

No. 23-\_\_\_\_\_

---

**In the Supreme Court of the United States**

VANCE COLLINS, PETITIONER,

*v.*

UNITED STATES OF AMERICA, RESPONDENT.

---

On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Second Circuit

---

**APPENDIX A-J**

---

ERIC R. BRESLIN  
*Counsel of Record*  
ARLETTA K. SINGH  
DUANE MORRIS LLP  
ONE RIVERFRONT PLAZA  
1037 Raymond Blvd., Ste. 1800  
Newark, NJ 07102-5429  
973-424-2000  
[erbreslin@duanemorris.com](mailto:erbreslin@duanemorris.com)  
[abussiere@duanemorris.com](mailto:abussiere@duanemorris.com)

## **APPENDIX TABLE OF CONTENTS**

Appendix A: Summary Order of the Second Circuit (Jan. 19, 2023).....	App. A1
Appendix B: District Court Order Regarding Pretrial Motions (Aug. 11, 2020) .....	App. A17
Appendix C: Excerpts from the Pretrial Motions Hearing Transcript (Aug. 11, 2020) App. A19	
Appendix D: District Court Case Judgement (May 12, 2021) .....	App. A37
Appendix E: Superseding Indictment (Feb. 5, 2020) .....	App. A44
Appendix F: Government's Memorandum of Law in Support of its Motions <i>in Limine</i> and Related Exhibits (March 3, 2020) .....	App. A49
Appendix G: Defendant Vance Collins' Memorandum of Law in Opposition to the Government's Motions <i>in Limine</i> (March 13, 2020) .....	App. A95
Appendix H: Government Trial Exhibit 601-T .....	App. A115
Appendix I: Excerpts from the Trial Transcript (Oct. 15-20, 2020) .....	App. A132
Appendix J: Defendant Ramon Ramirez Letter Opposition in Response to the Government's Motions <i>in Limine</i> (March 13, 2020) .....	App. A181

21-1291 (L)  
*United States v. Collins*

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 19<sup>th</sup> day of January, two thousand twenty-three.

PRESENT:

RICHARD J. SULLIVAN,  
ALISON J. NATHAN,  
SARAH A. L. MERRIAM,  
*Circuit Judges.*

---

UNITED STATES OF AMERICA,

*Appellee,*

v.

Nos. 21-1291(L),  
21-1305(Con)

VANCE COLLINS, RAMON RAMIREZ,

*Defendants-Appellants.\**

---

---

\* The Clerk of Court is respectfully directed to amend the official case caption as set forth above.

**For Defendant-Appellant  
Vance Collins:**

ERIC R. BRESLIN (Arletta K. Bussiere, *on the brief*), Duane Morris LLP, Newark, NJ.

**For Defendant-Appellant  
Ramon Ramirez:**

BEVERLY VAN NESS, New York, NY.

**For Appellee:**

ADAM S. HOBSON (Jamie Bagliebter, Hagan Scotten, *on the brief*), Assistant United States Attorneys, *for* Damian Williams, United States Attorney for the Southern District of New York, New York, NY.

Appeal from judgments of the United States District Court for the Southern District of New York (P. Kevin Castel, *Judge*).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED,  
ADJUDGED, AND DECREED** that the judgments of the district court are **AFFIRMED.**

Vance Collins and Ramon Ramirez appeal from judgments of conviction after a jury trial in which both men were found guilty of murder-for-hire and conspiracy to commit murder-for-hire, in violation of 18 U.S.C. § 1958, and Collins was found guilty of possessing a firearm after having been previously convicted of a felony, in violation of 18 U.S.C. § 922(g)(1). The district court sentenced Collins to 144 months' imprisonment, consisting of concurrent sentences of 120

months' imprisonment for the murder-for-hire counts and a consecutive term of twenty-four months' imprisonment for the felon-in-possession charge, and Ramirez to concurrent terms of 120 months' imprisonment for the murder-for-hire counts. On appeal, Collins and Ramirez raise four principal challenges to their convictions and sentences, which we address in turn. We assume the parties' familiarity with the underlying facts, procedural history, and issues on appeal.

