



U.S. Department of Justice
National Security Division

sent to
MAA
FM
8/6/09

Counterterrorism Section

Washington, D.C. 20530

June 29, 2009

By e-mail and first class mail

Mr. Arturo V. Hernandez, Esq.
Grove Forest Plaza
2937 S.W. 27th Avenue, Suite 101
Miami, Florida 33133

Re: U.S. v. Luis Posada Carriles (W.D.Tex. No. EP-07-CR-87)

Dear Art:

This is to follow up one item we discussed at our meeting on May 20, 2009, which you then mentioned in your letter of May 22, 2009, and in some pleadings as well.

Specifically, you inquired about the process for obtaining approval for defense counsel to travel to Cuba, for the purpose of examining evidence and records, inspecting crime scenes, and interviewing witnesses. I indicated that we would make inquiries about the procedures you must follow to request permission for such travel. I did not – and cannot – agree to “assist in obtaining permission to travel to Cuba,” as written in your Reply to our Response to your Motion to Continue (Doc. 146, p. 2), beyond making such inquiries, nor to actually obtain such permission for you. You must make such requests as you think appropriate on your own. Your request must be made to the appropriate authorities, and is within their control, not that of the Counterterrorism Section of the Department of Justice. All we can do is to point you in what we understand is the right direction for you to begin your inquiries.

As we understand it, at a minimum you must have a valid passport, obtain a license from the Office of Foreign Assets Control, and obtain a visa from the Government of Cuba. There may be additional requirements of which we are not aware.

I recommend that you contact the Office of Cuban Affairs in the Department of State first. They may be able to help you through the process. The Office of Cuban Affairs may be reached at (202) 647-9272. That office may also communicate with the U.S. Interests Section in Havana in the event any travel to Cuba is authorized by the Government of Cuba. Further information is available at <http://havana.usint.gov/>.

Information on the licensing requirements of the Office of Foreign Assets Control can be obtained from:

EXHIBIT B-1

Licensing Division
Office of Foreign Assets Control
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Treasury Annex
Washington, DC 20220
Tel: (202) 622-2480; fax: (202) 622-1657.

Further information may be obtained at <http://www.treas.gov/offices/enforcement/ofac/>.

The Consular Section of the Cuban Interests Section of the Embassy of Switzerland is located at 2639 16th Street, NW, in Washington, and can be reached at telephone (202) 797-8609/8610/8615; the fax is (202) 986-7283.

I reiterate that the prosecution in this case cannot guarantee the success of your efforts to travel to Cuba or to undertake certain activities while there, nor be held responsible for any lack of success of your efforts should that come to pass.

Please feel free to call one of us if you have any questions about this matter.

Sincerely,

MICHAEL MULLANEY
ACTING UNITED STATES ATTORNEY

/s/ John VanLonkhuyzen

John W. Van Lonkhuyzen
Rebekah L. Sittner
Trial Attorneys

cc: Filipe D.J. Millan, Esq.
Rhonda A. Anderson, Esq.

ARTURO V. HERNANDEZ, P.A.

ATTORNEY AT LAW
Grove Forest Plaza
2937 S.W. 27th Avenue
Suite 101
Miami, FL 33133
Telephone (305) 443-7527
Facsimile (305) 446-6150

November 4, 2009

Cuban Interest Section
2630 16th Street, NW
Washington, DC 20009

Attn: Consul Tomas Lorenzo

Dear Consul Lorenzo:

I am the lead defense counsel in the case of *United States v. Luis Posada-Carriles*, case no.EP-07-CR-87-KC, and respectfully direct this letter to you in order to ask for your assistance in securing travel visas to Cuba for myself, and the members of my legal team. In addition, and as more fully set forth below, I am requesting permission of the Cuban authorities to permit me and my team to conduct interviews and inspect crime scenes and evidence. That is our purpose in seeking to travel to Cuba.

