wanted to know if there was a middle name or wanted Mr. Campa to come clean and state his true identity in the context of this case, without a specific warning, is, at the very best for the government, a matter of pure speculation, but the latter appears very unlikely. And speculative sentencing enhancements are barred under Eleventh Circuit precedent. *See United States v. Young*, 39 F.3d 1561 (11th Cir. 1994) (mere speculation as to the interpretation of words used by the defendant insufficient to sustain conviction); *United States v. Sarro*, 742 F.2d 1286, 1298-99 (11th Cir. 1984) (unclear from snippets of conversation if defendant was aware of nature of discussion of art theft); *United States v. Gonzalez*, 183 F.3d 1315, 1324-25 (11th Cir. 1999) (ambiguity as to meaning of statement rendered evidence insufficient to prove element of offense); *United States v. Vaghela*, 169 F.3d 729, 734 (11th Cir. 1999) (holding that under 18 U.S.C. § 1503, government must prove "the natural and probable effect of interfering with the due administration of justice' in a way that is more than merely 'speculative'") (citing *United States v. Aguilar*, 515 U.S. 593, 601 (1995)); *see also United States v. Thomas*, 916 F.2d 647, 652, 654 (11th Cir. 1990) (holding that even perjury by defendant was insufficient to prove government's case where its effect and purpose in obstructing justice was speculative); *United States v. Banks*, 347 F.3d 1266, 1271 (11th Cir. 2003) (assumptions about possible obstruction not enough to justify sentencing guideline obstruction enhancement). The claim for sentencing relief in this case is well

founded and the Court should proceed to take evidence to the extent any factual dispute is raised by the government's filing.

CONCLUSION

For the foregoing reasons, Movant Ruben Campa (Fernando Gonzalez) respectfully requests that the Court grant his motion under 28 U.S.C. § 2255, grant his request for an evidentiary hearing and appropriate discovery, and grant such further relief as is warranted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I CERTIFY that the foregoing was filed with the Clerk by means of CM/ECF filing on this 17th day of December, 2011.

s/ Joaquin Mendez, Jr.
Joaquin Mendez, Jr.

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1 issue up with all of you. That is my understanding. The whole
2 entire venire is public record. The specific twelve jurors is
3 not.

4 Any objection to providing a whole venire?

5 MR. McKENNA: I object and I would ask for time to
6 research it for a week if that is okay.

7 THE COURT: I will instruct the jury pool to have them
8 file a motion so they could file a motion and you can have time
9 to respond.

10 MR. McKENNA: Thank you.

11 THE COURT: The second issue regards the jury. One of
12 my staff members happened to be walking up the steps this
13 morning and didn't even realize whether -- it was my secretary
14 Robin so she doesn't have direct contact with the jurors on a
15 regular basis, and watched this person being filmed as they
16 were walking up the courthouse steps. As she got in the
17 elevator with this person and they pressed four, she realized
18 this must be one of the jurors and they said hello to her, they
19 recognized her. There was a discussion amongst the jurors who
20 were there that they have been followed by the cameras. I did
21 arrange yesterday for them to go out another way when they left
22 with Larry.

23 MR. BLUMENFELD: That is what was on TV.

24 THE COURT: They were filmed yesterday and several of
25 them felt they were filmed all the way to their cars and their

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1 license plates had been filmed.

2 I am going to make arrangements with the marshal for
3 them to come into the courthouse by other means other than on
4 their own and have them come through the garage. They don't
5 need this pressure -- nothing should be dissuading them or
6 preoccupying the jurors from their duty at this time to
7 deliberate, and they certainly should not be pressed by the
8 media during deliberations.

9 I am going to make other arrangements today as to
10 their transportation back to their cars or Metrorail, wherever
11 they have to go and make arrangements from here on in so they
12 will be parking away from the courthouse or some kind of
13 arrangements will be made to be picked up and brought into the
14 garage.

15 MR. McKENNA: When you do that, would it be possible
16 by letter or however you are going to address the issue with
17 the jury, would you tell them you are doing it because of the
18 media interest in them and not because of security reasons?

19 THE COURT: Yes.

20 This is something brought up by them, they were
21 concerned. The observation was made by my secretary. Then it
22 was brought up by the jurors what had happened, that they had
23 been filmed and several of them felt their license plates were
24 being filmed, so they are concerned. They are concerned they
25 are being pressed and filmed and I want to accommodate and

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1 alleviate that concern that they have, but I wanted to let you
2 all know before I made final arrangements.