### **I. Sufficiency of the Evidence**

Ramirez and Collins challenge the sufficiency of the evidence underlying their murder-for-hire convictions in two respects. First, they contend that the evidence produced at trial was not sufficient to show that they hired Jakim Mowatt to kill Eric Santiago. Second, they contend that the government failed to prove that there was a sufficient nexus between the murder plot and the use of a facility of interstate commerce. While we generally review the sufficiency of the evidence *de novo*, *United States v. Yannotti*, 541 F.3d 112, 120–21 (2d Cir. 2008), we apply the plain-error standard to this second challenge because the argument pressed on appeal was not raised in the district court. *See United States v. James*, 998 F.2d 74, 78 (2d Cir. 1993).

“A defendant seeking to overturn a jury verdict on sufficiency grounds bears a heavy burden,” because we will “uphold the conviction if *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *United States v. Anderson*, 747 F.3d 51, 59 (2d Cir. 2014) (internal quotation marks omitted). When considering a sufficiency challenge, we view the evidence “in its totality, not in isolation,” *United States v. Huezo*, 546 F.3d 174, 178 (2d Cir. 2008) (internal quotation marks omitted), and “in a light that is most favorable to the government, . . . with all reasonable inferences resolved in favor of the government,” *United States v. Persico*, 645 F.3d 85, 104 (2d Cir. 2011) (internal quotation marks omitted).

Here, there was more than sufficient evidence for the jury to conclude that Ramirez and Collins hired Mowatt to kill Santiago. The government adduced extensive evidence showing that Ramirez, after learning that Santiago was having an affair with his wife, hatched a plan with Collins to “take care” of the situation. App’x at 1038. At first, their plan was to hire someone to “beat up” Santiago, but the plan escalated to “murder” within months. *Id.* at 545, 550. The hired hitman, Mowatt, testified that he was promised \$25,000 (among other benefits) for the job, and that he, in turn, recruited Barry Johnson to help carry out the hit. The

government's theory of the case was also supported by Ramirez's post-arrest statement, Johnson's testimony, Santiago's testimony, telephone records showing frequent contact among the co-conspirators and hitmen, and the contents of Mowatt's cell phone, which included Santiago's home address, photos of Santiago, and videos of the trips that Mowatt and Johnson had conducted to surveil Santiago. While Defendants maintain that Mowatt was not credible and insist that the plan was still to beat up, rather than kill, Santiago, the jury was certainly free to credit Mowatt's testimony that Defendants "wanted [Santiago] dead." *Id.* at 558. Since we must "defer to the jury's assessment of witness credibility and the jury's resolution of conflicting testimony," we have no basis for disturbing the jury's verdict on appeal. *United States v. Triumph Cap. Grp., Inc.*, 544 F.3d 149, 159 (2d Cir. 2008) (internal quotation marks omitted).

Defendants' next argument – that the government failed to prove that the murder plot involved the use of a facility of interstate commerce – fares no better. Under section 1958, the government must prove that a defendant "use[d] or cause[d] another (including the intended victim) to use . . . any facility of interstate . . . commerce, with intent that a murder be committed." 18 U.S.C. § 1958(a). This jurisdictional element can be proven by, among other things,

showing that an intrastate call in furtherance of the murder plot was made on an interstate-telephone network. *See United States v. Perez*, 414 F.3d 302, 304–05 (2d Cir. 2005); *see also United States v. Francisco*, 642 F. App'x 40, 44 (2d Cir. 2016) (finding sufficient evidence to satisfy section 1958's jurisdictional element when pay phone was used to discuss murder plot).