As you may be aware Mr. Posada-Carriles is facing charges in federal district court in the El Paso Division of the Western District of Texas. This matter has been scheduled for trial March 1, 2010 before United States District Judge Kathleen Cardone. We have sought and received the appropriate licenses for travel to Cuba from the Department of the Treasury and are prepared to travel to Cuba upon receipt of the Cuban visas. The criminal case that we are defending in part involves allegations relating to the bombing of tourist sites in Cuba in the year 1997.

In addition to requesting travel visas, we are also asking permission to conduct interviews and inspect evidence. This latter request would involve an opportunity to conduct interviews of potential witnesses, inspection of crime scenes, physical and documentary evidence in connection with the allegations that our client participated in the tourist site bombings in the year

EXHIBIT B-2

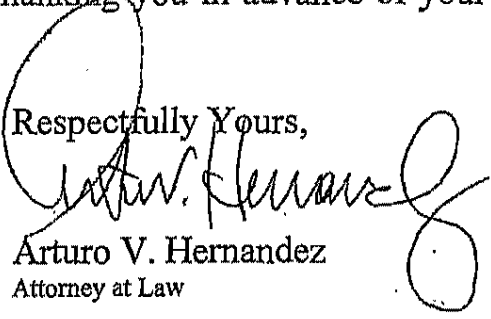
1997. Specifically, we would want to interview individuals who have first hand knowledge of these events, including such individuals as Raul Ernesto Cruz Leon, Otto Rene Rodriguez Llerena, Francisco Alvarado Godoy. Further, we would like to interview the Cuban lab explosives experts who tested the bomb residue materials, the crime scene investigators and/or technicians who investigated the bombing sites, the pathology/forensic experts who determined the cause of death of the Italian tourist Fabio DiCelmo, as well as any other officers or officials who conducted investigations of these events.

Our legal team consists of the following individuals who would require travel visas:

1. Arturo V. Hernandez, Esq. (lead counsel) U.S. Citizen, born in
2. Rhonda Anderson, Esq. (co-lead counsel) U.S. Citizen, born in
3. Felipe D.J. Millan, Esq. (local Texas counsel) U.S. Citizen,
4. Ana M. Hernandez, investigator, U.S. Citizen, born in

In light of the proximity of the trial date, I would respectfully ask that you advise as soon as possible whether our request will be granted and provide to us the necessary travel forms. Thanking you in advance of your kind attention to this request, I remain,

Respectfully Yours,


Arturo V. Hernandez
Attorney at Law

AVH/lts

cc: Rhonda A. Anderson, Esq.
Felipe D.J. Millan, Esq.



**SECCION DE INTERESES DE CUBA
WASHINGTON DC**

December 7, 2009

Arturo V. Hernandez
Attorney at Law
Grove Forest Plaza
2937 SW 27th Ave, Suite 101
Miami Fl 33133

Mr. Arturo V. Hernández:

I would like to acknowledge receipt of your letter and inform you that, taking into consideration there is no judicial cooperation agreement between Cuba and the United States of America, you should submit your travel request to the US Department of State giving details of each of the activities you plan to carry out in Cuba.

Best Regards,

A handwritten signature in black ink, appearing to read "Tomas Lorenzo Gomez", written over a circular official stamp.

Tomas Lorenzo Gomez
Consul General
Cuban Interests Section



U.S. v. Posada-Carriles

From: **Lucy Triana** (lucyloo14@hotmail.com)

Sent: Mon 12/14/09 5:44 PM

To: t.j.reardoniii@usdoj.gov; jerome.teresinski@usdoj.gov; margaret.leachman@usdoj.gov;
jose.gonzalez3@usdoj.gov

Cc: Arturo Hernandez (avhlaw@bellsouth.net); Rhonda Anderson (randersonlaw@gmail.com); lebny
zamora (lzamora@anderson-lawfirm.us); Felipe Millan (elpasolawboy1@msn.com)

Attachments:

Reardon and Terensiski 12-14-09.pdf (115.9 KB)

Dear Mr. Reardon and Mr. Teresinski:

Please see attached correspondence.

