

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
El Paso Division**

UNITED STATES OF AMERICA)	
)	Case No. EP-07-CR-87
v.)	
)	The Honorable Kathleen Cardone
LUIS POSADA CARRILES)	

**GOVERNMENT’S RESPONSE TO ORDER REGARDING
BILL OF PARTICULARS AS TO COUNT THREE**

The United States of America, by and through Michael J. Mullaney, Acting U.S. Attorney, and undersigned counsel, respectfully responds to the Court’s Order of January 20, 2010, requiring the United States to file a bill of particulars within 10 days as to Count Three of the Superseding Indictment, “which shall conform with the purposes and policies noted” in the Order. Order at 4 [dkt. 317].

As the Court described, “[t]he purposes of a bill of particulars are to obviate surprise at trial, enable the defendant to prepare his defense with full knowledge of the charges against him, and to enable double jeopardy to be pled in case of a subsequent prosecution.” Order at 2 [dkt. 317] (quoting *United States v. Mackey*, 551 F.2d 967, 970 (5th Cir. 1977)). However, a bill of particulars “is not designed to compel the government to detailed exposition of its evidence or to explain the legal theories upon which it intends to rely at trial.” Order at 2 [dkt. 317] (quoting *United States v. Burgin*, 621 F.2d 1352, 1359 (5th Cir. 1980)). The Court faulted the language of Count Three in that “it provides no further detail to help identify which items of information were false, which submissions contained them, which questions and answers were false, and at which interviews those questions were propounded and responses obtained.” Order at 3 [dkt. 317]. In compliance with the Court’s Order, the United States reports as follows:

1. On or about June 13, 2005, in connection with a pending matter before an Immigration Judge in Immigration Court, and in connection with removal proceedings and the

application by the defendant for asylum and withholding of removal, under the immigration laws and regulations of the United States, the defendant, Luis Posada Carriles, knowingly and willfully provided false information in a written submission to the Immigration Court sworn under oath, that is, his Application for Asylum and Withholding of Removal (Form I-589), by making the following declarations:

A. In response to the question, “What other names have you used?,” the defendant stated, “N/A,” Form I-589 at Part A.I, 6, meaning “Not Applicable,” when in fact he used the names or aliases “Ramon Medina,” “LOBO,” “SOLO,” “Manuel Enrique Castillo Lopez,” “Francisco Rodriguez Mena,” “Jose Rivas Lopez,” “Bambi,” and “Ignacio Medina,” among others;

B. In response to the requirement to “Please list each entry to the U.S. beginning with your most recent entry,” the defendant stated that he entered at the “Mexican Border” on “3/26/2005,” Form I-589 at Part A.I, 18(c), when, in fact, he had entered the United States at the State of Florida, on or about March 18, 2005;¹

C. In response to the question, “Are you fluent in English?,” the defendant stated “No,” Form I-589 at Part A.I, 23, when, in fact, he was fluent in the English language;

D. In response to the requirement to “Provide the following information about your residences during the last five years,” the defendant stated that he “does not remember” the “Number and street,” “City/Town” and “Department, Province or State” in which he lived in Panama, Form I-589 at Part A.III, 2, when, in fact, he remembered residing in a prison in Panama during that four-year period; and

¹ Citations to Form I-589 are to the relevant Part and block or question on the form. For example, “I-589 at Part A.I, 6” refers to block 6 in Part A.I of the form.

E. In response to the question, “Have you, your spouse, or child(ren) ever ordered, incited, assisted, or otherwise participated in causing harm or suffering to any person because of his or her race, religion, nationality, membership in a particular social group or belief in a particular political opinion?,” the defendant stated “No,” Form I-589 at Part C, 3, when in fact defendant has taken violent action against others in opposition to their political opinions.

Defendant’s above listed declarations were, in fact, false responses and information given to United States officials by the defendant with the intention to mislead and to evade having truthfully to answer material questions posed of him in connection with his asylum application and application for withholding of removal.

