

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION -- FELONY BRANCH**

UNITED STATES,
vs.
SANTOS F. BONILLA.

No. F 2332-98
Hon. Mary E. Abrecht
(Closed Case)

**REPLY TO GOVERNMENT'S OPPOSITION TO DEFENDANT'S
MOTION FOR NEW TRIAL, AND FOR AN ORDER RECOMMENDING
HOUSING DEFENDANT IN WASHINGTON METROPOLITAN AREA**

The government's Opposition to Santos F. Bonilla's Motion for New Trial and the supporting Affidavit of trial prosecutor Anthony Asuncion are most notable for what they do not say, rather than what they do say. They do not deny that Mr. Assuncion used Grand Jury subpoenas to compel Hugo Aleman to report to his office on at least three occasions before Mr. Aleman testified in the Grand Jury, or that Mr. Asuncion used similar tactics to compel other witnesses, including Myra Rivera, to submit to interrogation. They do not say that the Grand Jury was in session, ready to take testimony in this case on the first or second day Mr. Aleman was forced to submit to questioning by Mr. Asuncion and homicide detectives. They do not offer an explanation for the *Brady* violation the government admits Mr. Assucion committed by withholding the fact that Mr. Aleman gave conflicting accounts to investigators, or that his ability to observe events March 15, 1998 was severely impaired.

Finally, although the final sentence of its Opposition urges this Court to deny Mr. Bonilla's new trial motion without a hearing, it neither argues nor cites evidence that the "motions, files and records" of this case "conclusively show that [Mr. Bonilla] is entitled to no relief." D.C. Code § 23-110(c). It effectively concedes that a hearing will be necessary to determine whether Mr. Bonilla's conviction is the product of prosecutorial misconduct that deprived him of his Fifth Amendment right to due process of law..¹ Nonetheless, the government

¹ See D.C. Crim. R. 12, which states in pertinent part:

(a) Pleadings and Motions. Pleadings in criminal proceedings shall be the indictment and the information, and the pleas of not guilty, guilty and nolo contendere. All other pleas, and demurrers and motions to quash are abolished, and defenses and objections raised before trial which heretofore could have been raised by 1 or more

argues that Defendant's motion to be returned to the Washington metropolitan area to assist counsel in preparing for a hearing, and his motion for discovery

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Robert S. Becker, counsel for Santos F. Bonilla, certify that on October 14, 2008 I served a true copy of the attached Reply to Government's Opposition to Defendant's Motion for New Trial, and for an Order Recommending Housing Defendant in Washington Metropolitan Area by first-class mail on the person(s) listed below.

Robert S. Becker

James Sweeney
Office of the U.S. Attorney
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of them shall be raised only by motion.

...

(d) Effect of Failure to Raise Defenses or Objections. Failure by a party to raise defenses or objections or to make requests which must be made prior to trial, at the time required by Rule 47- or prior to any extension thereof made by the Court, shall constitute waiver thereof, but the Court for cause shown may grant relief from the waiver.

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ORDER

Mary E. Abrecht, Judge

cc: Robert S Becker
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