Thank you,

Lucy Triana-Sanchez for
Arturo V. Hernandez P.A.
2937 S.W. 27th Avenue
Suite 101
Miami, FL 33133
(305) 443-7527 Telephone
(305) 446-6150 Facsimile

Hotmail: Powerful Free email with security by Microsoft. [Get it now.](#)

EXHIBIT B-4

ARTURO V. HERNANDEZ, P.A.

ATTORNEY AT LAW
Grove Forest Plaza
2937 S.W. 27th Avenue
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December 14, 2009

T.J. Reardon III
Jerome J. Teresinski
Trial Attorneys
Counterterrorism Section, National Security Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: *U.S. v. Luis Posada Carriles*
Discovery Response

Dear Tim and Jerry:

I write to respectfully request additional items of discovery that fall within the ambit of Rule 16 and *Brady v. Maryland*. They are as follows:

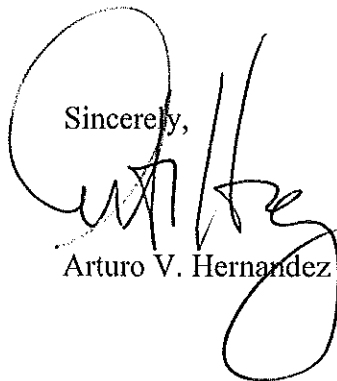
1. Interview of Luis Posada Carriles by **Maria Elvira Salazar**. Back in May of this year we received a VHS copy of this interview and transcripts. When we viewed the video it was only 2 minutes in length. The transcript of the interview shows that the interview was much longer in duration. Several weeks ago I sent you an email regarding this matter and have not heard back from you. Please advise.

In addition to the above, I wanted to mention stipulations. Many of the documentary exhibits were the subject of an earlier stipulation between the parties, but there are additional records that I would want to discuss with you.

As a final matter and in light of your direct contact with Cuban officials, I want to reiterate that before any plans are finalized regarding our trip to Cuba, that the Cuban authorities must confirm in writing that we will be permitted to inspect crime scenes, original records and interview witnesses, including those charged in Cuba.

Thank you for your kind attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arturo V. Hernandez', written over the printed name.

Arturo V. Hernandez

AVH/lts

cc: Margaret F. Leachman, Esq.
Jose Gonzalez, Esq.
Rhonda A. Anderson, Esq.
Felipe D.J. Millan, Esq.



U.S. Department of Justice

National Security Division

Washington, D.C. 20530

December 23, 2009

Mr. Arturo V. Hernandez, Esquire
Attorney for Defendant
ARTURO V. HERNANDEZ, P.A.
2937 S.W. 27th Avenue, Suite 101
Miami, Florida 33133

Mr. Felipe D.J. Millan, Esquire
Attorney for Defendant
2630 Montana Avenue
El Paso, Texas 79903

Ms. Rhonda A. Anderson, Esquire
Attorney for Defendant
2655 Le Jeune Road, Suite 540
Coral Gables, Florida 33134

**RE: United States v. Posada-Carriles (3:07-CR-87; Western District of Texas)
Potential Travel to Cuba**

Dear Art:

In regard to a possible trip to Cuba by certain members of the Defense and prosecution teams, allow me to give you our perspective both historically and from the latest information we have received.

First, we have read the relevant files in this matter and spoken at length with our esteemed predecessor, John Van Lonkhuyzen. What appears clear is that we have consistently, candidly and cordially responded to your questions about travel to Cuba. Indeed, we have consulted with our own Office of International Affairs (OIA), and both our State and Treasury Departments in order that you might have direction, e.g. visa assistance and license requirements, about seeking permission to travel to Cuba. At the same time, we have repeatedly emphasized to you that such direction was the limit of our abilities. Indeed, some months ago we notified you in writing of the limits of our abilities, and that any preconditions for travel to Cuba would be the responsibility of the defendant. (See June 29, 2009 letter from John Van Lonkhuyzen, attached.) As we stated in that correspondence, it is the defendant who must make requests to the Government of Cuba (GOC). In the June 29 correspondence, we specifically