2. On or about August 30, 2005, in connection with a pending matter before an Immigration Judge in Immigration Court, and in connection with removal proceedings and the application by the defendant for asylum and withholding of removal, under the immigration laws and regulations of the United States, the defendant, Luis Posada Carriles, knowingly and willfully gave false, evasive and misleading testimony, and withheld information while testifying under oath in Immigration Court.²

Set forth below in bold type headings are the subject matters about which the defendant gave false, misleading or evasive testimony. Set forth in regular type is both the question in English and Cuban Spanish response of the defendant as it was translated into English by the interpreter during the defendant’s testimony in Immigration Court. Set forth in italics is a subsequent translation into English from the tape recording of the defendant’s testimony as he gave it in Cuban Spanish in Immigration Court:

² At the time and place alleged, the defendant Posada, appearing as a witness under oath at a proceeding before the Immigration Judge, was questioned in English and the questions were translated for him by an interpreter into Cuban Spanish. Posada’s answers were in Cuban Spanish, and they were translated into English.

A. Defendant's Knowledge of the English Language:

1. Question in English: And isn't it true that during the series of interviews with Miss Bardach, that you admitted that you were involved in the planning and preparation of those bombing attacks in Cuba that occurred in 1997?

English translation of Posada's response

in Cuban Spanish: I cannot answer with a yes or no. I will need to clarify that.

Interpreter's contemporaneous translation

of response: I cannot answer that with a yes or a no. I will need to clarify that.

* * *

English translation of Posada's response

in Cuban Spanish: The interview was done in English, a language that I do not know.

Interpreter's contemporaneous translation

of response: The interview was made in a language that I am . . . do not know.

Hr. Tr. at 357-58.³

2. Question in English: Now, you are not completely illiterate, uh, in English, is that correct?

English translation of Posada's response

in Cuban Spanish: No, It's not completely unknown to me, but I have difficulties with my ear . . . when I hear it, I can't capture it well.

Interpreter's contemporaneous translation

of response: No, I'm not completely illiterate of it, but I have difficulties when I hear it, my ear, I can't understand well.

Hr. Tr. at 369-70. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish, were false and misleading, as he then and there well knew and

³ Citations are to the transcript of the August 30, 2005 hearing in Immigration Court. Page references are to the Bates numbers at the lower right of each page, omitting the "09-" identifier. For example, "Hr. Tr. at 358" refers to the hearing transcript page Bates numbered 09-0358.

believed, in that he was, in fact, fluent in the English language and the interview with Ann Louise Bardach was, at times, conducted in the Spanish language.

B. Circumstances of the Interview with Ann Louise Bardach:

1. *English translation of Posada's statement*
in Cuban Spanish: There—there were illegal recordings made of—that interview.

Interpreter's contemporaneous translation
of statement: There are some illegal recording was made . . . were made during that interview.

Hr. Tr. at 358. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false or misleading, as Posada then and there well knew and believed, in that defendant implied that the interview with Ann Louise Bardach was recorded surreptitiously or without his consent, when, in fact, he well knew and believed both that Ann Louise Bardach was recording portions of their interview and that he had given her permission to do so.

2. Question in English: And at—at times the interview was also in Spanish, is that correct?

English translation of Posada's response
in Cuban Spanish: No.

Interpreter's contemporaneous translation
of response: No.

Hr. Tr. at 369. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false or misleading, as Posada then and there well knew and believed, in that the defendant's interview by Ann Louise Bardach was at times conducted in the Spanish language.

3. Question in English: Did Ms. Bardach ever tell you why specifically she came to talk to you about anything?

English translation of Posada's response
in Cuban Spanish: No, sir.

Interpreter's contemporaneous translation
of response: No, sir.

Hr. Tr. at 374. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false, as Posada then and there well knew and believed, in that Ann Louise Bardach told defendant that she interviewed him under mutually agreed-to terms about many anti-Castro activities, including among other things, the 1997 bombing campaign in Cuba.

4. Question in English: Okay. May I, uh, back up just to clarify for the record? Sir, you acknowledged that you were interviewed by Miss Salazar in August of 1998, and, uh, the purpose of the interview was to clarify, uh, for the record, your interview with the, Ann Bardach of the *New York Times*, is that correct, yes or no?

English translation of Posada's response
in Cuban Spanish: I did not know that it was for that.

Interpreter's contemporaneous translation
of response: I didn't know it was for that.

English translation of Posada's response
in Cuban Spanish: She simply interviewed me.

Interpreter's contemporaneous translation
of response: She simply interviewed me.