3 They have been busily working.

4 I take it there is no objection to that as far as any
5 security arrangements with the marshal as the Court finds
6 appropriate to insure their privacy?

7 MR. McKENNA: None.

8 MR. KASTRENAKES: I agree totally with what the Court
9 wants to do. I felt concerned about the Court imparting a
10 message to them about it.

11 THE COURT: The only message is going to be that we
12 have made arrangements so when they leave and come into the
13 courthouse they are not exposed to the media.

14 MR. KASTRENAKES: They could leave in privacy.

15 MR. McKENNA: So they would not be exposed to the
16 media.

17 THE COURT: That is all. They could come and go
18 without being exposed to the media. This is a concern they
19 have. It is not something -- I didn't see any of the TV news.

20 MR. BLUMENFELD: It was on 23. It showed Larry with
21 them in single file walking.

22 THE COURT: I took them out the North exit. That was
23 the delay in leaving yesterday.

24 MR. BLUMENFELD: Two cameras were out there yesterday,
25 23 and Radio Marti.

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1 Nobody sees TV Marti anyway other than the control
2 room.

3 THE COURT: I won't convey it to them, Lisa will. She
4 will say because of the media exposure, we have made other
5 arrangements.

6 If they say we don't want it, I will not impose it
7 upon them but I will make it available and leave it up to them
8 collectively and individually as they wish to take advantage of
9 what the Court offers. It will mainly be parking elsewhere
10 which we will make arrangements and going into a van as soon as
11 they park, meeting the people at Metrorail and meeting a van
12 and bringing them in through the garage and taking them up to
13 the fourth floor.

14 (Open court.)

15 THE COURT: We are in recess. Everybody remains on
16 ten minute stand by.

17 (Therefore a recess was taken, after which the
18 following proceedings were had.)

19 (Open court. Jury not present.)

20 THE COURT: We are back on United States of America
21 versus Gerardo Hernandez et al., Case Number 98-721.

22 State their appearances against for the record.

23 (All parties present.)

