

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA

v.

PAUL BERGRIN,

Defendant.

Criminal No. 09-369 (JLL)

Filed Electronically

**NOTICE OF MOTION FOR A NEW
TRIAL GROUNDED ON NEWLY
DISCOVERED EVIDENCE PURSUANT
TO RULE 33(b)(1)**

TO: Mark E. Coyne, Appeals Division Chief
United States Attorney's Office
970 Broad Street
Newark, New Jersey 07102

PLEASE TAKE NOTICE that Defendant Paul Bergrin, by appointed counsel, Gibbons P.C. (Lawrence S. Lustberg, Esq., Amanda B. Protess, Esq., appearing), hereby moves before the United States District Court for the District of New Jersey for an Order granting the Motion for a New Trial Grounded On Newly Discovered Evidence pursuant to Federal Rule of Criminal Procedure 33(b)(1). In support of this motion, defendant Bergrin relies upon the brief and exhibits filed herewith. A proposed form of order is filed herewith.

Dated: June 27, 2016

Respectfully submitted,
s/ Lawrence S. Lustberg

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v.

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Defendant.

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**BRIEF IN SUPPORT OF DEFENDANT PAUL BERGRIN'S MOTION FOR A NEW
TRIAL GROUNDED ON NEWLY DISCOVERED EVIDENCE**

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I. PRELIMINARY STATEMENT

Defendant Paul Bergrin respectfully submits this brief in support of his motion requesting a new trial on the basis of newly discovered evidence, pursuant to Federal Rule of Criminal Procedure 33(b)(1). Following an initial remand from the United States Court of Appeals for the Third Circuit after the District Court had dismissed racketeering counts against Mr. Bergrin with respect to a prior indictment, *see United States v. Bergrin*, 650 F.3d 257 (3d Cir. 2011), on June 2, 2011, a federal grand jury in the District of New Jersey returned a 33-count Second Superseding Indictment in this matter. Thirty of those counts pertained to defendant Paul W. Bergrin; they alleged schemes related to a murder conspiracy, a drug trafficking conspiracy, a murder-for-hire conspiracy, aiding prostitution, and evading financial reporting requirements. An initial severed trial before the Honorable William J. Martini solely on the counts related to the conspiracy to murder government informant Kemo McCray resulted in a hung jury. After that verdict, the government appealed with respect to the issues of severance and the exclusion of certain evidence; it also successfully sought the reassignment of the case. *See United States v. Bergrin*, 682 F.3d 261 (3d Cir. 2012). On remand, an approximately eight-week trial on most of the remaining charges — all but several tax counts that were ultimately dismissed — resulted, on March 18, 2013, in a verdict of guilty against Mr. Bergrin on all counts. On September 23, 2013, the district court denied Bergrin's request for an evidentiary hearing on various factual issues affecting sentencing, and sentenced Bergrin to six terms of life imprisonment, to run concurrent with 17 terms of imprisonment amounting to 210 years.¹

Mr. Bergrin respectfully submits this brief in support of his motion for a new trial on all counts in light of newly discovered evidence. Such a new trial should be granted because newly discovered evidence demonstrates that since trial, key government witnesses against Bergrin,

¹ Mr. Bergrin represented himself *pro se* at trial, and the undersigned counsel was appointed to serve as standby counsel. The United States Court of Appeals for the Third Circuit appointed this Firm to represent Mr. Bergrin in his direct appeal, and this Court appointed us to represent Mr. Bergrin with respect to filing this motion. *See* ECF No. 621.

including Anthony Young, Oscar Cordova, Abdul Williams, and Eugene Braswell, have admitted that, as Bergrin had argued at trial, these witnesses fabricated their testimony against him. Newly discovered evidence also demonstrates that government officials in this case not only ignored individuals who provided them with information about Mr. Bergrin's innocence, but also appears to have placed a witness who was willing to provide crucial exculpatory evidence in solitary confinement to prevent her from assisting in Mr. Bergrin's defense with respect to this motion. The critical evidence proffered here would, had it been known, have changed the result of the trial. For these reasons, discussed in detail below, the Court should grant a new trial pursuant to Rule 33, or at the very least, hold a hearing with respect to this evidence.

II. DEFENDANT PAUL BERGRIN IS ENTITLED TO A NEW TRIAL PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 33 IN LIGHT OF NEWLY DISCOVERED EVIDENCE.

Pursuant to Federal Rule of Criminal Procedure 33(a), the Court "may vacate any judgment and grant a new trial if the interest of justice so requires," including as a result of "newly discovered evidence." *See, e.g., United States v. McRae*, 702 F.3d 806, 842 (5th Cir. 2012) (affirming grant of new trial pursuant to Rule 33 based upon newly discovered evidence). The determination of whether to grant a new trial is a matter committed to the district court's discretion. *See United States v. Quiles*, 618 F.3d 383, 390 (3d Cir. 2010). The United States Court of Appeals for the Third Circuit has identified five requirements that a defendant must satisfy in order to obtain a new trial based upon newly discovered evidence:

- (a) the evidence must be in fact, newly discovered, *i.e.*, discovered since the trial;
- (b) facts must be alleged from which the court may infer diligence on the part of the movant;
- (c) the evidence relied on must not be merely cumulative or impeaching;
- (d) it must be material to the issues involved; and

(e) it must be such, and of such nature, as that, on a new trial, the newly discovered evidence would probably produce an acquittal.

United States v. Cimera, 459 F.3d 452, 458 (3d Cir. 2006) (citing *United States v. Iannelli*, 528 F.2d 1290, 1292 (3d Cir. 1976) (identifying these as the “*Iannelli* factors”). Defendants bear “a heavy burden” in fulfilling these requirements. *Id.* (quoting *United States v. Saada*, 212 F.3d 210, 216 (3d Cir. 2000)).

The Third Circuit has advised that the first factor of this test is a threshold inquiry. *Id.* at 459 n.8 (“[I]f a court determines as a matter of law that evidence is not newly discovered, then no matter what the court’s conclusions are as to the other *Iannelli* factors, it must deny the defendant’s Rule 33 motion”) (citing *United States v. Jasin*, 280 F.3d 355, 365 n.9 (3d Cir. 2002)). Whether evidence is newly discovered is analyzed pursuant to both objective and subjective considerations. *Id.* at 461. “Evidence is not ‘newly discovered’ if it was [actually] known or could have been known by the diligence of the defendant or his counsel.” *Id.* (alteration in original) (citing *United States v. Bujese*, 371 F.2d 120, 125 (3d Cir. 1967)). Thus, the evidence must not have been known prior to trial, it must have been discovered since the end of the trial, and “facts must be alleged from which the court may infer diligence on the part of the movant.” *Id.* (citing *Iannelli*, 528 F.2d at 1292). However, evidence can be deemed newly discovered even when known prior to trial, if it assumes new importance as a result of circumstances that arose during or after trial. *United States v. Garland*, 991 F.2d 328, 335 (6th Cir. 1993) (“First, although the defense knew of [the witness]’s existence before and during the trial, [the witness] was not located until after the trial. Also, in light of the [witness’s] recent [foreign] conviction, [the witness]’s testimony at the evidentiary hearing assumes new importance because it provides a verifying link between [the defendant]’s story and the findings of the [foreign court].”). Indeed, as the Third Circuit has recognized, “evidence discovered before or during trial may have latent attributes that are not discovered until after trial. In such a case, evidence to establish the existence of those latent attributes may be considered ‘newly discovered.’” *Cimera*, 459 F.3d at 460 n.11.

“To determine whether the movant exercised ‘reasonable diligence,’ [a court] must carefully consider the factual circumstances of the case.” *Cimera*, 459 F.3d at 461 (citing 44 A.L.R. Fed. 13 (“[O]rdinary diligence ... is a relative term and depends on the circumstances of the case[.]”) (alterations in original)). *See also United States v. Maldonado-Rivera*, 489 F.3d 60, 69 (1st Cir. 2007) (“In the Rule 33 milieu, due diligence is a context-specific concept.”); *United States v. LaVallee*, 439 F.3d 670, 701 (10th Cir. 2006) (“Due diligence does not require that a defendant exercise the highest degree of diligence possible to locate evidence prior to trial; only ‘reasonable diligence’ is required.”) (citation omitted); *United States v. Lawhorne*, 29 F. Supp. 2d 292, 305 (E.D. Va. 1998) (“‘Diligence’ means ordinary diligence, not the highest degree thereof[.]”) (citing Wright, King & Klein, *Fed. Prac. & Proc.: Criminal 3d* § 557 (2004)).

Evidence can be material if it is relevant to the issues at trial, including, of course, the defenses offered. *See United States v. Barbosa*, 271 F.3d 438, 468 (3d Cir. 2001) (after finding that the evidence was newly discovered, discussing whether the evidence touched upon the proffered defense); *Garland*, 991 F.2d at 336 (finding that the newly discovered evidence was “obviously material” because it “corroborate[d] [the defendant]’s story and thus help[ed] establish his defense”). Evidence is generally considered cumulative or impeaching, and therefore not material, if it would merely result in further questioning of a witness about topics addressed during prior testimony. *Barbosa*, 271 F.3d at 468; *Saada*, 212 F.3d at 216-17. Yet, a defendant may be entitled to a new trial even though he relies solely on evidence that could be classified as “impeachment evidence,” where he has demonstrated “a strong exculpatory connection between the newly discovered evidence and the facts that were presented at trial” or where the newly discovered evidence “strongly demonstrate[s] that critical evidence at the trial against the defendant was very likely to have been false.” *Quiles*, 618 F.3d at 392-93.

Finally, newly discovered evidence will probably produce an acquittal where it corroborates the accused’s defense. *Garland*, 991 F.2d at 336 (witness’s “testimony will likely result in an acquittal since it verifies [the defendant]’s defense”); *United States v. Ortiz*, No. 92-

00592-01, 1993 WL 131329, at *1 (E.D. Pa. April 23, 1993) (ordering a new trial where newly discovered post-arrest photograph created a reasonable doubt as to defendant's guilt and supported defendant's argument of mistaken identity). *See also United States v. Gambino*, 59 F.3d 353, 364 (2d Cir. 1995) (Rule 33 relief warranted if newly discovered evidence is of a type "that could, if believed, change the verdict"). *See, e.g., United States v. Wallach*, 935 F.2d 445, 457-58 (2d Cir. 1991) (new trial was necessary because lies of key witness who "tied all the pieces together," even as to matters affecting only his credibility, could have caused the jury to reject his entire testimony and eliminate the foundation for conviction); *United States v. Figueroa*, No. 00-94, 2008 WL 2945386, at *7 (E.D. Pa. July 31, 2008) (granting defendant's motion for a new trial where court found that newly discovered evidence would probably produce acquittal); *United States v. Lipowski*, 423 F. Supp. 864, 868-69 (D.N.J. 1976) (granting new trial after key witness was discovered to have committed perjury in related matter).

In light of these standards, a new trial should be granted in this case because newly discovered evidence demonstrates that key witnesses for the government lied as to the most serious charges against Mr. Bergrin. That is, we now know that, as Mr. Bergrin attempted to show at trial, Anthony Young falsely implicated Mr. Bergrin in the Kemo McCray murder conspiracy; Oscar Cordova fabricated evidence against Mr. Bergrin in the conspiracy to murder witnesses against criminal client Vicente Esteves; Eugene Braswell and Abdul Williams testified falsely about Mr. Bergrin's involvement in drug trafficking (in addition to newly discovered evidence demonstrating that Mr. Bergrin was not involved in Yolanda Jauregui's drug trafficking business at all); and Abdul Williams falsely implicated Mr. Bergrin in the bribery of a witness against him in his gun possession case. Such powerful new evidence demands that what is now clearly an unjust judgment be vacated and that a retrial be ordered on all of the charges against Mr. Bergrin.

A. Newly Discovered Evidence Demonstrates That The Government’s Key Witness In The Kemo McCray Murder Conspiracy Falsely Implicated Bergrin (Counts One, Two, Three, Five, Twelve and Thirteen).

First, the Court should grant Mr. Bergrin a new trial – or at least an evidentiary hearing -- in light of newly discovered evidence pertaining to his alleged involvement in the March 2, 2004 murder of Kemo McCray, an informant against Bergrin’s client William Baskerville. At trial, the government sought to prove that Bergrin conspired with Baskerville and other members of the Hakeem Curry drug trafficking organization to murder McCray, a potential witness against Baskerville in a federal cocaine distribution conspiracy case. Government witness Anthony Young provided the only testimony describing defendant Bergrin’s actions in connection with the charged conspiracy to murder McCray. That is, Young alone² testified to the three conversations — two between Bergrin and Curry on the afternoon of Baskerville’s November 25, 2003 arrest and the other some days later, in which Bergrin allegedly advised Curry, Young, Jamal Baskerville, Jamal McNeil, and Rakeem Baskerville that William Baskerville was facing life in prison and uttered the now infamous phrase “no Kemo, no case” — which provided the evidence of the actions whereby Mr. Bergrin purportedly joined the conspiracy. More specifically, in its entirety, the evidence connecting Mr. Bergrin to the Curry organization’s conspiracy to murder McCray, all of which arose from Young’s testimony, was that: a) in an initial phone conversation with Curry on the day of Baskerville’s arrest, Bergrin described the crack sales with which Baskerville was charged, *i.e.*, “the information of how much it was and what dates they was on,” Tr. (2/1/13) at 2242; b) later in the evening on that same date, Bergrin

² To be precise, in response to a line of cross-examination of government witness Special Agent Stephen Cline, the Court permitted Agent Cline to testify as to the contents of the first of the two telephone conversation between Mr. Bergrin and Curry on the afternoon of November 25, 2003. The Drug Enforcement Agency had recorded these two conversations, among others, pursuant to a wiretap of Hakeem Curry, but the government did not introduce them into evidence here because they were not timely sealed and were therefore inadmissible. *See* Tr. (1/30/13) at 1384. Nonetheless, as Agent Cline testified, in the initial conversation, Mr. Bergrin informed Curry that William Baskerville had been arrested, described the information contained in the complaint, and explained the legal process that would likely follow such an arrest. Tr. (2/6/13) at 3015-3019.

had a second phone conversation with Curry, in which he informed Curry that Baskerville had said the informant's name was "Kamo," Tr. (2/1/13) at 2243; and c) on some evening the following week (after the Thanksgiving weekend), Bergrin met Curry, Young, Jamal Baskerville, Jamal McNeil, and Rakeem Baskerville at Jamal Baskerville's house on 17th Street, Tr. (2/1/13) at 2249-50, told them that the federal authorities "got audio and video of Will making these crack sales, that Will was facing life in prison," *id.* at 2253, and said "if Kemo testify against Will, Will was never coming home. He said, telling us, don't let ... Mr. Kemo testify against Will, and if he don't testify, he'll make sure he gets Will out of jail," and "he said if no Kemo, no case." *Id.* Finally, Young testified that on parting, Mr. Bergrin "said, remember what I said, he said, No Kemo, no case" and made a finger pointing hand motion. *Id.* at 2254.

1. The Charles Madison Affidavit Is Newly Discovered Evidence Warranting A New Trial.

Based upon newly discovered evidence, however, it is now clear that Young fabricated nearly all of his testimony to falsely implicate Bergrin in McCray's killing. In fact, as the defense only learned after Bergrin's conviction, while Young was incarcerated in around 2005, Young admitted over the phone to his close friend from childhood, Charles Madison, that Young "was tired of doing time" and had devised a plan "to tell these people some information about who they were interested in (Hak, Rakeem Baskerville, Paul Bergrin) and the murder of some guy named Kimo." Ex. 1 at 2. Consistent with Bergrin's defense at trial that Young did not shoot McCray, *see, e.g.*, Tr. (3/13/13) at 8640, Young admitted to Madison that "he did not do the shooting but would confess to it as long as he got a lighter sentence in return."³ Ex. 1 at 2. Young explicitly said that he falsely implicated Bergrin in this shooting: "He spoke about Paul, but said he didn't do shit and he had to make up some bullshit about a meeting that supposedly took place because they kept pressuring him about Paul." Ex. 1 at 2. More to the point, Young "said he lied and told them that Paul held a meeting and told them to kill this kid Kimo. I asked

³ Inexplicably, there appear to be no public records about the sentencings of the cooperating witnesses in this case, and no records on PACER of the disposition of any motion to reduce Young's sentence based upon his testimony against Mr. Bergrin.

him if there was ever a meeting and he said ‘hell no, Paul didn’t do anything but if I don’t say that my deal is off the table.’” Ex. 1 at 2.

2. The Hassan Miller Interview Is Newly Discovered Evidence Warranting A New Trial.

This powerful account of Young’s plan to frame Bergrin for Kemo’s killing in exchange for a reduced sentence is consistent with additional newly discovered evidence, including the December 3, 2013 statement of Hassan Miller, a cellmate of Anthony Young at the Hudson County Jail in 2005. Although the defense knew prior to Mr. Bergrin’s trial in early 2013 that Miller had secretly recorded Young for the government while the men were housed together to capture Young discussing his strategies on how to get the best deal from the government, the defense was wholly unaware that Young had also told Miller, “you know what I’m going to do – because he only had a gun case.⁴ All he was going to do was about five years off a gun case. He said ... I’m going to pin this on Hakeem, ETI, Hakeem Curry ... I’m going to get Paul Bergen (phonetic) in it.”⁵ Ex. 2 at 3-4. That is, the defense has, only after Mr. Bergrin’s conviction, learned that Young admitted his plan to provide false testimony specifically about Bergrin. As Young further boasted to Miller, “he said he going to pin this on Hak (phonetic) and Paul.” Ex. 2 at 4. Consistent with Bergrin’s defense at trial and with the newly discovered evidence proffered by Charles Madison, Young had devised a plan to “get out faster,” by claiming to have knowledge about “the dude ... that he supposedly had --- had shot, whatever – on South Orange Avenue,” *i.e.* Kemo McCray. Ex. 2 at 8-9. As Young further explained to Miller, “I’m going to

⁴ Here, Miller appears to refer the fact that in around late 2004, Young was charged in Essex County with unlawful possession of firearms and possession of defaced firearms. *See* Tr. (3/4/2013) at 2397; Tr. (3/6/13) at 7728. Those charges were ultimately transferred to federal court and dismissed. *See United States v. Young*, No. 3: 05-cr-00621 (D.N.J. 2005), ECF No. 17.

⁵ Notably, though Young contended at trial that he first contacted the government in January 2005 to provide information about Curry and Bergrin because he feared that Jamal McNeil was going to kill him as a result of Young divulging to his girlfriend that McNeil had shot and killed a young woman in Irvington, Tr. (2/4/13) at 2381-97, 2485, there is absolutely no evidence to suggest that such a murder ever took place, as a recent OPRA request for all records of female murder victims in Irvington during the relevant time period shows. Ex. 4.

put myself in there. I'm going to say Hak ... did it, and I'm going to say Paul ... had something to do with it, and he orchestrated the whole thing." Ex. 2 at 9. As Miller elaborated, Young told him "he going to say that Paul orchestrated ... being Paul was representing Hakeem Curry at the time, so he said he going to put them both together. He said ... yo, they going to love to hear that so they can catch two birds with one stone." Ex. 2 at 22. When Miller "said, yo ... about you lying? He said, man, fuck that. I know, but I got to get myself out a jam." Ex. 2 at 22. According to Miller, Young "said this is his – his meal ticket to get out, so he's going to use Paul," Ex. 2 at 10.

Miller additionally contends that he told the government in 2005 that Young was telling people that he was "lying on the guy, Paul Bergen, and he saying all this that he's going to do," Ex. 2 at 12. Disturbingly, that exculpatory fact was never disclosed to the defense in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). See *United States v. Dansker*, 565 F.2d 1262, 1263 & n.2 (3d Cir. 1977) (where newly discovered evidence was in the possession of the government and should have been disclosed under the *Brady* rubric, Rule 33 is properly invoked to raise the *Brady* claim). Notably, Miller was not aware of McCray's shooting prior to Young telling him about it, has no connection to Mr. Bergrin, and no reason to lie. Ex. 2 at 8 ("I never seen Paul Bergen."). See also Ex. 2 at 10, 20, 25-26.⁶

3. The Certifications of Hakeem Curry, Rakeem Baskerville, and Diedra Baskerville Are Newly Discovered Evidence Warranting A New Trial.

Likewise, based upon newly discovered evidence, including some evidence known to the defense prior to trial, but, as discussed below, possessing "latent attributes" only appreciated after trial, see *Cimera*, 459 F.3d at 460 n.11, it is now absolutely clear, in part as a result of other newly discovered evidence, that Young not only generally sought to falsely implicate Bergrin,

⁶ Miller also indicated that he had additional pertinent information to share, but that he was too frightened to do so while incarcerated. Ex. 2 at 30. This additional evidence should be adduced at a hearing. See, e.g., *United States v. Mensah*, 434 Fed. Appx. 123, 125 (3d Cir. 2011) (district court held hearing on Rule 33 motion based upon newly discovered evidence); *United States v. Stillis*, 437 Fed. Appx. 78, 81-82 (3d Cir. 2011) (same).

but that he invented the most critical particulars his testimony — such as the existence of the infamous “no Kemo, no case” meeting among Bergrin, Curry, Young, Rakeem Baskerville, Jamal Baskerville, and Jamal McNeil. Indeed, none of the key events to which Young testified could have occurred as he claimed. For example, as was revealed for the first time in various witness affidavits attached to William Baskerville’s reply brief in support of his Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255, Young never met with Rakeem and Diedra Baskerville and others on the morning of November 25, 2003, or with Curry, Bergrin, Rakeem Baskerville, and others in the days after the Thanksgiving weekend in 2003 as he testified at Mr. Bergrin’s trial. *See United States v. Martinez-Zayas*, CRIM. No. 86-500-1, 1988 WL 134667, at *1 (E.D. Pa. December 13, 1988) (ordering a new trial where new exculpatory evidence was presented in interview of a defendant in a separate case).

Specifically, at trial, Young testified that Diedra Baskerville, William’s wife, met with Young, Rakeem Baskerville, Jamal Baskerville and others at Jamal Baskerville’s house at around 9:30 or 10 o’clock in the morning on November 25, 2003 to discuss William’s arrest earlier that day. *See Tr. (2/1/13) at 2233-34*. Yet, we now know from Diedra herself that “I did not attend any meeting on November 25, 2003 at the residence of Jamal Baskerville” and that Diedra has “never met Anthony Young in my life.” *Ex. 5 at 12*. Rakeem Baskerville also now swears that he “had no involvement in, nor knowledge of, any plot, scheme, or conspiracy to kill McCray as alleged ... I did not attend, and have never attended, any meeting at Jamal Baskerville’s home on 25 November 2003 with Diedra Baskerville, Jamal Baskerville, Hamid Baskerville, Jahmal McNeil, Hakim Currie, Anthony Young and Paul Bergrin as alleged.” *Ex. 5 at 13*. He likewise confirms that he “did not attend any meeting 4-10 days after William Baskerville’s arrest where it is alleged that a meeting occurred between myself, Paul Bergrin, Hakim Currie, Anthony Young, Jahmal McNeil and Jamal Baskerville where it is further alleged that Paul Bergrin stated “no K-Mo, no case.” *Ex. 5 at 13*. Curry too has, since Bergrin’s conviction, sworn that he had “no role in any sort of conspiracy to kill Deshawn McCray because of his status as an

informant/witness against Mr. Baskerville.” Ex 5 at 10.⁷

4. The DEA Wiretap Recordings of Hakeem Curry Are Newly Discovered Evidence Warranting A New Trial.

It is moreover clear that the government was at least constructively aware that Young’s account was false but nonetheless endorsed his testimony. *See Harris v. Gov’t of Virgin Islands*, 55 V.I. 1102, 1130 (D. Virgin Islands App. Div. 2011) (reversing and remanding for new trial where “use of testimony that a reasonable prosecutor would have recognized as false and unreliable landed far out of bounds”). That is, during discovery, in addition to the tens of thousands of pages of documents and hundreds of hours of recordings that were turned over to the defense without an index, the government provided to Mr. Bergrin tens of thousands of telephone calls recorded by the DEA pursuant to a wiretap of Hakeem Curry. Ex. 17 at 1. The government informed counsel for Mr. Bergrin that it would not be seeking to admit the recordings because they were not timely sealed, and therefore, inadmissible. *See* Ex. 17 at 1; Tr. (1/30/13) at 1384-86. Mr. Bergrin did not focus on the exculpatory potential of these recordings amidst all of the other evidence at the time of trial because, as the government represented to defense counsel and the Court, “there is some very damaging evidence that was suppressed for Mr. Bergrin that related directly to the murder in this case,” Tr. (1/30/13) at 1386. What that representation omitted, however, is the fact that the substance of the recordings negate the core of Young’s account (which is, of course, the sole evidence of Mr. Bergrin’s involvement in the McCray murder). As those tapes prove, Young lied about when and how Curry found out about Baskerville’s arrest, whether Young was present for the two calls between Curry and Bergrin on November 25, 2003, and whether a meeting ever took place at Jamal Baskerville’s house several days later in which Bergrin advised that William Baskerville was facing life in prison and that

⁷ Although it may not be viewed as newly discovered evidence, Bergrin himself certified in that filing that he and Baskerville never discussed harming McCray while Bergrin represented Baskerville and that he never attended a meeting in which he told anyone “no Kemo, no case” or that Baskerville would go free if McCray did not testify Ex. 5 at 4-9. The accounts of Diedra Baskerville, Rakeem Baskerville and Hakeem Curry all confirm that this is true.

McCray's testimony was critical to Baskerville's release.⁸

Specifically, at trial, Young claimed that Curry learned of Baskerville's arrest on the morning of November 25, 2003, and said he had to call his attorney, Mr. Bergrin, so that Bergrin could "get on the case." Tr. (2/1/13) at 2238. As Young explained, "Mr. Curry came a little bit, you know, after Diedre left" to Jamal Baskerville's house, Tr. (2/1/13) at 2237, which occurred, according to him, about fifteen minutes after 9:30 or 10 o'clock in the morning, *id.* at 2234, 2236. Young then testified that at "maybe one, two o'clock in the afternoon" that day, he, Curry and Jamal Baskerville were sitting in Curry's Range Rover truck when Bergrin called them. *Id.* at 2240-41.⁹ A detailed analysis of the wiretap calls from that day, however, proves this narrative to be false.

Indeed, as detailed in William Baskerville's *pro se* Supplemental Letter Brief, filed November 30, 2015, Ex. 6, as well as from Mr. Bergrin's own analysis of the recordings at issue after his conviction,¹⁰ we now know for a fact that Curry first left his home after noon on

⁸ Mr. Bergrin has also learned of an eyewitness to the McCray murder, Sean McPhall, who might shed light on facts in dispute, including Young's account of how the killing occurred. Though McPhall's identity as an eyewitness was known to the government, it never disclosed this information to Mr. Bergrin prior to or during trial. Ex. 15.

⁹ Of course, this was merely one version of Young's ever-evolving account. At William Baskerville's trial in 2007 and at Mr. Bergrin's first trial in 2011, Young claimed that Rakeem Baskerville was in the front seat of the Range Rover with him and Curry that day; he changed his story to place Jamal in the front seat in 2013 when phone records again proved that Rakeem could not have been there, suddenly claiming that "it was so much going on, we was doing a thousand things that day. And all the brothers is out there, all the Baskerville brothers." Tr. (2/1/13) at 2241-42. *See Harris*, 55 V.I. at 1124 ("a reasonable prosecutor pursuing justice would have recognized the substantial question arising from" testimony of witness who had changed his account several times).

¹⁰ The exculpatory significance of these recordings first came to light when the government, in its post-trial briefing in opposition to Mr. Bergrin's motion for a judgment of acquittal, asserted that the "no Kemo, no case" meeting must have occurred on December 4, 2003, and cited a call from Bergrin to Curry at 7:13 p.m. that evening as support for Young's testimony that Curry had informed him at the meeting that he knew Mr. Bergrin was "on his way." ECF No. 556 at 12 n.2 (citing Tr. (2/1/13) at 2252). Of course, as Mr. Bergrin discovered when he listened to the call having been alerted to its significance, that call actually demonstrated that Bergrin planned to "speak to [Curry] tomorrow." ECF No 558 at 6. Only then did Mr. Bergrin realize that the

November 25, 2003, that he then went to the store that he owned and not Jamal Baskerville's house, and that he first learned of Baskerville's arrest in a phone call from Maurice Lowe at around 12:30 p.m. Ex. 6 at 2-3; Call Nos. 09218-28, 09241. Between 1pm and 2pm Curry was not in his Range Rover with Young and Jamal Baskerville as Young claimed, but rather was waiting for Jihad Pray to pick him up from his store in Pray's rental vehicle, where Curry later accidentally left his jacket. Ex. 6 at 2-3; Call Nos. 09266, 09272-82; 09369. Though Young claimed that Hamid Baskerville was also present for the meeting at Jamal Baskerville's house on the morning of William Baskerville's arrest, Tr. (2/1/13) at 2233, a phone call between Curry and Hamid at approximately 4:30 p.m. demonstrates that the two never met that day, that Hamid knew almost nothing about the arrest, and that Curry and his associates had not discussed the circumstances of Baskerville's arrest together in person as Young testified. Ex. 6 at 4; Call No. 09369. Though Curry recounts the events of his day over the phone, he does not mention having seen Young at all, let alone having spent most of the day with him and Jamal Baskerville as Young testified. Ex. 6 at 4; Call No. 09369

The DEA recordings also belie Young's testimony that Rakeem Baskerville, "was real mad when he found out that it was Kemo that was the one that set Will up, because he the one introduced Kemo to his brother to sell him his crack, and he didn't know Kemo was a confidential informant at the time. Rakim introduced Kemo to Will," Tr. (2/1/13) at 2247. Rather, when Curry asked Rakeem who Kemo was at 5:05 p.m. on the day of William Baskerville's arrest -- just four minutes after Bergrin told Curry that William had identified the informant as McCray -- Rakeem responded, "I don't know him. I think he's from Irvington." See Call No. 3496671.

Young's account of the days following William Baskerville's arrest fares no better when compared with the recordings. Thus, there can be no truth to Young's claim that the Curry organization only decided to kill McCray when Bergrin told them that Baskerville "was facing

government had misrepresented the substance of the recordings and that these recordings had the potential to flatly contradict the narrative Young provided at trial.

life in prison for that little bit of cocaine,” purportedly at a meeting at Jamal Baskerville’s house in the days immediately following Baskerville’s arrest. Tr. (2/1/13) at 2252. Indeed, the calls between Bergrin and Curry demonstrate absolutely no concern that Baskerville would face life imprisonment. Though Curry told Hamid Baskerville that Bergrin told him that William was facing life on November 25, 2003, Call No. 09369, on November 26, 2003 at 5:38 p.m., Curry told Jarvis Webb that Bergrin had by then advised him at a meeting at Bergrin’s law office that day that Baskerville was facing twenty years, but “really facing” about twelve years, which they speculated meant “only ten.” See Call No. 09771. After Baskerville’s December 4, 2003 detention hearing, Bergrin informed Curry at 7:13 p.m. that evening that Baskerville was facing eighteen years, but that Bergrin believed he could negotiate a thirteen-year plea deal. Call No. 10519. Given that conversation, there is no reason to believe that a subsequent meeting was necessary based upon facts learned at Baskerville’s detention hearing, as Young testified, and as was the government’s theory at trial, which theory places these purportedly harmful tapes in a context that renders them appropriately considered newly discovered evidence.

