

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Case No. 1:10-21957-cv-JAL  
(98-721-cr-JAL)

GERARDO HERNANDEZ,  
Movant,

v.

UNITED STATES,  
Respondent.

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**MOVANT'S MEMORANDUM IN FURTHER SUPPORT OF THE MOTION FOR ORAL  
ARGUMENT AND FOR DISCOVERY (DE38)**

COMES NOW MOVANT Gerardo Hernandez, by counsel, and submits the following memorandum, with citations to supplemental materials, in further support of his motion for oral argument and for discovery filed on June 6, 2012 (DE38).

**POINT I**

**THE GOVERNMENT DOES NOT DENY THE FACTS THAT REQUIRE  
THE CONVICTION BE SET ASIDE AND THAT MOVANT BE  
IMMEDIATELY RELEASED FROM HIS WRONGFUL CONFINEMENT**

The Government, more than two years after first receiving Movant's 28 U.S.C. §2255 petition does not specifically or factually deny the following:

- a. That an unknown number of journalists and media outlets were paid from 1996 to 2001 to secretly write, speak, and propagandize against Movant;
- b. That many, if not all, of these journalists who were handpicked by the Government to

propagandize were either Bay of Pigs combatants who fought and supported the invaders, formerly involved with the Government agencies (including the CIA), jailed in Cuba or by the American Government for anti-Castro activities;

c. That the Government did not hire or pay anyone who did not have a commitment to the conviction of the Cuban Five, and who was not willing to work for that conviction;

d. That the paid journalists passed background checks administered by the Government to make sure they had the necessary commitment to aid the prosecution;

e. That the amount of money paid to the journalists and the media outlets read and heard in Miami exceeded hundreds of thousands of dollars;

f. That the journalists were rewarded for their “success”, both with payments of more and more money and more and more government information;

g. That Jose Basulto, through his colleagues and associates in the Government funded program, (including Jorge Mas Canosa, and other individuals who received Government funds) influenced and controlled Radio/TV Marti and wrongfully received governmental funds to influence the jury. Radio/TV Marti, after the shoot-down, made the conviction a priority and transmitted to Miami broadcasts aimed at obtaining convictions.

h. The five years of Radio/TV Marti broadcast, along with other media outlets (some of which were clandestine and some of which re-broadcasted previous Radio/TV Marti Broadcasts), in hundreds, if not thousands of broadcasts were meant to, and did, influence and intimidate the Cuban Five trial jury.

i. That effective control and influence of Radio/TV Marti passed to Jose Basulto, Brothers to the Rescue, and colleagues after 1996, and that Radio/TV Marti moved to Miami in 1996, and

that the continued funding of these broadcast stations and journalists was because of the Government's belief they were succeeding.

j. That the heretofore undisclosed Radio/TV Marti files, tapes, and broadcasts into Miami will conclusively show the Government meant to, and did, intimidate and influence the jurors and the community they were part of; and

k. That the prosecution knew some or all of the foregoing, or now knows some or all of the foregoing.

l. That the Movant did not and could not know of the Government's use of such substantial funds to wrongfully persuade the jury to convict Movant even though the Movant was innocent of the crimes charged.

## **POINT II**

### **THE FACTUAL AND LEGAL ARGUMENTS IN MOVANT'S 28 U.S.C. §2255 APPLICATION REQUIRE THAT DISCOVERY BE GRANTED**

1. Propaganda is a form of communication aimed at influencing the attitude of a community toward a cause of action or position.<sup>1</sup> Propaganda is often repeated and disbursed over a wide variety of media in order to create a specific identifiable result in audience attitudes. It uses a pre-determined narrative intended to mislead. Propaganda is a form of political warfare – it is the use of loaded messages to produce an emotional rather than rational response to the information presented. That is why our law attempts to totally ban the use of law Government funds for

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<sup>1</sup> The publicity or propaganda prohibition is included in the yearly Congressional Consolidated Appropriations Act Pub.L. No. 108-199, div. F, title VI, sect. 624, 118 Stat. at 356. See also John Elliston, *Psy War on Cuba*, Ocean Press, 1999. 92-96.