24 THE COURT: This is the time that the jurors have
25 determined they wish to cease their deliberations today.

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Type of Misconduct/ Relevant Case Law	Specific Instances: Comments/Arguments/Evidence	Was There a Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>1. Misstating the record – in violation of court orders re: unproven/ uncharged espionage (“spying”) by Campa on military base in Fayetteville, N.C.</p> <p><i>Hands</i> <i>Davis</i> <i>Blakey</i> <i>Alzate</i></p>	<p><u>Opening:</u></p> <p>– “Defendant John Doe number three, the evidence will show, lived for a time in Fayetteville, North Carolina, a stone’s throw from the Camp LeJeune Marine Base.” (R29:1583)</p> <p><u>During Trial:</u></p> <p>Government elicits testimony to which Campa objects as attempts to link Campa to spying on military base in Fayetteville, North Carolina. <i>See</i> R54:5253 (testimony of FBI Agent Giannotti regarding possibility of uncharged Fayetteville activities by Campa); R68:6936, 6938 (government seeks to introduce map depicting Fort Bragg and elicits references to Fayetteville military installation during testimony of Campa’s former Fayetteville landlord, Olin Baggett); R76:8272 (government seeks testimony from Admiral Carroll regarding Fort Bragg and Fayetteville, NC)</p> <p><u>Rebuttal:</u></p> <p>“I submit to you it is impossible to believe we would be better off with spies in our community in Tampa, in Fayetteville, North Carolina, in Norfolk, Virginia, on our military bases” (R124:14477)</p> <p>“Ruben Campa ... a Cuban spy sent to the United States to destroy the United States” (R124:14481)</p> <p>“It is not just the dead kids. How about the live people they have ... Osvaldo Reina, a truck driver from Florida. . . . Look, they are Cuban spies.” (R124:14482)</p> <p>“Let's ask, why are you on military bases? Why are you in Key West Florida at Boca Chica Naval Air Station? Why are you in Fayetteville North Carolina”? (R124:14483)</p>	<p>No</p> <p>Yes – Objections made to each of four references: (R54:5253; R68:6936, 6938; R76:8272)</p> <p>Court twice instructs government not to suggest criminal/military-related activity in Fayetteville by Campa. (R54:5282; R68:6958).</p> <p>Court denies motions for mistrial. (R54:5277-79; R68:6952-56; R76:8338).</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes – Sustained. (R124:14483). Motion for mistrial (R124:14483, 14538-14543) denied (R124:14543 -14545) – although court states “it is close. I don’t disagree with your concern.” (R124:14544).</p>	<p>No</p> <p>As to 4th reference – R 7 6 : 8 3 7 3 (directing jury to disregard government’s suggestion of military connection)</p> <p>No</p> <p>No</p> <p>No</p> <p>No – despite defense request for curative instruction as alternative to mistrial. R124:14541.</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>(cont'd – 2. additional instances of misstating the record/evidence)</p> <p><i>Hands Davis Blakey Alzate</i></p>	<p><u>D) All violent activity by exile groups has been prosecuted:</u></p> <p>– “Every case Mr. Mendez brought before you resulted in somebody getting arrested and prosecuted. It sounds like the FBI does do their job” (R124:14471-72)</p>	<p>Yes (“Misstates the evidence”)– Sustained (R124:14472)</p>	<p>No</p>
	<p><u>(E) Cuba employs death penalty for littering</u></p> <p>– “What typically is the consequence of a pilot violating civil aviation regulations with regard to throwing things out of airplane windows? ... The penalty for that would not be death, would it?” (R73:7806-07)</p>	<p>Yes – Sustained (R73:7807)</p>	<p>No</p>
	<p><u>(F) Captain Johansen’s log book didn’t plot longitude</u></p> <p>– “Mr. McKenna, what you forgot to tell the jury, what the longitude was because if you look at it, this is February 17” (R124:14523)</p>	<p>Yes (“It is a misstatement. He plotted both the longitude and the latitude on the map”) – Sustained (R124:14523)</p>	<p>No</p>
	<p><u>(G) “When you [the Cuban Government] are caught, you destroy evidence”</u> (R124:14531)</p>	<p>Yes (“It is so far outside of our case”) – Sustained (R124:14531)</p>	<p>No</p>
	<p><u>(H) [Buchner, the defense radar expert] “had 75,000 reasons to make that stuff up.”</u> (R124:14533)</p>	<p>Yes (“There is no evidence he got \$75,000”) – Sustained (R124:14533)</p>	<p>No</p>