EXHIBIT B-5

advised you of the need to procure a license from the Treasury Department's Office of Foreign Assets Control. We also recommended that you contact the Office of Cuban Affairs at the Department of State. As we explained in writing in June 2009, beyond the administrative assistance we were pleased to offer, we cannot be responsible for making a travel request on behalf of the defendant. Moreover, as we have reviewed the records, it appears that you have not yet made such a request. As noted in the June 29 letter, the phone number for the Office of Cuban Affairs at the Department of State is (202) 647-9272. The point of contact you should request is Julianna Aynes-Neville.

Second, we all, that is, both the defense and prosecution teams remain totally dependent upon the unilateral discretion of the GOC for travel and anything pertinent to it, including details of conduct in country. Of course, this fact likely comes as no surprise to either of us. As we both understand, the United States has long had no diplomatic relationship with that sovereign country. As my partner, Jerry Teresinski has already advised you, "flexibility" under such a fragile scenario is imperative. The United States simply has no control over whether or when travel to Cuba might be formally approved by the GOC for either of us, nor over what each of our respective teams might be permitted to do once there. Such decisions would be made solely by the GOC. We further understand that while the GOC may receive us as a "joint contingent," each of our respective team's travel requests must, nonetheless, be independently coordinated. In the event that GOC permits our entry, for example, your travel and hotel arrangements must be made by your team.

Third, assuming that you request and receive permission from Cuba to travel there in connection with this case, the potential travel dates of January 19-25, 2010 must be regarded by each of us as quite tentative. As we contemplated the administrative vicissitudes attendant to this prospective venture, we initially perceived that any joint travel ultimately permitted by the GOC could extend over a period as long as eight to ten days. We have now learned that any travel within the spectrum of dates preferred by our respective teams would likely be limited to two to three days. This limitation would apply to both our teams. Consequently, OIA suggests that while the initial dates for travel preferred by both of us appeared reasonable, it would, nonetheless, be prudent to offer the GOC two sets of dates. To that end, we have divided our travel requests into two separate weeks: January 19-22, 2010, and January 25-29, 2010.

Fourth, we have received a list of individuals whom you would prefer to accompany you to Cuba. We understand that it has been previously related to you that an investigator could be a part of your proposed team, but it appears that you have chosen only attorneys. In this regard, we have learned that the number of individuals whom the GOC may ultimately approve may well be restricted. The advice, therefore, to both of our teams by OIA is that it may be important that any attorneys be counsel of record in the case. Accordingly, the prosecution team intends to present for the consideration of the GOC a group comprised only of our attorneys of record and our appropriate case agents. We suggest that you make a similarly narrow request.


Fifth, we respectfully suggest that you ought be prepared to give the GOC the names of the persons whom you would want to interview and why, and be ready to explain to the GOC

exactly what else you would like to do while in Cuba.¹ The number of your desired interviews and document examinations may well be pivotal to the ultimate travel decision of the GOC. Moreover, we further suggest that you be as specific to the GOC, as you see fit, about any investigative requests. To iterate what I understand you have been told before, to the extent that your requests to the GOC are perceived to be broad, vague, open-ended or otherwise non-specific, they are less likely to be granted.

Sixth, we understand your desire to “review all relevant ‘original’ documents received in discovery [from Cuba],” but are wary of the effect of such a request on our prospective hosts. Of course, the United States can only share with you what it has been given. If we do not possess original items, it is because we were not given original items by the GOC. Concerning the viewing of crime scenes we are reservedly hopeful that if the GOC permits our attorneys and agents and your attorneys and agents to travel to Cuba, it will also arrange such viewings.