domestic propaganda and why the Church Committee<sup>2</sup> investigated and came to the conclusion that our Government consistently and wrongfully attempted to subvert the laws: See,

*When the Story is us: Miami Herald, Nuevo Herald, and Radio/TV Marti*, Columbia University Case Study, CSJ-10-0026.0;

(<https://casestudies.jrn.columbia.edu/casestudy/www/home.asp?nid=1>); Alberto

Muller, *Asesinos*, DIARIO LAS AMERICAS, February 20<sup>th</sup>, 2001.

(<http://www.diariolasamericas.com>); *March 11<sup>th</sup> 2009 Freedom of Information Act Petition*

*Response*, Office of the General Counsel FOIA and Privacy Act, Case #FOIA 09-007; Julio

Armando Estornio's Resume, Found through FOIA Documents; Julio Estorino, *Malice*

*Aforethought*, DIARIO LAS AMERICAS, May 14<sup>th</sup>, 1999. At 4-A

(<http://www.diariolasamericas.com>); Kathy Glasgow, *Overthrow on the Radio*, THE MIAMI

NEW TIMES, February 13<sup>th</sup>, 1997.(<http://www.miaminewtimes.com>); Liberation Newspaper's

FOIA Documents Analysis 1&2, *Government-Funded propaganda Operation in Miami Exposed*,

Gloria La Riva & Ben Becker, [ReportersForHire.com](http://www.pslweb.org/reporters-for-hire/analysis/govt-funded-propaganda-part-1.html) (<http://www.pslweb.org/reporters-for-hire/analysis/govt-funded-propaganda-part-1.html>); Luis Aguilar Leon, *Rage and its*

*Limitations*, EL NUEVO HERALD, February 27<sup>th</sup>, 1996, at 6A

(<http://www.elnuevoherald.com>);

Christopher Marquis, *Journalists Will Analyze Integrity of Radio/TV Marti Transmissions*,

EL NUEVO HERALD, January 26<sup>th</sup>, 1996, at 11A (<http://www.elnuevoherald.com>);

Wilfredo Cancio Isla, *Cuba Used Hallucinogens to Train its Spies*, EL NUEVO

HERALD, June 4<sup>th</sup>, 2001. (<http://www.elnuevoherald.com>);

Carol Rosenburg, *Havel Salutes Ex-Prisoner of Castro*, THE MIAMI HERALD,

September 23<sup>rd</sup>, 2002.( <http://www.latinamericastudies.org/human-rights/havel-salutes.htm>);

Alvin Snyder, *Privatize Radio and TV Marti*, THE MIAMI HERALD,

April 29<sup>th</sup>, 1996, at [http://alvinsnyder.com/privatize\\_radio\\_and\\_tv\\_marti\\_54918.htm](http://alvinsnyder.com/privatize_radio_and_tv_marti_54918.htm)

United States Government Accountability Office, Opinion GAO-12-243R, *Broadcasting Board Of Governors Should Provide Additional Information to Congress Regarding Broadcasting to Cuba*, December 13<sup>th</sup>, 2011 and United States Government Accountability Office, Opinion

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<sup>2</sup> The Church Committee is the common term referring to the United States Senate Select Committee to Study governmental Operations with Respect to Intelligence Activities, a U.S. Senate committee chaired by Senator Frank Church (D-ID) in 1975. A precursor to the U.S. Senate Select Committee on Intelligence, the committee investigated intelligence gathering for illegality by the Central Intelligence Agency (CIA) and Federal Bureau of Investigation (FBI) after certain activities had been revealed by the Watergate affair. Prior to the Church Committee, and after the Cuban revolution, the Government owned media entities and secretly paid journalists in Cuba (Exhibit OO). After the Church Committee, the Government continued to do the same thing, both domestically and internationally (Exhibits AA, BB, CC, DD, and EE).