Here, there was ample evidence showing that Defendants used their cell phones – which they stipulated operated on national networks – in furtherance of the plot to murder Santiago. App'x at 880–83. For example, Mowatt testified that Collins communicated the plan to kill Santiago by phone “a month or two” after the “summer of 2017,” *id.* at 548, 558, and while Defendants argue that this call was not corroborated by the call records introduced at trial, the jury was free to credit that testimony while making allowances for the possibility that Mowatt may have been mistaken about the precise timing of the call. *See United States v. Chavez*, 549 F.3d 119, 124 (2d Cir. 2008) (explaining that we must draw “every inference that could have been drawn in the government’s favor”). Mowatt also testified that he often called Collins with status updates concerning the murder-for-hire plot during his surveillance trips. The call records *did* corroborate these communications, and the government showed that Collins and

Ramirez spoke over the phone immediately after many of Mowatt's calls to Collins. And although there was no testimony as to what Collins and Ramirez discussed during these calls, the jury could have reasonably inferred, based on the timing of the calls and Mowatt's testimony, that these calls were made in furtherance of the plot to kill Santiago. We thus have no trouble concluding that the evidence produced at trial was sufficient to prove the jurisdictional element of section 1958.

## **II. Fourth Amendment**

Collins argues that the district court erred in denying his motion to suppress the three firearms seized from his home after he requested that officers permit him to retrieve a coat from his house following his arrest. “In an appeal from a district court’s ruling on a motion to suppress, we review legal conclusions *de novo* and findings of fact for clear error.” *United States v. Freeman*, 735 F.3d 92, 95 (2d Cir. 2013). Under the Fourth Amendment, “a search authorized by consent is wholly valid.” *Schneckloth v. Bustamonte*, 412 U.S. 218, 222 (1973). The question of whether an individual consented to a search often turns on the credibility of witnesses. A district court’s “factual determinations [as] to witness credibility” are entitled to “special deference.” *United States v. Jiau*, 734 F.3d 147, 151 (2d Cir.

2013). Accordingly, when a district court's "finding is based on [its] decision to credit the testimony of one of two or more witnesses, each of whom has told a coherent and facially plausible story that is not contradicted by extrinsic evidence, that finding, if not internally inconsistent, can virtually never be clear error."

*Anderson v. City of Bessemer City*, 470 U.S. 564, 575 (1985).

Collins cannot show that the district court erred in determining that he consented to permit the officers to enter his residence and then voluntarily disclosed the location of three firearms. At the suppression hearing, Detective James Menton testified that Collins consented to the search after he was arrested outside his home. According to Menton, Collins was shivering from the cold when he asked if he could grab a jacket from inside his residence, which Menton permitted on the condition that Collins agree to let officers accompany him and conduct a protective sweep. In crediting Menton's testimony, the district court observed that Menton's version of events was consistent with several undisputed facts, including that Collins was shaking when officers arrested him, that Collins was not wearing a jacket before officers escorted him inside his house, that Collins left his home in a jacket, and that Collins never objected to the officers' entering his home or asked them to leave. Menton's testimony was also corroborated by

Supervisory Special Agent Brendan Kenney, who testified that, before he entered Collins's home, Menton told him that Collins had "requested to go back inside the house to grab a jacket." App'x at 206. Because Menton's testimony was coherent, plausible, and internally consistent, *see Anderson*, 470 U.S. at 575, we decline to disturb the district court's finding that Collins consented to the search.

Collins further argues that the district court erred in determining that his consent was voluntary under the totality of the circumstances. When the government seeks to justify a search based on consent, it "has the burden of proving that the consent was, in fact, freely and voluntarily given." *United States v. O'Brien*, 926 F.3d 57, 76 (2d Cir. 2019) (internal quotation marks omitted). Whether consent to a search "was in fact 'voluntary' or was the product of duress or coercion, express or implied, is a question of fact to be determined from the totality of all the circumstances." *Schneckloth*, 412 U.S. at 227. "Consent can be found from an individual's words, acts[,] or conduct." *Krause v. Penny*, 837 F.2d 595, 597 (2d Cir. 1988).