Hr. Tr. at 387. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false, as Posada then and there well knew and believed, that his purpose for granting an interview to Maria Elvira Salazar was to clarify the interview that he gave to Ann Louise Bardach of the *New York Times*.

C. Retraction by the *New York Times*:

Interpreter's contemporaneous translation of Posada's
statement : The *New York Times*, nine or ten days later retracted
those interviews.

English translation of Posada's statement

in Cuban Spanish: Saying—saying that because of my difficulty in the language, and . . . there had been confusions in the interview.

Interpreter's contemporaneous translation

of statement: Saying that because of my language difficulties, there had been confusion in my interviews.

Hr. Tr. at 358-59.

Question in English: Isn't true that the only retraction that the *New York Times* made was any reference you made that . . . any reference you made to the Cuban American National Foundation, uh, having provided the funds in support of the Cuba, of the, uh, Cuba bombing campaign?

* * *

English translation of Posada's statement

in Cuban Spanish: The—they also said that the difficulties that I have with the English language had caused that—that detail also in all the interview.

Interpreter's contemporaneous translation

of statement: They also said that difficulties that I have with the English language had caused all of that in the interview.

Hr. Tr. at 368-69. The declarations of defendant Posada, underscored above, which were translated from Cuban Spanish, were false, as he then and there well knew and believed, in that he knew that the *New York Times* retraction did not pertain to any language difficulty in his interview with Ann Louise Bardach.

D. Accuracy of the *New York Times* Account of the Interview:

English translation of Posada's statement

in Cuban Spanish: And, all those things caused to—to do a report but it—it wasn't saying the whole truth.

Interpreter's contemporaneous translation

of statement: All of those things put together, it's, well the outcome is that there is a report that was not saying the truth.

Hr. Tr. at 359. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false and misleading, as he then and there well knew and believed, in that he knew that the *New York Times* story accurately reported the substance of his statements made during the interview with Ann Louise Bardach, and accurately reported his involvement in the 1997 bombings in Cuba.

E. Recall of the Interview Conducted by Ann Louise Bardach:

1. Question in English: Well. Let me be a little more specific. Isn't it true that you told Miss Bardach that the purpose of the bombing campaign in Cuba was to generate publicity, uh, which would frighten away tourists from visiting Cuba? Did you tell her that, yes or no?

English translation of Posada's response

in Cuban Spanish: It could be that, that had been the purpose, but that doesn't have to be. That does not mean that I was the [unintelligible].

Interpreter's contemporaneous translation

of response: It could be that—that the purpose . . .

English translation of Posada's response

in Cuban Spanish: I don't remember that either—

Interpreter's contemporaneous translation

of response: . . . was . . .

English translation of Posada's response
in Cuban Spanish: . . . an interviews of . . .

Interpreter's contemporaneous translation
of response: —it could be that, that was the purpose. But that doesn't mean that it was me or I.

Question in English: Isn't it true that you told Miss Bardach, that you were involved in the planning and preparation for that bombing in Cuba?

English translation of Posada's response
in Cuban Spanish: I do not remember telling her that.

Interpreter's contemporaneous translation
of response: I do not recall having said that.

Hr. Tr. at 359-60. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish, were false, misleading and evasive, as he then and there well knew and believed, in that he knew that the purpose of the bombing campaign was to frighten away tourists and he knew that he told Ann Louise Bardach that he was involved in the 1997 Cuba bombing campaign.

2. Question in English: Isn't it true that you admitted to Miss Bardach that you have used the name Solo?

English translation of Posada's response
in Cuban Spanish: I do not remember telling her that either.

Interpreter's contemporaneous translation
of response: I do not recall having said that either.

Hr. Tr. at 360. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false, misleading and evasive, as he then and there well knew and believed, in that he did recall admitting to Ann Louise Bardach that he used the name "Solo."

3. Question in English: Isn't it true that Miss Bardach had a copy of the fax, which is party of Government's Exhibit One, Attachment A, and when you were shown that fax,

you acknowledged or you admitted to Miss Bardach that you wrote the contents of that fax?

English translation of Posada's response
in Cuban Spanish: I do not remember that.

Interpreter's contemporaneous translation
of response: I do not remember that.

Hr. Tr. at 360. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false, misleading and evasive, as he then and there well knew and believed, in that he did recall admitting to Ann Louise Bardach that he authored the fax.