GAO-08-764, *Weaknesses in Contracting Practices Reduced Visibility into Selected Award Decisions*, July, 2008; Mike Clary, *Radio Marti's Move to Miami Strains Credibility, Critics Say: Lawmakers, Others Warn Against Relocation to Heart of Cuban American Community*, THE LOS ANGELES TIMES, August 20<sup>th</sup>, 1996 ([http://articles.latimes.com/1996-08-20/news/mn-35941\\_1\\_radio-marti.htm](http://articles.latimes.com/1996-08-20/news/mn-35941_1_radio-marti.htm)); Oscar Corral, *10 Miami Journalists Take U.S. Pay*, THE MIAMI HERALD, September 8, 2006, at 1A. (<http://www.miamiherald.com>); Abby Goodnough, *U.S. Paid 10 Journalists for Anti-Castro Reports*, THE NEW YORK TIMES, September 9, 2006 (<http://www.nytimes.com>); United States Government Accountability Office, Opinion B-305368, *Department of Education – Contract to Obtain Services of Armstrong Williams*, September 30<sup>th</sup>, 2005; United States Government Accountability Office, Opinion B-229069, *66 Comp. Gen 707*, September 30<sup>th</sup>, 1987. (<http://redbook.gao.gov/13/fl00613.php>); Ariel Remos, *Close to 100,000 Cuban Exiles Made Their Rejection of Castro Clear*, DIARIO LAS AMERICAS, October 13, 1998, page 1A (<http://www.diariolasamericas.com/>); Orlando Bosch, *Lightning*, DIARIO LAS AMERICAS, May 15<sup>th</sup>, 2001. LINK "<http://www.diariolasamericas.com/>" <http://www.diariolasamericas.com/>); Daniel Morcate, *Imperfect Crime*, EL NUEVO HERALD, May 13<sup>th</sup>, 1999. (<http://www.elnuevoherald.com/>); Memorandum from David Ogden, Deputy Attorney General, to Department Prosecutors, January 4, 2010. (<http://www.justice.gov/PrintOut2.jsp>).

2. The Government's international propaganda machine was directed at this American trial. It insults both the integrity of the trial itself, the Court, the community for whom the jury speaks, and is part of and within the scope of the 28 U.S.C. § 2255 proceeding. The Government, prior to 1996 and 2001 and after 2001, did what the Government did in Miami, and it has been consistently unconstitutional:

Carl Bernstein, *The CIA and the Media*, Rolling Stone, October 20, 1977. ([http://www.carlbernstein.com/magazine\\_cia\\_and\\_media.php](http://www.carlbernstein.com/magazine_cia_and_media.php)); Seymour M. Hersh, *HUGE CIA OPERATION REPORTED IN US. AGAINST ANTIWAR FORCES, OTHER DISSIDENTS IN NIXON YEARS.*, *The New York Times*, December 22, 1974, at 1. (<http://www.nytimes.com>); *Hard-Line Organizations*, Cuban Information Archives Document 0005 p. 1, 15, Binder Section 15, 1998-2010, ([http://www.cuban-exile.com/doc\\_001-025/doc0005.html](http://www.cuban-exile.com/doc_001-025/doc0005.html)).

3. The use and actions of secret propagandists to wrongfully influence the jury in the United States is forbidden by the Constitution:<sup>3</sup>

Howard Kurtz, *Administration Paid Commentator*, Politics, January 8, 2005 at AOL (<http://www.washingtonpost.com/wp-dyn/articles/A56330-2005Jan7.html>); Greg Toppo, *Education Department Paid Commentator to Promote Law*, USA Today, January 7, 2005. (<http://www.usatoday.com/news/washington/2005-01-06-williams-wh...>); David Barstow, *Behind TV Analysts, Pentagon's Hidden Hand*, The New York Times, April 20, 2008 at 1. (<http://www.nytimes.com/2008/04/20/us/20generals.html?pagewanted=all>); Mark Mazzetti and Borzou Daragahi, *US. Military Covertly Pays to Run Stories in Iraqi Press*, the Los Angeles Times, November 30, 2005. (<http://articles.latimes.com/2005/nov/30/worldfg-infowar30...>); Jeff Gerth and Scott Shane, *U.S. Is Said to Pay to Plant Articles in Iraqi Papers*, the New York Times, December 1, 2005. (<http://www.nytimes.com/2005/12/01/politics/01propaganda.html?pa...>).