	<p><u>(I) They [spies] “infiltrated Congress”</u> (R124:14488; 14476)</p> <p>– “Don't look at me, look at these other people, forget I am a spy infiltrating the FBI, the United States Congress” (R124:14476)</p> <p>– “They infiltrated Congress” (R124:14488).</p>	<p>No</p> <p>No</p> <p>No</p>	<p>No</p> <p>No</p> <p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>3. Misstating the law/ distorting or attempting to vitiate the jury instructions (as to Count 3)</p> <p><i>Romine Hall High</i></p>	<p><u>Initial Closing:</u> –“The evidence does show that the plan was to shoot down the aircraft, period, and if that meant in international air space, that was agreeable to the plan” (R122:14112)</p> <p>–“We know the shutdown in international air space was contemplated from the fact that it actually occurred in international air space. [A] conspiracy does not need to have succeed for this to be a conspiracy, but when it does succeed as this one” (R122:14112)</p> <p><u>Rebuttal:</u> – “The United States must prove there was a conspiracy to kill and we have proven a conspiracy to kill” (R124:14514)</p> <p>– “How else do you know that there was a conspiracy to kill here?” (R124:14515)</p> <p>–“We have jurisdiction in this Court, in this United States District Court because it occurred in international air space” (R124:14517)</p> <p>– “There is an element that requires the proof of the crime occurring in international air space” (R124:14517)</p> <p>– “Ladies and gentlemen, you read the instructions” (R124:14517)</p> <p>– “The United States of America has proven that the shutdown occurred in international air space “ (R124:14518)</p> <p>“I am merely telling the jury – ” (R124:14518)</p>	<p>Yes (“It is a misstatement of the law”) – Sustained (R122:14112)</p> <p>Yes (“It is a misstatement of the law” – Sustained (R122:14113)</p> <p>Yes (“They have to prove more than that”) – Sustained (R124:14515)</p> <p>Yes – Sustained (R124:14515)</p> <p>Yes – Sustained; defense seeks instruction to “disregard that mistake of law;” court grants motion to strike. **[Curative instruction by court arguably exacerbates prejudice, by telling jury the “statement regarding jurisdiction is not ... for the jury [and] is for the Court to determine.” (R124:14517)</p> <p>Yes (“It is a misstatement. It is an agreement”) – Sustained</p> <p>Yes (“He is now arguing with the Court what the instruction says”) – Sustained (R124:14517-18)</p> <p>Yes (“I object to this argument by counsel and I ask that it be stricken. That is not what must be proven”) – Sustained (R124:14518)</p> <p>Yes (“I object to him arguing with you about the law”) – Sustained (directing AUSA to “Move on”) (R124:14518)</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes** (see ruling at left)</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>4. Urging jury nullification</p> <p><i>Funches</i> <i>Trujillo</i></p>	<p>Re: Count 3:</p> <p>– “If don’t think of an argument because I am not as smart as you guys, please if you have an argument in your head and it blows his arguments away, don’t be afraid to use it.” (R124:14510)</p> <p>Generally:</p> <p>– [Within first few words to the jury in rebuttal]: “Now you are ready in a short while on Monday to start talking among yourselves what the right decision is in this case.” (R124:14471)</p> <p>– [Last words to the jury]: “I know you will do the right thing.” (R124:14536)</p>	<p>No</p> <p>No</p> <p>No</p>	<p>No</p> <p>No</p> <p>No</p>
<p>5. Misleading the jury as to the nature of the defense/ suggesting defense is a last minute fabrication/ attacking counsel for arguing all grounds for acquittal</p> <p><i>Davis</i></p>	<p>Re: Count 3:</p> <p>– “There is one truth, just one truth, there is not multiple theories, not multiple choice tests. Truth comes in one package and this is a quest for the truth. Mr. McKenna told you in his opening the shooting was justified. The shoot downs of those planes were justified. He argues to you now his client didn’t know anything about it. It is not a multiple choice test. Somebody dies and it is justified, you are involved in it. If you don’t know anything about it, tell us from the beginning Mr. McKenna. Why do we spend months determining where the location of the shutdown was? If your guy doesn’t know anything about it, let’s go home. That is because he changes horses in the middle of the stream. He throws up what might be good day one and then uses what may be good day two.”(R124:14510-145111)</p> <p><i>Compare</i> McKenna’s Opening: “[S]eated right behind me is the scapegoat” (R29:1604); Cuba had “no need for my client to do anything” as to the shutdown. “That info was provided by the United States Government.” (R29:1618); “I think when you have heard all the evidence, you will come to a conclusion about what happened with respect to the Brothers to the Rescue and it is going to be A, that Mr. Hernandez had absolutely no involvement in the decision itself to shoot down the plane. He didn't do anything to help the Cubans. All that info had been given by the U.S. Government.” (R29:1624)</p>	<p>No</p>	<p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>6. Vouching</p> <p><i>Berger</i> <i>Young</i> <i>Eyster</i> <i>Butera</i> <i>Garza</i> <i>Hands</i> <i>Russell</i></p>	<p><u>For the fact that all of the defendants are spies:</u></p> <p><u>Opening:</u> – “This is a case about agents of the Cuban espionage service who came to this country to spy” (R29:1570)</p> <p>– “a sophisticated and highly motivated espionage cell operating in the midst of our community” (R29:1577)</p> <p><u>In trial:</u> AUSA comment in presence of jury reflecting belief that defendants committed espionage conspiracy (R:113:13127)</p> <p><u>Rebuttal:</u> – “I submit to you it is impossible to believe we would be better off with spies in our community in Tampa, in Fayetteville, North Carolina, in Norfolk, Virginia, on our military bases” (R124:14477)</p> <p>– “Ruben Campa ... a Cuban spy sent to the United States to destroy the United States” (R124:14481)</p> <p>– “It is not just the dead kids. How about the live people they have assumed identity of to escape from this county. Osvaldo Reina, ... Edwin Martinez, ... Daniel Cabrera. Look, they are Cuban spies.” (R124:14482)</p> <p>– “Let’s ask, why are you on military bases? Why are you in Key West Florida at Boca Chica Naval Air Station? Why are you in Fayetteville North Carolina?” (R124:14483)</p> <p>– “We know [Medina] was spying on the air force base because he kept a record” (R124:14484-14485).