The calls between Bergrin and Curry on December 4, 2003 after Baskerville’s detention hearing are also consistent with Mr. Bergrin’s defense that he would not have said “no Kemo, no case” in light of the strong surveillance and other evidence against Baskerville, and inconsistent with Young’s testimony that Mr. Bergrin hinged Baskerville’s freedom on preventing Kemo from testifying, Tr. (2/1/13) at 2253. In two different conversations that evening, Mr. Bergrin noted the extensive surveillance evidence against Baskerville, stating that that it was a “rough case,” and specifically citing the extensive surveillance that the government had -- notably, without reference to the testimony of an informant. Call No. 10493. Bergrin later told Curry “it’s an impossible case” because of the evidence against Baskerville, and Curry responded, “fight Paul” (and never mentioned any plot to kill Kemo). Call No. 10519. Similarly, Curry stated in a call at 4:34 p.m. on February 20, 2004, just a couple of weeks before McCray’s murder, that he wanted Bergrin off Baskerville’s case because “Paul is about copping out.

Taking money and pleading guilty.” Call No. 1203305. That sentiment is entirely inconsistent with either Young’s claim that Bergrin had advised killing McCray in contemplation of winning Baskerville’s case at trial or that Curry was relying on Bergrin’s legal analysis on how best to proceed in Baskerville’s case. Moreover, if the parties were actually conspiring together to kill McCray, it would be entirely illogical for Curry to consider firing Bergrin at such a critical time.

In sum, in addition to all of the other evidence cited above, these calls, first examined only after trial, fundamentally contradict the core of Young’s testimony, including that Mr. Bergrin met with the Curry organization, agreed with them that McCray should be killed, and provided them with the rationale for doing so. As such, they warrant a new trial.

Indeed, the evidence cited above amply fulfills the *Iannelli* requirements. As to the first criterion, it is only since Mr. Bergrin’s trial concluded in March 2013 that he was able to learn that Young admitted to Charles Madison and Miller that he falsely implicated Bergrin in the McCray murder and that Diedra Baskerville, Rakeem Baskerville, and Hakeem Curry denied any involvement in McCray’s murder. That is, Madison was only motivated to “do the right thing” and tell what he knew based upon his religious scruples in 2014 after he saw Bergrin praying to God while Mr. Bergrin was incarcerated. Ex. 1 at 2-3. With respect to Miller, it is of course true that Bergrin played excerpts from the 2005 recording that Miller had made of Young at both of his trials, in which recording Young described his general strategy for telling the government what it wanted to hear. But unlike the government, Mr. Bergrin was entirely unaware that Miller possessed the specific information described above that bears so powerfully upon Mr. Bergrin’s case, including, for example, that Young was boasting about falsely claiming that “Paul ... had something to do with it, and he orchestrated the whole thing,” to reduce his own sentence. Ex. 2 at 9. Miller was simply too frightened to come forward with that information sooner. Likewise, neither Hakeem Curry, Diedra Baskerville, nor Rakeem Baskerville were willing to take the stand at the time of Mr. Bergrin’s trial, and in fact Curry specifically expressed to standby counsel his intention to invoke his Fifth Amendment right against self-incrimination if called.

Ex. 17 at 2. Thus, the statements that appear as exhibits to his reply brief in support of his Section 2255 motion were not available at that time. Likewise, Mr. Bergrin's investigators specifically attempted to serve Diedra Baskerville with a subpoena at the time of trial, but were unable to do so. *Id.* Accordingly, her statements that she has never met Young and never attended a meeting at Jamal Baskerville's house on the morning of her husband's arrest are also newly discovered, though Bergrin conscientiously sought them earlier. And, though Mr. Bergrin was in possession of the DEA's recordings of Hakeem Curry prior to his trial, it was only when Mr. Bergrin realized, post-trial, that the government had misrepresented the substance of those conversations, most specifically in its opposition to Mr. Bergrin's Rule 29 motion, that this evidence was "given new importance," *Garland*, 991 F.2d at 335, based upon its "latent attribute" of discrediting Young's account. *Cimera*, 459 F.3d at 460 n.11.

Under these circumstances, Mr. Bergrin certainly exhibited diligence in seeking to uncover evidence of this sort for use trial. He called several witnesses, such as Paul Feinberg, Rashida Tarver, Ben Hohn and Shawn Brokos, to impeach Young, while his attempts to subpoena witnesses like Jamal Baskerville and Jamal McNeil to refute Young's account were stymied by the Court, *see* Tr. (3/5/13) at 7652-57, Tr. (3/6/13) at 7838-42, Tr. (3/6/13) at 7853-56 ; Tr. (3/8/13) at 8227. *See LaVallee*, 439 F.3d at 701 ("Due diligence does not require that a defendant exercise the highest degree of diligence possible to locate evidence prior to trial; only "reasonable diligence" is required.") (citation omitted); *Lawhorne*, 29 F. Supp. 2d at 305 (E.D. Va. 1998) ("Diligence' means ordinary diligence, not the highest degree thereof[.]") (citing *Wright, King & Klein, Fed. Prac. & Proc.: Criminal 3d* § 557 (2004)). Furthermore, of course, Mr. Bergrin's laudable attempts to subpoena witnesses and review the profusion of documents and recordings turned over to the defense in this case were hampered by his status as an incarcerated *pro se* defendant. *Cf. Winslow v. Portuondo*, 599 F. Supp. 2d 337, 342 (E.D.N.Y. 2009) (noting with regard to diligence inquiry in habeas proceeding that adequate weight must be given to "disadvantages and challenges that an incarcerated *pro se* petitioner faces in pursuing judicial relief").

Of course, Young's admissions that he was entirely fabricating his own and Mr. Bergrin's involvement in McCray's murder, and witness statements and recordings proving that his account at trial could not have been true will probably produce an acquittal because they "strongly demonstrate that critical evidence at the trial against the defendant was very likely to have been false." *Quiles*, 618 F.3d at 392-93. Such evidence is obviously material as it reaches the heart of the allegations against Mr. Bergrin. And because Mr. Bergrin was not able to present evidence of this magnitude at trial, it is not cumulative of evidence presented in the defense case. *See United States v. Morales*, Crim. No. 90-441-2, 1991 WL 276022, at *2 (E.D. Pa. Dec. 18, 1991) (ordering a new trial based on newly discovered evidence that was not cumulative even though other witnesses had presented similar testimony). As a result, the evidence proffered herein, which "could, if believed, change the verdict," *Gambino*, 59 F.3d at 364, requires a new trial. In the event that the Court does not grant Mr. Bergrin a new trial based on this proffer alone, it should hold a hearing as to this evidence.

B. Newly Discovered Evidence Demonstrates That A Key Government Witness Lied In The Conspiracy to Murder Witnesses Against Criminal Client Vicente Esteves (Counts One, Two, Four, Five, Twenty through Twenty-Six)

Newly discovered evidence also calls into question the most critical evidence implicating Mr. Bergrin in a conspiracy to murder witnesses who were cooperating against his client, Vicente Esteves, in Esteves's Monmouth County drug case. The linchpin of the government's case as to those charges was the testimony of Oscar Cordova, a government informant who recorded conversations with Bergrin and his co-defendants under the guise of assisting the defense in Esteves's state drug case. As can be heard on the recordings, Cordova frequently urged harming witnesses in connection with Esteves's case. Since trial, however, the ex-girlfriend of Oscar Cordova has come forward with information discrediting the veracity of

Cordova's testimony and the integrity of the recordings he made of Bergrin with respect to those charges.

At trial, the government called Cordova as a witness to authenticate the tapes and to testify about the circumstances under which they were made and what he understood Bergrin to mean during those conversations. By far the most pivotal evidence in that case concerned a December 8, 2008 conversation that Cordova recorded while Bergrin, Cordova, and others were out celebrating Bergrin's birthday at Forno's Restaurant in Newark, New Jersey in which Bergrin tells Cordova, "make it look like a robbery" because it "cannot under any circumstances look like a hit." Tr. (2/20/13) at 5095, 5069, 5104. Cordova testified that Bergrin was thereby instructing him to kill "Junior the Panamanian," a cooperating witness against Esteves, and to disguise the hit as a burglary to avoid suspicion. Tr. (2/20/12) at 5093-96. Mr. Bergrin's defense at trial was that he made such statements to lead Cordova on because he wanted Cordova to fund Esteves's case; as Bergrin sought to show, he never believed Cordova, knew him to be a government informant, and felt that no harm would never come to pass to anyone in connection with Esteves's case; indeed, he would not let that occur. Tr. (3/13/13) at 8665-66. Mr. Bergrin further contended that Cordova manipulated the recordings to exclude Bergrin's exculpatory statements, such as instructions not to act. *See, e.g.*, Tr. (3/13/13) at 8607.

1. Interview of Savina Sauseda Is Newly Discovered Evidence Warranting A New Trial.

Since Mr. Bergrin's conviction, Cordova's ex-girlfriend, with whom he lived from 2009-2010, Savina Sauseda, has come forward. In an interview from April 28, 2016, she revealed that after she ended her relationship with Cordova in 2010, she found a Hawk recording device that Cordova left at her home; from her description, it matches the recording device that Cordova used in Mr. Bergrin's trial, though this particular device was apparently never accounted for by

the government. *See* Tr. (2/14/13) at 3470-71; Ex. 7. Specifically, while Sauseda was cleaning her home one day, she discovered in her couch cushions a Hawk recording device with over twenty recordings dating back to 2006 on it. *Id.* at 2. According to Sauseda, some of the recordings pertained to drugs, some “were about make it look like a robbery,” and some were hard to hear. *Id.* She further explained, “if you ever listened to tape recorders ... where you were able to stop play, stop and record, that’s what it sounded like. Most of them were, like, paused, then started up again; paused, then started up again. They were like bits and pieces.” *Id.* When asked if she thought Cordova was trying to transfer certain portions of conversations from one tape onto a different tape or another tape recorder, she responded, “to me, that’s what it sounded like, yes.” *Id.* As she elaborated, “it sounded like this, like, [crunch] and then it would stop and then it would talk and then it would stop.” *Id.*

Moreover, in 2011, about a year after their break up, Sauseda confronted Cordova about suspicious behavior he had exhibited during their relationship, such as disappearing for long periods of time without an explanation, and receiving a paycheck even while he was not working. *Id.* As he explained to her, “you just don’t know, I got involved in some stuff and in order for me to see my family again, this is what I have to do.” *Id.* He told Sauseda, “I was paid as an informant to set people up; he’s like that’s my job.” *Id.* When asked if Cordova created false testimony or made up stories about Bergrin, Sauseda revealed that “he had told me that he was paid to say whatever whoever was paying him [said] to say.” *Id.* at 3. And, when asked in what case he did so, Sauseda noted that she did not know specifically, but, “he used to refer to somebody named Sean,” presumably referring to Special Agent Shawn Brokos in this case. *Id.* Sauseda later confirmed in writing that Cordova “confessed to me what he was paid to do. Lie. Lie on the witness stand against Paul Bergrin” *Id.* at 4.

Cordova not only admitted that he fabricated some things, he threatened to kill Sauseda if she “tr[ie]d anything funny.” *Id.* at 4. He also told her that he could never be prosecuted, for example for stealing her jewelry, car, and credit card as Sauseda noted he did, because, “whatever he does is not gonna matter because the government is on his side.”¹¹ *Id.* at 3. This evidence indicates that, as Mr. Bergrin sought to show at trial, Cordova did, in fact, manipulate the recording devices he used to record Bergrin, supporting Mr. Bergrin’s theory that Cordova omitted exculpatory statements by Bergrin from the tapes he submitted to the government. It moreover indicates that he testified to whatever the government wished him to say, regardless of its truth.

Sauseda, moreover, confirmed that during the relationship, “he told me about his family ... he did lie about ... who his dad was.” *Id.* That is, when Sauseda confronted Cordova about his mysterious employment approximately a year after their relationship was over, he admitted to her that, as he said, “my whole family thing about my dad was made up.” *Id.* Specifically, though he had claimed that his father was Gustavo Colon, a/k/a Lord Gino, the head of the Latin Kings, and “that his dad was some type of gang leader and that his dad is in prison,” he later revealed, “that wasn’t true at all.” Indeed, “he had told me that it wasn’t.” *Id.* That revelation is not only significant impeachment material,¹² but it supports Mr. Bergrin’s defense that he knew Cordova to be an informant¹³ because he knew Cordova was only pretending that his father was “Lord Gino.” *See, e.g.,* Tr. (3/13/13) at 8666. Sauseda also supported Bergrin’s defense that it

¹¹ That attitude was borne out at trial when Cordova committed perjury by claiming he was under threat of harm, when in fact, he had called the threats in on himself; Cordova was not charged for this offense. Tr. (2/25/13) at 6252-54.

¹² Though Mr. Bergrin repeatedly attempted to establish that Cordova was lying about the identity of his father, Cordova continued to attest under oath that his father was, in fact, Lord Gino. *See, e.g.,* Tr. (2/21/13) at 5191-92, 5198, 5201.

¹³ As discussed below, co-conspirator Yolanda Jauregui has, post-trial, confirmed that Bergrin suspected Cordova to be an informant. Ex. 8 at 22.

was obvious to him that Cordova was no hitman through her assertions that based upon Cordova's demeanor, "he's definitely not a killer" and "he wouldn't even kill a bug ... he would scream like a girl." *Id.* at 4. Finally, as Sauseda confirms, Cordova "wasn't trustworthy by any means," but was rather "deceptive." *Id.*

Such evidence constitutes "newly discovered evidence" pursuant to the *Ianelli* requirements. First, this evidence is "newly discovered" because Mr. Bergrin first learned of Ms. Sauseda's existence when she came forward after trial. As she explained, when she did an internet search for Cordova's name and saw news coverage that he was involved in allegations of murder-for-hire, she felt compelled to speak. Once she realized that the "bunch of BS from my ex," *i.e.*, the fact that, as Cordova told her in 2011, he was a government informant," involved such serious allegations, she realized that, "morally I know it's the right thing to do, that's why I reached out...." *Id.* Certainly, Mr. Bergrin had displayed diligence in investigating the integrity of the recordings, given that he secured an audio surveillance expert to review them for evidence of tampering. He likewise had called various defense witnesses such as Beth Bergrin, Ana Aviles, and Anthony Badim to show that he knew Cordova was an informant, that he knew his father was not Lord Gino, and that Cordova's account of events, including those that were not recorded, was false. But he did not and could not have anticipated that Cordova secreted a recording device demonstrating the extent of his tampering in his ex-girlfriend's home, or that Cordova had made the statements he did, including, most notably, that he was paid to "[l]ie on the witness stand against Paul Bergrin." Moreover, this evidence is material, as it eviscerates Cordova's credibility and directly supports Mr. Bergrin's defenses. *See, e.g., Wallach*, 935 F.2d at 457-58 (new trial was necessary because lies of key witness who "tied all the pieces together," even as to matters affecting only his credibility, could have caused the jury to reject his entire testimony and eliminate the foundation for conviction); *Lipowski*, 423 F. Supp. at 868-69 (granting new trial after key witness was discovered to have committed perjury in related matter). As such, Sauseda's information "will probably produce an acquittal," not only on

Counts One, Two, Four, Five, Twenty through Twenty-Six, but also on the counts related to the Kemo McCray murder, as the Court permitted the jury to use evidence as to Mr. Bergrin's purported intent to harm witnesses in this case to establish his intent to harm McCray with respect to Counts One, Two, Three, Five, Twelve and Thirteen. *See* Tr. (3/14/13) at 8959. It is likewise not cumulative, particularly as the Court precluded Mr. Bergrin's audio surveillance expert from examining the recordings for evidence of tampering or testifying to the anomalies that he observed on some of the most critical of Cordova's recordings. Tr. (3/7/13) at 7920-22. Likewise, though Mr. Bergrin sought to impeach Cordova, he did not have the benefit of Cordova's admission that he lied, for example, about his father's identity, or he perceived it to be his "job" "to set people up" and say whatever the government wished, or that he did not return all of his recordings in to the government, including conversations as to which it is obvious from the recording that he manipulated what was said. The Court should grant Mr. Bergrin a new trial, or in the alternative, an evidentiary hearing.

C. Newly Discovered Evidence Demonstrates That Government Witnesses Lied In The Drug Trafficking Case (Counts One through Five, Eight, Nine, Ten, Twelve, Seventeen through Twenty-Five)

The Court should grant Mr. Bergrin a new trial in light of newly discovered evidence pertaining to his alleged involvement in drug trafficking activity or, at the very least, hold an evidentiary hearing at which these factual allegations would be fully aired, and the credibility of the pertinent witnesses appropriately assessed. At trial, the government sought to show that Bergrin conspired with others, particularly Yolanda Jauregui and Alejandro Barraza-Castro, to operate a cocaine trafficking business through which he not only connected criminal clients such as Eugene Braswell, Abdul Williams, and Rondre Kelly, who all testified on behalf of the government, with cocaine suppliers like Barraza-Castro, but even, on occasion, himself supplied these clients with cocaine from his law office. *See* Tr. (3/13/13) at 8457-58, 8545, 8549. Mr. Bergrin's defense was that the government's witnesses were fabricating their testimony, that

Jauregui and Barraza-Castro conducted the drug trafficking business – and a romantic relationship – without Mr. Bergrin’s knowledge, and indeed, that Jauregui deliberately hid these activities from him, in part because Bergrin hated Barraza-Castro. *See, e.g.*, Tr. (3/13/13) at 8682, 8693-95. Because newly discovered evidence belies much of the government’s allegations and directly supports Mr. Bergrin’s defenses, Mr. Bergrin is entitled to a new trial.

1. Yolanda Jauregui’s Post-Trial Admissions and the Government’s Apparent Suppression Thereof Constitute Newly Discovered Evidence Warranting a New Trial.

Although Jauregui was a cooperating witness for the government who testified against Mr. Bergrin at his first trial, the government did not call her to testify at Mr. Bergrin’s second trial. Instead, the government introduced recordings and documents concerning Jauregui’s and Barraza-Castro’s drug trafficking activity that it claimed also implicated Mr. Bergrin. *See, e.g.*, Tr. (2/11/13) at 3794. As far as the defense is aware, Barraza-Castro was not a cooperating witness, although he ultimately pleaded guilty to various drug trafficking charges in connection with this case. As a cooperating witness, Jauregui was not available to the defense at Mr. Bergrin’s trial, though newly discovered evidence demonstrates that she has, since Mr. Bergrin’s conviction, had a change of heart and agreed to tell the truth about Bergrin’s innocence of these charges. That is, when attorney Brian P. McVan reached out to Jauregui on behalf of Mr. Bergrin after trial, she agreed to speak with him and, in fact, confirmed that she only implicated Mr. Bergrin because the government made clear to her that if she did not say that Mr. Bergrin was the leader and a participant in her drug trafficking activity, then she would not be accepted as a cooperating witness and would receive a lengthy prison sentence. Ex. 8 at 2, 5.

As set forth in Mr. McVan’s affidavit, Jauregui reviewed a certification that Mr. Bergrin had prepared with regard to her knowledge of his innocence in this case and represented to Mr. McVan that it was “true and accurate in its entirety with the sole exception of allegations about

the nature and extent of her sexual relationship with Alejandro Castro.” *Id.* at 2. That is, she agreed that the government “scared and terrified me into saying exactly what they wanted to hear. The truth was never their objective.” *Id.* at 5. She further agreed that it was “obvious exactly what the government wanted to hear by the repetition of the questions they asked,” and that if she attempted to “tell the truth and that Paul was innocent, not involved, or that I did not know the answer, the government would get angry, threaten to end the meeting, walk out or tell me I am lying and that they are not using me as a cooperating witness. *Id.* at 5-6. As a result, the “government thereby put the answers in my mouth that they wanted to hear about Paul and, the majority of the time it was not the truth.” *Id.* at 6.

Specifically, Jauregui agreed that neither “Alejandro nor his family would ever do business with Paul, they did not like nor trust him.” *Id.* at 8. She affirmed that Bergrin left her in charge of Isabella’s Restaurant, *i.e.* the “drug premises” described in the Second Superseding Indictment against Bergrin, and that Bergrin did not know who the tenants, such as Barraza-Castro, were “nor what was going on at the restaurant.” *Id.* at 8-9, 18. She confirmed that she, her brother Ramon Jimenez, and Barraza-Castro were dealing cocaine together and that she was making a percentage of their sales, but that she hid this activity from Bergrin by claiming she resold renovated foreclosed properties. *Id.* at 9. She acknowledged that she printed business cards and pretended to attend meetings at banks, mortgage companies and properties to fool Bergrin into thinking she was conducting legitimate business when she was actually dealing drugs with Barraza-Castro. *Id.* She admitted that she denied to Bergrin any involvement in Barraza-Castro and Norberto Velez’s drug activity, that she contacted criminal clients of Bergrin’s for their drug dealing connections without Bergrin’s knowledge – including by stealing numbers from his cellular telephone contact list while he showered – and that she hid any and all

drug dealing activity from Bergrin. *Id.* at 11-12. She also agreed that she “made sure Ashley [a/k/a Theresa Vannoy] and my family never slipped or revealed to Paul what I was doing with Alejandro.” *Id.* at 12.

She further confirmed that she met Rondre Kelly independently from Bergrin and kept their drug dealing a secret from Bergrin. *Id.* at 13. As she agreed was true, “[w]e made it a point to ensure Paul had no idea whatsoever we would be doing drug trafficking together.” *Id.* To the extent that Kelly testified to the contrary, Jauregui confirmed that “Dre lied on the witness stand when he testified Paul was involved. Me and Alejandro, set everything up.” *Id.* at 14. Likewise, Kelly lied when he claimed that Ramon Jimenez delivered cocaine to Kelly for Bergrin and Bergrin’s law office. *Id.* at 14-15. As Jauregui agreed, “Ro[n]dre Kelly, Abdul Williams and Thomas Moran¹⁴ lied. Paul received no money for drug sales and was never involved.” *Id.* at 16. Indeed, Jauregui conceded that “Paul had no knowledge that Ramon did any drug deals with Abdul Williams (Mutallic),” given that she, Ramon, and Williams “swore confidence and secrecy to each other and the fact that any drug deals must be hidden, secret from Paul.” *Id.* In the same vein, Williams never served as a courier for Bergrin, and instead purchased drugs from Jauregui and Barraza-Castro. *Id.* at 16-17. Likewise, Jauregui confirmed that Braswell lied when he testified that Bergrin dealt him drugs from Bergrin’s law office that Bergrin obtained from Barraza-Castro. *Id.* at 22.

¹⁴ Jauregui also agreed that Moran’s testimony that Bergrin was aware that Barraza-Castro was living at Isabela’s because he unlocked the basement for them on one occasion, Tr. (2/26/13) at 6456 (*i.e.*, the evidence purporting to tie Bergrin to the kilograms of cocaine seized from that location on May 21, 2009), was false, as she was willing to sign the affidavit stating “I spoke to Alejandro about those kilograms and I am absolutely certain Paul was never given any money for anyone to store cocaine nor any drugs at Isabela’s restaurant ... Paul had nothing to do with those drugs, nor did he have any knowledge.” *Id.* at 20.

Unfortunately, Jauregui was never able to sign the affidavit that she agreed was wholly accurate, as described above and those investigating on Mr. Bergrin's behalf have not themselves been able to locate or interview her. *See id.* at 3. As Jauregui's niece Loriann Ortiz and Jauregui's sister Marilisa Jimenez have explained, Jauregui wants to help Bergrin, but she has been placed into solitary confinement each time she has attempted to contact him.¹⁵ Ex. 9 at 2. Given the highly suspicious timing of and rationale for Jauregui's placement in solitary confinement, it is reasonable to infer that the government has interfered to prevent Jauregui from assisting in Mr. Bergrin's defense. A new trial should be granted so that this highly exculpatory information may be placed before the jury.

2. Statements of Sonia Erickson Are Newly Discovered Evidence Warranting A New Trial.

A May 27, 2014 interview with Sonia Erickson -- the biological mother of Theresa Vannoy (a/k/a Ashley Jauregui), whom Yolanda Jauregui raised as a daughter during the period described in indictment against Mr. Bergrin -- also demonstrates that, contrary to the evidence presented at trial, Bergrin was not involved in Yolanda's drug dealing activity, but that the government refused to even consider that this might be the case. Specifically, as Theresa has told Erickson "from day one," Bergrin had no knowledge of any of the drug trafficking activity by Yolanda Jauregui and Alejandro Barraza-Castro; rather, Yolanda hid that activity and her sexual relationship with Barraza-Castro from Bergrin under threat of physical harm to Theresa if she revealed that information to Bergrin. Ex. 10 at 2. Indeed, "Theresa was very, very adamant that not only did Paul not know anything, that Paul was never around when any of the drugs or

¹⁵ Ortiz, who worked full-time at Bergrin's law office, also confirmed that there were no drugs stored there. Ex. 9 at 2. Marilisa Jimenez similarly confirmed that Bergrin was never involved with drugs and that Jauregui kept her drug dealing activities hidden from Bergrin. *Id.*

money or any of this stuff was being talked about, but that she was threatened physically by Yolanda if she was to tell Paul. My daughter has said that from day one.” *Id.*

Erickson also revealed that FBI Special Agent Shawn Brokos tried to convince Theresa to claim that she had knowledge of Bergrin dealing drugs even though Theresa was adamant that she had no such knowledge. *Id.* (Q. “So did Brokos wanted her to lie? A. Ther-Ther, yeah, yes. And Theresa stuck to her guns. She said mom, that’s, that’s not what happened.”). As Erickson recounted, during the Bergrin trial, Agent Brokos even urged Erickson herself to provide information about the case to news reporter Joe Ryan of The Star-Ledger, who was covering the trial, but hide the fact that Brokos had encouraged her to do so. Though Erickson had been willing to present this evidence at Bergrin’s trial, she explained that she was not served with a subpoena to testify until several days after the date upon which the subpoena called for her to testify. *Id.*

3. Statements of Robert Vannoy Are Newly Discovered Evidence Warranting a New Trial.

The accounts of the witnesses described above are consistent with that of Robert Vannoy, Yolanda’s nephew and Theresa Vannoy’s brother. Though Robert testified at trial – and maintains to this day – that Bergrin had nothing to do with Yolanda and Barraza-Castro’s drug business, which Robert witnessed firsthand growing up in Yolanda’s home, he has only now revealed new information about the case. *See* Tr. (3/8/16) at 8235-40; Ex. 11. Specifically, he has now revealed for the first time that he had always told the FBI that Bergrin had no involvement in the drug business, Ex. 11, but the government apparently ignored that information and certainly did not reveal it to Mr. Bergrin’s defense counsel consistent with its *Brady* obligations.

4. The Statements of Jose Jimenez Are Newly Discovered Evidence Warranting a New Trial.

Jose Jimenez, a co-defendant in Mr. Bergrin's case, has likewise confirmed in an interview conducted on October 22, 2013, that, as to the drug trafficking business run out of Isabela's restaurant, "Paul Bergrin didn't know anything about that." Ex. 12 at 18. *See also id.* at 18-19 ("Q. And you don't think he had anything with the drugs in the basement? A. No."); 24 ("He didn't know anything about [drugs in 710 Summer Avenue]"); 42 ("He's innocent of the drugs ... Paul's got nothing to do with ... that"). As Jimenez also confirmed of Bergrin and Barraza-Castro: "I don't think they got along really well ... especially with that whole thing with Yolanda ... [t]here was jealousy between ... Alejandro and Paul." *Id.* at 19. Jimenez further confirmed that Bergrin apparently only visited the restaurant once in seventeen months, and never with Barraza-Castro, who worked there. *Id.* at 18, 26, 28.

5. Phone Records of Calls Between Bergrin and DEA Agent Gregory Hilton Are Newly Discovered Evidence Warranting A New Trial.

At trial, Bergrin sought to elicit the fact that between 2004 and 2008, he had reported Barraza-Castro's drug trafficking activities to DEA Agent Gregory Hilton. That fact would have supported his defense that he was jealous of Barraza-Castro's relationship with Jauregui, hated Barraza-Castro, and was not in business with him, or indeed, involved in any drug trafficking himself. When counsel for Mr. Bergrin reached out to Agent Hilton during Mr. Bergrin's trial, however, Agent Hilton could not recall having spoken with Bergrin. Ex. 17 at 2.

Only after trial did Mr. Bergrin obtain Agent Hilton's phone number and discover that among the tens of thousands of documents provided in discovery, and the hundreds of pages of phone records, Mr. Bergrin's phone records showed 54 telephone calls with Agent Hilton during that time period. Ex. 14 (memorandum prepared by Ginger P. Galvani, Esq. analyzing phone records). Notably, those calls were not in chronological order in the records provided and required a painstaking and time-consuming analysis, which Bergrin could not possible do while he was preparing for and conducting a trial from the Metropolitan Detention Center.

6. Statements of Amin Shariff Are Newly Discovered Evidence Warranting A New Trial.

Another witness previously unknown to the defense has also emerged since trial to corroborate the evidence discussed above, including Yolanda Jauregui's account that Eugene Braswell's testimony against Mr. Bergrin was false. Specifically, as Amin Shariff, a cooperating witness for the government in other matters who was interviewed by Mr. Bergrin's defense team in May 2014 attests, not only did Eugene Braswell fabricate his testimony against Bergrin, but the government pressured Shariff himself to allege that Bergrin was involved in drug activity even as he repeatedly told them that it was not the case, to his knowledge. Ex. 16 at 3 ("I knew and believed they wanted me to lie. They kept suggesting that I had knowledge Paul was dealing drugs when I kept telling them I did not."). As Shariff recounts, the government approached Shariff to cooperate when he was arrested in around 2009. *Id.* at 2. Two federal agents from Newark, New Jersey visited him and asked him to provide information and potentially testify against Paul Bergrin. *Id.* at 2. They explained that his "5K1.1 letter would get fatter if I did. They kept trying to tell me that I had information Paul was involved in dealing drugs and that if I said this, it would benefit me." *Id.* at 2.

