

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-CV-21957-JAL
(98-CR-721-JAL)

GERARDO HERNANDEZ,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

AFFIDAVIT OF WILLIAM M. NORRIS

William M. Norris, having been duly sworn, deposes and says:

1. I am over the age of 21 and qualified to give oaths in Florida.
2. I provide this affidavit at the request of Martin Garbus, one of the attorneys for Gerardo Hernandez, who has asked me to address my experience as trial counsel for co-defendant Ramón Labaniño that relates to assertions by Assistant U.S. Attorney Caroline Miller regarding the non-dissemination of jurors' identities during trial.
3. I have reviewed Ms Miller's "Consolidated Reply" filed on December 21, 2012 and her attempted rebuttal of Mr. Garbus' claim that the community knew who the jurors were.
4. The Consolidated Reply states: "The record conclusively refutes this. The media did not have the names of the jurors, and toward the end of the trial requested, but were not given, those names." DE73:48.
5. The suggestion that the identity of the jurors was not known to the media is incorrect.
6. Jury selection went on for several days over a two-week span and, in addition to having been a participant in the process, I carefully reviewed the transcript of that portion of the trial in the preparation of Mr. Labaniño's 2255. The court did not select an anonymous jury or make any attempt to shield the identity of the panel members. During voir dire, the members of the panel identified themselves by name and gave biographical and employment information as well as general information about their families and where they lived. The media was in attendance and wrote articles about the jurors' responses. In Mr. Labaniño's pleading, I discussed the empirical evidence that news coverage of the jury selection process impacted the nature of the answers given by members of the panel.

7. The point which I believe is important is that the names of the jurors selected was revealed in public session, attended by members of the media, and enough information was provided to make finding them a relatively simple task. A notable example of the ready identifiability of the jury panel was the juror who held a professional position at Fairchild Tropical Garden. He was interviewed after the verdict by the media.

8. The protracted trial of this case was a significant event in my life. It also pulled the jurors out of their usual lives for over seven months.

9. The persistent interest of the media in this case was unique in my experience. It went far beyond the occasional story on the evening news or in the morning paper. It involved personal interaction with the members of the media. During the trial, I parked in a small lot which is now part of the Wilkie D. Fergusson Courthouse property. Jack Blumenfeld, trial counsel for a codefendant, parked there also and frequently we would walk to our cars together after court sessions. On several occasions, we were followed by members of the media. My licence plate number was in plain view.

10. I served for many years as an Assistant U.S. Attorney in the Southern District of Florida, including a period as Chief of Narcotics. During that entire time, my name, home address and telephone number were in the phone book. A number of my associates said that they thought this was unwise, but there was no event which troubled me. During the trial of this case, however, my reaction was different; I felt concern about my safety.

11. During the run-up to trial, during trial, and after, my principle avocation was a youth activity. I spent some time in that activity with a particular friend who was raised in Cardenas, Cuba, the hometown of "Eliau." I discussed in detail trial preparation, trial issues, my visits to Cuba and Cuban-American relations with this man. He had deep antipathy for the changes brought by the Cuban Revolution. Also, my neighbors knew of my role in this case, and some were not shy in letting me know what they had strong opposition to the thought that any defense should be given to these men.

12. I do not know if the jurors spoke with their friends and neighbors, but it is improbable that they did not. I do not know what feedback they received, but they are part of the same community of which I am a member, and I doubt that what they heard was different than what I heard.

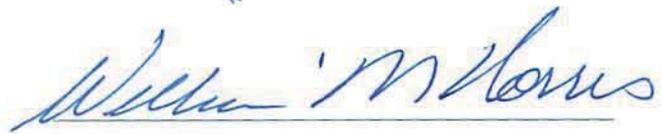
13. I personally know that jurors were followed by camera-wielding members of the media, because I saw it. I also know that they were concerned about this because they communicated those concerns to the Court's staff and the matter of licence plate numbers was specifically mentioned.

14. During trial, Joachin Mendez, counsel for one of the codefendants, called as witnesses a number of the members of the anti-Castro community in Miami. Some of these people were deeply troubling. One of the witnesses Mendez called had a business card that identified himself as "Commandante" of a group called "F4." Mendez asked what "F4" stood for and the witness said "we fire in all four directions." As a tactical plan, this would serve only a lone gunman, not a group. What it said about the witness' mental health gave me pause. Even the rafter-rescuing Basulto viewed his prior conduct of shelling an ocean front hotel with a 105 millimeter cannon as a patriotic act because he believed it was occupied by Soviet troops. I do not know what impact this testimony

had on the jury, but it gave me concern for my own safety and the safety of my family. Mr. Mendez said that he moved out of his home to a hotel, during trial related demonstrations, because of his concerns for his family's safety.

15. During trial, I knew in a general way that Radio Marti was a government propaganda effort designed to bring about regime change in Cuba, but I had absolutely no idea that they were paying journalists who helped create the news environment in which I live my life, and I had no idea of the backgrounds of some of these journalists. Many of them seem to me to be more like the witnesses called by Mr. Mendez than people I would rely on as opinion leaders or news reporters.

16. To suggest, as Ms. Miller does, that evidence such as the interest of my client's group in the Cudjoe Key blimp put me on notice of the use of the government's foreign propaganda arm, which I have learned since the 2006 disclosure in the Miami Herald, is unreasonable.



William M. Norris

Sworn to and subscribed before me this 14 day of January, 2013.

William M. Norris is personally known to me.

Notary Public



My commission expires

NOTARY PUBLIC-STATE OF FLORIDA
 Elizabeth K. Richert
Commission # DD896087
Expires: JULY 21, 2013
BONDED THRU ATLANTIC BONDING CO., INC.