4. The conviction must now be set aside on the grounds that it was unconstitutionally obtained by illegal governmental misconduct aimed at persuading and intimidating the jury and the community from which they came and succeeded in interfering with the trial and did persuade the jury to convict Movant.<sup>4</sup>

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<sup>3</sup> Carl Bernstein, *The CIA and the Media*, Rolling Stone, October 20, 1977, ([http://www.carlberstein.com/magazine\\_cia\\_and\\_media.php](http://www.carlberstein.com/magazine_cia_and_media.php)) Seymour M. Hersh, *HUGE CIA OPERATION REPORTED IN US. AGAINST ANTIWARFORCES, OTHER DISSIDENTS IN NIXON YEARS.*, The New York Times, December 22, 1974, at 1. (<http://www.nytimes.com>)

<sup>4</sup> Getting detailed, responsible information about the Government's use of radio Marti funds for illegal purposes has always been difficult. As late as 2011, Radio Marti was failing to give information to the Government as to exactly what it was doing. See GAO reports on Cuba (Exhibit P).

The Government's Response continually wants to get into pro Castro and anti Castro arguments, paint the Government critics and defense lawyers as agents or partisan, and use that as a justification for the invocation of CIPA. This is neither the time nor the place to recount the view of many individuals, corporations, government elected officials and government agencies with their particular view of Cuba, Fidel Castro and Fidel Castro supporter's. The question is larger and more important for this country's

5. This Court cannot permit the integrity of American criminal trials to be made vulnerable to prosecutorial manipulation directed specifically to the trial outcome, which is then shielded from examination by false assertions of classification and national security privilege. The Journalists and certain media outlets were paid by the Government to do whatever they could to secure the conviction of Movant. They were hired and kept their employment because of their backgrounds and agreement to work for Movant's conviction. At the hearing we will go through the Government's selection process, the motivation of those who were paid, the motivation and practices of those who hired and made the payments, the results obtained Government's rewarding of those who participated in the conviction project.<sup>5</sup>

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constitutional principle. How did the Government and Radio/TV Marti, so sophisticated in managing perceptions "manage perceptions" in the Miami jury? Before the revolution, before the Bay of Pigs and thereafter, the multiple stories of assassination attempts at Cuban officials show, it is safe to say, there has been a substantial hostility in Miami directed at Cuba, Castro and Castro supporters. The Government, here as in the instances considered by the Church Committee, knew the exact buttons to push. It is hard to think of a more reviled figure by exiles in Miami than Fidel Castro and his supporters. These were "models" in the Government, and at Radio/TV Marti, to show how the media was to be used against these defendants. The Government followed their models. Basulto and Brothers to the Rescue, through Radio/TV Marti and this Government, waged through the secret propagandists an unprecedented media campaign that we have never seen in any other case in the United States. The management of perceptions in Miami between 1996 and 2001 was very, very easy, thorough, and successful.

<sup>5</sup> The Government paid these propagandists large sums of money, day after day, year after year, because the Government believed monies were being successfully used to convince the jury to convict. The five-year propaganda effort, with far more than a thousand articles, television, and radio shows (this number does not include Radio Marti Miami broadcasts), was relentless. At the hearing, we believe we will show many of the Government's other assets were secretly used to support illegal activities to do far more than just propagandize. The articles and words used to convict Movant were worse than disclosed propaganda – it was covert and secret propaganda hiding behind the names of known entities and journalists that the public thought were independent.