Finally, on December 14, 2009 we received a letter from you in which you advised us of certain preconditions, which had to be met before you would deem travel to Cuba worthwhile. Specifically, you stated that before any plans are finalized regarding travel to Cuba, “Cuban authorities must confirm in writing that we will be permitted to inspect crime scenes, original records and interview witnesses, including those charged in Cuba.” While we note your demands, you must—as we have repeatedly informed you—address such matters to the GOC, not to us. Only the GOC can grant your requests; we are unable to do anything with them.

Regards,


T. J. Reardon, III

Enclosure

¹ In your December 4, 2009 email, you named Raul Ernesto Cruz Leon, Otto Rene Rodriguez Llerena, and Francisco Alvarado Godoy as witnesses you would like to interview while in Cuba. You will need to direct such requests to the GOC, and make clear the names of those you wish to interview while in Cuba.

ARTURO V. HERNANDEZ, P.A.

ATTORNEY AT LAW
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2937 S.W. 27th Avenue
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Facsimile (305) 446-6150

January 4, 2010

T.J. Reardon III
Trial Attorney
Counterterrorism Section, National Security Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: *U.S. v. Luis Posada Carriles*

Dear Tim:

Thank you for your letter regarding Cuba travel. Please be advised that as you suggested, we wrote to the Government of Cuba (GOC) through the Cuban Interest Section on November 4th, 2009 (See November 4, 2009 letter to Consul General Tomas Lorenzo detailing our reasons for travel to Cuba, attached). Mr. Lorenzo responded by letter on December 7th, informing us therein that in light of no judicial cooperation agreement between Cuba and the United States of America, that we should take up our request for travel with the U.S. Department of State. We are in the process of doing so.

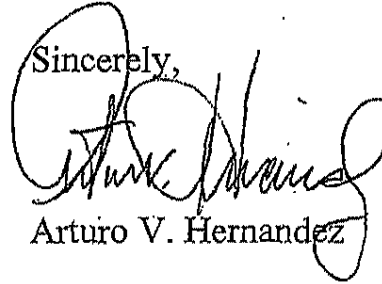
We understand that it will be our responsibility once permission to travel is granted to make our own travel and hotel arrangements. Further, we understand that the dates are not yet fixed and therefore will await developments before making any travel scheduling plans. Your advice and counsel in this regard, however, would be greatly appreciated.

Finally, we are proceeding on the assumption that our defense team as previously noted and presently constituted will be traveling to Cuba. If the Cuban authorities limit the number of those allowed to travel, or object to any one in particular, we will have to assess the situation at that time. As I

EXHIBIT B-6

have indicated in past correspondence, in light of our obligation to provide effective assistance to our client, we wish to travel to Cuba for the purpose of conducting a meaningful investigation. We are not inclined to incur the expense of such travel unless and until we receive written assurances from the GOC, that we will be respected as professionals and that we will be allowed access to original documents, crime scenes, and witnesses. If this is not possible we will not go.

Sincerely,

A handwritten signature in black ink, appearing to read "Arturo V. Hernandez", written over the typed name below.

Arturo V. Hernandez

AVH/lts

cc: Jerome J. Teresinski, Esq.
Rhonda A. Anderson, Esq.
Felipe D.J. Millan, Esq.



Arturo V. Hernandez <avhlawpa@gmail.com>

Arturo V. Hernandez Request to Travel to Cuba

1 message

Lucy Triana <lucyloo14@hotmail.com>

Mon, Jan 25, 2010 at 4:27 PM

To: aynesjm@state.gov

Cc: Arturo Hernandez <avhlaw@bellsouth.net>

Dear Ms. Aynes-Neville:

Attached please find our request directed to Consul Tomas Lorenzo at the Cuban Interest Section in Washington.

Under separate cover, we will provide as soon as possible, potential days of travel.

Please delete Ana Hernandez as a potential traveler and substitute with Santiago Alpizar, Attorney at Law.

Thank you,

Lucy Triana-Sanchez for

Arturo V. Hernandez P.A.

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Consul Tomas Lorenzo- Cuban Interest Section - 11-04-09.pdf

471K

EXHIBIT B-7