Critically, when Shariff contacted his cousin Braswell to ask how he should respond to the federal agents pressuring him, Braswell "advis[ed] and instruct[ed]" him to lie, "to make up facts and say that I had information Paul was dealing drugs and using prostitutes. To lie and make up whatever facts I had to in order to go free." *Id.* at 3. As Braswell urged Shariff, "[j]ump on Paul's case. Everyone is doing it including me. Fuck Paul. He's our ticket to freedom. Tell the F.B.I. that Paul was selling me drugs, that I saw drugs in his office, that Paul sold only kilograms. Look the Feds in the eye and just bullshit them." *Id.* at 3. When asked if any of the information that Braswell had provided against Bergrin was true, he replied, "Fuck no!" and laughed. *Id.* at 4. Braswell urged Shariff to "[u]se Paul to go home." *Id.* As a result, "there is no doubt in [Shariff's] mind whatsoever [that Braswell] lied when he testified at Paul's trial" given that "Paul never dealt drugs to Wali nor anyone else, to my knowledge. Eugene

Braswell, Wali, told me this himself.” *Id.* Notably, Shariff only came forward when he did because “my knowledge of what happened to Paul, has been driving me insane and the pain and suffering I have expressed from this knowledge has been immeasurable.” *Id.* As he stated, “I should have given this statement years ago and tried to prevent Paul’s unjust conviction.” *Id.* at 1.

The newly discovered evidence described above fulfills the criteria for granting a new trial. That is, Yolanda Jauregui has only now agreed to speak on Mr. Bergrin’s behalf, as she undisputedly refused to do so during Mr. Bergrin’s trial. The same is true of Jose Jimenez, a co-defendant in this matter who has only now confirmed that Mr. Bergrin was not involved in Jauregui and Barraza-Castro’s drug activity, including because Bergrin and Barraza-Castro did not get along. Likewise, Sonia Erickson has only since trial confirmed that that Theresa Vannoy told her that Mr. Bergrin was not involved in Jauregui and Barraza-Castro’s drug trafficking activities; moreover, Erickson has provided new information previously unknown to the defense altogether, that Special Agent Brokos ignored this exculpatory evidence – and indeed, wanted Theresa to lie -- and further encouraged Erickson to surreptitiously create negative press for Mr. Bergrin during his trial. Similarly, though Mr. Bergrin called Robert Vannoy as a defense witness at trial, Robert did not then reveal that he had informed the government that Bergrin was innocent of the drug trafficking allegations. And while Mr. Bergrin was in possession of his phone records prior to trial, they were provided in such an incoherent manner and as part of such a voluminous amount documentary evidence, that it was only after trial, upon close analysis, that he was able to realize their importance in proving that he did, in fact, maintain frequent phone contact with DEA Agent Hilton with regard to Barraza-Castro’s drug trafficking activity. Finally, Amin Shariff was not known to Mr. Bergrin until after trial.

Meanwhile, at trial, Mr. Bergrin exercised diligence in attempting to uncover as much evidence as possible to demonstrate that he was not involved in Jauregui and Barraza-Castro’s drug trafficking business, including by calling defense witnesses Norberto Velez, Robert

Vannoy, Joseph Conzentino and Lemont Love. He should not be penalized because co-defendants have now decided to come forward with the truth. Nor should he be penalized where the U.S. Marshals Service failed to timely serve Sonia Erickson with a subpoena to testify at his trial, or because Robert Vannoy would not reveal all he knew when testifying on Mr. Bergrin's behalf; Mr. Bergrin understandably presumed that the government was abiding by its *Brady* obligations during trial. Likewise, Mr. Bergrin sought to have DEA Agent Hilton testify to their conversations, but was informed Agent Hilton would not reveal anything useful on the stand. Finally, Mr. Bergrin certainly could not have predicted that Braswell would so candidly admit his fabricated testimony to Shariff.

This evidence is also material, not cumulative, and will probably result in an acquittal. For example, Shariff's account that Braswell fabricated his testimony about Bergrin, including the notion that Bergrin connected him with drug suppliers and sold him drugs personally out of his office, eviscerates Braswell's credibility at trial and directly supports Bergrin's trial theory that Braswell had invented these claims out of whole cloth. Likewise, Jauregui specifically admitted that she has direct knowledge of who was part of the drug trafficking conspiracy in which she participated with Barraza-Castro and that Bergrin was not, in fact, involved; indeed, she hid these activities from him. Such obviously exculpatory evidence cannot help but change the verdict. That is particularly true when corroborated by Jimenez, Vannoy, and Erickson, who each affirms, in newly discovered evidence, that Bergrin was not involved in drug dealing, as well as by evidence of Bergrin's conversations with Agent Hilton which support his defense that he hated Barraza-Castro and was not his business partner. As Erickson and Vannoy have stated, the government was not interested in hearing such evidence. And though Mr. Bergrin attempted to introduce evidence of this kind at trial, at the time there was nothing presented of the magnitude of testimony from Jauregui herself admitting that she stole client contact information from Bergrin's phone to use as drug connections and hid her drug trafficking activity from him. Certainly, Mr. Bergrin was not then able to call Jauregui to testify that she had personal

knowledge that witnesses like Braswell, Kelly, Williams, and Moran were lying, or to call Shariff to testify that Braswell had boasted about fabricating his testimony. This evidence, both individually and in combination, requires a new trial or, in the alternative, an evidentiary hearing to establish its truth and accuracy.

III. CONCLUSION

For the foregoing reasons, the Court should grant defendant Paul Bergrin's motion and order a new trial pursuant to Federal Rule of Criminal Procedure 33, or, in the alternative, conduct an evidentiary hearing as to the evidence proffered herewith.

Respectfully submitted,

GIBBONS P.C.

Counsel for Defendant Paul Bergrin

By: s/ Lawrence S. Lustberg
Lawrence S. Lustberg, Esq.

Date: June 27, 2016
Newark, New Jersey

EXHIBIT 1

To: Lawrence Lustberg
The Gibbons Firm
One Gateway Center
Newark, N.J. 07102

Re: Paul Bergain

I (Charles Madison #65017-050) grew up with Anthony Young from adolescents in the city of Newark around the Vailsburg area. We are like brothers and we served time together in Boardentown (Albert C. Wagner Youth Correctional Facility) in the early 90's at which time a very good friend of ours was stabbed and killed in the Rec yard. I also served time with Mutallic in Leesburg (Bayside State Prison) whom I'm also familiar with from the neighborhood. My Godson's father was once a member of Young's crew on Alexander street where Young's family lived.

In September of 2005 I was released from Leesburg (Bayside Prison) and read news about E.T. Hark's arrest. Shortly after that I started receiving phone calls from Ant. At the time he was incarcerated but he called from a cell phone to my boost mobil cell phone. I believe he got the number from my god-son's father but I never asked. He asked me to put money on his inmate account. Said he was going into some kind of witness protection program. Said that he would be getting a house, a car, and money, but that would

come later and he needed money to hold him over until then. He said his family and girlfriend Rasheeda is going with him. He firmly stated that he was not going to jail anymore and that he was tired of doing time. Said he had wasted a lot of his life in jail and has nothing to show for it. I asked him if he had thought this thru and his response was "Yes". I asked him what he had to do and he said he had to tell these people some information about who they were interested in (HAK, Rakeer Baskerville, Paul Bergain) and the murder of some guy named Kimo. He said he didn't do the shooting but would confess to it as long as he got a lighter sentence in return. He spoke about Paul, but said he didn't do shit and he had to make up some bullshit about a meeting that supposedly took place because they kept pressuring him about Paul (he actually laughed like it was funny after he made the statement). He said he lied + told them that Paul held a meeting and told them to kill this kid Kimo. I asked him if there was even a meeting and he said "hell no, Paul didn't do anything but if I don't say that my deal is off the table.

I've only met Paul in passing, but when I saw him praying one day and crying out real tears to "God" for the strength to endure this hell hole, it moved me with compassion. I to as well as my family, are "God" fearing people

And when I am this by my wife she also told me that I should do the right thing and tell someone because no innocent person deserves to spend the rest of his life in prison. Besides that, if it were me I would want someone to do the right thing also. I have nothing to gain or lose as a result of my truthfulness, but I would like a clear conscience.

Respectfully,
Charles Madison

I do solemnly swear that all of the above is true, accurate and correct.

Charles Madison

Witnessed by:

Duoin P. McMan

11:41 AM January 17, 2014

EXHIBIT 2

Colloquy

2

1 MR. MCMANN: Today's December 3rd, 2013.
2 This is private investigator Michael McMann along
3 with Dennis Suarez. (both phonetic) We're speaking
4 today to Hassan Miller. We're at Delaney Hall in
5 Newark, New Jersey, which is the Essex County Jail.
6 The time now is approximately 12:00 p.m. So, all
7 right, Hassan, as you know, we're working for Paul.
8 Are you willing to speak to us about --

9 MR. MILLER: Yes, yes, yes.

10 MR. MCMANN: Okay.

11 MR. SUAREZ: Voluntary. Has anybody --

12 MR. MILLER: No, no, no, no.

13 MR. SUAREZ: -- threatened you or
14 anything? Okay.

15 MR. MILLER: Yeah, no.

16 MR. SUAREZ: Okay.

17 MR. MILLER: I just don't want my --
18 because last time, my name was in the paper, man.
19 I -- I'm forever gonna be stupid.

20 MR. MCMANN: Okay, well listen --

21 MR. MILLER: I'm forever -- you got to
22 feel me. I'm forever looking really stupid.

23 MR. MCMANN: Okay.

24 MR. MILLER: It was in the paper, and I
25 was like, I said, oh my goodness.

Colloquy

3

1 the paper? For what?

2 MR. MILLER: Well, you know -- you know
3 the man. You know, Paul fighting for his life.
4 You know what I'm saying? So --

5 MR. MCMANN: Yeah, sure.

6 MR. MILLER: And at the time I had -- it
7 was a Anthony Young, he basically came into Hudson
8 County, and basically was saying that -- this what
9 he said. He was, like, going around people and
10 trying to -- he said, you know what? I guess he
11 started hanging with the wrong type of group of
12 guys. You know, in there, you know, you got the
13 guys with the -- (indiscernible) -- and all that.
14 So he started hanging with the guys. People
15 started -- first, he came in with a gun case, and
16 then he got with a group of guys, and that was
17 that. I said to him, like, yo, you can help
18 yourself out.

19 UNIDENTIFIED MALE SPEAKER: Yeah.

20 MR. MILLER: So, once I heard him say --
21 he said, you know what I'm going to do -- because
22 he only had a gun case. All he was going to do was
23 about five years off a gun case. He said, I'm --
24 I'm going to pin this on Hakeem, ETI, Hakeem Curry.
25 (phonetic) He said, and I'm going to get Paul

Colloquy

4

1 Bergen (phonetic) in it. So, he running around
2 telling everybody this. So I'm like, why would you
3 try to destroy some man, like, you don't even know
4 nothing about? He said, man, fuck that. And he
5 didn't even do the shooting, but he said he going
6 to pin this on Hak (phonetic) and Paul.

7 MR. MCMANN: Well, why don't you start
8 from the beginning.

9 MR. MILLER: Hm-hm. Okay.

10 MR. MCMANN: If you don't mind.

11 MR. MILLER: Okay.

12 MR. MCMANN: Take us -- take us through -

13 -

14 MR. MILLER: Okay.

15 MR. MCMANN: -- how you were in jail.

16 First of all, I don't want you -- I don't want you
17 -- I know you're in here on current charges.

18 MR. MILLER: Yeah.

19 MR. MCMANN: There's one question I
20 want to ask you: are you represented by an
21 attorney?

22 MR. MILLER: No. I got a public
23 defender, but my case is done. My case is done. I
24 got a -- I got 16 months in, so my case is done.

25 MR. MCMANN: Your case is done? Okay,

Colloquy

5

1 because we were trying to ascertain who your
2 attorney was and try to -- and you -- it was our
3 understanding that you didn't have an attorney --

4 MR. MILLER: No, I don't. I don't.

5 MR. MCMANN: So, we just wanted to be
6 above board.

7 MR. MILLER: Yeah, okay. All right --

8 MR. MCMANN: You know, with permission to
9 speak to you.

10 MR. MILLER: Yeah, yeah, yeah, yeah --

11 MR. MCMANN: Do you understand?

12 MR. MILLER: Yeah.

13 MR. MCMANN: Okay.

14 MR. MILLER: All right.

15 MR. SUAREZ: So, basically, just start
16 from the beginning how you came in contact with
17 Anthony Young.

18 MR. MILLER: He was on the unit. He came
19 in on a unit. It was -- it was -- what's his name
20 -- (indiscernible) -- this is -- this is a minute
21 ago. Hold up, hold up. Will, Will Baskerville,
22 (phonetic) he was under our unit, it was 83 East in
23 Hudson County. So, we was -- once -- we was there
24 for a long time. Next thing you it, they left --
25 they -- once he left, that night, Anthony Young

Colloquy

6

1 came in. They call him Fat Ant. Anthony Young
2 came in, so we was trying to figure out, like, why
3 they move Will and he bring him over -- because we
4 didn't know that he was basically, you know, knew
5 them. So, you know, he was kind of cool when he
6 came in. He was from Newark, because you know, we
7 -- evidently, it was Passaic County for the Federal
8 holding and it was Hudson County. So, they had us
9 over there.

10 So you know, when a group of guys come in
11 that's from Newark, you know, we try to group up
12 with them. And, you know, okay, because it's
13 Jersey City. You know what I'm saying? So,
14 Anthony Young came, and he was like, you know, I'm
15 Fat Ant --

16 MR. SUAREZ: So, what you're saying is
17 the Newark guys were kind of --

18 MR. MILLER: Yeah --

19 MR. SUAREZ: -- hanging with the Newark
20 guys?

21 MR. MILLER: Yeah, yeah, the Newark guys.
22 You know what I'm saying? So, when he came in, he
23 was like, you know, I'm from Alexander. So, I was
24 like, yeah? So you this guy, you know this -- like
25 talking about my cousins. You know, my little

Colloquy

7

1 cousins. He said, yeah, I know all of them. So I
2 was like, yeah.

3 So, next thing I know, he said, I got a
4 gun case. So I was like, you got a gun case? I
5 said, okay. All right. So he started hanging with
6 the other guys.

7 MR. MCMANN: Can I ask you one thing, --

8 MR. MILLER: Yeah.

9 MR. MCMANN: -- too? I'm sorry to
10 interrupt real quick.

11 MR. MILLER: Hm-hm.

12 MR. MCMANN: Are you recording anything
13 now?

14 MR. MILLER: Hell no. I got -- I just
15 came in. I don't want my people -- because they --

16 MR. MCMANN: Okay. I'm just -- I'm just
17 asking.

18 MR. MILLER: -- (indiscernible) -- they
19 know -- they -- because I don't want them, you know
20 -- they came to say, Oh, Hause, (phonetic) who was
21 this coming to see you? And I'm like, I don't want
22 no problem with it --

23 MR. MCMANN: Okay. I was just asking.
24 I mean, you could tell me yes, you could tell me
25 no, it really doesn't make a difference.

Colloquy

8

1 MR. MILLER: No, bro. Bro, I thought, ya
2 was coming to do a pre-sentence report.

3 MR. MCMANN: Okay, no problem. Okay. No
4 problems. Go ahead.

5 MR. MILLER: But I don't want, like, some
6 of the counselors will know, like, you know what
7 I'm saying? Like, you know, they look me at like,
8 what's going on -- (indiscernible) -- but I just
9 don't want no problems no more man, because, I --
10 trust me -- I never seen Paul Bergen. I never had
11 him, I never -- you know what I'm saying? I just
12 knew he was helping -- guys out, you know what I'm
13 saying, with they cases. He was a good lawyer and
14 that's it, you know what I'm saying?

15 MR. SUAREZ: Okay. So, go ahead.
16 Continue what you were saying.

17 MR. MILLER: Okay. And he came, and Fat
18 Ant came in, and he was basically that he had a gun
19 case. So, once he started getting comfortable for
20 a few weeks, he started saying somebody must have
21 said you can get out faster with this and that and
22 get out fast and stuff. So, I was like -- the next
23 thing I know, he started going around saying, yo,
24 the guy, -- I forgot the dude name that he
25 supposedly had -- that he supposedly had -- had

Colloquy

9

1 shot, whatever -- on South Orange Avenue or
2 whatever the case. He said, listen, I'm going to
3 put myself in there. I'm going to say Hak [sp] did
4 it, and I'm going to say Paul -- you know what I'm
5 saying -- had something to do with it, and he
6 orchestrated the whole thing. So I'm like, why
7 would -- and so, we sitting there like, why would
8 you lie on a man that you don't even -- you know
9 what I'm saying? You -- this man is a fucking
10 lawyer.

11 UNIDENTIFIED MALE SPEAKER: Right.

12 MR. MILLER: I guess he was more of --
13 trying to fight his way out, knowing he didn't even
14 do the -- what's the dude name? I can't get the
15 guy name. I can't -- it's going to come to me. I
16 can't --

17 MR. SUAREZ: Who are you going about,
18 Hakeem Current? (phonetic)

19 MR. MILLER: No, it was a guy that got
20 killed on South Orange Avenue. It was somebody
21 that I don't know. I forgot the guy's name, but
22 basically, he start lying and saying that Paul --
23 I'm going to say Paul --

24 MR. SUAREZ: You're talking about Kemel?
25 (phonetic)

Colloquy

10

1 MR. MILLER: Yeah, yeah, yeah. Yeah,
2 yeah, yeah, yeah. He said that he did it, knowing
3 that he didn't even do it, but he said this is his
4 -- his meal ticket to get out, so he's going to use
5 Paul, you know what I'm saying? I'm like, why
6 would -- no, so everybody in the unit --

7 MR. MCMANN: Why don't you be clear about
8 that?

9 MR. MILLER: It was -- so, it was --

10 MR. MCMANN: What -- what I want you to
11 -- what I'm -- what I'm curious is did -- when
12 Anthony Young was telling you this --

13 MR. SUAREZ: Did you know about the
14 homicide?

15 MR. MILLER: NO.

16 MR. SUAREZ: Prior to him bringing it up
17 to you?

18 MR. MILLER: But, no. I never knew, no,
19 no.

20 MR. SUAREZ: Okay. So the first you
21 heard about this homicide, you never -- you never
22 knew who the victim was --

23 MR. MILLER: No, I never knew nobody --

24 MR. SUAREZ: -- until you were in jail?

25 MR. MILLER: I was just on my own

Colloquy

11

1 situation with my cousins, and that's it. I don't
2 know these guys or nothing like that. Like I said,
3 before, it's a lot of things that's -- that's not
4 clear because it was so long ago. This was -- you
5 talking about this was in 90 -- 2003 or 2004 and
6 2005, 2006. I came in 2007, so that was -- it was
7 minute ago, but I just know that the guy's a
8 habitual liar, and he said he was going to
9 basically pin this on Paul.

10 Paul ain't have shit to do with this.
11 You know what I'm saying? And a lot of people that
12 was on the unit -- you know what I'm saying -- at
13 the time, they knew this. It's -- this guy was a
14 lawyer, and he was just basically representing
15 guys. He ain't have shit to with the situation,
16 and I just got caught up in the this, because I
17 didn't think this was going to go too far, because,
18 brother, I'm -- for real, I'm still to this day
19 feeling like an asshole, because it's got me --
20 even though I would like to help the guy, but when
21 my name was signing that paper. I looked like a
22 goddamned fool. (Indiscernible) -- Hassan Miller
23 recordings, so imagine what I'm going through. You
24 know what I mean?

25 MR. MCMANN: Let me ask you one question.

Colloquy

12

1 How did you come to be involved in this whole
2 recording thing? Why don't -- why don't you
3 explain that from the beginning?

4 MR. MILLER: Okay. I became involved in
5 the recording because this dude, Anthony Young, was
6 lying. So I said, you know what? You know what
7 I'm a do? I said, I'm going to catch him in a lie
8 and I'm going to help my damn self out, and he --
9 basically was lying again, so that's all they
10 wanted to see. So, my lawyer was like --

11 MR. MCMANN: Who - who did you speak to,
12 or how that -- I want you to explain how --

13 MR. MILLER: My lawyer, I forgot his
14 name. It was my lawyer and I told him -- I said,
15 this guy Anthony Young is over there lying and
16 stating that he was going to rat on Paul, and lie
17 -- basically lying. So, once he said the -- my
18 lawyer, I forgot his name was -- he got to the
19 prosecutor, and the my prosecutor said, yeah and
20 brought me over. And then they wanted to say, you
21 sure about that? I said, yeah, he lying on the
22 guy, Paul Bergen, and he saying all this that he's
23 going to do. So they wanted to hear it they self.

24 Once they heard it, they cut me lose.
25 You know what I'm saying? They cut -- I waited and

Colloquy

13

1 I got sentenced, because they got -- they got all
2 the information on tape, but what they did was they
3 -- I guess they excluded me, because, you know,
4 they would have been coming looking for me, you
5 know? I was working for Mars M&M's before this
6 case. So once Paul was on his trial, they never
7 came to see me, because you know -- in that
8 situation, they would of came, but they didn't know
9 if the truth would've came out. So they just said
10 leave him the fuck alone. You know what I'm
11 saying?

12 UNIDENTIFIED MALE SPEAKER: Right.

13 MR. MILLER: Because they wanted to keep
14 it like this, you know what I mean? How would they
15 lies going on saying that, you know -- how -- you
16 know what I mean?

17 MR. SUAREZ: So, they never --

18 MR. MCMANN: Well, I know -- when you say
19 that I don't know what you mean, please explain
20 what you mean.

21 MR. MILLER: Okay, basically --

22 MR. MCMANN: You know what I'm saying? I
23 understand it's a -- you know, a lot of people use
24 it and they say, you know what I mean?

25 MR. MILLER: Okay.

Colloquy

14

1 MR. MCMANN: But I want you to be clear.

2 MR. MILLER: They -- I would suggest that
3 the prosecutors would've come looking for me, or
4 the federal government would've come looking for me
5 and stated -- you know what I'm saying -- to help
6 them in they case. You know what I'm saying? But
7 being though they know I was in the defense for
8 Paul, they left me the fuck alone. So they just --
9 they never brought me to court, they never came
10 looking for me or nothing. You know what I'm
11 saying? So, Paul was fighting for his life.
12 That's how my name came up. And he told them,
13 that's how my name came in the -- (indiscernible) -
14 - recordings. That's how my name -- because Paul
15 fighting for his life, and he know Anthony Young is
16 lying.

17 But basically, with this right here, man,
18 I do not -- because if these people find out that
19 y'all are here to see me, I'm going to be looking
20 like a fool again.

21 MR. SUAREZ: (Indiscernible)

22 MR. MCMANN: Did -- how many times did
23 you wear a wire?

24 MR. MILLER: You loud, bro.

25 MR. MCMANN: I'm sorry.

Colloquy

15

1 MR. SUAREZ: Nobody hears it.

2 MR. MILLER: Yes, they do. Its --
3 (indiscernible) -- on the floor. It's -- no, you
4 ain't got to look out there. You aint' got to --
5 (indiscernible) --

6 MR. SUAREZ: How many times did you wear
7 a wire?

8 MR. MILLER: It was one time. It was
9 like --

10 MR. SUAREZ: Once?

11 MR. MILLER: Yeah, one time. It was
12 only, like, for, like, a half hour.

13 MR. SUAREZ: One time, a half hour with
14 Anthony?

15 MR. MILLER: Yeah, and that was it, and I
16 left it alone.

17 MR. SUAREZ: And that took place at the
18 Hudson County jail?

19 MR. MILLER: Yes, yes, yes.

20 MR. SUAREZ: That was the only time?

21 MR. MILLER: Yeah, that was the only
22 time, and that was the only --

23 MR. SUAREZ: Did they ask you to wear a
24 wire --

25 MR. MILLER: No.

Colloquy

16

1 MR. SUAREZ: -- a second time or a third
2 time?

3 MR. MILLER: No, no, no, no.

4 MR. MCMANN: What did they ask you --
5 what were you asked -- first of all, who did you
6 deal with?

7 MR. MILLER: You talking about as far as
8 the prosecutor?

9 MR. MCMANN: Yeah.

10 MR. MILLER: It was a Camilla Valdez.
11 (phonetic) I think that was my prosecutor at the
12 time.

13 MR. SUAREZ: Okay, was it a U.S. Attorney
14 you were talking about?

15 MR. MILLER: Yes, yes.

16 MR. SUAREZ: Okay, but you were dealing
17 somebody -- the prosecutors weren't the people that
18 wired you up.

19 MR. MILLER: No, it was a lady. I don't
20 know who she was. It was a lady that came over
21 there. I think she was a marshal, or whatever the
22 case was. But she --

23 MR. MCMANN: She was a what? A marshal?

24 MR. MILLER: Yeah, I believe it was a
25 marshal.

Colloquy

17

1 MR. MCMANN: Okay.

2 MR. MILLER: And they said here, and I
3 don't know who it was at that time, because like I
4 said, I -- it was ten years ago. You know what I'm
5 saying? But that's when she came to did that. You
6 know what I'm saying? But I know that Anthony
7 Young is -- (indiscernible).

8 MR. MCMANN: No, I understand that. I
9 understand that, but just regarding the wearing,
10 you know, the wire, were you told why you were
11 wearing it?

12 MR. MILLER: No, basically they was
13 trying to -- they wasn't -- it wasn't against Paul.
14 It was to catch Anthony Young in his lies, so
15 that's why -- that's why I had wore that, to catch
16 him in his lies against Paul Bergen and Hakeem
17 Curry.

18 MR. MCMANN: Okay.

19 MR. MILLER: Yeah, it wasn't against --
20 it wasn't against --

21 MR. MCMANN: Who told you that?

22 MR. MILLER: I think it was --

23 MR. MCMANN: You think or you know?

24 MR. MILLER: At the time, it was my
25 prosecutor and my lawyer, and they wanted to catch

Colloquy

18

1 -- and it was -- I don't think -- his name --
2 (indiscernible) -- and they was like, you sure?
3 And I was like, yeah, Anthony Young lying. So,
4 they wanted to see for him -- I don't think they
5 really wanted to use me, because -- you know what
6 I'm saying -- because it was basically they was
7 gunning for this guy, but --

8 MR. MCMANN: Gunning for which guy?

9 MR. MILLER: Paul. But they -- but they
10 know that Anthony Young was lying. Everything that
11 he said was a straight lie --

12 MR. MCMANN: What exactly did the
13 prosecutors tell you regarding Paul?

14 MR. MILLER: They don't really say
15 nothing, they just wanted to see if Anthony Young
16 was lying; that's it. They didn't really say too
17 much about Paul. They ain't say nothing -- they
18 just wanted to catch him in his lies, and -- once
19 he said -- he caught them on the recording saying,
20 I'm going to say that Paul did it. I know he
21 didn't have anything to do with it, but I'm going
22 just use them anyway and say that he did it. And
23 that was it.

24 MR. MCMANN: Okay.

25 MR. MILLER: And then once I got out, I

Colloquy

19

1 got out 2007, so that was it.

2 MR. SUAREZ: Did Young ever admit to you

3 --

4 MR. MILLER: All the time.

5 MR. SUAREZ: -- that he was or was not
6 the shooter?

7 MR. MILLER: He stated -- he said he was.

8 MR. SUAREZ: He said he was the shooter?

9 MR. MILLER: Yeah, he said he was the
10 shooter, but apparently, it came out --

11 MR. SUAREZ: Of Kemo? (phonetic)

12 MR. MILLER: Yeah, but apparently, it
13 came out that he wasn't even the shooter. You know
14 what I'm saying?

15 UNIDENTIFIED MALE SPEAKER: So, he told
16 you -- he told you he was the shooter?

17 MR. MILLER: Yeah, yeah.

18 UNIDENTIFIED MALE SPEAKER: And then it
19 came out that he was not the shooter?

20 MR. MILLER: Yeah, yeah. Something like
21 that.

22 UNIDENTIFIED MALE SPEAKER: He never told
23 you he lied about who shot --

24 MR. MILLER: He said he was lying, yeah.
25 He would say -- he just -- man, with so many lies.

Colloquy

20

1 -- (indiscernible) -- you know what I'm saying? He
2 could've -- like I said, he could've just did his
3 little five years and came home instead of putting
4 himself in a jam and then putting another guy
5 that's innocent, which was a lawyer, in the
6 situation. So everybody on that unit knew that
7 this guy was lying, and they wasn't get -- they
8 didn't like the fact that, you know, he -- you're
9 gunning for a lawyer.

10 That's just a lawyer. That's a cooler --
11 you know what I'm saying -- cool lawyer, and he's
12 out there representing guys. You know what I'm
13 saying? That was it.

14 As far as any negativity, no -- it was
15 nothing. There wasn't nothing never bad said about
16 it. And like I said, I never seen him, I never
17 knew what he looked like -- you know what I'm
18 saying -- until I seen him in the paper. I never
19 had a conversation with him, but I just didn't like
20 the fact that this guy, Anthony Young, was going to
21 straight sit there and straight lie on the guy?
22 You know what I mean? And that was -- I didn't
23 think that was right.

24 So I used it for my benefit to catch him
25 in his lie, and get myself out a jam. But he was

Colloquy

21

1 lying, and that's how I got out a jam, which he was
2 lying. And that's how I got out the jam. But I
3 don't want to be the -- (indiscernible) -- like I
4 said, I'm willing to help the guy, but I don't want
5 to be in a jam, because these people will be jam me
6 up more and I'm already trying -- I'll be home
7 soon. You know what I'm saying? So I don't want
8 no problems, man.

9 UNIDENTIFIED MALE SPEAKER: Yeah, what
10 did Anthony Young tell you about the shooting? If
11 you'd be -- if you could be specific about.

12 UNIDENTIFIED MALE SPEAKER: Do you want
13 us to move closer?

14 MR. MILLER: Yeah. You ain't got to be
15 loud, yeah.

16 UNIDENTIFIED MALE SPEAKER: So when we
17 talk -- I mean, I'm just trying to get into your
18 personal space. You want to move a little closer,
19 and this way he doesn't feel so uncomfortable.
20 Grab a chair. You want to sit closer? Sit there.
21 Sit there.

22 UNIDENTIFIED MALE SPEAKER: Doesn't
23 matter.

24 UNIDENTIFIED MALE SPEAKER: This way, you
25 can be close to him.

Colloquy

22

1 MR. MILLER: But I -- as far as the
2 shooting, he was stating that -- man, he would just
3 say that he going to say that he did it, and -- to
4 get himself out a jam, but he going to say that
5 Paul orchestrated -- you know what I'm saying --
6 being Paul was representing Hakeem Curry at the
7 time, so he said he going to put them both
8 together. He said -- he said -- he just said, yo,
9 they going to love to hear that so they can catch
10 two birds with one stone, so they going to love to
11 hear that. I said, yo -- (indiscernible) -- about
12 you lying? He said, man, fuck that. I know, but I
13 got to get myself out a jam. So.