4. Question in English: And you also saw a male by the name of Jose Burgos in Guatemala in 1997, is that correct, yes or no?

English translation of Posada's response
in Cuban Spanish: I do not—do not know that man, that is to say, I do not remember that.

Interpreter's contemporaneous translation
of response: I do not know that man. That is, I cannot remember that.

* * *

Question in English: Who else was with you and Jose Francisco Pepe Alvarez when you would, uh, gather at the business location of Antonio Alvarez?

English translation of Posada's response
in Cuban Spanish: From what I can remember, no one.

Interpreter's contemporaneous translation
of response: From what I can remember, no one.

Question in English: Wouldn't that be Jose Burgos?

English translation of Posada's response
in Cuban Spanish: Is—is that I don't remember Jose Burgos. [IN ENGLISH:] I don't remember at all Jose Burgos.

Interpreter's contemporaneous translation
of response: I don't remember Jose Burgos.

Hr. Tr. at 363-65. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish except where indicated, were false, misleading and evasive, as he then and there well knew and believed, in that he knew Jose Burgos and remembered meeting with Jose Burgos in Guatemala in 1997.

5. Question in English: Bardach. You discussed with her how you became a leader of the Cuban Exiles, uh, Clandestine Military Wing, plotting to kill Fidel Castro. Is that correct?

English translation of Posada's response
in Cuban Spanish: Miss, let me clarify something. I did not read the interview. That happened many years ago and I don't remember those things.

Interpreter's contemporaneous translation
of response: Ma'am, let me just clarify something. I did not read the interview. That happened too many years ago. I cannot remember many things.

Hr. Tr. at 377. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false, misleading and evasive, as he then and there well knew and believed, in that he had read the account of the interview he gave to Ann Louise Bardach and falsely claimed a lack of recall.

6. Question in English: Did you not tell Miss Bardach that you were proud of the series of hotel bombings last year, uh, against Cuba?

English translation of Posada's response
in Cuban Spanish: I do not remember that.

Interpreter's contemporaneous translation
of response: I do not remember that.

Hr. Tr. at 378. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false, misleading and evasive, as Posada then and there well knew and

believed, that he had spoken with Ann Louise Bardach and had spoken with pride when recalling the role he played in the 1997 bombings in Cuba.

7. Question in English: Sir, when you were interviewed by Miss Bardach, you stated that the FBI agent who had phoned Mr. Alvarez in Guatemala, Jorge Kiszinski, and that's K-I-S-Z-I-N-S-K-I, you described the FBI agent to Miss Bardach as a very good friend whom you had known a long time. Is that correct, yes or no?

English translation of Posada's response

in Cuban Spanish: It is not correct. I have spoken twice . . . I have spoken twice in my life with Mr. Kiszinski.

Interpreter's contemporaneous translation

of response: It's not true and that's not correct, I've only spoken twice in my life with, uh, Mr. Kiszinski.

Question in English: The question is did you, did you tell her that he was a good friend of yours?

English translation of Posada's response

in Cuban Spanish: No, I don't remember having said that.

Interpreter's contemporaneous translation

of response: I do not remember having said that.

Hr. Tr. at 382. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish, were false, misleading and evasive, as he then and there well knew and believed, in that he had described, and recalled describing, Jorge Kiszinski as a good friend.

F. Involvement in and Knowledge of the 1997 Bombing Campaign in Cuba:

1. Question in English: All right. Well you were involved in soliciting other individuals to carry out the bombing in, the bombings in Cuba?

English translation of Posada's response

in Cuban Spanish: No.

Interpreter's contemporaneous translation
of response: No.

Question in English: Now, you . . . do you . . . are you stating that the comments made by Ann Louise Bardach in the *New York Times* article, that you were involved in soliciting others, other individuals to engage in these bombings is not true?

English translation of Posada's response
in Cuban Spanish: I am saying that it is not true.

Interpreter's contemporaneous translation
of response: I am saying that it is not true.

Hr. Tr. at 362. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish, were false, as he then and there well knew and believed, in that he was involved in soliciting individuals to engage in the bombing campaign, and admitted such involvement to Ann Louise Bardach.

2. Question in English: Did you arrange for anyone, uh, when you were in Guatemala, did you arrange for anyone else to send Raul Cruz Leon to Cuba to set off bombs in 1997?