</p> <p>– “My G-d these guys are spies. What do you think they are doing in this country? (R124:14510)</p> <p>– “When the smoke clears, you can look at all of these Defendants for what they truly are ... spies, bent on the destruction of the United States of America” (R124:14535)</p>	<p><i>See #1 supra</i> re: Campa’s trial objections & court’s sustaining</p> <p>No</p> <p>No</p> <p>Yes – Sustained; remark stricken (113:13127); motion for mistrial denied – R113:13130</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes. Sustained. (R124:14483). Motion for mistrial denied (R124:14483, 14538-14545), although court states “it is close. I don’t disagree with your concern.” (R124:14544).</p> <p>No</p> <p>No</p> <p>No</p>	<p><i>See #1</i></p> <p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>6. Vouching (continued)</p> <p><i>Berger Young</i></p>	<p><u>For fact the “spies” were “bent on destroying the U.S.”</u></p> <p><u>For credibility of FBI, government witnesses, and Basulto:</u></p> <p>– “[The FBI] did a fabulous job. They are the best of the best and they have set quite a high mark for future performances in other cases. The surveillances, the searches that were involved all with the approval of the United States District Judges; the decrypted disks, the preservation of all the available evidence, an extraordinary job, worthy of the highest praise.” (R124:14472)</p> <p>– “Every case that Mr. Mendez brought before you resulted in somebody getting arrested and prosecuted. It sounds like the FBI does do their job.” (R124:14471-14472)</p> <p>– “Whether you disagree or agree with Jose Basulto ... he was bent on the overthrow of the communist country of Cuba as he is today, he wants to see Democracy restored” (R124:14475)</p> <p>– “The FBI isn’t invited back to pursue that stuff” (R124:14493)</p> <p>– “When the bosses in Havana decide that they want to share evidence with the United States of America (R124:14493)</p> <p>– When “they want to allow witnesses to be interviewed in Cuba, then that process will take place” (R124:14493)</p> <p>– Re: Stu Hoyt: “ I submit to you he was a superb witness with impeccable credentials” (R124:14503)</p> <p><u>For the fact that there was no “credible evidence’ of exiles planting bombs in Havana (as the defense maintained):</u></p> <p>– “Bombs in Havana. Absolutely wrong. If there is evidence, credible evidence that was prosecutable in this district or I hope any other district where there is a capable prosecutor and capable investigators, they should bring those charges against people if they are responsible from this community or any other community in the United States. I will find out and prosecute the case.” (R124:14492)</p>	<p><i>See supra # 2.</i></p> <p>No</p> <p>Yes – Sustained (R124:14472)</p> <p>No</p> <p>Yes – Sustained (R124:14493)</p> <p>Yes – Sustained (R124:14493)</p> <p>Yes – Sustained (R124: 14493)</p> <p>No</p> <p>No</p>	<p><i>See # 2</i></p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>6. Vouching (continued)</p> <p><i>Berger</i> <i>Young</i></p>	<p><u>For fact that Hernandez supports “goon squads” to brutalize anyone who complains about the Cuban government:</u></p> <p>– “What is Hernandez all about? ... Does he say let’s send the goon squad and give this guy a tune up? What did he say in the document? You need to send out some people from the department and talk to this guy. What do you think ‘go see this guy’ means in Cuba, somebody who talks about Fidel Castro?” (R124:14495)</p>	<p>No</p>	<p>No</p>
<p>7. Burden-shifting/ complaining defendants went to trial and cross- examined witnesses</p> <p><i>Cunningham</i> <i>Simon</i> <i>Blankenship</i> <i>Blakey</i></p>	<p>– “It is lawyer talk getting up here and saying we don’t dispute it [false identities]. Sure they dispute it; they pled not guilty” (R124:14480)</p> <p>– “They forced us to prove their guilt beyond a reasonable doubt. They received the ablest of counsel who argued every point and called many witnesses and cross-examined our witnesses.” (14482)</p> <p>– “As Mr. McKenna has amply demonstrated to you they have no burden of proof but he absolutely has subpoena power. He called a number of witnesses.” (R124:14525)</p> <p>– “The defense has the same subpoena power – ” (R124:14525)</p> <p>– “It is not – ” (R124:14525)</p>	<p>No</p> <p>No</p> <p>Yes (“Object to the shifting of the burden”) – Sustained (R124:14525)</p> <p>Yes (“It is shifting – ”) – Sustained (R124:14525)</p> <p>Sustained (“Move on Mr. Kastrenakes”) (R124:14525)</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>