14 UNIDENTIFIED MALE SPEAKER: Are these are
15 conversations that he had with you --

16 MR. MILLER: Everybody.

17 UNIDENTIFIED MALE SPEAKER: With
18 everybody. This was before --

19 MR. MILLER: Yeah.

20 UNIDENTIFIED MALE SPEAKER: -- and after
21 you actually taped him?

22 MR. MILLER: Yeah, yeah. Yeah, yeah,
23 yeah, yeah.

24 UNIDENTIFIED MALE SPEAKER: Okay.

25 MR. MILLER: Yes, yes, yes, yes, yes.

Colloquy

23

1 UNIDENTIFIED MALE SPEAKER: Okay, did he
2 change his story after -- while you were taping?
3 Did he --

4 MR. MILLER: No, he just said -- he just
5 was yapping --

6 UNIDENTIFIED MALE SPEAKER: Discuss that
7 much?

8 MR. MILLER: He was just yapping. He was
9 just yapping, man. I knew the guy was lying.

10 UNIDENTIFIED MALE SPEAKER: Did he
11 explain exactly how the shooting went down, start
12 to finish? Like, surveillance --

13 MR. MILLER: No, no.

14 UNIDENTIFIED MALE SPEAKER: -- followed
15 him. There was a van involved?

16 MR. MILLER: No, he didn't say all that.
17 He was just yapping, man?

18 UNIDENTIFIED MALE SPEAKER: You mentioned
19 that anything about a van that was parked two
20 blocks away to you?

21 MR. MILLER: Mm-hm.

22 UNIDENTIFIED MALE SPEAKER: That he was
23 in a van two blocks away from the shooting?

24 MR. MILLER: No, I don't think --

25 UNIDENTIFIED MALE SPEAKER: Doesn't ring

Colloquy

24

1 a bell to you at all?

2 MR. MILLER: No, no.

3 UNIDENTIFIED MALE SPEAKER: Nothing about
4 a van?

5 UNIDENTIFIED MALE SPEAKER: What about a
6 gun? Did he say how he did it?

7 MR. MILLER: I know he's -- I know he
8 said he's a left -- he left-handed. So he -- you
9 know what I mean? And he said -- they said it was
10 a left-hand shooter, but Anthony, he left-handed.
11 You know what I'm saying? So, you know.

12 UNIDENTIFIED MALE SPEAKER: Anthony was
13 left-handed.

14 MR. MILLER: Yeah, I believe so. Yeah.
15 You know what I'm saying? So, that's when he was
16 running, but I knew he was basically lying saying
17 that he was going pin that -- and basically for --
18 you know, like I said, it's ten years ago? You
19 know what I'm saying? But if we was in better
20 situations, like, if I was free, I would be -- I
21 would want to help the guy. I don't want see the
22 innocent man knocked off from the --

23 UNIDENTIFIED MALE SPEAKER: Well, I'm
24 just asking. I can tell you this much --

25 MR. MILLER: But I really don't to be in

Colloquy

25

1 this shoes. You know what I'm saying? You know,
2 this right here -- and I got, like, a lot of people
3 -- you know what I'm saying? These counselors is
4 from the street. So, they know me and they know
5 what my family. You know what I mean? So this
6 come out and bam, I'm looking like a fool. You
7 know what I'm saying? I don't want them problems
8 like that.

9 UNIDENTIFIED MALE SPEAKER: Yeah. This
10 stays between us.

11 MR. MILLER: Yeah, but still, if y'all
12 here, they see two guys out here, they like, how
13 the hell -- you know what I'm saying? It's looking
14 crazy.

15 UNIDENTIFIED MALE SPEAKER: Okay.

16 MR. MILLER: I know y'all want to ask
17 questions, but -- you know what I mean? Like I
18 said, man, I should be -- I really feel more
19 comfortable if I was in a better setting than this
20 right here. Like I said, I'd be going to
21 Craftsmore (phonetic) or I might be going home.
22 You know what I'm saying? Like, I said --

23 UNIDENTIFIED MALE SPEAKER: Well, let me
24 ask you. I mean, has everything you told so far,
25 has it been the truth?

Colloquy

26

1 MR. MILLER: Yeah, yeah, yeah.

2 UNIDENTIFIED MALE SPEAKER: I'm just --
3 in other words, I'm not forcing you.

4 MR. MILLER: No, I know --

5 UNIDENTIFIED MALE SPEAKER: I wouldn't
6 dare.

7 MR. MILLER: Let me tell you something,
8 if --

9 UNIDENTIFIED MALE SPEAKER: We want you
10 to -- we want you to feel comfortable talking to
11 us. We don't want you to feel like --

12 MR. MILLER: (Indiscernible) -- in these
13 settings, because it's that -- it's guys like me
14 that shoot the hallway that know me. You know what
15 I'm saying? That shoot the hallway and come --
16 (indiscernible) -- my case is a minor case. You
17 know what I'm saying? I should be home soon.

18 UNIDENTIFIED MALE SPEAKER: Correct.

19 MR. MILLER: I got 16 months in. But,
20 like I said, I'm willing to help this guy. I don't
21 want to see him do no life sentence. I know the
22 guy Anthony Young is lying --

23 UNIDENTIFIED MALE SPEAKER: Listen,
24 whether it helps it helps or it hurts him, what
25 we're here, though, is find out the truth.

Colloquy

27

1 MR. MILLER: Yeah, yeah.

2 UNIDENTIFIED MALE SPEAKER: It doesn't
3 make a difference which way it falls.

4 MR. MILLER: Yeah, yeah, true.

5 UNIDENTIFIED MALE SPEAKER: You
6 understand?

7 MR. MILLER: But I don't want my --

8 UNIDENTIFIED MALE SPEAKER: And I -- I
9 can't impress that upon you more is that we're here
10 just seeking information and the truth. However
11 that falls, let the chips fall where they may.

12 MR. MILLER: Yeah, because I don't know.
13 they can fall. I already -- really -- like I said,
14 I'm willing to try to help the guy. You know what
15 I mean? But my --

16 UNIDENTIFIED MALE SPEAKER: Well, we're
17 here to talk to you.

18 MR. MILLER: -- name in that paper,
19 2011, I ain't doing all --

20 UNIDENTIFIED MALE SPEAKER: Whether your
21 information helps or hurts, we're here to take it.
22 Do you understand?

23 MR. MILLER: Yeah, yeah, of course, of
24 course, of course.

25 UNIDENTIFIED MALE SPEAKER: Okay? And I

Colloquy

28

1 just want to be clear with that.

2 MR. MILLER: All right. You know what
3 I'm saying? But like I said, man, if y'all can get
4 me out of here and get me into a better situation,
5 I'm all for it. Everything come back, but right
6 now, I'm not -- I can't do this man. Mm-mm. I
7 ain't going to do this. No, I can't do this one.
8 I'm already hurting my family behind this. You
9 know what I'm saying? Like I said, my name was in
10 --

11 UNIDENTIFIED MALE SPEAKER: What you came
12 in here for --

13 MR. MILLER: Pre-sentence report.

14 UNIDENTIFIED MALE SPEAKER: Yeah, so --
15 that's what you're doing.

16 UNIDENTIFIED MALE SPEAKER: What -- they
17 don't -- they don't know why we're here.

18 UNIDENTIFIED MALE SPEAKER: I mean,
19 nobody needs to know.

20 MR. MILLER: Yeah, but you know what?
21 Counselors, you got to -- (indiscernible) -- these
22 are -- these are counselors, these guys from the
23 street.

24 UNIDENTIFIED MALE SPEAKER: Yes.

25 MR. MILLER: They know, Ant -- let me

Colloquy

29

1 finish now.

2 UNIDENTIFIED MALE SPEAKER: Okay.

3 MR. MILLER: They also know Paul Bergen.

4 UNIDENTIFIED MALE SPEAKER: Okay.

5 MR. MILLER: They also know that I did
6 some baffonery. That's why my name was in the
7 paper. I'm well known and people know me. You
8 know what I'm saying? I -- my name was in the
9 paper. Like I said, I know the guy Anthony Young
10 was lying. Paul Bergen did not have nothing to do
11 that. I knew that for sure. You know what I mean?
12 But these counselors is not counselors, like
13 counselors. Like, these guys are from the street.
14 They come here and do they hours. They know me,
15 they know my family, they know my cousins.

16 UNIDENTIFIED MALE SPEAKER: Okay.

17 MR. MILLER: If we was in a better
18 setting where y'all pull me -- (indiscernible) --
19 but right now --

20 UNIDENTIFIED MALE SPEAKER: Well, is
21 there any more that you could tell us?

22 MR. MILLER: No, that's about it. You
23 know what I'm saying? That's about it.

24 UNIDENTIFIED MALE SPEAKER: But if we
25 were to get you to a better setting, is there any

Colloquy

30

1 other information that you have not told us --

2 MR. MILLER: Yeah.

3 UNIDENTIFIED MALE SPEAKER: -- already?

4 MR. MILLER: Yeah. I'm - I can't -- I'm
5 not going to do that in here. Mm-mm. These guys -

6 -

7 UNIDENTIFIED MALE SPEAKER: When are you
8 due to come out?

9 MR. MILLER: I come out -- I come out --
10 the judge -- and the judge might give me time
11 served for jail. I got a Judge Hutchins-Henderson
12 sentence. She might give me time served. Judge
13 Hutchins-Henderson was also a federal prosecutor, I
14 heard.

15 UNIDENTIFIED MALE SPEAKER: Okay.

16 MR. MILLER: I don't know --

17 UNIDENTIFIED MALE SPEAKER: But she's a
18 judge now?

19 MR. MILLER: Yeah, she's a judge now. So
20 she was saying that I might give you time served.
21 You know what I mean? So, I got 16 months in. You
22 know what I mean? I got 16 months in, she give me
23 time served. I go to -- I go for sentencing
24 December 16th on my birthday.

25 UNIDENTIFIED MALE SPEAKER: That's --

Colloquy

31

1 that's right around the corner.

2 MR. MILLER: Yeah, so if you can --
3 (indiscernible); -- like that, you got me. But
4 right now, --

5 UNIDENTIFIED MALE SPEAKER: Okay. Let me
6 ask you something. If we were to meet again after
7 you were to get out, let me ask you a question: is
8 there a number of somebody we could contact --
9 obviously, because you don't have a phone right
10 now, and we won't have a phone, but who on the
11 outside, when you get out, will know your
12 whereabouts so that we can contact you?

13 MR. MILLER: 94 North 5th Street.

14 UNIDENTIFIED MALE SPEAKER: Okay, 94
15 North 5th. Okay. Sure. North 5th street.

16 MR. MILLER: Yeah.

17 UNIDENTIFIED MALE SPEAKER: Apartment
18 number?

19 MR. MILLER: Second floor.

20 UNIDENTIFIED MALE SPEAKER: Second floor.

21 And who lives there?

22 MR. MILLER: My sister.

23 UNIDENTIFIED MALE SPEAKER: And what's
24 her name?

25 MR. MILLER: Tylisha Miller.

Colloquy

32

1 UNIDENTIFIED MALE SPEAKER: Tyesha?

2 MR. MILLER: Yeah, Tylisha, T-Y-L-I-S-H-

3 A.

4 UNIDENTIFIED MALE SPEAKER: T-Y-L --

5 MR. MILLER: I-S-H-A.

6 UNIDENTIFIED MALE SPEAKER: S-H --

7 UNIDENTIFIED MALE SPEAKER: That's where
8 you'll be going after here?

9 MR. MILLER: Yeah.

10 UNIDENTIFIED MALE SPEAKER: Okay.

11 UNIDENTIFIED MALE SPEAKER: Does she have
12 a phone number of someone?

13 MR. MILLER: No, that's it.

14 UNIDENTIFIED MALE SPEAKER: What's her
15 date of birth?

16 MR. MILLER: My sister? My sister's born
17 -- oh my God -- May 23rd, but she ain't got nothing
18 to do with this --

19 UNIDENTIFIED MALE SPEAKER: No, I
20 understand.

21 MR. MILLER: If y'all mail anything there
22 --

23 UNIDENTIFIED MALE SPEAKER: You got to
24 understand -- you got to understand something. If
25 there's a way to find somebody, you're going to

Colloquy

33

1 find somebody. May 23rd what?

2 MR. MILLER: See, I don't know. My
3 sister -- she --

4 UNIDENTIFIED MALE SPEAKER: She's how
5 old?

6 MR. MILLER: She's 40 -- I'm 43, December
7 16, so she's 42.

8 UNIDENTIFIED MALE SPEAKER: She's 42?

9 MR. MILLER: Yeah.

10 UNIDENTIFIED MALE SPEAKER: She's 42 now?
11 So she's 42 years of age. Hold on. Give us --
12 give us one second. Give us one second. We're
13 done.

14 UNIDENTIFIED MALE SPEAKER: You're
15 paranoid.

16 MR. MILLER: Yeah, you understand the
17 paper was it -- I was in the Star Ledger --

18 UNIDENTIFIED MALE SPEAKER: How long --
19 let me ask you something? How long would probation
20 take to interview you if they were going to
21 interview you?

22 MR. MILLER: I don't know, but know what,
23 when y'all come in, you have to be -- well, let it
24 known that who y'all, and that's what it is. And
25 then once you know who you are --

Colloquy

34

1 UNIDENTIFIED MALE SPEAKER: We didn't say
2 who were were. The main -- the main desk, that's
3 it. We walked right in.

4 UNIDENTIFIED MALE SPEAKER: Yeah, we
5 didn't --

6 MR. MILLER: Yeah, but the main desk is
7 the people that know people, that know people.

8 UNIDENTIFIED MALE SPEAKER: Right.

9 MR. MILLER: That's all I'm saying.

10 UNIDENTIFIED MALE SPEAKER: So, she's 42
11 years of age. So that would make her -- hold on.
12 May 23rd, she just had a birthday this -- what, she
13 had one this past year. She's 42?

14 MR. MILLER: Yeah.

15 UNIDENTIFIED MALE SPEAKER: So she turned
16 -- she's 42. We'll figure it out.

17 UNIDENTIFIED MALE SPEAKER: Did John Gaye
18 (phonetic) know any of this information? John
19 Gaye?

20 MR. MILLER: Hell no, about my sister and
21 them?

22 UNIDENTIFIED MALE SPEAKER: No, John
23 Gaye, about your case and Paul's case.

24 MR. MILLER: This case now?

25 UNIDENTIFIED MALE SPEAKER: No.

Colloquy

35

1 UNIDENTIFIED MALE SPEAKER: You don't
2 know who John Gaye is?

3 MR. MILLER: Yeah, he was a tall -- some
4 taller guy. And he's -- I know he's a tall guy.

5 UNIDENTIFIED MALE SPEAKER: U.S.
6 Attorney?

7 MR. MILLER: I believe so. You know what
8 I'm saying. Yeah, he's -- I believe -- I think so,
9 but it was ten years --

10 UNIDENTIFIED MALE SPEAKER: Does he know
11 about the truth, and that -- what was the truth and
12 what was not the truth? Does he know?

13 MR. MILLER: They had to --

14 UNIDENTIFIED MALE SPEAKER: Is that --
15 say that again?

16 MR. MILLER: Yeah, I believe so.

17 UNIDENTIFIED MALE SPEAKER: Well, how do
18 you believe -- we believe in God. We believe I'm
19 going to win the Lotto.

20 MR. MILLER: No, because if you had --
21 you had the recordings --

22 UNIDENTIFIED MALE SPEAKER: I mean, I
23 have the transcript here.

24 MR. MILLER: Yeah, if you have the
25 recording, you know the truth. So, they know the

Colloquy

36

1 truth, so -- but they still went on and did what
2 they wanted to do.

3 UNIDENTIFIED MALE SPEAKER: Okay.

4 MR. MILLER: I'm scared. I have been
5 scared.

6 UNIDENTIFIED MALE SPEAKER: I know you're
7 scared.

8 MR. MILLER: I'm going.

9 UNIDENTIFIED MALE SPEAKER: All right.

10 UNIDENTIFIED MALE SPEAKER: Okay.

11 MR. MILLER: Okay.

12 UNIDENTIFIED MALE SPEAKER: Bump, later.

13 MR. MILLER: All right.

14 UNIDENTIFIED MALE SPEAKER: All right.

15 Thank you very much.

16 UNIDENTIFIED MALE SPEAKER: This
17 concludes our interview with Hassan Miller. The
18 time now is 12:30 --

19 UNIDENTIFIED MALE SPEAKER: Approximately
20 12:30.

21 UNIDENTIFIED MALE SPEAKER: -- p.m.

22 (End of recording.)

23 * * * * *

EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

PAUL BERGRIN,

Defendant.

Honorable Jose L. Linares

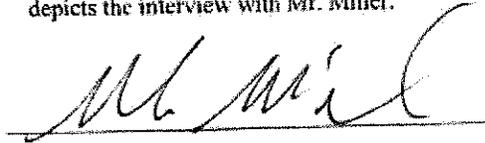
Criminal No.: 09-369

**CERTIFICATION
OF
MICHAEL MCMAHON**

I, Michael McMahon of full age, do hereby certify under penalty of perjury that the following facts are true:

1. I am a Private Investigator licensed in the states of New York and New Jersey.
2. On December 3, 2013, I interviewed Hassan Miller. I was accompanied by licensed private investigator Dennis Suarez.
3. This interview took place at the Essex County Correctional Facility in Newark, New Jersey
4. The recording device I used functions as a reliable digital recorder. After a recording is made on this device, it can be downloaded electronically.
5. I am fully knowledgeable in operating this recording device and have done so in the past. The device was working properly at the time of Mr. Miller's interview.
6. After I recorded the interview, I downloaded it to my computer. I have retained a copy of the recording, which can be provided to the Court at any time.

7. No alterations of the recording were made prior to or after it being downloaded.
8. The recording was later provided to court reporter Karen English for the preparation of a transcript of that conversation.
9. I listened to the recording and compared it to the certified transcript that Ms. English prepared.
10. The certified transcript of the recording attached herewith as Exhibit 2 accurately depicts the interview with Mr. Miller.



Michael McMahon



Date

EXHIBIT 4

DECEDENT	DOB/AGE	DATE	LOC/CITY	LOC/STREET	DEFENDANT (1)	DEFENDANT (2)	STATUS
ANDERSON, AKMAL	19	12/4/2005	IRVINGTON	1004 CLINTON AVENUE	NONE		OPEN
BLAZE, COLE		2/10/2004	IRVINGTON	STUYVESANT & CLINTON AVES.	BING, ALQUAN		ACTIVE
BUSH, SHAWNE	24	7/11/2004	IRVINGTON	572 GROVE STREET	NONE		OPEN
CORPENING, ARSENYEL	16	4/4/2004	IRVINGTON	177-179 ELLIS AVENUE	NONE		OPEN
DESOUZA, THERON	30	9/3/2005	IRVINGTON	196 LINDEN AVENUE	NONE		OPEN
FULLER, JIBRIL	3	4/13/2004	IRVINGTON	128 40TH STREET	SMITH, DARNELL		ACTIVE
GREEN, NIBAL	30	7/9/2005	IRVINGTON	350 16TH AVENUE	GORDON, ERIK	THOMPSON, SALADIN	ACTIVE
JACKSON, LACEY DE MAR	33	5/5/2004	IRVINGTON	233 ELLIS AVENUE	JENKINS, RICHARD		ACTIVE
JOHNSON, DARRIS	35	7/6/2005	IRVINGTON	457 GOIT STREET	NONE		OPEN
LEE, SYREETA	22	8/27/2005	IRVINGTON	40 22ND STREET	NONE		OPEN
LEGGET, TIGE	16	5/2/2005	IRVINGTON	772 SPRINGFIELD AVENUE	JACKSON, JERMAINE	MASSEY AKA EASTERLING	ACTIVE
LINDSEY, KENYAH	31	9/25/2005	IRVINGTON	420 UNION AVENUE	NONE		OPEN
MORRISON, SHAULETTE	21	4/12/2005	IRVINGTON	20 LENOX AVENUE	NONE		OPEN
ST. FLEUR, BLONDY	23	1/21/2005	IRVINGTON	352 15TH AVENUE	NONE		OPEN
WILKINS, JERIGO	39	2/11/2004	IRVINGTON	301 MYRTLE AVENUE	NONE		OPEN

X

EXHIBIT 5

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CIVIL NO. 13-5881(JAP)
CRIM. NO. 03-836 (JAP)

WILLIAM BASKERVILLE,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

PETITIONER'S REPLY TO THE GOVERNMENT'S RESPONSE IN
OPPOSITION TO PETITIONER'S TITLE 28 U.S.C. §2255 MOTION

COMES NOW, William Baskerville ("Petitioner") pro-se, in the above styled cause, respectfully files to Reply to the Government's Response In Opposition of Petitioner's §2255 motion. This Reply addresses several distinct issues raised in the Government's Response, in furtherance thereof states the following:

1. The Government's Response has misinterpreted the facts supporting Petitioner's claims, and/or disingenuously attempts to argue that counsels' deficient performance was based on strategic decisions.

In Petitioner's motion and his affidavit in support of his §2255 motion, Petitioner asserted several claims of counsel's ineffectiveness during his trial, as result his convictions were obtained in violation of his Sixth Amendment right to effective assistance of counsel, and his Fifth Amendment rights to due process. As a remedy he requested that this Court dismiss the charges against him and/or grant him a new trial. In response the Government contends that, Petitioner claim of Sixth Amendment violations under Ground One of the motion, without any supporting facts, fails to show how he was prejudiced by his counsels'

Pages 2 – 64 omitted

Exhibits A – C & E – F omitted

EXHIBIT "D"

**AFFIDAVIT OF WITNESSES STATING WHAT THEY WOULD TESTIFIED TO HAD
BEEN CALL TO TESTIFY BY TRIAL COUNSEL**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

WILLIAM BASKERVILLE

CERTIFICATION

I, Paul W. Bergrin, do hereby affirm, under the penalties of perjury, that the following facts are true:

1) During the period of 2003 through approximately May 2009, I was an attorney at law, licensed to practice law in the State of New Jersey. My office was located at 572 Market Street, Newark, New Jersey and later moved to 50 Park Place, Newark, New Jersey.

2) In or about November 25, 2003, I was retained by William Baskerville to represent him in the case entitled, UNITED STATES OF AMERICA v. WILLIAM BASKERVILLE.

3) During the course of my representation of Mr. Baskerville, I had the opportunity to review all documentary and recorded evidence provided by the government pursuant to Rule 16, Federal Rules of Criminal Procedure. My representation of Mr. Baskerville extended until on or about 2005.

4) During 2005, the government made a motion to remove me as the counsel for Mr. Baskerville alleging a conflict of interest. A hearing pertaining to this issue was held before the Honorable District Court and I withdrew as Mr. Baskerville's counsel.

a) Attorney's Carl Herman and Kenneth Kayser were appointed pursuant to the Criminal Justice Act, to represent Mr. William Baskerville.

5) During the course of attorney's Herman and Kayser's representation of Mr. Baskerville, they interviewed me and I agreed to truthfully testify on Mr. Baskerville's behalf at trial, if subpoenaed.

6) I was completely candid, frank and absolutely truthful during all my interviews with counsel and would have truthfully sworn to the following:

a) During the course of my representation of Mr. Baskerville, he never expressed any intent to kill or cause bodily harm to Deshawn "Kemo" McCray, hereinafter "Kemo". Nor was this fact ever discussed or mentioned.

b) That I represented Mr. Baskerville on a prior occasion for a narcotic offense, in Essex County Superior Court, Newark, New Jersey and that there was a confidential witness used by the State, and that Mr. Baskerville plead guilty to the charge, was sentenced to State

imprisonment and never even mentioned nor inferred doing any harm nor bodily harm to any witness.

c) That Mr. Baskerville and I reviewed the Federal Criminal Complaint, listened to all recorded conversations and He knew that the informant used by the federal government was Kemo. It was clear to an absolute certainty based upon the deminimis sales of crack cocaine within the Complaint and the recorded conversations, which were provided as discovery by the government. Mr. Baskerville never hinted, suggested, inferred nor gave any indication whatsoever of causing any harm or bodily injury to Kemo, even after meticulously reviewing all discovery and ascertaining to an absolute certainty Kemo's identity. This fact was never discussed nor mentioned by neither myself nor Mr. Baskerville.

d) It was explained to Mr. Baskerville and he fully understood, that the evidence for prosecution against him was overwhelming. That there were six hand-to-hand sales of crack cocaine and that all the meetings to set up the crack cocaine sales were recorded by government agents. We knew there were video surveillances of several meetings between Kemo and Mr. Baskerville at the scene of the narcotic sales. That all sales were surveilled by law enforcement agents, that there was recorded buy money provided to Kemo by federal agents and that Kemo was thoroughly searched before his meeting with Mr. Baskerville and was watched as he left the presence of federal agents and met Mr. Baskerville. That Kemo

returned to agents after continuous surveillance and handed over to federal agents, crack cocaine, that he could have only been received from Mr. Baskerville on 6 occasions, Additionally, Mr. Baskerville had a prior record for drug distribution and we concluded, that if this case were to be tried, he could not take the witness stand to testify on his own behalf. Consequently, Mr. Baskerville fully understood that Kemo was not an instrumental nor a material witness and that the government could easily prove their case without Kemo as a witness. Mr. Baskerville was also advised that if I was the prosecutor, I would decline calling Kemo as a witness, as he was not needed and would weaken the government's proofs. Consequently, Mr. Baskerville knew and fully understood that his sole recourse was to negotiate a plea for guilty and not contest the charges.

e) Mr. Baskerville was never advised that he would receive life in prison nor did we ever believe he would even receive such a sentence, for six hand-to-hand sales of small quantities of drugs. I explained to him the Statutory maximum and minimums, and based on my experiences and past drug cases, we never believed nor anticipated a life sentence, nor any sentence even close to the Guideline calculations; especially with a plea bargain.

f) From early on in the case, Mr. Baskerville was inclined to plead guilty to his charges and I strongly advised him to do so. It was our intent to proceed via a plea of guilty and we were working on mitigation of his sentence.

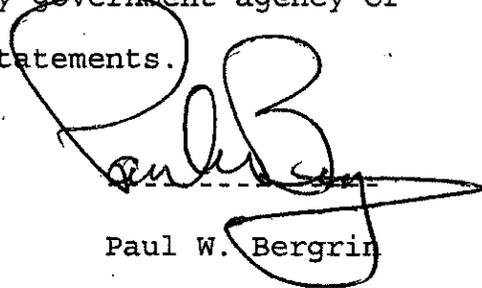
g) Mr. Baskerville was willing to accept responsibility for his criminal conduct and if I testified, I would have vehemently, vociferously and categorically denied, ever attending, setting up, being present at any meeting with anyone and ever uttering the words, "No Kemo, No Case." That this statement was never made by me and is completely false and fabricated.

h) I told Mr. Baskerville's attorney's and Mr. Baskerville that I implore the government to polygraph me as I would voluntarily submit to one of the government's choice. There was never a meeting on Avon Avenue, Newark, New Jersey, nor at any other location between Me, Rakeem Baskerville, Hakeem Curry, Jamal McNeil, Jamal Baskerville and Anthony Young, wherein I ever informed any of these individual's that if Kemo was killed or even unavailable as a witness, that I would win William Baskerville's case and he would go free; that if Kemo testifies that William Baskerville would be convicted and get life in prison. This was never stated by me to any person, never even entered my thought process and no meeting ever held wherein I ever stated this. Anthony Young completely fabricated this evidence. I would never make such a false statement and committment knowing I would be held to my word.

5) William Baskerville never queried me nor was it ever discussed as to what would happen to him and the status of his case, if Kemo was not a witness. Mr. Baskerville

understood the law well enough to know that the government had evidence, independent of Kemo, to easily prove the case against him and that Kemo was not needed as a witness, by the government to prove its case.

6) I make this Certification knowingly, voluntarily and of my own free will. No threats, force, inducements, nor promises have been made nor offered to me. The contents of this Certification are true and I am willing to take a stipulated government polygraph, by any government agency or expert to prove to accuracy of these statements.



Paul W. Bergrin

Dated: January 30, 2014



CASE MANAGER
AUTHORIZED BY THE ACT OF JULY 7, 1955.
AS AMENDED, TO ADMINISTER OATHS.
18 U.S.C. 4004

DECLARATION OF HAKEEM CURRY

I, Hakeem Curry, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am submitting this declaration in connection with United States v. William Baskerville, District of New Jersey, Criminal No. 03-836.

2. The charges in that case against William Baskerville relate to the murder of a government informant/witness named Deshawn McCray.

3. I have been informed that Anthony Young gave testimony in that case implicating me in a conspiracy to kill Deshawn McCray because of his status as an informant and/or witness against Mr. Baskerville. I told my family to let Mr. Baskerville know I was prepared, willing, and available to testify, if necessary, at his trial. My family assured me that Mr. Baskerville would tell his trial attorney this information.

4. Had Mr. Baskerville's attorney called me as a defense witness I would have testified under oath that I had no role in any sort of conspiracy to kill Deshawn McCray because of his status as an informant/witness against Mr. Baskerville.

5. I would have further testified that Mr. Baskerville never communicated any desire to me that he wanted any harm to befall Deshawn McCray.

6. I also would have testified that I never suggested in any way that anyone should harm Deshawn McCray, nor would I have condoned or entertained anyone else's desire to harm Deshawn McCray because of his status as an informant/witness

against Mr. Baskerville.

Executed this 9 day of 27 2014, under penalty
of perjury.

By: Hakeem Curry

Hakeem Curry

U.S.P. Lee County

P.O. Box 305

Jonesville, VA 24263

"AUTHORIZED BY THE ACT OF JULY 27, 1955,
TO ADMINISTER OATHS (18 USC 4004)."

J. S. Osteen
Correctional Treatment Specialist

9-27-14

Date

Declaration of Diedra Baskerville/Williams

I, Diedra Baskerville/Williams, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

- 1) I am submitting this declration in connection with United States V. WILLIAM BASKERVILLE, District of New Jersey criminalNO.03-836.
- 2)The charges in that case against WILLIAM BASKERVILLE related to the murder of a government informant/witness named Kemo Deshawn McCray.
- 3)I have been informed that Anthony Young gave testimony in that case alleging that I was present at the meeting on the morning of November 25,2003 the date of my ex-husband's (~~William Baskerville~~) Arrest at the residence of Jamal Baskerville.
- 4)While at the residence of Jamal Baskerville, I entered the van of Rakeem Baskerville accompanied by him(~~Rakeem~~) and Anthony Young where I was questioned by them concerning the arrest of my ~~formers~~ husband William Baskerville.
- 5)Had William Baskerville's attorneys called me as a defense witness I would have testified under oath taht I did not attend any meeting on November 25,2003 at the residence of Jamal Baskerville.
- 6)I would have futher testified that I had no transportation that day because the F.B.I. had taken my vehicle during the arrest of my former husband William Baskerville.
- 7)I also would have testified that I never met Anthony Young in my life and the first time I ever saw him was in court when he testified in my former husband's trial in 2007.

Executed this 29 Day of Oct., 2013 under penalty of perjury.

By: Diedra Baskerville

Address: 50 Maple Ave Apt 317
Springfield, NJ 07081

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

WILLIAM BASKERVILLE.

Defendant-Movant.