English translation of Posada's response
in Cuban Spanish: No.

Interpreter's contemporaneous translation
of response: No.

Question in English: Did you, did you or anyone that you met with in Guatemala make arrangements for an El Salvadorian by the name of Otto Rene Rodriguez Llerena, and that's spelled L-L-E-R-E-N-A, to go to Cuba in 1997 and set off bombs?

English translation of Posada's response
in Cuban Spanish: No.

Interpreter's contemporaneous translation
of response: No.

Hr. Tr. at 366. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish, were false, as he then and there well knew and believed, in that he knew that he had arranged for Raul Cruz Leon and Otto Rene Rodriguez Llerena, among others, to conduct the 1997 bombing campaign in Cuba.

3. Question in English: You acknowledged to Miss Bardach that Raul Cruz Leon worked for you, isn't that correct?

English translation of Posada's response
in Cuban Spanish: That also has an explanation . . . it has an explanation.

Interpreter's contemporaneous translation
of response: That also has an explanation.

English translation of Posada's response
in Cuban Spanish: To Mrs. Bardach, no.

Interpreter's contemporaneous translation
of response: To Mrs. Bardach, no.

English translation of Posada's response
in Cuban Spanish: No.

Interpreter's contemporaneous translation
of response: No.

Question in English: That's your explanation, that you—

English translation of Posada's response
in Cuban Spanish: No—no—no, I thought it was something else. I thought it was something else.

Interpreter's contemporaneous translation
of response: No—no—no, I thought it was something else.

Question in English: Did you ack . . . did you acknowledge to Miss Bardach or anyone that Raul Cruz Leon worked for you?

English translation of Posada's response
in Cuban Spanish: From what I can remember, no.

Interpreter's contemporaneous translation
of response: From what I can remember, no.

Hr. Tr. at 366-67. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish, were false, misleading or evasive, as he then and there well knew and believed, and that he had acknowledged to Ann Louise Bardach and Maria Elvira Salazar that Raul Cruz Leon was hired by someone who worked for him to participate in the 1997 bombing campaign in Cuba, and that he recalled having stated it to both Ann Louise Bardach and Maria Elvira Salazar.

4. Question in English: Now do you recall, are you stating that you do not recall that you . . . of telling Miss Bardach that you planned the bombing.

English translation of Posada's response
in Cuban Spanish: That I . . . I don't recall having said that.

Interpreter's contemporaneous translation
of response: Yes, I do not recall having said that.

Hr. Tr. at 370. The declaration of defendant Posada, underscored above, which is translated from Cuban Spanish, was false, misleading and evasive, as he then and there well knew and believed, in that he stated to Ann Louise Bardach that he had planned the 1997 bombing campaign in Cuba and recalled having stated it to her.

G. Circumstances of Entry into the United States:

Question in English: When you entered the United States through Mexico, uh, in March of 2005, you did not present yourself for inspection to an Immigration officer at that time. Is that correct, yes or no?

*English translation of Posada's response
in Cuban Spanish: Yes, it is correct.*

Interpreter's contemporaneous translation
of response: Yes, it is correct.

* * *

Question in English: After you entered the United States, you traveled by bus from Houston to Miami, is that correct, yes or no?

*English translation of Posada's response
in Cuban Spanish: It is correct.*

Interpreter's contemporaneous translation
of response: It is correct.

Question in English: Isn't it true that you encountered, you were encountered by an Immigration officer while en route to Miami?

*English translation of Posada's response
in Cuban Spanish: It is correct.*

Interpreter's contemporaneous translation
of response: It is correct.

Question in English: And at that time you failed to identify yourself to Immigration officers during that encounter, is that correct?

*English translation of Posada's response
in Cuban Spanish: They didn't ask me for [unintelligible] . . . they didn't ask me the, oh, yes, it is correct.*

Interpreter's contemporaneous translation
of response: They didn't ask me for an identification. Oh, yes, it is correct.

Hr. Tr. at 284-85. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish, were false, misleading and evasive, as he then and there well knew and believed, in that he had, in fact, entered the United States through Florida in or around March 2005, rather than through Mexico. The defendant Posada's testimony about his purported

travel by a Greyhound bus from Houston, Texas to Miami, Florida, and about “how” he entered the United States, was false, misleading, evasive and obstructive of the proceedings.