6. This case can be decided in one hour. The Radio/TV Marti tapes and records and the details of the payments and the materials the Government employees wrote should lead to an immediate vacatur. There may not be need for further testimony. If there is a hearing we will discuss other specific journalists and specific governmental payments that are illustrative of the larger group of propagandists. We will provide names of journalists, their histories, the amount of Government monies they received, and the names of the supposedly independent news entities under which they published secretive Government-scripted propaganda.<sup>6</sup>

7. We are focusing thus far only on one government agency, its personnel hiring and journalistic practices to show who the employers of the propagandists were. There may have been

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<sup>6</sup> Movant's assistants, the previous attorneys in the FOIA suits, and those representing Movant went through a variety of Government databases and files. These databases are incomplete, some do not start early enough, and often are contradictory. We have found multiple but incomplete payment records from various governmental agencies overseen by the Broadcasting Board of Governors (BBG) and the United States Information Agency (USIA), including the Office of Cuba Broadcasting (OCB), Voice of America (VOA), Radio and TV Marti, and others. These payments have been documented in multiple FOIA suits and petitions, the Federal Procurement Database System, and investigative reports and articles, all of which are discussed in more detail later.

Paid Government propagandists were involved in all, or nearly all of the 1,932 days between the date of the shoot-down and the date of the conviction. It is only the Government records that can fully detail the daily media events and specific acts of misconduct of a five-year period that began 16 years ago. None of the articles or speeches indicate that the writer or speaker is receiving Government monies. Each speech and each article is misrepresented. Thus, as a matter of law, each and every article is a violation irrespective of what the article actually says.

The Broadcasting Board of Governors (BBG) became the independent entity responsible for all U.S. Government and government-sponsored, non-military, international broadcasting on October 1, 1999. With enactment of the 1998 Foreign Affairs Reform and Restructuring Act (Public Law 105-277), the BBG assumed authority for the International Broadcasting Bureau (IBB) and its broadcasting services – the Voice of America (VOA) and the Office of Cuba Broadcasting (OCB). The Board also oversees three grantee organizations, Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia (RFA), and the Middle East Broadcasting Networks (MBN).

others. Nowhere in the GAO reports or in any Congressional testimony that we have seen, is there any mention of the Government paying independent journalists in Miami during 1996 to 2001 to propagandize about the trial in domestic media. Movant cannot be kept in jail because he did not know anything at all about the facts of an artfully and totally concealed illegal practice that was concealed from Congress and the Department of Justice.

8. Radio/TV Marti moved from Washington D.C. to Miami in early 1996. Although the Government's broadcasts were ostensibly aimed at Cuba, the primary area of concern was Miami. The entire network of clandestine journalists, were geared to break the law that stops the Government from propagandizing its citizens in Miami. Radio/TV Marti hired new personnel after the move; nearly all new hires were Cuban exiles committed to Movant's conviction; then, over the next five years, the Government spent vast sums in Miami as it became a center for actions against Movants and others.

9. The move to Miami at the time of the shoot-down facilitated the creation of this secret network. As Alvin Snyder noted in The Miami Herald on April 29, 1996<sup>7</sup>, the move to Miami was to remove or minimize Washington DC and the Voice of America's effective controls over Radio/TV Marti. The effective management of Radio/TV Marti changed hands in 1996, and as the GAO reports and Congressional testimony indicate, many in Washington DC were very glad to be less involved with what was now becoming a rogue operation.

10. The Government (and the prosecutor) knew of the relationship between the shoot-down, Brothers to the Rescue, the trial, Jose Basulto, and Radio/TV Marti and knew of the media's use to

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<sup>7</sup>Alvin Snyder, Privatize Radio and TV Marti, THE MIAMI HERALD, April 29<sup>th</sup>, 1996, at [http://alvinsnyder.com/privatize\\_radio\\_and\\_tv\\_marti-54918.htm](http://alvinsnyder.com/privatize_radio_and_tv_marti-54918.htm). Exhibit O

get a conviction. As Alvin Snyder says, the Government, through the board of Radio/TV Marti, staff, freelancers, and contractors, was a “provocateur”. Radio/TV Marti was the voice of Brothers to the Rescue. It was been the voice of Jose Basulto, who was on the plane that came back from the shoot-down, and whose colleagues worked with the Government on this prosecution. Jose Basulto, criticized for the death of his men, had a “personal” stake in the conviction of the Movant, and Radio/TV Marti, and for this and other reasons, wanted to convict Movant. <sup>8</sup>