Crim. No. 3:03-CR-00836-JAP

Civil No. 3:13-CV-05881-JAP

AFFIDAVIT OF RAKEEM BASKERVILLE

The Affiant, Rakeem Baskerville, hereby swears under the penalty of perjury, 28 U.S.C. Section 1746, that the following statements are true and correct to the best of his recollection and knowledge:

1. That I am of sound mind and of the legal age to make this oath and affirmation.
2. That I am familiar with the above-entitled cause and action and the factual allegations underlying the same.
3. That, if called upon to testify in the above-entitled cause and action, I would have in fact testified as follows:
4. I would have testified that I had no involvement in, nor knowledge of, any plot, scheme, or conspiracy to Kill McCray as alleged in the above-entitled cause and action.
5. I would have testified that I did not attend, and have never attended, any meeting at Jamal Baskerville's home on 25 November 2003 with Deidra Baskerville, Jamal Baskerville, Hamid Baskerville, Jahmal McNeil, Hakim Currie, Anthony Young and Paul Bergrin as alleged in the above-entitled cause and action.
6. I would have testified that I was not in Hakim Currie's vehicle on 25 November 2003 with Anthony Young and Hakim Currie when it is alleged that Paul Bergrin called Hakim Currie and gave him the name "K-Mo."
7. I would have testified that I did not attend any meeting 4-10 days after William Baskerville's arrest where it is alleged that a meeting occurred between myself, Paul Bergrin, Hakim Currie, Anthony Young, Jahmal McNeil and Jamal Baskerville where it is further alleged that Paul Bergrin stated "no K-Mo, no case."
8. I would have testified and refuted the allegation that I was involved in any aspect of the McCray murder and that any such testimony to that effect was false.
9. I would have testified William Baskerville never communicated to me in any way that he wanted any act of violence carried out against McCray as alleged in the above-entitled cause and action.

Further the Affiant sayeth naught.

Signed under the penalty of perjury, 28 U.S.C. Section 1746, on this 16th day of October 2013.


Rakeem Baskerville
Reg. No. 42112-037
U.S. Penitentiary Victorville
P.O. Box 3900
Adelanto, California 92301

DECLARATION OF RASHIDAH TARVER

I, Rashidah Tarver, declare the following under penalty of perjury pursuant to U.S.C. § 1746:

1. I am submitting this declaration in connection with United States v. William Baskerville, District of New Jersey, Civil No. 3:13-cv-05881-JAP.

2. I am familiar with the above-entitled cause and action and the factual allegations underlying the same.

3. I am aware that I was falsely accused by Anthony Young in which he had testified that I had driven him and Rakeem Baskerville back in March of 2004 to an auto body shop to dispose of a gun.

4. I had given testimony in the matter of United States v. Paul Bergrin, and my testimony was consistent in both of Mr. Bergrin's 2011 and 2013 trials to which I denied all of these false claims of Anthony Young of my involvement or having knowledge of those things which he has alleged.

5. Had I been called as a witness at the time of William Baskerville's trial, at which time I was available and willing to testify, I would have given testimony denying Anthony Young's false allegations that, I had driven him and Rakeem to a body shop to dispose of a gun in March of 2004 or at any other time.

6. I would have also testified that I have never driven Anthony Young and Rakeem Baskerville anywhere ever.

7. Also I have never been contacted or interviewed by any investigator of the attorneys of William Baskerville in relations to the matter of Mr. Baskerville.

Executed this 20th day of Jan., 2015 under penalty of perjury, 28 U.S.C Section 1746.

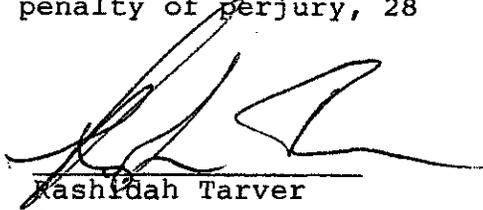

Rashidah Tarver
247 Vassar Avenue
Newark, New Jersey
07112

EXHIBIT 6

Thus, Petitioner humbly request the Honorable Court to consider the evidence in Government Exhibit 3-I of all the November 25, 2003, calls from the Curry Wiretap which convincingly proves that Young falsely testified concerning the following:

1). That when Young allegedly arrived at the meeting at Jamal Baskerville's home at about 9:30 a.m. on November 25, 2003, that Jamal Baskerville, Jamal McNeil, Rakeem Baskerville, Petitioner's wife, Hakeem Curry and Hamid Baskerville, were there. TR. 4341-4343.

2). Hakeem Curry (hereinafter Curry), started calling the lawyer at about 10, 10:30 a.m., where Curry ask Paul Bergrin (hereinafter, Bergrin), to check on Petitioner, and find out what was going on with him and see if Bergrin could get him a bail. TR. 4349-4350.

3). That Curry, Young, and Rakeem Baskerville, were present in Curry's Range Rover, during the aboved mentioned call and the 4 P.M. call, between Bergrin and Curry where Young alleges that the above mentioned parties were sitting parked on 17th Street and Avon Avenue at the time of the Bergrin call, where the information about Kemo McCray was allegedly passed along. TR. 4349-4353.

The Government knew and had evidence that Young was being deceptive when he alleged and swore to the above stated facts. Thus, the Curry Wiretap intercept clearly and unequivocally proved every-one of these representations were false. However, a synopsis of the substance of those calls on November 25, 2003, from the Curry Wiretap intercept chronologically depicts:

1). That on several call Curry is clearly heard telling various people that he was just coming outside at about 12:00 P.M. And that he was headed to his store. Clearly these calls disproves Young's false claim that Curry was present at Jamal Baskerville's home at 9:30 a.m. when Young got there. TR. 4343. See calls:

- (a) Call No. 09218; Time 11:58:58;
- (b) Call No. 09219; Time 11:59:13;
- (c) Call No. 09225; Time 12:05:59;
- (d) Call No. 09226; Time 12:06:27; and
- (e) Call No. 09228; Time 12:08:19.

2). That the first time Curry heard of Petitioner's arrest was at about 12:30 P.M. by an individual named Face (Maurice Lowe, hereinafter Lowe). See Call No. 09241; Time 12:30:03. In this call Curry was asked by Lowe, "you talk to Hamid (Hamid Baskerville) called you?" Curry's response was "naw" and he then asked Lowe "what happened?" Lowe told Curry that Hamid told him (Lowe) that, "the boys with three letters got, ...Walee Cheeb" (petitioner). Curry inquired from Lowe where had the Petitioner been arrested at and Lowe responded that he did not know because someone had called Hamid "and told him but he (Hamid) don't know where at, what happened". This call clearly shows that Curry and Hamid Baskerville had no contact in the morning hours of November 25, 2003, as Young falsely claimed that both Curry and Hamid Baskerville was present when Young allegedly got to Jamal Baskerville's home. ID.

3). That Curry was not driving his "Range Rover" truck as Young falsely testified. TR. 4350-51. Hencefore, the following calls show that Curry was awaiting for an individual named Jihad (Ishmeal Pray hereinafter Pray) to pick him up from his store between the hours

of 1:00 and 2:00 P.M. See calls:

- (a) Call No. 09266; Time 13:00:11;
- (b) Call No. 09272; Time 13:37:10;
- (c) Call No. 09273; Time 13:41:19; and
- (d) Call No. 09282; Time 13:50:30.

In that final Call (Call No. 09282), Pray tells Curry that, "I'm outside". These Calls clearly disproves Young's false claims that Young and Curry were together at anytime during the morning hours of November 25, 2003, and that Curry was driving his "Range Rover" truck. ID.

4). That Curry and Rakeem Baskerville did not have any contact until about 2:00 P.M. for the first time on November 25, 2003. See Calls No. 09286; Time 14:05:35; 09288; Time 14:06:13. ^{FN.1} These Calls disprove Young's false claim that Curry and Rakeem Baskerville were present together in the morning hours of November 25, 2003. TR. 4343, 4350-4351.

5). That several of the Calls show that Curry was mobile and not sitting "inside the truck", "Parked", and not "Riding around", as Young falsely claimed in his testimony. TR. 4350-4353. See Calls:

- (a). Call No. 09302; Time 14:40:02;
- (b). Call No. 09304; Time 14:40:47;
- (c). Call No. 09307; Time 14:43:19;
- (d). Call No. 09308; Time 14:54:19;
- (e). Call No. 09313; Time 15:04:59;
- (f). Call No. 09322; Time 15:16:26;
- (g). Call No. 09334; Time 15:30:38;
- (h). Call No. 09340; Time 15:37:07;
- (i). Call No. 09342; Time 15:38:26; and
- (j). Call No. 09343; Time 15:44:35.

In that final Call (Call No. 09343), which is between Curry and Lowe, Curry is clearly heard telling Lowe that he is at the Barbera Shop by "Boston Market". ^{FN.2} Thus, the second Bergrin and Curry Call in Government Exhibit 3-0 was about 15 minutes after the Call with Curry and Lowe. See Call No. 09349; Time 16:00:23. Thus, the Curry and Lowe Call clearly shows that Curry was nowhere near Avon Avenue and 17th Street in Newark, New Jersey sitting in his truck "parked" as Young falsely claimed at the time of the Bergrin second Call. ID.

6). That there are several other calls from the Curry Wiretap intercept disproving Young's false claims that Curry was sitting "parked" in his truck on Avon Avenue and 17th Street in Newark, New Jersey at or about the time of the Bergrin and Curry 4:00 P.M. Call (Call No. 09349), to which the following Calls also demonstrate convincingly that neither Young and/or Rakeem Baskerville were present with Curry during the Call as Young falsely testified to. TR. 4350-4353. See Calls:

(a). The following Calls are Calls between Curry and Rakeem Baskerville shortly thereafter the Bergrin and Curry 4:00 P.M. Call.

- (1) Call No. 09351; Time 16:02:26;
- (2) Call No. 09352; Time 16:03:40;
- (3) Call No. 09356; Time 16:10:32;
- (4) Call No. 09360; Time 16:18:42;

^{FN.1} These Calls are about 20 minutes before Paul Bergrin first called Curry in Government Exhibit 3-0. Call No. 09298; Time 14:26:02.

(5) Call No. 09362; Time 16:19:36; and

(6) Call No. 09365; Time 16:21:38

(b). Call No. 09354; Time 16:10:32, is a Call between Curry and Pray. Pray Calls Curry telling Curry that "Norm (Howard Sanders hereinafter Sanders), coming to get you". Curry tells Pray that, "I'm good", and Curry tells Pray to tell Sanders that he (Curry) will "be in front of his (Sanders) house".

(c). Call No. 09368; Time 16:23:58 is a Call between Curry and Sanders. Sanders in this Call ask Curry was he in front of his house and Curry replied "yeah".

(d). Interesting enough is Call No. 09369; Time 16:24:46 between Curry and Hamid Baskerville. Curry is heard confirming to Hamid Baskerville that he was in front of Sanders home. I'm "waiting in front of Norm's house to get my bag out of his car". The Call is definitive proof that Curry and Hamid Baskerville had no contact in the morning hours as Young falsely claimed and that it was the first time that the two of them had spoken that day. Curry is clearly heard telling Hamid Baskerville, "I ain't talk to you, I ain't see you". The Call shows Curry's confusion about the identity of McCray. Curry asked Hamid Baskerville, "Who the fuck is Kemo or some shit", to which Hamid Baskerville's replied, "I don't know, who the fuck is that? I ain't talk to nobody, I talk to Roc (Rakeem Baskerville) for a hot minute". Curry told Hamid Baskerville that, "Paul read to me five dates of sales and surveillance, it's like five different dates he seen the guy. The guy started with 5, then 16, then 28, and then something else". Thus, Curry's statement to Hamid Baskerville, regarding Bergrin reading Curry the dates of the sales, refutes the Government's theory of Young's exclusivity. Curry is also clearly heard telling Hamid Baskerville, "I'm sitting here in the car by myself thinking about shit, just waiting...for Norm to come". In finality of this Call, Curry recounts the events of his day up until this Call with Hamid Baskerville. Curry tells Hamid Baskerville, "I left my jacket in Jihad (Pray) rental car, I went and got me a haircut just now, I went and got Roc (Rakeem Baskerville), and then he went and got with her, and I told him to call me later".

(e). Call No. 09386; Time 16:37:47, is a Call between Curry and Rakeem Baskerville. Curry tells Rakeem Baskerville, "I'm about to bring you the car". Rakeem Baskerville's response to Curry was that he was on "17th Street at Mal house".

(f). Call No. 09396; Time 16:53:42, is the final Call, which is a Call between Curry and an unknown male. In this Call between Curry and unknown male, Curry is clearly heard telling Rakeem Baskerville that a (the unknown male), is "my man about my truck". While Curry and Rakeem Baskerville attempts to give unknown male directions to meet them, Curry tells unknown male that, "I'm right here in a blue Honda Accord". Thus, this Call clearly shows that Curry was not driving his "Range Rover" truck.

In sum, none of the Curry Wiretap intercepts on November 25, 2003, supports Young's testimony:

FN.2 On November 25, 2003, the nearest Boston Market to the City of Newark, New Jersey is located on Central Avenue, in East Orange New Jersey.

(1) That a meeting occurred at the home of Jamal Baskerville in the morning hours where Jamal Baskerville, Jamal McNeil, Petitioner's wife, Rakeem Baskerville, Hamid Baskerville, Hakim Curry, or Young were present as Young falsely claimed.

(2) That Curry was driving his "Range Rover" as Young falsely claimed.

(3) That Curry and Young were together at all during the course of that day especially during the times of the Bergrin and Curry Calls.

(4) And that there is not one Call showing that Curry initiated a single Call with Bergrin especially one where in Curry requested Bergrin to check on Petitioner and "find out what was going on cause the F.B.I. got him". "And see if he (Bergrin) could get him (Petitioner), a bail", as Young falsely claimed. TR. 4350. The Government knew that this was a lie and that no such request was ever made. The Bergrin and Curry Calls completely disprove this because, (1) it is evident from both of the Bergrin and Curry Calls that it was Bergrin who initiated these Calls. See Calls No. 09298; Time 13:24:02; 09349; Time 16:00:23. (2) And in the Bergrin and Curry first Call (Call No. 09298), Bergrin is clearly heard telling Curry that "bail" wasn't even a possibility for Petitioner. Bergrin stated, "so what's going to happen today is there probably gonna ask ...they're allowed three days to ask for a detention hearing..." Call No. 09298; time 14:26:02.

Rhetorically, when does the Government desist from their deceit and concede that they knew Young testified falsely?

CONCLUSION

It is evident that from all the Calls, from the Curry Wiretap intercepts, from November 25, 2003, that the Government knew or should have known through a reasonable investigation, that their prime witness (Anthony Young's), testimony of the events of that day was perjured and a complete fabrication of the facts.

Thus, proving that the Government violated Petitioner's Due Process rights of Government misconduct under Napue v. Illinois, 360 U. S. 264 (1954), and it's progeny.

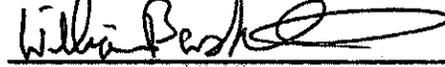
Furthermore, had trial counsels truly received all of the Curry Wiretap intercepts as they alleged in their Government's Opposition Declaration, stating "[t]he Government provided these recordings". (See Opposition Docket No. 16. HD20, N.4; KD20, N.4. Herman Supplemental, Docket 34, HDII). Proves trial counsel incompetence, for failing to investigate the information contained in the Curry Wiretap intercepts. Had counsels investigated the Calls contained in the Curry Wiretap intercepts, they would have known that Young was testifying falsely and could have alerted the District Court that the Government had injected perjured testimony into the trial of the Petitioner. Thus, violating Petitioner's Sixth Amendment rights to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668-687 (1984)

It is for the aforementioned supplemental facts and Law that Petitioner's conviction be vacated and or because of it's taints, a new trial ordered.

Nov. 23, 2015

Executed On

Respectfully Submitted,



William Baskerville
#25946-050
FCC-COLEMAN-MEDIUM
POB 1032
COLEMAN, FLORIDA
33521-1032

CERTIFICATE OF SERVICE

I, William Baskerville, majority, CERTIFY, that a true and correct copy of the foregoing has been furnished, via United States Postal Service, this 23 day of November, 2015, to:

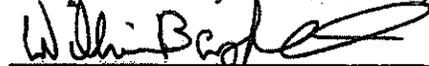
Honorable Judge Peter G. Sheridan, U.S.D.J.
United States District Court
Clarkson S. Fisher Federal Building
And United States Courthouse
402 East State Street
Trenton, New Jersey
08608

AND

U.S. Attorney's Office
Peter Rodino Federal Building
970 Broad Street
Suite 700
Newark, New Jersey
07102

Title 28 U.S.C.
Section 1746

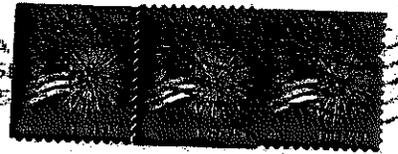
Respectfully Submitted,



William Baskerville
#25946-050
FCC-COLEMAN-MEDIUM
POB 1032
COLEMAN, FLORIDA
33521-1032

William Baskerville, #25946-050
Federal Correctional Complex Medium
POB 1032
Coleman, Florida 33521-1032

TAMPA
SAINT PETERS
24 NOV 2015



Legal Mail

Clerk of Court
Honorable Judge Peter G. Sheridan, U.S.D.J.
United States District Court
Clarkson S. Fisher Federal Building
And United States Courthouse
402 East State Street
Trenton, New Jersey
08608

RECEIVED

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AT 8:30 M
WILLIAM T. WALSH
CLERK

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EXHIBIT 7

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

PAUL BERGRIN,

Defendant.

Honorable Jose L. Linares

Criminal No.: 09-369

**CERTIFICATION
OF
MICHAEL MCMAHON**

I, Michael McMahon of full age, do hereby certify under penalty of perjury that the following facts are true:

1. I am a Private Investigator licensed in the states of New York and New Jersey.
2. I am a retired NYPD police officer, and I have participated in hundreds of arrests and investigations throughout my career.
3. April 28, 2016, I interviewed Savina Sauseda by telephone. I recorded this interview on a device that functions as a reliable digital recorder. I am fully knowledgeable in operating this recording device and have done so in the past. The device was working properly at the time of Sauseda's interview. I have retained a true and accurate copy of the recording, which can be provided to the Court at any time.
4. Sauseda first met Oscar Cordova at a restaurant in Aurora, Illinois where she worked as a waitress. They dated for approximately two years and lived together in around 2009 to 2010.

5. Cordova told Sauseda that he worked in construction, but she later discovered that he was a paid informant for the federal government.
6. One day, after Sauseda had ended her relationship with Cordova, she came across a beige and black digital "Hawk" recording device while she was cleaning, hidden in the cushions of the couch in the home she had shared with Cordova. The device had over twenty recordings on it dating back to 2006. Savina listened to material on the recorder and it appeared to her that Cordova had been tampering with the recorder and recordings.
7. Specifically, according to Sauseda, some of the recordings pertained to drugs, some "were about make it look like a robbery," and some were hard to hear. She further explained, "if you ever listened to tape recorders ... where you were able to stop play, stop and record, that's what it sounded like. Most of them were, like, paused, then started up again; paused, then started up again. They were like bits and pieces."
8. When I asked Sauseda if she thought Cordova was trying to transfer certain portions of conversations from one tape onto a different tape or another tape recorder, she responded, "to me, that's what it sounded like, yes." As she elaborated, "it sounded like this, like, [crunch] and then it would stop and then it would talk and then it would stop."
9. Sauseda stated that during some of Cordova's many unexplained absences throughout their relationship, he traveled to the New York area. During their relationship, Cordova talked about "Paulie" and "Tommy," whom he told her were his lawyers on his own criminal case. He told her he would visit "Paulie" and "Tommy" and dine

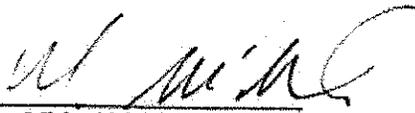
with them in the finest restaurants. He also mentioned a "Vinny" in passing and that he was from New York.

10. In 2011, after the end of their relationship, Sauseda confronted Cordova at a bar in the Bridgeport section of Chicago about his deceptive behavior during their relationship. Cordova stated he was in trouble and that he had to work "casing people up" for money in order to see his family. He explained to her, "you just don't know, I got involved in some stuff and in order for me to see my family again, this is what I have to do." He told Sauseda, "I was paid as an informant to set people up, he's like that's my job."
11. During their relationship, Cordova had told Sauseda that his father was an imprisoned Latin King gang leader, Gustavo Colon a/k/a Lord Gino, the head of the Latin Kings. As he later admitted to her, however, "my whole family thing about my dad was made up." As she stated, "he told me about his family ... he did lie about ... who his dad was." Specifically, though he had claimed that his father was Gustavo Colon and "that his dad was some type of gang leader and that his dad is in prison," he later revealed, "that wasn't true at all." As she stated, "he had told me that it wasn't."
12. Cordova stole Sauseda's credit cards, wallet, jewelry, and vehicle, and he drew down money on her bank accounts. Cordova told her that he could never be prosecuted, however, because, "whatever he does is not gonna matter because the government is on his side."
13. When asked if Cordova created false testimony or made up stories about Bergrin, Sauseda stated that "he had told me that he was paid to say whatever whoever was paying him [said] to say." And, when asked in what case he did so, Sauseda noted that she did not know specifically, but, "he used to refer to somebody named Sean."

14. Sauseda stated that during their relationship, Cordova made her believe that "Sean" was a human resources contact at his job, and that he had to go through a lot to get paid for his job. When Cordova revealed to Sauseda that he was an informant, he admitted that he fabricated some things and threatened to kill Sauseda if she were to "try anything funny."
15. In an email communication dated December 15, 2015, 14:34:50, Sauseda wrote that Cordova "confessed to me what he was paid to do. Lie.Lie on the witness stand against Paul Bergrin-Paul knew too much and he had to be silenced, being that he took on the high profile case of PFC Clagent)."
16. During my phone interview with Sauseda, she stated that Cordova claimed to be a Latin King, but that Sauseda never saw him wear colors. As she explained, "he's definitely not a killer" and "he wouldn't even kill a bug ... he would scream like a girl."
17. Sauseda stated Cordova "wasn't trustworthy by any means," but was rather "deceptive" and highly volatile.
18. Sauseda worries that she will face negative consequences for telling the truth about what she knows regarding Cordova. Though she thought Cordova's claims in 2011 that he was an informant in a "high profile case" were a "bunch of BS from my ex," when she Googled his name and saw press reports describing him as a hitman, she realized that, "morally I know it's the right thing to do," to come forward to the defense and, "that's why I reached out..."

I swear and subscribe to the foregoing statement made; if any of the foregoing statement made is false I am subject to the penalty of perjury.

Dated: June 27, 2016



Michael McMahon

EXHIBIT 8

United States of America)

v.)

Paul Bergrin)

AFFIDAVIT

I do solemnly swear and affirm that the following is true and accurate:

1. I am an attorney and a member in good standing of the Bars of the Commonwealth of Pennsylvania and the State of New Jersey. I am also a member in good standing of the Bars of United States District Court for the Eastern District of Pennsylvania and the United States District Court for the District of New Jersey.

2. I have known Mr. Paul Bergrin since the early 1980's when he and I served as Captains in the Judge Advocate General Corps of the United States Army. We were both originally assigned to duty at Fort Dix, New Jersey and, a short time later, to the United States Army Trial Defense Service, a part of the United States Army Legal Services Agency, with headquarters at Falls Church, Virginia.

3. In the performance of our duties Captain Bergrin and I shared adjoining offices and we performed the same kind of criminal defense work for several years.

4. I maintained intermittent contact with Captain Bergrin after I left the Army. I followed his career with great interest as he progressed through the Essex County District Attorney's Office to the position of Chief of Homicide. Later, he took a position with the United States Attorney's Office where he quickly became one of the top prosecutors. I was aware the Mr. Bergrin continued his military career as a reservist and that he was active in the defense of several service members charged with serious crimes during the Iraq war.

5. When Mr. Bergrin was charged with the instant offenses he and I discussed his case on several occasions. However, I played no active role in his trial defense.

6. After Mr. Bergrin was convicted he asked me for help in the investigation and management of his appeals. One of the tasks he asked me to accomplish was to contact Ms. Yolanda Jauregui whom we considered an important witness. A "Certification" containing information which was believed to be true and accurate and with respect to this witness was prepared and sent to her at an address we were able to identify in the federal corrections system. A copy of the Certification is attached as Exhibit "A".

7. My office staff was able to coordinate a telephonic interview of Ms. Jauregui who willingly agreed to discuss with me her relationship with Mr. Bergrin and the information contained within the Certification.

8. When we spoke Ms. Jauregui confirmed that she had, in fact, read the Certification and she agreed that it was true and accurate in its entirety with the sole exception of allegations about the nature and extent of her sexual relationship with Alejandro Castro.

9. During the course of our conversations I suggested that Ms. Jauregui strike out those provisions of the Certification which pertained to the allegations of sexual conduct with which she was uncomfortable and initial the change. Once this was accomplished she agreed to sign the Certification and return it to me. In fact, I told her that I thought this procedure would actually lend her Certification greater credibility as it would establish that she had read each and every allegation contained within it and had

made a conscious, deliberate and intelligent choice with respect to those allegations with which she could agree.

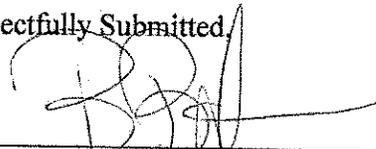
10. Although Ms. Jauregui accepted this suggestion and promised to return the signed Certification promptly she has not done so.

11. When we did not receive the Certification as promised we followed up by trying to arrange another telephone conference.

12. When we tried to locate Ms. Jauregui to arrange for another interview using her name and inmate number in the federal inmate locator system we found, to our surprise, that all records regarding Ms. Jauregui had been deleted from the system. Attached as Exhibit "B" are the results of a recent search which confirms that all records regarding this inmate have been deleted.

13. Despite our best efforts we have been unable to relocate Ms. Jauregui.

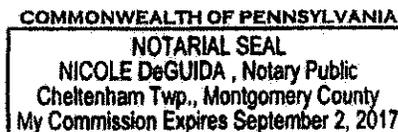
Respectfully Submitted,



Brian P. McVan, Esquire

Date: May 24, 2016

Sworn to and subscribed before me
this 24th day of May, 2016.



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

v.

PAUL W. BERGRIN

CERTIFICATION OF YOLANDA JAUREGUI

I, Yolanda Jauregui, do hereby make the following sworn statement under oath and subject to perjury. It contains the absolute truth, is made knowingly and voluntarily. I am of sound mind and not under the influence of any drugs, alcohol or anything which would effect my ability to think and rationalize.

I have not been promised anything in order to make this statement. No promises, threats, coercion nor inducements of any kind have been offered nor made against me. This statement is completely voluntarily and of my own free will. It is made intelligently.

1. In May 2009, I was arrested with Paul Bergrin and others and charged with federal offenses, including but not limited to drug trafficking, fraud, racketeering. On the advice of counsel, I decided to become a cooperating witness. I lacked confidence in counsel and was scared to death of the threats of imprisonment made against me.

2. In order to be accepted as a cooperating witness I had to attend proffer sessions and meet with federal prosecutors and

government law enforcement agents. I met with them at least fifty(50)times, not including all the meetings which they called trial preparation. None of these meetings were ever recorded.

3. From the first time I met with them I realized that the government hated Paul Bergrin and that they wanted evidence and information against him. It did not matter what the truth of the facts were. If I did not say that Paul Bergrin was involved, was the leader and in charge and participated in the crime, then it was obvious that I would not be accepted as a cooperating witness and, I, would receive extraordinary time in prison (hereinafter Paul). My attorney advised me exactly that the government had a huge "hard-on" for Paul and the more you hurt him the better we will do.

4. I was repeatedly informed by federal prosecutors and law enforcement agents that I would receive 25 years imprisonment or more and may never leave prison. That I will never see my daughter Ashley again or have any life unless I cooperated. I do not recall a meeting with the government wherein I was not reduced to tears and hysteria. They scared and terrified me into saying exactly what they wanted to hear. The truth was never their objective.

It became apparent and obvious exactly what the government wanted to hear by the repetition of the questions they asked. If I would attempt to tell the truth and that Paul was innocent, not involved, or that I did not know the answer, the

government would get angry, threaten to end the meeting, walk out or tell me I am lying and that they are not using me as a cooperating witness. The government thereby put the answers in my mouth that they wanted to hear about Paul and, the majority of the time it was not the truth. For instance, I would give an answer, which was truthful and wherein Paul was innocent of involvement and they would say, you are lying. The truth is that Paul did a, b, c. That Paul was present, he was the leader, he was involved. Isn't that the truth? If that's not the truth we do not need you as a witness. You might as well leave and go to prison for possibly life. Their repetition of questions and the answers they desired me to specifically state ensured me that I would be accepted as a cooperator.

5. My daughter Ashley Jauregui, I call her my daughter because I raised her from infancy when her biological mother Sonja Erickson placed her in my custody. Ashley, whose birth/biological name was Theresa Vannoy, only knew me as her mother. I never informed her that I was not her biological mother. Until my arrest in May 2009. She grew up believing that I was her mother. She met Paul at around 2 years old and he raised her as his own daughter. They had a father-daughter relationship. I was afraid of the intimidation, threats and coercion being applied by the government and believed them. In that predicament and condition a person's will is overborne and you are willing to say or do anything. Even though I loved Paul, I was more concerned with Ashley being alone, having no one to care

for her and me being sent to prison for life. I was promised, in front of Ashley, a house, job, money, a new identity, if I said what the government wanted to hear.

6. I met Alejandro Bazarro-Castro through my brother Ramon Jimenez, in around 2003. I had been involved in a serious relationship with Paul, but he was married and I was attracted to Alejandro. My relationship with Alejandro became intimate, sexually and he confided in me. I learned that he and his family were involved in distributing and trafficking large quantities of cocaine, throughout the United States. His family was originally from Mexico and lived in California. Alejandro came to Newark, New Jersey looking for drug customers and I saw a way to make alot of money, take care of me, Ashley, my mother and family and live a good life, and get close to Alejandro.

Paul had absolutely no idea I was ever involved with Alejandro, either socially-inimately or in the cocaine business. Paul was very jealous of me, Alejandro even others. Me and my family, including Ashley went out of our ways to conceal and hide my relationship with Alejandro. I did not want to lose Paul. I loved him, hid, concealed and used others to help hide and conceal my relationship with Alejandro. I remember many times Paul questioning me and I would cry, hug him, lie to him and tell him how deeply I loved him and would never cheat on him.

7. On many occassions I told Paul that I loved him as much

as I loved my son John, who died of cerebral palsy and could never do anything to risk losing him. Paul made me believe he would leave his wife Barbara and his marriage and that we would get married. Alejandro knew my relationship with Paul and also went out of his way to avoid Paul. Alejandro, me and Alejandro's family were aware of Paul's military background and that he was a former prosecutor. Paul had a lot of friends and acquaintances associated with law enforcement and Paul hated Alejandro; Alejandro was also jealous of Paul and disliked him. There was no trust or relationship between Alejandro and Paul. Neither Alejandro nor his family would ever do business with Paul, they did not like nor trust him. I even said this to Maria on a recorded conversation.