<p>8. Personally attacking the defendants</p> <p><i>Blakey</i> <i>Hall</i> <i>Hands</i> <i>Wilson</i> <i>Rodriguez</i> <i>Barker</i> <i>Young</i> <i>Darden</i></p>	<p><u>Bent on destroying the US</u></p> <p><u>They sponsor book bombs</u></p> <p><u>Re: Hernandez:</u></p> <p><u>In trial:</u> Testimonial reference (second) to Hernandez’s noting that a taxi driver was criticizing the Cuban government, to align Hernandez with repression in Cuba (R46:3970-71)</p> <p><u>Rebuttal:</u> “What is Hernandez all about? He never loses an opportunity to spy or report on people. ... Does he say let’s send the goon squad and give this guy a tune up? What did he say in the document? You need to send out some people from the department and talk to this guy. What do you think ‘go see this guy’ means in Cuba, somebody who talks about Fidel Castro?” (R124:14495)</p>	<p><i>See supra</i> #2</p> <p><i>See supra</i> # 2</p> <p>Yes – overruled. (R46:3971).</p> <p>No</p>	<p><i>See</i> # 2</p> <p><i>See</i> # 2</p> <p>No</p> <p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>9. Attacking defendants for having court-provided counsel</p> <p><i>Goodwin</i> <i>Wilk</i> <i>Rodriguez</i></p>	<p>– Defendants received the “ablest of counsel who argued every point: These are for people bent on destroying the United States, paid for by the American taxpayer” (R124:14482)</p> <p>“Mr. Blumenfeld made that statement to the jury” (R124:14482)</p> <p><i>See also:</i> [Buchner, the defense radar expert] “had 75,000 reasons to make that stuff up, folks. 75,000 reasons” (R124:14533)</p>	<p>Yes (McKenna: “Objection;” Mendez: “I have a motion”) – Sustained (R124:14482)</p> <p>Sustained (R124:14482)</p> <p>Yes – Sustained (R124:14533)</p>	<p>No</p> <p>No</p> <p>No</p>
<p>10. Personally attacking defense counsel</p> <p><i>McLain</i> (plain error) <i>Friedman</i></p>	<p><u>Attacks on the Defense Attorneys (Severally) During Closing/Rebuttal:</u></p> <p>– It’s “time now for the propaganda to end” (R122:14119)</p> <p>– “I wonder why they say those sorts of things [focus your attention on the exile extremist activity]” (R124:14471)</p> <p>– “In this trial you have heard invented the Disney world defense put before you (GC: 14476)</p> <p>– “It is lawyer talk getting up here and saying we don’t dispute it [false identities].” (R124:14480)</p> <p>– Defense of monitoring “Cuban exile groups” is “a fallacy” (R124:14483)</p> <p>– “Was this the provocations of a terrorist counterrevolutionary group? No. The Cuban government doesn’t say that. That is lawyer talk in a courtroom five years later.” (R124:14523)</p> <p><u>Attacks on Defense Attorneys (Individually) During Rebuttal:</u></p> <p>Blumenfeld/Ct. 2: – “When you are the defense attorney you have to dance around plain English ... ignore your common sense” (R124:14501) – “What Mr. Blumenfeld told is not the evidence, it is lawyer talk.”(R124:14509)</p> <p>Horowitz: – “Well, Mr. Horowitz, I am sorry ... Not lawyer talk, evidence.” (R124:14489)</p> <p>– “Mr. Horowitz’ argument is, it is ridiculous” (R124:14492)</p>	<p>No</p>	<p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>10. (cont'd) Personally attacking defense counsel</p> <p><i>McLain</i> (plain error) <i>Friedman</i></p>	<p><u>Attacks on Defense Attorneys (Individually) During Rebuttal (cont'd):</u></p> <p>Norris: – “The hollow words of Mr. Norris he is sorry that his client stole the identity of some child is not enough. ... Mr. Norris’ words ring very hollow.” (R124:14481-14482)</p> <p>McKenna/Ct3: -- “It doesn’t matter in the world of George Buchner who [the shutdown victims] are. All that matters to George Buchner and Mr. McKenna is Jose Basulto. What kind of justification is that to shoot people out, or in Mr. McKenna’s word, the final solution. I heard that word before in the history of mankind.” (R124:14474)</p> <p>– “Mr. McKenna told you in his opening the shooting was justified. The shoot downs of those planes were justified. He argues to you now his client didn’t know anything about it. It is not a multiple choice test. Somebody dies and it is justified, you are involved in it. If you don’t know anything about it, tell us from the beginning Mr. McKenna. Why do we spend months determining where the location of the shutdown was? If your guy doesn’t know anything about it, let’s go home. That is because he changes horses in the middle of the stream. He throws up what might be good day one and then uses what may be good day two.”