11. We will show through discovery, that at the exact time that the events surrounding this trial took place, Radio/TV Marti redirected its focus and assets from Cuba to Miami, in order to satisfy the powerful domestic Cuban exile movement. The move to Miami cost nine million dollars. That sum, in 1996, was in addition to Radio/TV Marti’s annual budget of \$30 million, a large

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<sup>8</sup> Alvin Snyder writes in April 29<sup>th</sup>, 1996 of his investigation: “Several weeks before Fidel Castro’s jet fighters shot down the planes of the Brothers to the Rescue, Radio/TV Marti was bragging that a small plane had buzzed Havana and dropped Anti-Castro leaflets. Castro was mocked for not retaliating, and a Cuban American was quoted that such flights to Havana would be made regularly. Castro’s downing of the two unarmed passenger planes in international waters was reprehensible. Yet it is difficult to fathom why an American government- financed radio station was permitted to carry the threats by Cuban-Americans exile leaders who were goading Castro, and why the Radio/TV Marti journalist doing the interview didn’t challenge the statements.

Radio/TV Marti’s broadcast headquarters currently are located in Washington so that its programs can be screened by the U.S. Information Agency’s Voice of America. Congress’s mandated move of its broadcast headquarters to Miami will place Radio/TV Marti outside any effective VOA oversight.

According to a spokesman for Sen. Phil Gramm, R-Texas, who sponsored the move, ‘putting the headquarters for Cuban broadcasting closer to the heart of the Cuban- American community just makes sense.’ That being the case, the time has come, too, for Miami’s Cuban-Americans formally to take over Radio Marti and run it as their own, without Washington attempting to look over their shoulders.”

portion of which moved to Miami.<sup>9</sup> Alvin Snyder, after setting the background in his writings, gives the obvious reason Marti was moved to Miami:

A State Department official recently provided, to a gathering of diplomats, an overview of U.S. foreign relations, without once mentioning Cuba. Asked why Cuba had been omitted, the official replied that “Cuba is no longer a foreign policy issue; it is a domestic political problem”<sup>10</sup>(Snyder p. 1)

12. After the Miami move, Radio/TV Marti had over 100 employees. More than half of that budget, and the highest concentration of employees were run through Miami. The proof we believe will show that a substantial portion of those assets, personnel and funds, were directed at obtaining a conviction for the Movant.

13. After the move to Miami in 1996, Radio/TV Marti, and the Cuban exile movement, now awash in government funds were free of any significant legal controls. Practices previously prohibited now flourished. The Government Radio /TV Marti radio and television station became what the Cuban exiles wanted it to be, a rogue outfit committed to the conviction of Movant. The Government succeeded.

14. Professor Stephen Kimber, a respected scholar at the University of Kings College in Halifax in his book entitled “What Lies Across the Water : The Real Story of the Cuban Five”, explains why secretly paid Government journalists/agents in Miami from 1996 to 2001 were so

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<sup>9</sup> Because government budgets are reported agency by agency, it is difficult, if not impossible, to learn how such Government money went to Basulto, his colleagues, his nominees, and Radio/TV Marti and their nominees.