Paul knew of Alejandro from different people telling him and from seeing him around the streets of Newark and Isabela's restaurant. When Paul would say, what is he doing here, I would say I cannot stop him from eating at the restaurant. Paul would even say, I do not want him near my restaurant, or you speaking to that guy. Paul would call him names like a "wet back".

8. There came a point in time where Paul came to the restaurant (Isabela's) less and less and eventually even stopped coming there. That is when Alejandro came more and eventually moved into the apartment upstairs on the second floor of the restaurant. I convinced Paul to let me run the restaurant. That I would make sure the bills and mortgage in Paul's name, was paid. Paul did not know who the tenants were nor what was go-

ing on at the restaurant. All he cared about was that we were building up equity in the building, paying the bills and that he profited.

9. My brother Ramon Jimenez and Alejandro were dealing cocaine together and I was making a percentage. When I first met Paul I was buying foreclosed properties, fixing them up and selling them. I did a few properties with Paul and he made some money. I was able to convince Paul that I was living on the money earned from my real estate investments. I even had business cards made, "Yolanda's Investment Properties" and would fabricate to Paul as to attending meetings at banks, mortgage companies, reviewing properties to purchase and instead would be dealing drugs with Alejandro or involved with him. I also spent all day with Alejandro while Paul was at his law office, or with Alejandro as Paul was out of state or even in Iraq on cases. Paul worked 15-18 hours a day, 6-7 days a week and when he worked I would be with Alejandro. Paul would call or text me or speak to Ashley and we would lie as to where we were, who we were with, or what we were doing. Paul was blinded by his love for me and Ashley and our lies.

10. I introduced Alejandro to my neighbor, across the street from my house at 348 Little Street, Belleville, New Jersey, Norberto Velez. This was before Paul and I moved in together in Nutley, New Jersey, Cambridge Heights development. I negotiated and got Norberto to drive Alejandro to pick up drugs. Norberto was paid a few hundred dollars each week and aware of Alejan-

dro's background, as well as his family. Norberto feared Alejandro and his family and was warned about Paul finding out anything. Paul had represented Norberto in a case wherein he stabbed his wife multiple times, in front of a school in Belleville, New Jersey. I helped Paul and Norberto on the case and Norberto won. Norberto was very thankful to me for Paul, and Norberto liked me and was loyal to me. Paul had absolutely no idea that Norberto was working with and for Alejandro, and especially that I was also. Alejandro had a common law wife and infant baby that I convinced Norberto to let live in his house on Little Street. Due to my intimate relationship with Alejandro he sent his wife to California with his kids and we spent many days and nights together at Norberto's. There was no way Paul could find out. Paul did not go to Norberto's and they had no contact.

11. Norberto and Alejandro got arrested in Passaic, New Jersey and I convinced Paul to represent them and take the case. I told Paul it is a great fee and a chance for Paul to represent large scale drug dealers. Paul was taking alot of smaller cases. I got in the middle and had Alejandro's brother Pelón retain Paul for Alejandro and Norberto; in order to make sure Norberto did not cooperate. I also wanted to get information from Paul as to what the police knew.

Paul questioned me as to the money seized from Norberto's house. It was over \$400,000. I lied to Paul and said the money

was mine from real estate closings and I needed Norberto to deposit it and hide it from my husband Ray; who was stealing from me as well as my brother Alberto who was hooked on drugs. The money was actually Alejandro and mine from drug transactions. I also learned that Paul had been told by the police, I believe DEA, that Norberto told them that I was involved in the drugs. Of course I denied it and did not trust or deal with Norberto any more. I also had Norberto deny this to Paul and lie to Paul about me, Alejandro and drugs. Norberto also swore to Paul that I loved him and that I had nothing to do with Alejandro, drugs, etc.. Paul loved me so much he believed me. Paul let Alejandro sit in jail while getting Norberto out on bail quickly. This brought hatred and further dissention between Alejandro, Paul and Alejandro's family and Paul. They did not like the fact I was involved with Paul, a former prosecutor and their brother at the same time. They hated and never trusted Paul. That is why they could never do any business with him, nor would Alejandro. Paul never respected Alejandro and his family and was only concerned with their fee.

Paul believed Norberto, that he and Alejandro were mules and they both got great deals, in Passaic County.

Paul hired some attorney to handle Alejandro, but kept most of the fee that is why you must believe Paul was not involved in drugs.

Paul was paid \$25,000 to represent Norberto and Alejandro and kept Alejandro in jail. That should prove he was not in-

volved with drugs with Alejandro.

12. Paul and I were in love, while I continued my sexual and business relationship with Alejandro. Paul worked so much and too many hours. He was also traveling alot and would also spend time with his children alone. When Paul was not there, I spent the time with Alejandro. I had Paul believing I was home in bed waiting for him when I was actually with Alejandro, or Alejandro was at our home.

13. Alejandro and his family wanted to increase their drug selling business in Newark and the surrounding areas. I knew Paul represented drug dealers. Paul was not involved with any drug dealers, never. I used Paul's contact without him ever having knowledge, as well as Ramon working for Paul to meet new drug customers. While Paul was showering, I took his cellular telephone contact list and copied down numbers, such as Rondre "Dre" Kelly. Abdul "Mutallic" Williams. Paul had no clue. I did this behind Paul's back and without his knowledge.

14. I called Rondre "Dre" Kelly. I knew of him from my brother Ramon whom told me and Alejandro about Dre. I know for an absolute fact neither Alejandro, me nor Ramon EVER would let Paul learn, find out or be involved with drug dealing. We always talked about its secrecy and how best to hide it all from Paul. I also made sure Ashley and my family never slipped or revealed to Paul what I was doing with Alejandro. Paul would go beserk and never allow me to have any kind of relationship with Alejandro or his family or Ramon. It was kept a complete secret.

When I met a drug customer I would tell them if Paul finds out we are finished and out of business. They never would risk their drug connect. I called Dre at his cellular telephone and told him whom I was and that I had to meet him. I also knew Dre as a major drug dealer who owned an auto body collision shop because Paul informed me. I had got into an accident by a hit and run driver, in a car Paul leased for me and Paul paid my insurance. It was a Mercedes convertible. Paul said to see Dre at his collision shop and get the car fixed. That Paul will barter on a case that Paul had for Dre and his brother; that's when I knew and learned about Dre. Paul told me he did not want his insurance to go up and that he would provide free legal service, if Dre fixed the scratches and dents.

15. Paul gave me Dre's cellular number originally but I lost it and did not want to ask for it again. I used Paul's cell phone contact list, received Dre's number and made an appointment to see him. I went with Alejandro. I introduced myself to Dre and Alejandro to him. That was our first meeting. We made it a point to ensure Paul had no idea whatsoever we would be doing drug trafficking together. That was a major point. As a matter of fact Alejandro said to Dre that Paul should get a commission only joking, and Dre agreed that Paul can never find out. Dre said that Paul would look to it as disloyalty. Our meeting if he found out this is occurring behind his back. He also said it's none of Paul's business. That's why you should know Paul was not involved.

Alejandro, Dre and me did many drug deals together. Dre would buy multiple kilograms and I would call him and make the arrangements. I would learn when the drug supplies were coming in, where and how much and even the price per kilogram. Paul was NEVER involved. Paul had absolutely no knowledge and Paul was NEVER paid nor made any money off us. NEVER. Dre lied on the witness stand when he testified Paul was involved. Me and Alejandro, set everything up. Paul was not involved at all and had no knowledge, so help me God.

I dealt with all issues concerning Dre's drugs and Alejandro and Alejandro's family. Paul was never consulted, talked to nor had any knowledge or part of any drug transactions between Rondre "Dre" Kelly, me, Alejandro and Alejandro's family. Dre never spoke to Paul or dealt with him concerning drugs. His testimony was contrived so he could walk and avoid prison.

16. On one occasion I lied to Paul and said that Dre put up some bail money for Alejandro. Paul went crazy when I told him that I introduced Dre to Alejandro's family. Paul threatened to break off our relationship and he called Dre to confront him and find out what my involvement was. Dre denied it and I then convinced Paul that it was only so Dre could make some money and had nothing to do with drugs. I told Paul that drugs were not involved only interest on money. I almost lost Paul. I also learned that Dre testified that Ramon, my brother, delivered drugs, multi-kilograms to Dre, for Paul at Paul's law office on Market St. This is complete perjury. An absolute lie that

was fabricated. It never happened. Ramon was never involved in delivering or selling drugs for, with, on behalf of Paul. I know this for a fact. All this testimony by Dre about Paul being involved in our drug dealings, settling disputes, being paid or brought money to fund drug sales, was completely false. Paul never delivered, sold, transferred nor had drugs at any of his offices. I would know because the drugs were supposedly from Alejandro. This is false testimony by a lying witness.

Paul was not involved nor did he have any knowlege of any drug dealing done by me and Alejandro, especially to Rondre Kelly. I know this as a fact.

Ramon Jimenez, my brother, never sold drugs to Rondre Kelly. Ramon received small quantities of drugs from Rondre to sell, for himself. I know this to a certainty, because Ramon stole Alejandro's money from drugs and Alejandro cut him off. Ramon got a small amount from Dre for resale. Paul had no knowledge and nothing to do with it.

17. While at the Hudson County Jail and being detained on federal charges, attorney Richard Roberts visited me. He was not my attorney. Richie told me to testify and cooperate against Paul. "To hell with Paul and that he wanted to do a book and movie deal with me". I told my attorney, Chris Adams and the government. Roberts was desperate for me to cooperate and lie against Paul.

18. I received a 9 year prison term, even though I cooperat-

ed because I refused to lie any further at the second trial; and support and corroborate that Paul was in any way involved in the drug dealing of Rondre "Dre" Kelly or Abdul Mutallic Williams. I also refused to lie about what Thomas Moran testified to in that Paul was paid to store drugs at Isabela's restaurant, by Alejandro Castro and that Alejandro opened the door to the basement of Isabela's for a Subway Sandwich restaurant person. All this would be lies, fabricated and perjured evidence. Rodre Kelly, Abdul Williams and Thomas Moran lied. Paul received no money for drug sales and was never involved.

19. I met Abdul Williams at Paul's office. He followed me out one day when I came there to visit Paul. I had known that my brother Ramon had done drug deals with him. Paul had no knowledge that Ramon did any drug deals with Abdul Williams (Mutallic). I know this for a fact, because I spoke to both Ramon and Mutallic. We swore confidence and secrecy to each other and the fact that any drug deals must be hidden, secret from Paul. We all agreed that if Paul learned about Alejandro and them doing business, he would go crazy.

20. I learned that Mutallic testified that he was a "taxi-driver," "courier," or "mule" for me and Paul and that Alejandro was involved. That Mutallic would pick up, be given or receive kilograms of cocaine from us and sell or deliver them to our customers, receive payment (cash) and return the cash to one of us. It never happened. I am certain of this. Paul never

had a customer.

Abdul Williams never returned to either me or Alejandro any drug money for deliveries he made. He paid me or Alejandro money for kilograms of cocaine we sold Mutallic for drug sales to Mutallic's clients or customers. Paul was never involved. It was between me and Alejandro and Mutallic. I did not have drug customers nor did Paul. The testimony about being a taxi driver and working for Paul or me delivering drugs is absurd. It never happened. NEVER.

21. I established a close relationship with Mutallic and we became intimate. I knew what he was doing. The reason I got close was because he(Mutallic)was providing me information about females Paul was having a relationship with and I wanted to confirm that Paul had an illegitimate black child named Khair, which Paul was denying. I had gone to Mutallic's house in East Orange, New Jersey behind Paul's back where we became intimate. I also met his father. I loved Paul and this was my way to learn if he was cheating on me. I was actually jealous.

22. After I was released on bail on May 20, 2009, I had no money nor income. Approximately \$70,000 had been seized from me at the time of my arrest. I visited Alejandro at the Hudson City Jail. He was incarcerated with Mutallic. We all agreed on an 11 Kg cocaine sale between Alejandro, me, Pelon Castro and Mutallic's family. I went to Mutallic's house in East Orange and his father was spooked. I did the drug deal with Pelon and

Mutallic's cousin I was never paid for the 11Kg which was sold to Mutallic's cousin; and I witnessed being placed in the cousin's trunk of his auto. We got beat. I heard Mutallic denied this transaction at trial. He lied again. Mutallic never worked as a taxi driver and never delivered drugs for Paul, me nor Alejandro.

23. I fear retaliation for my cooperation by Alejandro's family. That is why I entered the secured witness program. I do not have any fear of Paul and am certain he would never hurt either me, Ashley nor anyone in my family. I still believe Paul loves me. I do not want these lies to continue.

24. Isabela's Spanish restaurant of 710 Summer Avenue, Newark, New Jersey was being ran by me and I paid the bills while it was in operation. The bills were in Paul's name such as telephone, gas, electric, the mortgage, because Paul had good credit and I did not. Paul was not responsible for Isabela's. Legally he was, but he hardly ever came there. I lied to Paul and told him that I was meeting with representatives of Subway Sandwich Franchise and we were going to convert Isabela's into a Subways. I told Paul that he could have no dealings with Subways or Isabela's because Paul had been indicted on the prostitution case in New York. Paul agreed and sold me the restaurant. I bought it with the intent to try to make a profit or do something for me and Paul with this property. The restaurant had closed.

(a) Paul never talked to, met, received any literature or had anything to do with Subways. I never made contact either nor had any Subway's franchise representatives EVER come to Isabela's. Paul would never have had anything to do with this as I convinced Paul that I must do it all alone because of his open case in New York. That is why I know that Thomas Moran's testimony at trial that he went to Isabela's restaurant, at 710 Summer Avenue, with Paul and met a Subway's sandwich representative was a lie, and that Paul was showing the representative the basement and needed Alejandro to open the locked basement door. There was no meetings nor chance of this ever happening, especially with Paul. It was fabricated testimony.

(b) Firstly, there was no lock on the basement door. Secondly, Alejandro never opened any doors for this phantom and contrived Subway representative. Thirdly, Alejandro never had keys to the restaurant. The restaurant had a separate entrance to the apartment. Fourth, no one had any meetings nor dealings with Subway, so a representative would have never come there. The government should know this.

25. This false and perjured testimony by Moran was a means to connect Paul to the 58 Kg of cocaine delivered to Isabela's on 21 May 2009, the day after Paul was arrested. This cocaine was the property of Alejandro's family. It was specifically

taken to Isabela's because Paul was in jail.

26. I spoke to Alejandro about those kilograms and I am absolutely certain Paul was never given any money for anyone to store cocaine nor any drugs at Isabela's restaurant. Those drugs belonged exclusively to Alejandro and his family. Paul had nothing to do with those drugs, nor did he have any knowledge. That fabricated testimony was perjurous. A complete lie. I am also certain that Paul never received any money from Alejandro to store cocaine at Isabela's restaurant; especially \$2,500 per month. Paul would never risk losing his building and property. I know this. I also know that any witness who testified that Paul transferred, sold or delivered them cocaine from his law office or Isabela's lied. It never happened.

27. How do I know Paul did not know about the cocaine seized by the federal government at Isabela's on 21 May 2009, or that he was never paid to store cocaine at Isabela's? Because Paul was crazy jealous of Alejandro and did not want him at Isabela's. More importantly Paul would beg me to not serve Alejandro or let him even eat at the restaurant because Paul kept saying that he has a \$150,000 home equity loan and mortgage outstanding on the restaurant, has police clientele there all the time and he will lose everything if Alejandro is there, even if he's not doing anything. Paul hated Alejandro so much he did not want me speaking to him or Alejandro at his property.

28. I also know that Paul never served or delivered any drugs to anyone at the restaurant because Paul had no knowledge of the drugs and would never risk losing the restaurant in a for-

feiture action. Also, I am certain that Paul never directed Dre or anyone to my home at 348 Little Street, Belleville to meet me and or Alejandro. Paul had no clue whatsoever Alejandro was ever at my home on Little Street and no knowledge whatsoever of any cocaine there. Paul would never send or even think about any drug dealers coming to a house where his daughter Ashley would spend time or where my mother lived. Those accusations are lies.

There was so much hatred between Paul and Alejandro that Paul attacked Alejandro and tried to beat him up. This would never happen if they were in business. Never.

29. I met Maria Corriera through Paul. We both had daughters the same age and named Ashley. Maria befriended me and I would swear not to disclose it to Paul. Maria and I eventually did a drug deal involving a kilogram of cocaine. The reason Paul introduced me to Maria is because he thought, at the beginning, in June 2008, she was a new source of business nothing to do with drugs.

(a) I made Maria swear that Paul could never find out about us doing business. Maria met Alejandro and Paul had no idea whatsoever I was doing a drug deal with Maria. There came a point in time wherein Maria told Paul that I came to her house early in the morning with an hispanic male and that Yolanda threatened her. She also said we were going to do a drug deal. I could prove Paul never knew I was doing business with Maria; because when Maria called I would call her by a different name.

(b) I got Maria on the phone, after denying all this to Paul and saying Maria was jealous of us. Maria apologized for lying and denied a drug deal and Paul remained suspicious of me and our relationship began to deteriorate. Paul had no knowledge and was not involved in my drug deal with Maria. He would have broken up with me and I would have lost him, if he would prove it. Paul told me that if he found out I was involved in drugs or doing anything with Alejandro, we are done. I didn't want to lose Paul. That is why you must believe all our drug business was done behind Paul's back and without his knowledge.

30. An important point is that I believed Oscar Cordova was an informant and confronted Maria about this fact. This occurred in July or August 2008, and I know Paul also suspected Oscar. I told Paul Oscar is an informant. There were too many lies and false promises by Oscar.

31. I learned that Correction Officer, Eugene Braswell testified that Paul was dealing him drugs from his office ceiling and the hotel. Drugs he got from Alejandro-Kilograms. This is a lie. It never happened. I knew that Alejandro never sold Paul drugs. I also found out that Braswell was at the Hudson Jail with Mutallic. Now I know how the lies and schemes evolved.

32. This certification contains all my knowledge of Paul's innocence. It is the absolute truth. I have read it over and over and could have deleted, changed or amended anything which was false.

Certified under penalty of perjury;

YOLANDA JAUREGUI

Sworn and subscribed to before me this _____ day of June 2015

NOTARY PUBLIC

Dated: _____

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EXHIBIT 9

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

PAUL BERGRIN,

Defendant.

Honorable Jose L. Linares

Criminal No.: 09-369

CERTIFICATION

OF

SEAN G. MEANS

I, Sean G. Means, of full age, do hereby certify under penalty of perjury that the following facts are true:

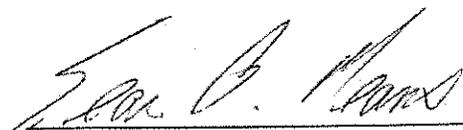
1. I am a Private Investigator licensed in the state of New Jersey.
2. I am a retired JCPD/HCPD Detective, and I have participated in hundreds of arrests and investigations throughout my career.
3. On May 16, 2016, I interviewed Lorriann Ortiz.
4. Ortiz is the niece of Yolanda Jauregui.
5. Ortiz lives at 346 Little Street in Bellville, New Jersey with her brother Jo-Jo, her grandmother, and Robert Vannoy.
6. Ortiz currently works at Brick City Motors in Newark, New Jersey. She previously worked in the law office of Paul Bergrin as the office manager. She worked there full-time, Monday through Friday, 9 to 5.

7. Ortiz stated that she never saw any illegal activity occur at the office while she was there. When asked if she ever witnessed drugs at Mr. Bergrin's law offices, she replied, "absolutely not."
8. Ortiz told me that her Aunt Yolanda, who is currently incarcerated, was placed into solitary confinement for trying to contact Mr. Bergrin. Ortiz stated that Jauregui was moved from California to Minnesota because of Jauregui's repeated attempts to contact Mr. Bergrin and because Mr. Bergrin had tried to contact Jauregui. Ortiz last spoke to Jauregui on Mother's Day of 2016. Jauregui has very limited phone call privileges – fewer than most prisoners – according to Ortiz.
9. On May 16, 2016, I interviewed Marilisa Jimenez.
10. Marilisa Jimenez is Yolanda Jauregui's sister.
11. Jimenez stated that Paul Bergrin was never involved in any drug trafficking activity.
12. Jimenez stated that Jauregui hid her drug dealing from Mr. Bergrin.
13. Jimenez stated that Jauregui wants to help Mr. Bergrin's criminal defense, but that she is penalized and placed in solitary confinement when she tries to contact him.
14. Jimenez stated that Federal Bureau of Investigation Special Agent Shawn Brokos previously tried to force Jimenez's family into protective custody. Most of Jimenez's family did enter protective custody because Brokos told them that Alejandro Barraza-Castro was dangerous and had ties to dangerous individuals in Texas. Members of Jimenez's family who entered witness protection include her mother Gladys Bracero, her sister Maria Jimenez, her niece Loriann Ortiz, her brother Alberto Jimenez, her daughter Alexandra Maria Jimenez, and her nephew Robert Vannoy. To her knowledge and belief, everyone in her family has since left protective custody.

15. Jimenez believes that Brokos urged the family into protective custody in an attempt to heighten the hysteria in Mr. Bergrin's case.

I swear and subscribe to the foregoing statement made, if any of the foregoing statement made is false I am subject to the penalty of perjury.

Dated: June 27, 2016



Sean G. Means

EXHIBIT 10

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

PAUL BERGRIN,

Defendant.

Honorable Jose L. Linares

Criminal No.: 09-369

CERTIFICATION

OF

MICHAEL MCMAHON

I, Michael McMahon of full age, do hereby certify under penalty of perjury that the following facts are true:

1. I am a Private Investigator licensed in the states of New York and New Jersey.
2. I am a retired NYPD police officer, and I have participated in hundreds of arrests and investigations throughout my career.
3. On May 27th 2014, I interviewed Sonia Erickson by telephone. I recorded this interview on a device that functions as a reliable digital recorder. I am fully knowledgeable in operating this recording device and have done so in the past. The device was working properly at the time of Erickson's interview. I have retained a true and accurate copy of the recording, which can be provided to the Court at any time.
4. Erickson is the biological mother of Theresa Vannoy (a/k/a Ashley Jauregui), whom Yolanda Jauregui raised as a daughter until 2009.

5. Erickson told me that "Theresa was very, very adamant that not only did Paul not know anything, that Paul was never around when any of the drugs or money or any of this stuff was being talked about, but that she was threatened physically by Yolanda if she was to tell Paul. My daughter has said that from day one."
6. Erickson also stated that FBI Special Agent Shawn Brokos tried to convince Theresa to claim that she had knowledge that Mr. Bergrin was involved with dealing drugs even though Theresa was adamant that she had no such knowledge. When I asked Erickson, "So did Brokos wanted her to lie?" she responded "Ther-Ther, yeah, yes. And Theresa stuck to her guns. She said mom, that's, that's not what happened."
7. Erickson also stated that during Bergrin's criminal trial, Agent Brokos had urged Erickson to provide information about the case to news reporter Joe Ryan of The Star-Ledger, who was covering the trial. Brokos told Erickson to hide the fact that Brokos had encouraged her to do so.
8. Erickson stated that she had been willing to present this evidence at Bergrin's trial, but she was not served with a subpoena to testify until several days after the date upon which the subpoena called for her to testify.

I swear and subscribe to the foregoing statement made; if any of the foregoing statement made is false I am subject to the penalty of perjury.

Dated: June 27, 2016


Michael McMahon

EXHIBIT 11

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

PAUL BERGRIN,

Defendant.

Honorable Jose L. Linares

Criminal No.: 09-369

CERTIFICATION

OF

SEAN G. MEANS

I, Sean G. Means, of full age, do hereby certify under penalty of perjury that the following facts are true:

1. I am a Private Investigator licensed in the state of New Jersey.
2. I am a retired JCPD/HCPO Detective, and I have participated in hundreds of arrests and investigations throughout my career.
3. On June 15, 2016, Michael McMahon and I interviewed Robert Vannoy (RV). RV 20 years old and resides at 346 Little Street in Belleville, New Jersey.
4. RV stated he has known Paul Bergrin his whole life and says Mr. Bergrin had nothing to do with the drug trafficking activity that he witnessed growing up.
5. RV stated it was Yolanda Jauregui and "the Mexican" a/k/a Alejandro Barraza-Castro who were responsible. Bergrin never liked Barraza-Castro and always stayed away from him. Bergrin did not want Barraza-Castro to be around RV or his sister Ashley Jauregui a/k/a Theresa Vannoy.

6. RV went into witness protection with Ashley/Theresa, but he lasted only three months because he hated it. According to RV, the two FBI agents who were in contact with him while he was in witness protection -- a female agent named Shawn and a male agent whom RV did not name -- did not treat RV well and they wanted him to stay in witness protection.
7. RV observed Alonzo (Alejandro Barraza-Castro's brother) counting "lots of money" in Isabela's Restaurant and testified at trial to that observation.
8. RV stated that he and Ashley/Theresa always told the FBI that Paul Bergrin had nothing to do with the drug trafficking activity they witnessed.

I swear and subscribe to the foregoing statement made, if any of the foregoing statement made is false I am subject to the penalty of perjury.

Dated: June 27, 2016

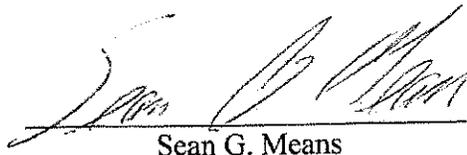

Sean G. Means

EXHIBIT 12

Colloquy

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(The parties speak Spanish)

MR. MCMANN: Today is Tuesday, October 22nd, 2013 at approximately 3:15 PM. We're doing an interview today with Jose Jimenez. Present at the interview is private investigator Michael McMann, and private investigator --

MR. SUAREZ: Dennis Suarez.

MR. MCMANN: Dennis Suarez.

Jose Jimenez, correct?

MR. JIMENEZ: Yes.

MR. MCMANN: Okay. J-I-M-E-N-E-Z?

MR. JIMENEZ: Hm.

MR. MCMANN: Okay. What's your date of birthday?

MR. JIMENEZ: April, 3, 1950.

MR. MCMANN: April 3rd, 1950?

MR. JIMENEZ: Yeah.

MR. MCMANN: Okay, do you have a Social Security number?

MR. JIMENEZ: Yes.

MR. MCMANN: Okay, and what's your social?

MR. JIMENEZ: 144-42-9949.

MR. MCMANN: Okay, and what's your present address? You have an address -- where

Colloquy

3

1 you're living.

2 MR. JIMENEZ: No.

3 MR. SUAREZ: (speaking Spanish).

4 MR. JIMENEZ: (speaking Spanish).

5 MR. MCMANN: Okay.

6 MR. JIMENEZ: 889 Broadway.

7 MR. MCMANN: 889 Broadway?

8 MR. JIMENEZ: (Indiscernible) --

9 MR. MCMANN: In Newark, New Jersey?

10 Okay.

11 MR. SUAREZ: All -- just a record, Mr.
12 Jimenez is more comfortable conducting the
13 interview in Spanish as opposed to English. And
14 so, the entire interview will be conducted -- well,
15 I shouldn't say the entire, but the interview will
16 conducted predominately in Spanish, and I will act
17 as a translator. Dennis Suarez will act as a
18 translator for Mr. Jimenez's questions and answers.

19 Mr. -- (speaking Spanish).

20 MR. JIMENEZ: (speaking Spanish)

21 MR. SUAREZ: Okay, (speaking Spanish)?

22 MR. JIMENEZ: No.

23 MR. SUAREZ: (speaking Spanish).

24 MR. JIMENEZ: No.

25 MR. SUAREZ: (speaking Spanish).

Colloquy

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MR. JIMENEZ: No.

MR. SUAREZ: Okay, (speaking Spanish).

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: Okay, (speaking Spanish).

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: I'll translate for you. He
-- he got to know Paul Bergrin through his
daughter.

(speaking Spanish).

MR. JIMENEZ: Yolanda.

MR. SUAREZ: Yolanda -- (speaking
Spanish).

(The parties speak Spanish)

MR. SUAREZ: Okay, Yolanda ---

MR. MCMANN: That's spelled J-A-U-R-E-G-
U-I?

MR. JIMENEZ: Jauregui. Yes.

MR. MCMANN: Okay, Yolanda. Where is
Yolanda now?

MR. JIMENEZ: (speaking Spanish)

MR. MCMANN: Okay, incarceration?

MR. JIMENEZ: Yeah.

(The parties speak Spanish)

MR. MCMANN: She's in California?

MR. SUAREZ: He says, I don't know if

Colloquy

5

1 she's in California, or I don't know where, but I
2 know she's --

3 MR. MCMANN: Okay, when was the last time
4 you spoke to her?

5 (The parties speak Spanish)

6 MR. SUAREZ: I haven't talked to her I
7 was in this -- in jail.

8 MR. MCMANN: Okay, and you were in jail
9 for how many months?

10 MR. JIMENEZ: 54.

11 MR. MCMANN: 54 months, okay. And you
12 just got released yesterday?

13 MR. JIMENEZ: Yeah.

14 MR. MCMANN: October 21?

15 MR. JIMENEZ: Yes.

16 MR. SUAREZ: Why don't you -- why don't
17 you do the interview in English, and then what
18 we'll do is if --

19 (The parties speak Spanish)

20 MR. MCMANN: So, let's -- let's start out
21 by -- so, you know Paul Bergrin because you met him
22 through your daughter, Yolanda?

23 (The parties speak Spanish)

24 MR. SUAREZ: What happened was what that
25 I had a case, and I -- my daughter and I had a

Colloquy

6

1 case, a separate case, and my daughter took me to
2 Paul to represent me.

3 MR. JIMENEZ: Yeah.

4 MR. MCMANN: Did you at any time live at
5 710 Summer (phonetic) Avenue, in Newark?

6 MR. JIMENEZ: Yeah.

7 MR. MCMANN: Okay.

8 MR. JIMENEZ: (speaking Spanish).

9 MR. MCMANN: How -- how did you come to
10 live at that address?

11 MR. JIMENEZ: (speaking Spanish) -- (in
12 English) -- my daughter rent me apartment there in
13 that building.

14 MR. SUAREZ: When I had the case, the
15 original case, where Paul represented me, my
16 daughter rented me an apartment up there.

17 (The parties speak Spanish)

18 MR. SUAREZ: She was -- my daughter was
19 the owner of the house.

20 (The parties speak Spanish)

21 MR. MCMANN: So, Yolanda and Paul owned
22 740 Summer Avenue?

23 MR. JIMENEZ: 710.

24 MR. MCMANN: 710 Summer Avenue?

25 MR. JIMENEZ: Yeah.

Colloquy

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1 MR. MCMANN: Okay, and because of that
2 relationship between you and Yolanda, she was able
3 to get you an apartment?