H. Posada’s Activities in Panama in 2000:

1. Question in English: Alright. Regarding your . . . the incident in Panama for which you were convicted of danger to security, the charges in that case revolved around you and co-defendants who were in possession of 33 pounds of C-4 explosives in a vehicle, yes or no?

English translation of Posada’s response

in Cuban Spanish: No, that is not correct the—the—

Interpreter’s contemporaneous translation
of response: No, that is not correct.

English translation of Posada’s response

in Cuban Spanish: —the explosive was found in a—in a place, in one of those.

Interpreter’s contemporaneous translation
of response: The explosives were found in a place.

English translation of Posada’s response

in Cuban Spanish: Yeah, and it was planted by the Cuban government, and they put it there.

Interpreter’s contemporaneous translation
of response: And the Cuban government put ‘em there.

- Question in English: Isn’t it true that you and your co-defendants were in Panama because you had devised a plan to assassinate Fidel Castro when he was scheduled to appear at the Ibero American Summit on the campus of the University of Panama?

English translation of Posada’s response

in Cuban Spanish: We were in Panama to— to . . . pick up an official . . . or a Cuban General that was going to desert.

Interpreter's contemporaneous translation
of response: We were in Panama to pick up an officer . . . a Cuban General who were . . . who was going to go there.

Hr. Tr. at 342-43. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish, were false, as he then and there well knew and believed, in that defendant and his co-conspirators were in Panama for the purpose of using explosives that they procured to assassinate Fidel Castro at the Ibero-American Summit in 2000.

2. Question in English: But, isn't it a fact that you spoke to the FBI Legal Attache on November 22, 2000, and stated that you, in fact, planned to . . . planned the attack, however, abandoned the plan after determining that there would be, that there would have been too much collateral damage, yes or no?

English translation of Posada's response
in Cuban Spanish: I do not recall any of that.

Interpreter's contemporaneous translation
of response: I do not recall any of that.

* * *

Question in English: So, in the process of talking to you, did you state that the plan was to attack Fidel Castro, but it was abandoned . . . but you abandoned the plan after determining that there would have been too much collateral damage?

English translation of Posada's response
in Cuban Spanish: No.

Interpreter's contemporaneous translation
of response: No—

English translation of Posada's response
in Cuban Spanish: —from what I can remember, no. From what I can remember—

Interpreter's contemporaneous translation
of response: From what I can remember, no.

* * *

Question in English: What did you say to the FBI?

English translation of Posada's response

in Cuban Spanish: Nothing, I didn't tell them anything, I don't, I don't remember talking to them, only greeting them, "We are from the FBI," a tall man, two came and they left.

Interpreter's contemporaneous translation

of response: Nothing. I don't remember having said anything. I mean they were just there. They said hi, we're from the FBI. It was a tall man and they left.

Question in English: All right so, you didn't talk to anyone, uh, with regard to your, the purpose of your presence in Panama?

* * *

Question in English: So, it's basically you don't recall whether you made that statement, yes or no?

English translation of Posada's response

in Cuban Spanish: I don't—don't remember, I repeat, that I don't remember having talked about that with the FBI, nor with anyone else.

Interpreter's contemporaneous translation

of response: I cannot . . . I do not remember having said that. I do not remember having said that to the FBI nor anyone else.

Hr. Tr. at 343-47. The declarations of defendant Posada, underscored above, which are translated from Cuban Spanish, were false, misleading and evasive, as he then and there well knew and believed, in that he did, in fact recall and did know that he talked to an FBI Legal Attache in Panama, to whom the defendant stated that he and his co-conspirators had intended to assassinate Fidel Castro but abandoned the plan for fear of collateral damage.

In conclusion, the United States submits these specific instances of the defendant Posada's false, evasive and misleading testimony, withholding of information, and false denials of recall and false denials of comprehension in compliance with the Court's Order to provide further detail to help identify those items of information which are alleged as false, which submissions contained them, which answers are alleged as false, and the specific occasions those relevant questions were propounded and the allegedly false responses obtained. All these specific instances of the defendant's alleged violation of Title 18, United States Code, § 1505 occurred while he was under oath or knowing that he was subject to the penalty of perjury under the laws of the United States and were intended by him to evade having truthfully to answer material questions posed of him during his relevant testimony.

Respectfully submitted,

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