(R124:14510-14511)</p> <p>– “You don’t dance around it, you don’t throw up ideas that are false and come up with some other ideas. You tell the truth.” (R124:14511)</p> <p>– McKenna’s law is “the law of the jungle.” (R124:14514)</p> <p>– “Mr. McKenna, what you forgot to tell the jury, what the longitude was because if you look at it, ...” (R124:14523)</p> <p>– “[Y]ou will see that argument for what it is, a total falsehood, a total unmitigated falsehood, nothing to do except to mislead you.” (R124:14524)</p> <p>– “If you believe this malarky ... acquit” (R124:14530)</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes (“It is a misstatement. He plotted both the longitude and the latitude on the map”) – Sustained (R124:14523)</p> <p>No</p> <p>No</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>11. Appealing to patriotism, passions, morals, fears, and concern for human rights in Cuba</p> <p><i>Cunningham Cole Barker</i></p>	<p><u>Opening:</u> –“a sophisticated and highly motivated espionage cell operating in the midst of our community” (R29:1577)</p> <p>–“attempting ... to discredit ... Cuban community in Miami” (R29:1591-1592)</p> <p><u>During Trial:</u> – Government recognizes BTTR as “humanitarian” despite discontinuance of BTTR rafter reporting following U.S.-Cuba migration accord of 1995 (R29:1589)</p> <p>– FBI witness describes Cuban agency as “an intelligence pyramid” headed by Fidel Castro. (R44:3699-3700)</p> <p>– Government’s BTTR representative witness, Iglesias, receives directions/signals from BTTR lawyer during testimony; BTTR attorney – first warned during testimony of BTTR witness, Lares, R55:5515-16 – expelled from courtroom after continuing with visible gesturing in aid of government examination of witness. (R56:5605)</p> <p>– While testifying, government’s BTTR witness, Iglesias, admonished by court for repeatedly engaging in prejudicial courtroom demonstrations when attorneys were distracted by attending side bar conferences during his testimony. (R56:5629; R58:5902, 5949)</p> <p>– Government’s Cuban dissident witness, Leonel Morejon, repeatedly makes reference to repression and his imprisonment in Cuba despite court order to government to avoid such testimony. (R58:5997; R60:6195)</p> <p>– Prosecutor highlights Cuba as “repressive,” R80:8748, “dictatorship.” R80:8754. Americans, not Cubans, have “freedom of choice” R80:8754.</p> <p>– Witness Basulto (called by defense, but aligned with government and later lauded by government as “freedom fighter”) accuses defense counsel of collaborating with the Cuban government – “Are you doing the work of the intelligence government of Cuba ... ?” (R81:8945)</p> <p>– Government asks Basulto about “tense time in this community” during 1962 missile crisis (R83:9241)</p> <p>– Impermissible government publishing of United Nations findings and condemnation of shutdown. R88:10027.</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes – Sustained (R56:5605)</p> <p>Yes – Sustained (R58:5949)</p> <p>Yes – Sustained (R60:6195))</p> <p>No</p> <p>Yes – Sustained (R81:8947). Denial of motion for mistrial, but partial granting of curative instruction request.</p> <p>Yes – Sustained (R83:8955)</p> <p>Yes – Sustained; but motion for mistrial denied (R88:10027)</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes (R81:8955: counsel is “doing his job”)</p> <p>No</p> <p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>11. Cont'd (appealing to patriotism, passions, morals, fears, and concern for human rights in Cuba)</p> <p><i>Cunningham Cole</i></p>	<p><u>Initial Closing:</u> – I don't know if you saw the old movie Invasion of the Body Snatchers. This is a movie where the planet is being taken over by pod people and at the end is a scene of a truck driving off with new pods in it ready to be sown. That is what this is, new identifies ready to be used and ready to be sown by the Cuban Intelligence Service.” (R121:13939-40)</p>	No	No
	<p>– It's “time now for the propaganda to end” (R122:14119)</p>	No	No
	<p><u>Rebuttal:</u></p>		
	<p>– “This is an extremely important case. Your decision is extremely important” (R124:14471)</p>	No	No
	<p>– “A bureau that sees the United States of America as its prime and main enemy.” (R124:14475)</p>	No	No
	<p>– “These are not the rules of Cuba. ...” (R124:14475)</p>	No	No
	<p>– “They [spies] are everywhere, come on.” (R124:14477)</p>	No	No
	<p>– Spies “bent on destroying the U.S.” (R124:14481-82, 14536)</p>	Yes – Sustained (R124:14482)	No
	<p>– “[Judge] will do her job if you do your job” (R124:14487)</p>	No	No
	<p>– “Cuba [is] friends with our enemies” (R124:14512)</p>	No	No
	<p>– “If their own people see that planes dropping leaflets people inside those planes are going to be murdered brutally, mercilessly and nothing happens, what people in Cuba are going to stand up for their rights? Zero.” (R124:14520)</p>	No	No
	<p>– “Does the Cuban government have a stake in this case? A huge one.” (R124:14532)</p>	No	No
	<p>– “When the bosses in Havana decide ...” (R124:14493)</p>	Yes – Sustained (R124:14493)	No
<p>– “I want you to remember that when you think how long this trial has lasted, from Thanksgiving to Memorial Day, a day we commemorate people who have fought for our country and Thanksgiving, a day we cherish to be with our families and this will never happen again for these families because he with his blood promotion to Captain, Captain Hernandez” (R124:14535)</p>	No	No	
<p>– “I know you will do the right thing” (R124:14536)</p>	No	No	