4 MR. JIMENEZ: (speaking Spanish).

5 MR. SUAREZ: Hm. (speaking Spanish).

6 What he said was is that --

7 (The parties speak Spanish)

8 MR. SUAREZ: When I left ISP, which is a
9 program, here in New Jersey. When I was in --

10 (The parties speak Spanish)

11 MR. SUAREZ: -- I was in jail, prior, for
12 a different case, and they needed to have somebody
13 -- I needed to have somebody that was responsible
14 for me. So they had to sign for me. So, I -- they
15 rented me a room, and they took responsibility for
16 me.

17 MR. MCMANN: They being Yolanda and Paul,
18 or just Yolanda?

19 MR. JIMENEZ: Yolanda.

20 MR. MCMANN: Just Yolanda?

21 MR. JIMENEZ: Just Yolanda.

22 MR. MCMANN: Okay, and Yolanda owned the
23 building.

24 MR. JIMENEZ: Yeah, Yolanda and Paul.

25 MR. MCMANN: And Paul? Okay, they were

Colloquy

8

1 co-owners, okay?

2 MR. JIMENEZ: Yeah.

3 MR. MCMANN: 50/50 or?

4 MR. JIMENEZ: I don't know.

5 MR. MCMANN: You don't know, okay.

6 MR. JIMENEZ: I don't know.

7 MR. MCMANN: How many apartments were in

8 --

9 MR. JIMENEZ: (speaking Spanish).

10 MR. SUAREZ: Okay, he says there was
11 three floors. There was a first, a second, and a
12 third floor.

13 MR. MCMANN: Okay.

14 MR. JIMENEZ: (speaking Spanish).

15 MR. SUAREZ: Okay, the second floor was
16 for, like, people that were alone, like, single
17 people.

18 MR. MCMANN: Single people, okay.

19 MR. JIMENEZ: (In English) Second floor,
20 too.

21 MR. SUAREZ: And second floor, too?

22 MR. JIMENEZ: Yeah.

23 MR. MCMANN: Okay.

24 MR. JIMENEZ: And the first floor was a
25 restaurant.

Colloquy

9

1 MR. SUAREZ: First floor was a
2 restaurant.

3 MR. MCMANN: Okay. Okay, who else -- who
4 else lived in that apartment building? Who else
5 lived in that apartment with you?

6 MR. JIMENEZ: (speaking Spanish).

7 MR. SUAREZ: There was only one person.
8 When I was living there, there was only one person
9 living there.

10 MR. JIMENEZ: Eddie.

11 MR. SUAREZ: Eddie.

12 MR. JIMENEZ: (speaking Spanish).

13 MR. SUAREZ: On the third floor.

14 MR. MCMANN: Okay.

15 MR. JIMENEZ: (speaking Spanish).

16 MR. SUAREZ: And I stayed on the second
17 floor -- second floor.

18 MR. JIMENEZ: (In English) Yeah, nobody,
19 after that, one guy told to -- (indiscernible) --
20 to stick -- (speaking Spanish) -- one guy --
21 (indiscernible) -- he was from room -- (speaking
22 Spanish).

23 MR. SUAREZ: He was another guy that came
24 from the ISP Program. His parole officer, state
25 parole officer asked. He says he was a good guy,

Colloquy

10

1 and so, he was wondering if they could rent a room
2 to this guy as well.

3 MR. MCMANN: Okay.

4 MR. SUAREZ: And that's what happened.

5 MR. MCMANN: Okay, was there an occasion
6 while you lived there, you met a person by the
7 Alejandro Castro?

8 (The parties speak Spanish)

9 MR. SUAREZ: He worked in the restaurant,
10 downstairs on the first floor.

11 MR. JIMENEZ: (speaking Spanish).

12 MR. SUAREZ: That's where I met him.

13 MR. MCMANN: Okay, so you met him at the
14 -- at the restaurant?

15 MR. JIMENEZ: Yeah.

16 MR. MCMANN: On the first floor. What
17 was the name of the restaurant?

18 MR. SUAREZ: (speaking Spanish).

19 MR. JIMENEZ: Isabella.

20 MR. MCMANN: Isabella?

21 MR. SUAREZ: Okay.

22 MR. MCMANN: Okay, and Alejandro didn't
23 live in that building, or he just worked there?

24 MR. JIMENEZ: (In English) No, just
25 working there.

Colloquy

11

1 MR. MCMANN: Okay. Do you know where he
2 lives?

3 MR. JIMENEZ: (speaking Spanish) --
4 excuse me, excuse me. Before I go to -- living
5 there, Alejandro -- (speaking Spanish).

6 MR. SUAREZ: When -- before I lived
7 there, Alejandro lived there.

8 MR. MCMANN: Oh, okay.

9 MR. SUAREZ: In that building.

10 MR. MCMANN: Okay.

11 MR. JIMENEZ: Yeah.

12 MR. MCMANN: Okay.

13 (The parties speak Spanish)

14 MR. SUAREZ: On the third floor.

15 MR. MCMANN: Okay, were you friends with
16 Alejandro?

17 (The parties speak Spanish)

18 MR. SUAREZ: Okay, he says, yeah, after I
19 became -- after I went to go live there, then we
20 became friends.

21 MR. MCMANN: Okay, how close was your
22 relationship?

23 (The parties speak Spanish)

24 MR. SUAREZ: We weren't really close.

25 MR. JIMENEZ: (In English) We talk, we -

Colloquy

12

1 -- like a friend, we weren't too close.

2 MR. SUAREZ: Hm.

3 MR. JIMENEZ: I know him from - I lived
4 there 17 months.

5 MR. MCMANN: Okay.

6 MR. JIMENEZ: That's all.

7 MR. MCMANN: Did you guys speak on the
8 phone, did you guys go to birthday parties
9 together, did you guys go to parties or functions
10 together? Were you guys that close, or no?

11 (The parties speak Spanish)

12 MR. SUAREZ: Yeah -- (speaking Spanish).
13 Says, yeah, we -- we went to parties, we went to a
14 Christmas party, --

15 MR. JIMENEZ: Yeah, yeah.

16 MR. MCMANN: All right.

17 MR. SUAREZ: -- yeah, we were -- we were
18 --

19 MR. MCMANN: So, you guys are -- so, you
20 guys were pretty close, right?

21 MR. JIMENEZ: (In English) Yeah --
22 (indiscernible) -- yeah.

23 MR. MCMANN: Okay.

24 MR. JIMENEZ: (In English) Birthday
25 party, wedding.

Colloquy

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MR. SUAREZ: Birthday parties?

MR. MCMANN: Birthday parties? Okay.

MR. JIMENEZ: Yeah.

MR. MCMANN: Would you talk on the phone
everyday, or?

MR. JIMENEZ: (In English) Not on every
day.

MR. MCMANN: Okay.

MR. SUAREZ: Everyday, but would you --
would you talk on the phone at all?

MR. JIMENEZ: No, no. (speaking
Spanish).

MR. SUAREZ: I didn't talk on the phone -

-

MR. JIMENEZ: I don't like it.

MR. SUAREZ: -- I don't like talking on
the phone too much.

MR. MCMANN: Okay, what was -- what was
the relationship between Alejandro and Yolanda,
your daughter?

(The parties speak Spanish)

MR. SUAREZ: He says that, when I got to
-- went to go live there at that address, -- it was
770.

MR. JIMENEZ: 710.

Colloquy

14

1 MR. MCMANN: 710.

2 MR. SUAREZ: 710, he says, already my
3 daughter and Alejandro already knew each other.

4 MR. MCMANN: Okay.

5 MR. JIMENEZ: (speaking Spanish).

6 MR. MCMANN: So, they were -- they were
7 close?

8 MR. JIMENEZ: Yeah.

9 MR. SUAREZ: They were friends, okay.

10 MR. MCMANN: Were they boyfriend,
11 girlfriend? If you know.

12 (The parties speak Spanish)

13 MR. SUAREZ: No, he says, I didn't know
14 if Alejandro --

15 MR. JIMENEZ: (speaking Spanish).

16 MR. MCMANN: Okay.

17 MR. JIMENEZ: (speaking Spanish).

18 MR. SUAREZ: (speaking Spanish). He
19 says, I don't know anything there, about that.

20 MR. MCMANN: Okay. So, as you know,
21 there came a time that there was a lot of narcotics
22 recovered from 710 Summer Avenue?

23 (The parties speak Spanish)

24 MR. SUAREZ: Okay, he says that day, he
25 says -- the 20 --

Colloquy

15

1 MR. JIMENEZ: (speaking Spanish).

2 MR. SUAREZ: The 21 of May, 2009. He
3 says, that's the day, --

4 MR. JIMENEZ: (In English) That's the day
5 he -- (indiscernible) -- he got me -- put me here
6 for nothing, I don't know. (Indiscernible) -- I
7 don't know. I don't see that shit. I never -- I
8 swear to God, I never saw drugs there.

9 MR. MCMANN: All right. So, on that day
10 you just mentioned, you were living in the
11 apartment upstairs?

12 MR. JIMENEZ: Yeah.

13 MR. MCMANN: Okay. The police came,
14 found drugs.

15 MR. SUAREZ: In the basement.

16 MR. MCMANN: In the basement of the
17 restaurant?

18 MR. JIMENEZ: Yeah.

19 MR. MCMANN: Okay, and you were arrested
20 soon after.

21 (The parties speak Spanish)

22 MR. SUAREZ: I was arrested the same day.

23 MR. MCMANN: Okay, so what was your
24 involvement with the -- with the drugs? Were you
25 involved at all?

Colloquy

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(The parties speak Spanish)

MR. SUAREZ: He says, they -- they arrested me.

MR. MCMANN: Okay.

MR. JIMENEZ: (In English) They take me.

MR. MCMANN: They take you, okay. Who -- if you know, were involved with the drugs -- (indiscernible) --

(The parties speak Spanish)

MR. SUAREZ: Alejandro and his brother.

MR. MCMANN: Now, how do you -- how do you know that?

(The parties speak Spanish)

MR. SUAREZ: He says, the federal government had a camera posted in the building, and so, they are the ones who said that.

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: Okay. He says, I have all my papers here.

MR. MCMANN: Okay.

MR. SUAREZ: But that they said that -- they -- the government said that they had a camera, and that they saw.

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: He says, before that, there

Colloquy

17

1 was another time that they had 25 kilos. He said,
2 I didn't really -- I didn't know any of that. And
3 so, they told him, later, meaning the government
4 told him later -- told Mr. Jimenez later that --

5 MR. JIMENEZ: (speaking Spanish).

6 MR. SUAREZ: I learned -- I learned
7 later, after they got him, after they arrested
8 Alejandro.

9 MR. JIMENEZ: (In English) Because they -
10 - (indiscernible) -- him 25 year in Passaic,
11 whatever. I don't know where.

12 MR. MCMANN: Okay. Who is -- what's
13 Alejandro's brother's name? If you know.

14 MR. JIMENEZ: Alejandro -- Alfonso.

15 MR. MCMANN: Who?

16 MR. JIMENEZ: Alfonso.

17 MR. MCMANN: Alfonso? That's Alejandro's
18 brother?

19 MR. JIMENEZ: Yeah.

20 MR. MCMANN: And they were the ones that
21 were involved with the drugs?

22 MR. JIMENEZ: Yeah.

23 MR. MCMANN: On 710 Summer Avenue?

24 MR. JIMENEZ: Yeah.

25 MR. MCMANN: Okay, was Paul Bergrin

Colloquy

18

1 involved?

2 MR. SUAREZ: Who?

3 MR. MCMANN: Paul Bergrin.

4 (The parties speak Spanish)

5 MR. SUAREZ: Paul Bergrin didn't know
6 anything about that.

7 MR. JIMENEZ: (speaking Spanish).

8 MR. MCMANN: Did Paul Bergrin ever come
9 to the building?

10 MR. JIMENEZ: (speaking Spanish).

11 MR. SUAREZ: He says, he never came to
12 the building. He says, one time -- once a year.

13 MR. JIMENEZ: (speaking Spanish).

14 MR. SUAREZ: I was there 17 months
15 straight.

16 MR. JIMENEZ: (speaking Spanish).

17 MR. SUAREZ: He says, and I saw him at
18 the building one time.

19 MR. MCMANN: Okay, so you saw Paul
20 Bergrin at the building, 710 Summer Avenue, one
21 time?

22 MR. JIMENEZ: Yeah.

23 MR. MCMANN: In 17 months?

24 MR. JIMENEZ: Yeah.

25 MR. MCMANN: Okay. And you don't think

Colloquy

19

1 he had anything with the drugs in the basement?

2 MR. JIMENEZ: No.

3 MR. MCMANN: No? Okay. Did Paul Bergrin
4 have anything to do with Alejandro Castro? Well,
5 is -- if you know -- what was the relationship
6 between --

7 (The parties speak Spanish)

8 MR. SUAREZ: He says, I don't think they
9 got along really well. He says, you know,
10 especially with that whole thing with Yolanda.

11 MR. MCMANN: Yeah.

12 (The parties speak Spanish)

13 MR. SUAREZ: There was jealousy between
14 -- (speaking Spanish).

15 MR. JIMENEZ: (speaking Spanish)

16 MR. SUAREZ: Between Alejandro and Paul.

17 MR. MCMANN: Okay.

18 MR. JIMENEZ: (speaking Spanish).

19 MR. MCMANN: Who was jealous --

20 MR. SUAREZ: (speaking Spanish).

21 MR. MCMANN: Was Paul jealous?

22 MR. SUAREZ: He says, I don't think, --

23 MR. JIMENEZ: (speaking Spanish).

24 MR. SUAREZ: Let me explain.

25 MR. JIMENEZ: (speaking Spanish).

Colloquy

20

1 MR. SUAREZ: Every time I would go to a
2 party with Paul, Yolanda -- every time -- (speaking
3 Spanish).

4 MR. JIMENEZ: (speaking Spanish).

5 MR. SUAREZ: When Yolanda and Paul would
6 go to a party --

7 MR. JIMENEZ: (speaking Spanish).

8 MR. SUAREZ: He says, Alejandro was
9 always --

10 (The parties speak Spanish)

11 MR. SUAREZ: He would go to the party,
12 even without being invited. Guy, you know, like --

13 MR. JIMENEZ: (speaking Spanish).

14 MR. SUAREZ: Like, he was -- like, he was
15 always after Yolanda as well.

16 MR. MCMANN: Okay.

17 MR. SUAREZ: And he called him, I mean,
18 literally translated as a shit eater, but what he's
19 referring to colloquially is, is that he was nosey
20 -- being a nosey-body.

21 MR. MCMANN: Right.

22 MR. SUAREZ: Being a nosey-body is really
23 what he's referring to, how he's expressing that
24 term.

25 MR. MCMANN: So, he hears that --

Colloquy

21

1 (indiscernible) -- of Paul --

2 MR. SUAREZ: The term he was used was
3 called a -- (speaking Spanish), -- but he was
4 meaning it like he was -- he was nosey, he was
5 always --

6 MR. JIMENEZ: (speaking Spanish).

7 MR. SUAREZ: Yeah, yeah.

8 MR. MCMANN: Was it nosey in more
9 jealous, do you think, or a combination --

10 MR. JIMENEZ: (speaking Spanish).

11 MR. MCMANN: A combination?

12 MR. SUAREZ: Yeah.

13 MR. MCMANN: Being jealous and nosey?

14 Okay. Did the FBI question you, with the -- as far
15 as the drugs in the basement? The DEA or FBI?

16 (The parties speak Spanish)

17 MR. SUAREZ: He said that they asked him.
18 He says, I don't know anything about that drugs.

19 MR. MCMANN: Okay. Did they ever ask you
20 about Paul Bergrin's involvement?

21 MR. JIMENEZ: No.

22 MR. MCMANN: With the drugs?

23 MR. JIMENEZ: No.

24 MR. MCMANN: Did they ever ask you?

25 MR. JIMENEZ: No.

Colloquy

22

1 (The parties speak Spanish)

2 MR. SUAREZ: Never. It's no -- that I --
3 I asked him that same question, and he said, no,
4 never.

5 MR. MCMANN: Okay, so they never
6 mentioned Paul Bergrin, with your arrest case?

7 MR. JIMENEZ: (speaking Spanish).

8 MR. SUAREZ: He says, when I first went
9 to the court to declare, you know, to plead guilty
10 or not guilty. He says, not that day. He says,
11 but after that day, I went back to court, and they
12 spoke of, they mentioned Paul Bergrin, and myself,
13 and a lot of all the other people that were
14 arrested. They mentioned that we were all involved
15 in this together. But that --

16 MR. JIMENEZ: (speaking Spanish).

17 MR. SUAREZ: He says there was other
18 people involved. He goes, and I didn't know
19 anybody else.

20 MR. JIMENEZ: (speaking Spanish)

21 MR. MCMANN: Okay, did the government
22 ever convince you, or to ask you to lie on -- on
23 the government's behalf or Paul Bergrin's behalf.

24 (The parties speak Spanish)

25 MR. SUAREZ: Yes.

Colloquy

23

1 MR. JIMENEZ: (In English) Paul Bergrin,
2 but I tell him I don't know nothing about Paul
3 Bergrin, I don't know -- (indiscernible) --

4 MR. SUAREZ: But, he's -- was he saying
5 in English, he didn't know anything -- ask him to
6 follow -- what did they ask?

7 MR. MCMANN: But did the government ever
8 ask you to say anything that wasn't true against
9 Paul Bergrin?

10 (The parties speak Spanish)

11 MR. SUAREZ: Basically, he said that, you
12 know, they asked me if I knew anything about Paul,
13 and I wasn't able to give them anything about Paul.

14 (The parties speak Spanish)

15 MR. SUAREZ: They said that I had to
16 plead guilty in this case, because you only really
17 have a little bit involvement [sic] in this case.

18 MR. MCMANN: Yeah, so the government said
19 you had to plead guilty?

20 MR. JIMENEZ: Yeah.

21 (The parties speak Spanish)

22 MR. SUAREZ: He says, if I -- the
23 government told me that if I don't plead guilty,
24 that -- and I go to trial, then I'll end up being
25 convicted.

Colloquy

24

1 MR. JIMENEZ: (speaking Spanish).

2 MR. SUAREZ: That they will give me, you
3 know, 10 years or 15 years in jail if I had taken
4 to trial [sic].

5 MR. MCMANN: Okay. So, as far as you
6 know, Paul Bergrin had nothing to do with the drugs
7 in 710 Summer Avenue, as far as you know?

8 (The parties speak Spanish)

9 MR. SUAREZ: He didn't know anything
10 about that.

11 MR. MCMANN: Okay, and Alejandro Castro
12 and Bergrin, how did they get along? How -- what
13 was their relationship?

14 (The parties speak Spanish)

15 MR. SUAREZ: Says, they really didn't get
16 into it much with each other.

17 MR. MCMANN: Right, so they never hung
18 out as far as you know, and were friends?

19 (The parties speak Spanish)

20 MR. SUAREZ: He says, like I said before,
21 and he goes, you know, whatever Paul that he would
22 go -- whatever party or he would go to, he would
23 take Yolanda with him. And he says, you know, --

24 MR. JIMENEZ: Alejandro.

25 MR. SUAREZ: -- Alejandro would go.

Colloquy

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1 MR. MCMANN: Yeah.

2 MR. SUAREZ: would end up going.

3 MR. JIMENEZ: (speaking Spanish).

4 MR. MCMANN: But not because they're
5 friends?

6 MR. SUAREZ: Not because they were -- not
7 because -- no, not -- and not that he was invited
8 either. Not that he was invited, either.

9 MR. MCMANN: And what was Yolanda's
10 relationship with Alejandro?

11 MR. SUAREZ: (speaking Spanish).

12 MR. MCMANN: Were they dating? Were they
13 boyfriend, girlfriend.

14 (The parties speak Spanish)

15 MR. SUAREZ: Alejandro was the guy who's
16 in charge of the restaurant --

17 (The parties speak Spanish)

18 MR. SUAREZ: Okay, the restaurant was
19 actually her's --

20 (The parties speak Spanish)

21 MR. SUAREZ: He says, Paul was the owner
22 of all that, and it was his restaurant, too. And
23 so -- but she was never there, and neither was
24 Paul.

25 MR. MCMANN: Okay. How often did you go

Colloquy

26

1 to the restaurant?

2 MR. JIMENEZ: (speaking Spanish).

3 MR. SUAREZ: He says, practically
4 everyday.

5 MR. MCMANN: So, you were there everyday
6 at the restaurant?

7 MR. JIMENEZ: (In English) Seventeen
8 months.

9 MR. SUAREZ: Seventeen months, that, you
10 know, I lived right upstairs, so I would go up and
11 down.

12 MR. MCMANN: And you didn't realize any
13 usual activity going on there?

14 MR. SUAREZ: (speaking Spanish).

15 MR. JIMENEZ: No, no.

16 MR. SUAREZ: I didn't know, I didn't -- I
17 didn't --

18 MR. JIMENEZ: (speaking Spanish)

19 MR. MCMANN: And Paul -- Paul Bergrin
20 never came there for dinner or lunch?

21 (The parties speak Spanish)

22 MR. MCMANN: One time in 17 months you
23 saw him?

24 MR. JIMENEZ: Yeah.

25 MR. MCMANN: Okay.

Colloquy

27

1 MR. SUAREZ: Just ask him about the
2 restaurant, just the relationship, the -- he says
3 that Paul was the owner.

4 MR. MCMANN: Yeah, you mentioned before
5 that Paul was the owner of the building with
6 Yolanda, right?

7 MR. JIMENEZ: Yeah.

8 MR. MCMANN: Okay, did the restaurant --
9 did the building also include the restaurant as
10 well? Or is that restaurant -- was the restaurant
11 separate from the building?

12 MR. JIMENEZ: (In English) No, no.
13 Together.

14 MR. MCMANN: It was all together?

15 MR. SUAREZ: It was a separate business.

16 MR. MCMANN: So it was a separate --
17 okay.

18 (The parties speak Spanish)

19 MR. SUAREZ: The two things, the building
20 and the restaurant were both in Yolanda and Paul's
21 name --

22 (The parties speak Spanish)

23 MR. SUAREZ: He was an employee.

24 MR. MCMANN: Okay.

25 MR. SUAREZ: Alejandro was an employee of

Colloquy

28

1 the restaurant.

2 MR. MCMANN: Alejandro was an employee,
3 was he a manager? What was his position.

4 (The parties speak Spanish)

5 MR. MCMANN: He was the main guy.

6 MR. SUAREZ: Yeah, he was the one who ran
7 the restaurant.

8 MR. MCMANN: Did you ever see Alejandro
9 and Paul Bergrin at the restaurant together? That
10 one time you saw them in 17 months, who was Paul
11 with?

12 MR. JIMENEZ: (speaking Spanish)

13 MR. SUAREZ: He was there alone.

14 MR. MCMANN: He was there -- he came
15 alone? Okay.

16 MR. SUAREZ: [affirmative].

17 MR. MCMANN: What about -- what about --

18 MR. SUAREZ: For what -- for what --

19 (The parties speak Spanish)

20 MR. SUAREZ: He came there to see how
21 everything was going, and to see how the restaurant
22 was doing. And he says that he ate, and he left.

23 MR. MCMANN: Okay. Who was Tom Moran?
24 An attorney, Tom Moran?

25 MR. JIMENEZ: (speaking Spanish).

Colloquy

29

1 MR. SUAREZ: I don't know who he is.

2 MR. MCMANN: You don't know?

3 MR. JIMENEZ: No.

4 MR. MCMANN: White guy?

5 MR. JIMENEZ: (Indiscernible)

6 MR. MCMANN: An attorney? Okay, don't
7 you remember?

8 MR. SUAREZ: (speaking Spanish).

9 MR. MCMANN: How about somebody by the
10 name of Broswell? (phonetic)

11 MR. JIMENEZ: No.

12 MR. SUAREZ: Broswell?

13 MR. JIMENEZ: Broswell? (speaking
14 Spanish)

15 MR. SUAREZ: I don't know anybody -- I
16 don't know anybody like that.

17 MR. MCMANN: Okay. Okay, just to
18 reiterate, the government, FBI, DEA agents, never
19 coerced you to lie against Bergrin?

20 (The parties speak Spanish)

21 MR. SUAREZ: He says, they wanted me to
22 talk, he goes, but, I didn't really know anything
23 about the drugs.

24 MR. MCMANN: Okay, did they promise you
25 anything?

Colloquy

30

1 (The parties speak Spanish)

2 MR. SUAREZ: Oh, okay. He says, that if
3 I knew. He said that if I knew -- if I knew
4 something more about the drugs, that -- that, you
5 know -- that they were gonna put me in jail for a
6 longer term.

7 MR. JIMENEZ: (speaking Spanish).

8 MR. SUAREZ: But I didn't know anything.

9 MR. MCMANN: Okay. Now, I know your son,
10 Ramon, and your daughter, Yolanda, were both
11 arrested.

12 MR. JIMENEZ: (speaking Spanish).

13 MR. MCMANN: Okay. They were both
14 arrested, involved with this case, on Summer
15 Avenue?

16 (The parties speak Spanish)

17 MR. MCMANN: Yolanda was arrested with
18 this case?

19 MR. JIMENEZ: Yeah.

20 MR. MCMANN: Okay. What was her -- what
21 was Yolanda's involvement with the case, if you
22 know?

23 (The parties speak Spanish)

24 MR. SUAREZ: He says -- he says, I don't
25 know. He says, Yolanda got arrested two months

Colloquy

31

1 after I got arrested.

2 MR. MCMANN: Okay.

3 MR. JIMENEZ: (speaking Spanish).

4 MR. SUAREZ: I just want to clarify what
5 he said before. He had said before that if they
6 found out that he knew more about the drugs than
7 he's saying he did, that he would go away to jail
8 for more time. That's -- that was the agents did
9 say to him.

10 MR. MCMANN: Okay.

11 MR. SUAREZ: But he didn't -- I just
12 wanted to clarify that.

13 MR. MCMANN: Okay, but they never really
14 -- they never asked him to lie, like, lie and say
15 stuff that wasn't true against Paul Bergrin?

16 MR. SUAREZ: (speaking Spanish).

17 MR. JIMENEZ: No.

18 MR. SUAREZ: No.

19 MR. JIMENEZ: (speaking Spanish).

20 MR. SUAREZ: Yeah, he says, they just
21 wanted me to talk about the drugs. And he goes, I
22 didn't really know anything about it.

23 MR. MCMANN: Okay. Now, do you know
24 anything about your kids testifying against Paul
25 Bergrin?

Colloquy

32

1 (The parties speak Spanish)

2 MR. SUAREZ: I don't know.

3 MR. JIMENEZ: (speaking Spanish).

4 MR. SUAREZ: I haven't talked to them.

5 MR. MCMANN: Okay. So, you haven't
6 talked to the kids since they were arrested?

7 MR. JIMENEZ: (In English) In five years.

8 MR. MCMANN: Five years? Okay, so you
9 don't know what they testified?

10 MR. JIMENEZ: No.

11 MR. MCMANN: To?

12 MR. JIMENEZ: No.

13 MR. MCMANN: You don't know that they
14 testified against Paul Bergrin?

15 MR. JIMENEZ: (In English) What?

16 (The parties speak Spanish)

17 MR. SUAREZ: I don't know.

18 MR. MCMANN: The paper -- the paper I
19 gave you with the notes on it. I gave you a sheet
20 of paper before with notes. It was an email. At
21 the bottom, it had a bunch of notes.

22 MR. SUAREZ: Oh, okay. I think I gave it
23 back to you. I'm positive I gave it back to you.

24 MR. MCMANN: No. It should be there. I
25 put it in the folder.

Colloquy

33

1 MR. SUAREZ: Okay.

2 MR. JIMENEZ: (speaking Spanish).

3 MR. SUAREZ: He says, I need a release
4 paper. He says, how am I gonna get the release
5 paper to get my license? He says, they didn't give
6 me anything.

7 MR. MCMANN: Okay.

8 MR. SUAREZ: Did you show them --
9 (indiscernible) --

10 MR. JIMENEZ: (speaking Spanish).

11 MR. SUAREZ: Hang on a second.

12 MR. JIMENEZ: They don't give you
13 nothing.

14 MR. MCMANN: Yeah. You called them, can
15 you call?

16 MR. JIMENEZ: (In English) So, I going
17 to the -- to the probation office today. He said,
18 yeah you have to wait until the fifth. Nobody
19 call, they call you back -- (indiscernible) -- that
20 phone -- (indiscernible) -- they give me two years
21 probation, too. I don't know why, man.

22 MR. MCMANN: Okay.

23 MR. JIMENEZ: (speaking Spanish)

24 MR. SUAREZ: He says, I don't know about
25 these, you know, -- I don't know about these

Colloquy

34

1 people.

2 MR. MCMANN: Okay. So, you haven't spoke
3 to Yolanda or Ramon in about -- since they were
4 arrested five years ago?

5 MR. SUAREZ: (speaking Spanish).

6 MR. JIMENEZ: No.

7 MR. MCMANN: They haven't tried -- they
8 haven't tried to contact you?

9 MR. JIMENEZ: (speaking Spanish).

10 MR. SUAREZ: I -- I haven't received a
11 letter from them or anything.

12 MR. MCMANN: Yeah, okay.

13 MR. SUAREZ: No, the answer is no. He
14 hasn't heard from them.

15 MR. MCMANN: Okay. And it wasn't because
16 -- well, what's your relationship with your kids,
17 Yolanda and Ramon? What's your relationship?

18 (The parties speak Spanish)

19 MR. SUAREZ: He said, man, my
20 relationship is real good with my kids.

21 MR. MCMANN: Oh, okay.

22 MR. JIMENEZ: (speaking Spanish).

23 MR. MCMANN: Because they have computers.
24 They have computers in jail. You can go on
25 computers, right and talk to? Yeah.

Colloquy

35

1 MR. JIMENEZ: (In English) No, no. You
2 can't to the kids on a computer. If he did --
3 (indiscernible) -- go to a computer, you.

4 MR. SUAREZ: If you don't have a
5 computer, then you can't talk.

6 MR. JIMENEZ: (speaking Spanish).

7 MR. SUAREZ: You can get an email, an
8 email number, and that's it.

9 MR. JIMENEZ: (speaking Spanish).

10 MR. MCMANN: The Corrlinks, they don't
11 have Corrlinks?

12 (The parties speak Spanish)

13 MR. SUAREZ: I don't know. I don't know
14 if they have a computer. I asked them if they have
15 a computer. I mean, you know, if they didn't have
16 a computer, then they wouldn't be able to talk to
17 them, you know, on.

18 MR. MCMANN: Do you -- do you think
19 Yolanda testified against Paul Bergrin?

20 MR. JIMENEZ: (speaking Spanish)

21 MR. SUAREZ: He said, I don't think so.

22 MR. MCMANN: Okay.

23 MR. SUAREZ: I would think --

24 MR. JIMENEZ: (speaking Spanish).

25 MR. MCMANN: So, you don't think Yolanda

Colloquy

36

1 would testify against Paul?