While Collins argues that the circumstances of his arrest were so "harrowing" that they would "intimidate nearly anyone," Collins Br. at 29, we discern no error in the district court's assessment of the evidence. The district

court acknowledged that, at the time Collins consented to the search, some officers still “had their weapons drawn” and that Collins “had already been arrested, was in handcuffs, and had not been read his *Miranda* rights.” App’x at 430. But the district court also considered that no one had threatened Collins; that “Collins is an adult who understands written and spoken English; that he has past experience with law enforcement; and that he asked for and received a jacket from inside his house after being arrested outside.” *Id.* After balancing these factors, the district court reasonably concluded that his consent was voluntary. We see no error in the district court’s conclusion and have upheld findings of voluntariness in similar circumstances. *See, e.g., United States v. Ansaldi*, 372 F.3d 118, 129 (2d Cir. 2004) (affirming finding of voluntary consent where defendant was arrested outside his house at gunpoint, placed in handcuffs, and advised of his *Miranda* rights), abrogated on other grounds by *McFadden v. United States*, 576 U.S. 186 (2015); *United States v. Puglisi*, 790 F.2d 240, 243–44 (2d Cir. 1986) (affirming finding of voluntary consent where defendant had been arrested and handcuffed by officers with weapons drawn before signing consent to search forms). Accordingly, the district court did not err in denying Collins’s motion to suppress.<sup>1</sup>

---

<sup>1</sup> We do not reach the question whether the security sweep of Collins’s home, including Menton’s

### III. Sixth Amendment

Collins next argues that his rights under the Sixth Amendment's Confrontation Clause were violated by the introduction of otherwise-inculpatory statements by Ramirez in which references to Collins were deleted or replaced by neutral pronouns. "Alleged violations of the Confrontation Clause are reviewed *de novo*, subject to harmless[-]error analysis." *United States v. Vitale*, 459 F.3d 190, 195 (2d Cir. 2006). In a joint trial, the admission of a non-testifying defendant's confession is prejudicial error in violation of the Confrontation Clause only to the extent that it incriminates a co-defendant. *See Bruton v. United States*, 391 U.S 123, 135–36 (1968). But prejudice from such a confession may be avoided by a "non-obvious redaction" that removes "any references to the [non-testifying] defendant." *United States v. Lyle*, 919 F.3d 716, 733 (2d Cir. 2019). We determine whether modifications to the confession satisfy *Bruton* by considering whether they "remove the 'overwhelming probability' that a jury will not follow a limiting instruction that precludes its consideration of a redacted confession against a defendant other than the declarant." *United States v. Jass*, 569 F.3d 47, 60 (2d Cir.

---

inquiry as to whether Collins had any firearms in the residence, was proper under the public-safety exception to *Miranda v. Arizona*, 384 U.S. 436, 439 (1966), because Collins has not raised the issue on appeal.

2009). Our Circuit has held that, in making this determination, we must view the redacted statement “separate and apart from any other evidence admitted at trial.”

*Lyle*, 919 F.3d at 733.

The redactions to Ramirez’s post-arrest statement do not violate *Bruton*. In line with our precedent, the statement introduced at trial removed all references to Collins and replaced his name with either nothing at all or a neutral noun or pronoun. *See id.* (“We have consistently held that the introduction of a co-defendant’s confession with the defendant’s name replaced by a neutral noun or pronoun does not violate *Bruton*.”). Collins argues that the repeated use of “you guys” and “the other guy” made it obvious that the statement was edited. Collins Br. at 35. But the government introduced each phrase into the transcript – which already included both of those neutral phrases – only once. As a result, it is far more likely that the jury would have concluded that those were Ramirez’s and the officer’s actual words, rather than a redacted or modified version of them. And while Collins speculates that a “sophisticated juror” listening to the statement would necessarily infer that it referred to Collins, Collins Br. at 36, the statement on its face – which neither obviously references Collins nor introduces awkward syntax – requires no such inference and could just as easily