<sup>10</sup> “The VOA, which enunciates U.S. ideals and foreign policies around the world, has always been uncomfortable supervising the politically oriented Cuba broadcasts,” writes Alvin Snyder. Now, they no longer effectively were.

easily able to create the climate of fear, intimidation, and hostility for witnesses and jurors that made a fair trial impossible. He shows the relationship between the past and present in the Miami payments. Professor Kimber shows the motivations of both the payor and payee of the funds.<sup>11</sup>

15. Professor Kimber details the paid agents' use of each other as experts, and shows how information was passed from one journalist to another until it became irrefutable fact.<sup>12</sup>

16. David Attlee Phillips, a Central Intelligence officer for 25 years, formerly involved with Alpha 66, an organization of anti-Castro Cuban fighters and its founder Antonio Veciana, estimated in an interview that at least 200 journalists signed secrecy agreements or employment

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<sup>11</sup> As Professor Kimber points out, again taking a position that contradicts the Government, it is not the journalist's historical views of Khrushchev, Elian Gonzalez, The Bay of Pigs, The Cuban Missile Crisis, or Fidel Castro, that is the issue. It is the way that the Government secretly paid sophisticated propagandists in Miami to weave together all of the disparate strands of the Cold War, its historic parameters, and political devils, adding those "murdered and destroyed" by America's enemies, and "to be murdered in the future", as a context for their stories so they could arrive at the conclusion the Government wanted. There is a religiously followed, strident, and inflammatory format for all the articles. They all come out of the same bad cookie cutter.

"The day after the initial charges were announced, El Nuevo Herald reporter Pablo Alfonso insinuated—without offering any concrete evidence—that the FBI arrests "may be an action aimed at preventing a possible collaboration between the Cuban government and countries involved in terrorist actions against the United States." ... later, he resurrected Cold War rhetoric to suggest "the idea to send Cuban spies en masse to Miami was developed more than three decades ago in the Georgian city of Pitsunda in the old Soviet Union" during a post-Cuban missile crisis tête-à-tête between Soviet leader Nikita Khrushchev and Fidel Castro". (p.346)

<sup>12</sup> Writing in *Diario Las Americas* on September 20, 1998, Ariel Remos parroted and amplified Alfonso's claims that the arrests "could be" connected to Cuba's terrorist plans, then upped the ante yet again, tying together "the issue of spies and drug traffickers," and claiming—again without offering evidence—that it was "obvious" Castro "has been significantly involved in drug trafficking." Two-and-a-half years later, on the day the un-sequestered jury was set to begin considering its verdict, El Nuevo Herald trumpeted the headline: "Cuba Used Hallucinogens to Train its Spies." In the article, Wilfredo Cancio quoted yet more anonymous sources, these ones suggesting Cuba fed its spies LSD and other hallucinogens to train them for their missions.

At one level, the incendiary anti-Cuban rhetoric in South Florida's Hispanic press was par for the Miami exile course but, as would later be discovered, it was also being surreptitiously, simultaneously funded by the same American government that was prosecuting the Five. At least 10 well-known South Florida journalists, including Alfonso, Remos and Cancio, all supplemented their salaries with tens of thousands of undisclosed dollars from the U.S. government-funded Board of Broadcast Governors and the Office of Cuba Broadcasting. After the secret payments to the journalists were finally exposed in 2006, the Herald fired [Alfonso and Cancio] for violating the 'sacred trust' between journalists and the public. But, by then, the damage had been done. (p.346-347)

contracts with the Government from 1952 to 1977. No Government database has this information. See [http://en.wikipedia.org/wiki/David\\_Atlee\\_Phillips](http://en.wikipedia.org/wiki/David_Atlee_Phillips). We do not know how many journalists signed similar arrangements in Miami from 1996 to 2001. Discovery must now be immediately granted if the judgment is not now vacated.<sup>13</sup>

## CONCLUSION

### MOVANT'S MOTION FOR DISCOVERY SHOULD BE GRANTED

DATED: November 16, 2012

Martin Garbus

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Memorandum was filed this 16th day of November, 2012 via electronic case filing and a copy was served on counsel of record by that means.

Richard C. Klugh

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Richard C. Klugh

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<sup>13</sup> Memorandum from David Ogden, Deputy Attorney General, to Department Prosecutors, January 4, 2010.(NK "http://www.justice.gov/PrintOut2.jsp" <http://www.justice.gov/PrintOut2.jsp>).