2 MR. JIMENEZ: (speaking Spanish)

3 MR. MCMANN: What about Ramon? Do you
4 think Ramon --

5 MR. JIMENEZ: (speaking Spanish).

6 MR. SUAREZ: Yeah, I don't know if he
7 testified, you know, against Paul.

8 MR. MCMANN: Was Ramon close with Paul
9 Bergrin?

10 (The parties speak Spanish)

11 MR. SUAREZ: I don't know -- as well, I
12 don't really -- I'm not sure.

13 MR. MCMANN: You don't know?

14 MR. SUAREZ: I don't know.

15 MR. MCMANN: So, were you promised a
16 certain sentence, with no -- with no probation,
17 when you agreed to plead guilty?

18 (The parties speak Spanish)

19 MR. SUAREZ: That's what the lawyer --

20 MR. JIMENEZ: (In English) Lied to me.

21 MR. SUAREZ: -- he lied to me, he
22 deceived me.

23 MR. JIMENEZ: (In English) He told me.

24 MR. SUAREZ: Admit it -- he told me.

25 MR. MCMANN: Who's your lawyer? What's -

Colloquy

37

1 - what's his name?
2 MR. JIMENEZ: Steve Surano. (phonetic)
3 MR. MCMANN: Steve Surano?
4 MR. JIMENEZ: Steve Surano.
5 MR. MCMANN: Surano.
6 MR. SUAREZ: Surano.
7 MR. MCMANN: Steve Surano, okay.
8 MR. JIMENEZ: Yeah. (speaking Spanish).
9 MR. SUAREZ: He told me.
10 MR. JIMENEZ: Jose.
11 MR. SUAREZ: Jose.
12 MR. JIMENEZ: (speaking Spanish).
13 MR. SUAREZ: You have to plead guilty for
14 something.
15 MR. JIMENEZ: (speaking Spanish).
16 MR. SUAREZ: Because --
17 MR. JIMENEZ: (speaking Spanish).
18 MR. SUAREZ: Yeah, he says that, the
19 government's not gonna let you go.
20 MR. JIMENEZ: (speaking Spanish).
21 MR. SUAREZ: And he says, because if they
22 let me go, he says, I can then turn around and sue
23 them.
24 MR. JIMENEZ: (speaking Spanish).
25 MR. SUAREZ: He says, I'm not gonna, you

Colloquy

1 know -- I'm not gonna -- but I have nothing to do
2 with that drugs. He goes, how am I gonna, you
3 know, plead guilty to it?

4 MR. JIMENEZ: (In English) For what?

5 MR. MCMANN: Yeah, for what?

6 MR. JIMENEZ: (speaking Spanish)

7 MR. SUAREZ: Okay.

8 MR. JIMENEZ: (speaking Spanish).

9 MR. SUAREZ: He says, there was a Jeep
10 that was used, and it was in my name.

11 MR. JIMENEZ: (In English) It was in my
12 name -- (speaking Spanish).

13 MR. SUAREZ: He says, when they guy, --
14 (speaking Spanish).

15 MR. JIMENEZ: Alejandro.

16 MR. SUAREZ: When Alejandro asked me to
17 put the Jeep in my name, I had first told him no.

18 MR. JIMENEZ: (speaking Spanish).

19 MR. SUAREZ: He says, Then I was in ISP -

20 -

21 MR. JIMENEZ: (speaking Spanish).

22 MR. SUAREZ: -- is -- and Alejandro used
23 to drink a lot, I don't wanna -- I didn't want to
24 put the Jeep in my name.

25 MR. JIMENEZ: (In English) So he drive,

Colloquy

39

1 you know what I mean?

2 MR. MCMANN: He drive, yeah.

3 MR. JIMENEZ: (speaking Spanish).

4 MR. SUAREZ: He says, I didn't know if he
5 was gonna, you know -- you know, he'd send me to --
6 he'd screw me, because he would -- be drinking, and
7 -- and hit somebody, and kill somebody.

8 MR. JIMENEZ: (speaking Spanish).

9 MR. SUAREZ: Then he split, and, --

10 MR. JIMENEZ: (speaking Spanish).

11 MR. MCMANN: Yeah.

12 MR. JIMENEZ: (In English) And you know,
13 he talked to Yolanda. I talk to Yolanda, Yolanda
14 come to me.

15 MR. MCMANN: Okay, yeah. I understand.

16 MR. JIMENEZ: (speaking Spanish).

17 MR. SUAREZ: He said, I -- she came -- when
18 Yolanda kind of came to me and said, kind of
19 convince me. She said, look, you know, -- she --
20 he says -- Jose says that -- he was -- she had done
21 me -- you know, she had helped me with my ISP. She
22 had helped me --

23 MR. JIMENEZ: (In English) Yeah, before.

24 MR. SUAREZ: -- in my criminal case, and
25 so, after she convinced me, I ended up putting the

Colloquy

40

1 Jeep in -- in my name.

2 MR. JIMENEZ: (In English) In my name.

3 MR. SUAREZ: But he didn't want any
4 problems.

5 MR. JIMENEZ: (speaking Spanish).

6 MR. MCMANN: Okay.

7 MR. JIMENEZ: (speaking Spanish).

8 MR. SUAREZ: Yeah, they wanted to -- they

9 --

10 (The parties speak Spanish)

11 MR. SUAREZ: Yeah, she wanted the -- the
12 Jeep, so that he could do deliveries from the
13 restaurant.

14 MR. JIMENEZ: (speaking Spanish).

15 MR. MCMANN: Food deliveries or drug
16 deliveries?

17 MR. JIMENEZ: (In English) Food delivery.

18 MR. SUAREZ: Food deliveries.

19 MR. MCMANN: Okay.

20 MR. JIMENEZ: (speaking Spanish).

21 MR. SUAREZ: He says, they did it for --
22 not for drugs. He says, they did it for, --

23 MR. JIMENEZ: (In English) Food.

24 MR. SUAREZ: -- "for weddings."

25 MR. JIMENEZ: Weddings, birthday parties.

Colloquy

41

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MR. SUAREZ: Birthday parties.

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: Church, church functions.

MR. JIMENEZ: (speaking Spanish).

MR. MCMANN: Did they seize -- did the government seize your car?

(The parties speak Spanish)

MR. SUAREZ: So, yeah, they took it.

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: But they didn't get any drugs in the car.

MR. MCMANN: Okay.

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: He said that they saw a bag come out of the Jeep and go down to the basement, and they ended seizing the drugs in the basement. They didn't seize the drugs out of the car.

MR. MCMANN: Okay.

MR. JIMENEZ: (In English) They -- (indiscernible) -- Jeep, I don't know why.

MR. SUAREZ: He says, they took the Jeep, I don't know why.

MR. MCMANN: Okay.

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: He says, that Jeep was in my

Colloquy

42

1 name only three weeks. That's it.

2 MR. MCMANN: Was Yolanda involved in
3 narcotics?

4 (The parties speak Spanish)

5 MR. SUAREZ: She said she wasn't involved
6 in anything like that.

7 MR. MCMANN: No? Okay.

8 (The parties speak Spanish)

9 MR. MCMANN: Alejandro was?

10 MR. JIMENEZ: (speaking Spanish).

11 MR. SUAREZ: Says, they grabbed Alejandro
12 prior, in Passaic, but nobody else. They don't
13 know the amount.

14 (The parties speak Spanish)

15 MR. SUAREZ: That I know of.

16 MR. MCMANN: You think -- do you think
17 Paul Bergrin's innocent?

18 (The parties speak Spanish)

19 MR. SUAREZ: He's innocent of the drugs.

20 MR. MCMANN: Okay.

21 MR. JIMENEZ: (speaking Spanish).

22 MR. SUAREZ: Paul's got nothing to do
23 with it -- with that.

24 MR. MCMANN: Paul has nothing to do with
25 the drugs?

Colloquy

43

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MR. JIMENEZ: No.

MR. MCMANN: Only who?

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: Alejandro and his brother.

MR. MCMANN: Okay.

(The sound of a cell phone ringing.)

MR. SUAREZ: That your phone?

MR. JIMENEZ: (In English) Oh, yeah.

MR. MCMANN: You're not used to --

MR. SUAREZ: Just -- just wait and answer
it later, if you can answer it later.

(The parties speak Spanish)

MR. MCMANN: Was there a side door on the
restaurant, or was there just a main front? Was
there a side door to the restaurant?

MR. SUAREZ: (speaking Spanish).

(The sound of a cell phone ringing.)

MR. MCMANN: You wanna answer?

MR. JIMENEZ: (speaking Spanish).

MR. SUAREZ: (speaking Spanish). I'm
sorry, answer it. Let me get -- talk to her.
Lorianne? (phonetic) Hello, Lorianne? Lorianne.
Yeah, this is Dennis Suarez. Listen, we're still
talking to him. So, if you can give me a minute,
we're over here at the house, okay? Okay, very

Colloquy

44

1 good. Bye-bye.

2 MR. JIMENEZ: (In English) What'd she
3 say.

4 MR. SUAREZ: (speaking Spanish).

5 She just said to -- she just -- she said
6 to have him call me when he's ready to go to her --
7 you know, her grandmother's house.

8 MR. MCMANN: Okay.

9 MR. JIMENEZ: (In English) That's my
10 wife. That's my wife.

11 MR. MCMANN: That's your wife? Oh, okay.

12 MR. JIMENEZ: (speaking Spanish).

13 MR. MCMANN: So, getting back to your two
14 kids, Yolanda and Ramon, they -- you don't know
15 anything about their testimony?

16 MR. JIMENEZ: (speaking Spanish).

17 MR. SUAREZ: No, I don't.

18 MR. MCMANN: Okay, so you don't know what
19 they said --

20 MR. SUAREZ: (speaking Spanish).

21 MR. MCMANN: -- about Paul Bergrin --

22 MR. JIMENEZ: No.

23 MR. SUAREZ: He says, I don't know
24 anything up to now about my family. He says, you
25 know, and they're in jail.

Colloquy

45

1 MR. JIMENEZ: (speaking Spanish).

2 MR. SUAREZ: I can't talk to my family, -

3 -

4 MR. JIMENEZ: (speaking Spanish).

5 MR. MCMANN: Yeah, okay. How do you --
6 how do you feel about your attorney?

7 MR. JIMENEZ: (In English) No good --
8 (speaking Spanish).

9 MR. MCMANN: No good?

10 MR. JIMENEZ: (In English) I think so. I
11 think he no help me too good. He put me in -- four
12 years in jail for nothing?

13 MR. MCMANN: Right. Four years in jail
14 for nothing.

15 (The parties speak Spanish)

16 MR. SUAREZ: He says, how come he never
17 gave me my indictment?

18 MR. MCMANN: Yeah, did you ever see the
19 evidence against you?

20 (The parties speak Spanish)

21 MR. SUAREZ: Never --

22 MR. MCMANN: He never showed you the
23 paperwork about --

24 MR. JIMENEZ: (speaking Spanish).

25 MR. SUAREZ: He told me to take a plea.

Colloquy

46

1 MR. JIMENEZ: (In English) Because all it
2 got to be three year to four year I serve.

3 MR. SUAREZ: He says, all they're gonna
4 give me is three to four years.

5 MR. JIMENEZ: (In English) Yeah, I got
6 one year here already.

7 MR. SUAREZ: And he had one year in jail
8 already.

9 MR. JIMENEZ: (In English) And now he
10 told me you got one year -- (speaking Spanish)

11 MR. SUAREZ: Then he -- he got -- then
12 he's got a half a year for a halfway house.

13 MR. JIMENEZ: (In English) One year in
14 drug program.

15 MR. SUAREZ: He says, and one year in the
16 drug program.

17 MR. JIMENEZ: (In English) That's three
18 year -- (indiscernible) -- and you go home quick.

19 MR. SUAREZ: He says, --

20 MR. JIMENEZ: (speaking Spanish)

21 MR. SUAREZ: Go home quick.

22 MR. JIMENEZ: (Indiscernible) -- (In
23 English) -- unless you know the guy. I write three
24 letters to him, and he told me -- he never received
25 -- one letter that I write down. I send it to my

Colloquy

1 niece, and my niece typed the letter --
2 (indiscernible) -- to the office. (speaking
3 Spanish)

4 MR. SUAREZ: He's a liar.

5 MR. JIMENEZ: (speaking Spanish)

6 MR. MCMANN: Your attorney's a liar?

7 MR. JIMENEZ: (In English) Yes. Now
8 yesterday -- got a -- (indiscernible) -- yesterday
9 after 40 -- 54 months. (speaking Spanish)

10 MR. SUAREZ: The -- my attorney did,
11 after three years.

12 MR. JIMENEZ: Three years, five months.

13 MR. SUAREZ: Five months.

14 MR. JIMENEZ: (speaking Spanish).

15 MR. SUAREZ: He says, there -- he finally
16 went to go see me in the jail.

17 MR. JIMENEZ: (In English) Before -- they
18 explain me you go to court to you say that day and
19 maybe they gonna give you time service.

20 MR. MCMANN: Did he ever tell you that
21 your indictment was dismissed?

22 MR. JIMENEZ: (In English) No one told
23 me that, got a letter, I got a letter --
24 (indiscernible) --

25 MR. MCMANN: Did he ever tell you that

Colloquy

48

1 your charges were dismissed?

2 JIMENEZ: No.

3 MR. MCMANN: In 2011?

4 JIMENEZ: No.

5 MR. MCMANN: No? Okay.

6 MR. JIMENEZ: (In English) I got a letter.
7 I go to him and he said, how you get that letter?"

8 MR. SUAREZ: I understand.

9 MR. JIMENEZ: (Indiscernible).

10 MR. SUAREZ: Hm. I understand.

11 MR. JIMENEZ: (speaking Spanish).

12 MR. SUAREZ: He says, I'm poor.

13 MR. MCMANN: Okay. Okay, I think I have
14 asked all the questions I have.

15 Dennis, do you have any other questions -

16 -

17 MR. SUAREZ: No, I don't.

18 MR. MCMANN: -- you want to ask? Okay.

19 MR. JIMENEZ: (speaking Spanish).

20 MR. MCMANN: Jose, have you told me --

21 (The parties speak Spanish)

22 MR. SUAREZ: I didn't even ever have any
23 money to --

24 MR. JIMENEZ: (In English) To call my
25 family to see what happened.

Colloquy

1 MR. SUAREZ: Right, to call my family to
2 see what happened.

3 MR. MCMANN: Okay. Oh. Jose, have you
4 told Dennis and I everything that you knew about
5 the case? Also, the most important thing is have
6 you been truthful with everything you told us
7 today?

8 (The parties speak Spanish)

9 MR. SUAREZ: The truth.

10 MR. JIMENEZ: (In English) The truth.

11 MR. MCMANN: Okay.

12 MR. SUAREZ: And let the record indicate
13 that he's raising his right hand.

14 MR. MCMANN: Okay. Everything you told
15 me today is the truth?

16 MR. JIMENEZ: (speaking Spanish).

17 MR. MCMANN: Okay.

18 MR. JIMENEZ: (speaking Spanish).

19 MR. SUAREZ: That's the only thing I
20 know.

21 MR. MCMANN: Okay. Well, thank you very
22 much. And this concludes the statement. The time
23 is now approximately 4:08 p.m.

24 (End of recording.)

25 * * * * *

EXHIBIT 13

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

v.

PAUL BERGRIN,

Defendant.

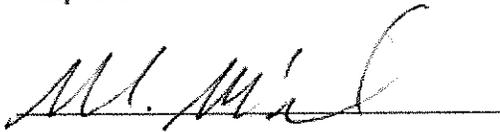
Honorable Jose L. Linares

Criminal No.: 09-369

**CERTIFICATION
OF
MICHAEL MCMAHON**

I, Michael McMahon of full age, do hereby certify under penalty of perjury that the following facts are true:

1. I am a Private Investigator licensed in the states of New York and New Jersey.
2. On October 22, 2013, I interviewed Jose Jimenez. I was accompanied by licensed private investigator Dennis Suarez.
3. The interview was recorded and transcribed by court reporter Karen English.
4. I reviewed the recording and compared it to the certified transcript that Ms. English prepared.
5. The certified transcript of the recording attached herewith as Exhibit 12 accurately depicts the interview with Mr. Jimenez.



Michael McMahon

6-27-16

Date

EXHIBIT 14

GERALDINE P. GALVANI, ESQ.
 17 A South Valley Road, #1
 West Orange, New Jersey 07052
 (973) 902-8031

January 2, 2014

Larry Lustberg, Esq.
 Gibbons-Hand Delivered

Paul W. Bergrin #16235-050

RE: Greg Hilton Phone Calls

SOURCE: PBVZW.cd.2
 564065 part 2/ PDF 1049 pages

PER PAUL, THIS IS WHEN A. CASTRO CAME TO HIM AND WHEN NORBERTO GOT LOCKED UP (SEE EMAIL TO ME DATED 12/30/13)

#	PAGE	DATE	TIME	DURATION
1	117 of 1049	10/15/04	3:49pm	5
2	150	11/09/04	3:38pm	2
3	247	01/06/05	11:17am	2
4	292	02/07/05	10:48am	2
5	292	02/07/05	10:50am	1
6	608	08/16/05	8:37am	2
7	679	09/27/05	6:02pm	1
8	680	09/27/05	7:24pm	2
9	788	11/24/05	11:58am	2
10	868	01/04/06	2:57pm	1
11	868	01/04/06	4:29pm	8

SOURCE: PVVZW-CD-1
 533802c.pdf/ PDF 2902 pages

#	PAGE	DATE	TIME	DURATION
12	467 of 2902	12/13/06	2:21pm	1
13	485	12/20/06	10:25am	1
14	508	01/02/07	9:56am	1
15	510	01/02/07	7:12pm	2
16	510	01/03/07	8:31am	1
17	150	01/08/07	8:52am	1
18	153	01/09/07	10:37am	1
19	153	01/09/07	10:49am	1
20	155	01/09/07	10:29pm	2
21	155	01/09/07	11:04pm	1

#	PAGE	DATE	TIME	DURATION
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THE FOLLOWING 24 CALLS ARE BURIED IN THE LAST 67 PAGES, OUT OF CHRONOLOGICAL ORDER:

22	2835	03/08/07	3:11pm	2
23	2836	03/08/07	6:37pm	1
24	2837	03/09/07	7:57am	2
25	2838	03/09/07	12:27pm	3
26	2843	03/12/07	11:11am	3
27	2844	03/12/07	2:10pm	1
28	2844	03/12/07	6:10pm	2
29	2845	03/12/07	8:56pm	2
30	2846	03/13/07	11:39am	1
31	2846	03/13/07	11:40am	1
32	2846	03/13/07	12:12pm	1
33	2846	03/13/07	2:47pm	4
34	2848	03/14/07	8:37am	2
35	2849	03/14/07	1:00pm	1
36	2850	03/14/07	2:36pm	2
37	2852	03/15/07	8:00am	2
38	2864	03/20/07	8:40am	8
39	2866	03/20/07	3:18pm	1
40	2866	03/20/07	3:18pm	1(TWO CALLS)
41	2867	03/20/07	5:40pm	1
42	2868	03/21/07	9:30am	1
43	2870	03/22/07	8:15am	1
44	2874	03/23/07	4:36pm	2
45	2881	03/26/07	7:56pm	2
46	2881	03/27/07	8:09am	1

47	2713	04/09/07	8:17am	1
48	2718	04/10/07	6:38pm	1
49	2720	04/11/07	12:27pm	1
50	2733	04/17/07	7:50am	2
51	2570	06/06/07	8:13pm	2
52	2571	06/07/07	10:38am	12
53	2377	09/11/07	9:05am	2
54	1963	02/05/08	1:15pm	7

(ONLY ONE 2008 CALL)

Please win the appeal. Take care. Ginger

EXHIBIT 15

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

PAUL BERGRIN,

Defendant.

**CERTIFICATION
OF
MICHAEL MCMAHON**

I, Michael McMahon of full age, do hereby certify under penalty of perjury that the following facts are true:

1. I am a Private Investigator licensed in the states of New York and New Jersey.
2. I am a retired New York Police Department Detective and I have participated in hundreds of arrests and investigations throughout my career.
3. On June 26, 2016, I interviewed Shawn McPhall a/k/a Maurice a.k.a Mike Cassidy.
4. McPhall told me that he was coming out of a store at the time of the Kemo murder and heard gunshots. He saw a guy (Kemo McCray) lying on the ground.
5. A few days after the murder, McPhall stated he arrested as he was leaving the Sand Pit Bar and questioned by police about the Kemo murder.
6. McPhall claimed the police were trying to force him to identify who the shooter was and they were trying "to take advantage of him."
7. McPhall said he was charged with Aggravated Assault, but the charge was thrown out one month later.

8. I swear and subscribe to the foregoing statement made, if any of the foregoing statement made is false I am subject to the penalty of perjury.



Michael McMahon

6-27-16

Date

EXHIBIT 16

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,)
Plaintiff,)
v.,)
PAUL W. BERGRIN,)
Defendant.)

CERTIFICATION

1. I, Amin Shariff, being of sound mind, knowingly and voluntarily submit this Certification, under the penalty of perjury. It is true to an absolute certainty and I make it of my own free will. I have not been promised anything in return for making this statement nor has any benefits nor rewards been offered to me. I should have given this statement years ago and tried to prevent Paul's unjust conviction.

2. I am presently incarcerated at the United States Penitentiary in Tucson, Arizona. I am the first cousin of Eugene Braswell, whom I have always referred to as Wali. I know him as my relative, a former Northern State Prison, Newark, New Jersey, Correctional Officer, and as a client of Attorney Paul Bergrin, Newark, New Jersey.

(a) I am a cooperating Federal Government witness and because the United States Government, Federal Prosecutors and F.B.I. found me to be truthful, honest and fully cooperative, they wrote a 5K1.1 motion on my behalf and

I received the benefits of a reduced sentence. I will take and pass a polygraph exam as to everything contained in this Certification.

3. I am the blood relative of Wali Braswell and have spoken to him on a multitude of occasions, telephonically and in person. We have attended Muslim services together and family functions. He is also the Cousin of Paul Braswell, a former Newark Police Officer, whom was stealing cocaine from the Newark Police evidence room and Wali was selling for him on the streets.

4. In or about 2009, I was arrested by Federal authorities and essentially charged with prostituting an underage female. While incarcerated for this offense, I was visited by two agents, both from Newark, New Jersey. They asked me to cooperate against Paul Bergrin and promised me, that my 5K1.1 letter would get "fatter" if I did. They kept trying to tell me that I had information Paul was involved in dealing drugs, ^{and} that if I said this, it would benefit me. I was already on a serious case and had been debriefed and spoken to by Federal Agents and Prosecutors.

(a) I knew Paul Bergrin, as a Newark, New Jersey attorney and had consulted him on my Atlantic City, Atlantic County, New Jersey, State Case. I met him one time in my life prior to Tucson, Arizona and could not afford to hire him. He refused to represent me in my State case, because I could not come up with a retainer.

(b) I informed the Federal Officers that I would get back to them about Paul. They just kept repeating,

that if "I knew information about Paul, that my 5K1.1 cooperation letter would get fatter." I knew and believed they wanted me to lie. They kept suggesting that I had knowledge Paul was dealing drugs when I kept telling them I did not.

5. I called my cousin Wali from a cell telephone one of my fellow inmates had brought in the Philadelphia, FCI. My cell mate also had a cell telephone that was smuggled in. I had, Wali's cell number, but the telephones at the jail were recorded lines and I did not want this conversation to be recorded. I used the smuggled cell telephone and sought Wali, (Eugene Braswell's) input. He was a cop and I trusted him.

(a) I told my cousin Wali (Eugene Braswell), about my case; that I was going to plead guilty and get Federal time. I also told him about the Federal Agents visiting me and asked him what I should do. I told Wali that I have no information whatsoever about Paul Bergrin and no information that he ever did anything wrong or committed any crimes. I never heard of Paul being involved with drugs, doing drugs, selling drugs and I know if he was, I would have heard it.

(b) I specifically remember my cousin advising and instructing me to lie; to make up facts and say that I had information Paul was dealing drugs and using prostitutes. To lie and make up whatever facts I had to in order to go free. Wali told me "Jump on Paul's case. Everyone is doing it including me. Fuck Paul. He's our ticket to freedom. Tell the F.B.I. that Paul was selling me drugs, that I saw drugs in his office, that Paul sold only kilograms. Look the Feds in the eye and just bullshit them. They'll believe whatever I tell

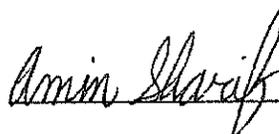
them." I asked Wali if any of this is true and he said, "Fuck no!" and we both laughed. He said, "Fuck Paul Bergrin, when it comes to going home and our freedom. Just jump on his case. That's what you have to do ^{like} what everyone else, including myself, is doing. Use Paul to go home as Paul does not give a shit about us. We owe him nothing. All he does is take nigger's money."

6. I refused to do what Wali suggested. I just could not lie and make up facts about someone who was innocent. I did not want to get caught in a lie and I knew that my mother knew Paul. That Paul was helping her cause in the community and that she respected Paul. I could not do this. It was not me. I know that this is routinely done, as I have been doing time for a long while.

7. I learned of Wali's testimony against Paul. I know he lied and was given the benefits of a 5K1.1 cooperation letter. There is no doubt in my mind whatsoever he lied when he testified at Paul's trial. Eugene Wali Braswell used Paul Bergrin to gain his own freedom. This cannot happen. Paul never dealt drugs to Wali nor anyone else, to my knowledge. Eugene Braswell, Wali, told me this himself.

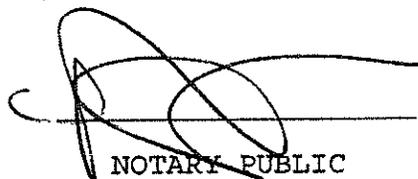
8. These facts and my knowledge of what happened to Paul, has been driving me insane and the pain and suffering I have expressed from this knowledge has been immeasurable. I am so glad that I could finally get this off my chest. ~~_____~~
~~_____~~
~~_____~~

I swear to the truth of every word and fact contained in this Certification so help me God and under penalty of perjury.


AMIN SHARIFF

Sworn before me on this 21st day of May 2014.

DATED: 5/21/14


NOTARY PUBLIC


CASE MANAGER

AUTHORIZED BY THE ACT OF JULY 7, 1956.
AS AMENDED, TO ADMINISTER OATHS.
18 U.S.C. 4004
(520) 663-5000



EXHIBIT 17

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

PAUL BERGRIN,

Defendant.

Honorable Jose L. Linares

Criminal No.: 09-369

**DECLARATION OF
LAWRENCE S. LUSTBERG**

I, **LAWRENCE S. LUSTBERG**, of full age, hereby declare as follows:

1. I am a member in good standing of the bar of this Court, among others, and have been appointed as counsel for Defendant Paul Bergrin with respect to Defendant's Motion for a New Trial Pursuant to Federal Rule of Criminal Procedure 33 in the above-captioned matter. I respectfully submit this declaration in support of Mr. Bergrin's post-trial motion for a new trial based upon newly discovered evidence.

2. As part of its discovery obligations in this matter, the government turned over to the defense, among other materials, tens of thousands of physical pages of discovery material and hundreds of compact discs containing tens of thousands of individual recordings, including of conversations recorded by the Drug Enforcement Administration pursuant to a wiretap as part of its investigation of Hakeem Curry. This material was not indexed and often appeared out of order or, as sometimes occurred in the case of the recordings, suffered from technical problems that prevented one from opening a particular file.

3. The government informed counsel for Mr. Bergrin that it would not be seeking to admit the recordings because they were not timely sealed, and therefore, inadmissible.

4. Throughout the course of the trial in the above-captioned matter, the government gave no indication that the DEA recordings of Hakeem Curry contained significant exculpatory information that discredited the account of Anthony Young. Indeed, it was the government's stated position throughout that if these recordings were admitted, they would inculcate Mr. Bergrin.

5. Mr. Bergrin, who represented himself at trial, did not anticipate and really could not have anticipated that these recordings would be exculpatory given his reliance on the government's good faith and its compliance with its obligations pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963). As a result, prior to or during trial, Mr. Bergrin was effectively unaware of the existence of such evidence.

6. Mr. Bergrin attempted to call Hakeem Curry, Diedra Baskerville, and Rakeem Baskerville at trial to testify, but none of these witnesses were willing to take the stand at the time of Mr. Bergrin's trial. Curry specifically expressed to me his intention to invoke his Fifth Amendment right against self-incrimination if called. Mr. Bergrin's investigators specifically attempted to serve Diedra Baskerville with a subpoena at the time of trial, but were unable to do so.

7. During Mr. Bergrin's trial, I spoke briefly with DEA Agent Gregory Hilton to see whether he recalled conversations between himself and Mr. Bergrin regarding Alejandro Barraza-Castro, in anticipation of him testifying to those conversations. He told me that he did not recall any such conversations and did not know what I was talking about.

8. As far as I am aware, all of the evidence raised as newly discovered in this Declaration and the brief submitted in support of Mr. Bergrin's post-trial motion for a new trial was not brought to the attention of the defense until after the trial, as is described more fully in the brief filed herewith. I have no reason to believe, in light of the thorough and extensive efforts exercised before and during trial, that such evidence could have been discovered sooner.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 27, 2016

By: 
Lawrence S. Lustberg

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA

v.

PAUL BERGRIN,

Defendant.

Criminal No. 09-369 (JLL)

Filed Electronically

**PROPOSED ORDER
GRANTING MOTION FOR A NEW
TRIAL**

THIS MATTER having come before the Court upon the motion of defendant Paul Bergrin for a new trial grounded on newly discovered evidence pursuant to Federal Rule of Criminal Procedure 33(b)(1), and the Court having considered the submissions of the parties and for good cause shown,

IT IS on this _____ day of _____ 2016,

ORDERED that Bergrin's Motion For a New Trial Grounded On Newly Discovered Evidence Pursuant to Rule 33(b)(1) is hereby granted.

Hon. Jose L. Linares

Lawrence S. Lustberg, Esq.
GIBBONS P.C.
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Phone: (973) 596-4883
llustberg@gibbonslaw.com
Counsel for Defendant Paul Bergrin

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA

v.

PAUL BERGRIN,

Defendant.

Criminal No. 09-369 (JLL)

Filed Electronically

CERTIFICATE OF SERVICE

I, **LAWRENCE S. LUSTBERG**, hereby certify as follows:

1. I am a Director with the law firm of Gibbons P.C., and have been appointed counsel for Paul Bergrin in the above-captioned matter.
2. On this date, I electronically filed Defendant's Motion for a New Trial Grounded on Newly Discovered Evidence Pursuant to Rule 33(b)(1).
3. On this date, service was made upon all counsel of record in accordance with the United States District Court for the District of New Jersey's Local Rules on Electronic Service.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: June 27, 2016

By: s/ Lawrence S. Lustberg
Lawrence S. Lustberg, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Counsel for Paul Bergrin