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>12. Introducing purely inflammatory evidence/making purely inflammatory arguments</p> <p><i>Hands Bowen Frost North Martin v. Parker</i></p>	<p><u>Invoking the name of G-d on the side of the prosecution:</u> – “We are not operating under the Rules of Cuba, thank G-d” (R124:14475) – “My G-d these guys are spies. What do you think they are doing in this country?” (R124:14510) – [Re: Cuban witnesses]: “Adlai Stevenson said it best about lies. He said lies are an abomination unto the Lord but a very pleasant help in a time of trouble. Aren’t they?” (R124:14530)</p> <p><u>Comparing shutdown to Hitler’s “Final Solution:”</u> – “All that matters to [Buchner and McKenna] is Jose Basulto. What kind of justification is that to shoot people out, or in Mr. McKenna’s word, the final solution. I heard that word before in the history of mankind.” (R124:14474).</p> <p><i>Compare</i> McKenna’s closing (arguing based on premise that Cuban radar showed military shutdown occurred in Cuban air space) (R124:14433); “last resort” jury instruction: R125:14610.</p> <p><u>Persistent References to “the Dead Babies”</u></p> <p><u>Opening:</u> – “The evidence will show that the real Ruben Campa died in California in infancy ... sadly, the real Luis Medina died in infancy in California” (R29:1570-71) – “birth certificates for the real but unfortunately deceased infants whose identity they assumed” (R29:1581)</p> <p><u>During trial:</u> – Despite motion and offer to stipulate, government asks first witness, “look around the courtroom and tell us if you see your [deceased] son” (R30:1711, 1716), after asking witness, Reverend Medina, to describe son’s death: “He became very ill so we took him to the hospital to find out what was wrong with him. ... They discovered he had a spinal problem and after a few days, he passed away.” (R30:1709-10); later government questioning (unobjected-to): “Does Florida law allow you to obtain driver's licenses and false identifications under the name of a dead baby?” (R33:2164)</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Following opening statement Campa moves <i>in limine</i> arguing “emotional testimony regarding deceased son will be unfairly prejudicial” given defense stipulation to identity-related facts (DE787:3); Govt. refuses stipulation, court overrules objection – R30:1715</p> <p>Defense objects to continued asking of “macabre” question (re: dead child in courtroom) – objection partially sustained, but government permitted to present – via three witnesses – evidence re: death of family members;</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>

Misconduct/ Case Law	Specific Instances: Comments/Arguments/Evidence	Defense Objection? How Did the Court Rule?	Curative Instruction?
<p>(cont'd – 12. inflammatory evidence, argument)</p>	<p><u>Closing:</u></p> <ul style="list-style-type: none"> – “These are the driver’s licenses in the names of the three illegal officers, that they were using ... having appropriated these identities from infants who once died” (R121:13929) – “For the main identities the illegal officers used these dead babies’ identities” (R121:13930) <p><u>Rebuttal:</u></p> <ul style="list-style-type: none"> – “They killed 4 innocent people and they use in these identities dead babies, dead children to establish who they are ... “you talk about stealing the memories of families. Reverend Medina lost a child 30 years ago. ... They don’t care.” (R124:14480) 	<p>No</p> <p>No</p> <p>No</p>	<p>No</p> <p>No</p> <p>No</p>