have referred to someone else. *See United States v. Tutino*, 883 F.2d 1125, 1135 (2d Cir. 1989) (approving substitution of “others,” “other people,” and “another person” for names of co-defendants in confession of non-testifying defendant, “with no indication to the jury that the original statement contained actual names”). Considering the redacted statement “separate and apart from any other evidence admitted at trial,” *Lyle*, 919 F.3d at 733, we cannot say that the district court erred in admitting Ramirez’s post-arrest statement.<sup>2</sup>

### III. Sentencing

Ramirez challenges the procedural and substantive reasonableness of his below-Guidelines sentence of 120 months’ imprisonment. We review Ramirez’s procedural-reasonableness challenge for plain error because it was not raised in the district court, *see United States v. Ramos*, 979 F.3d 994, 998 (2d Cir. 2020), and

---

<sup>2</sup> While our Circuit has held that a co-defendant’s redacted out-of-court confession should be assessed in “isolation,” the Supreme Court has recently granted certiorari to determine whether such a statement should instead be considered in the context in which it is offered. *See Samia v. United States*, No. 22-196, 2022 WL 17586973 (Dec. 13, 2022). Nevertheless, we need not delay this appeal to await the Supreme Court’s resolution of this issue, because even assuming that the district court erred in admitting Ramirez’s post arrest statement, any such error was harmless beyond a reasonable doubt. *See Jass*, 569 F.3d at 64. As explained above, the properly admitted evidence of Collins’s guilt was nothing short of overwhelming, consisting of the testimony of multiple witnesses (including the two hitmen) and a host of cell phone records, photographs, and videos that corroborated the murder-for-hire plot, among other evidence. Moreover, any prejudice inflicted by admitting Ramirez’s statement was minimized by the fact that the statement itself was consistent with Collins’s defense at trial – namely, that the plan was to “beat up,” not murder, Santiago. App’x at 1044.

his substantive-reasonableness challenge for abuse of discretion, *see United States v. Thavaraja*, 740 F.3d 253, 258 (2d Cir. 2014).

Ramirez first argues that his sentence was procedurally unreasonable because the district court failed to fully consider the sentencing factors outlined in section 3553(a). Specifically, he argues that the district court, in sentencing him and Collins to the same term of incarceration for the murder-for-hire counts, failed to consider the differences between Ramirez's and Collins's "background[s] and characteristics," and the fact that Ramirez would face deportation after serving his sentence. Ramirez Br. at 41–42. But while district courts are encouraged to consider such factors, they are by no means dispositive. *See United States v. Frias*, 521 F.3d 229, 236 (2d Cir. 2008) (noting that "disparities between co-defendants" is not a required sentencing consideration); *United States v. Thavaraja*, 740 F.3d 253, 263 (2d Cir. 2014) (noting that the "impact deportation will have on the defendant" is not a required sentencing consideration). At any rate, the record reflects that the district *did* consider this evidence – it simply did not give it the weight that Ramirez would have liked. *See* Ramirez App'x at 67 ("I have considered the histor[ies] and characteristics of the defendants."); *id.* ("[Ramirez is] a citizen of Nicaragua and will be deported following the completion of his sentence.").

Ramirez also contends that his sentence was substantively unreasonable. But the few lines Ramirez devotes to this section of his opening brief are devoid of any legal analysis. Because Ramirez references the substantive reasonableness of his sentence in a “perfunctory manner, unaccompanied by some effort at developed argumentation,” he has waived this argument. *Tolbert v. Queens Coll.*, 242 F.3d 58, 75 (2d Cir. 2001) (internal quotation marks omitted). Nevertheless, even if we were to reach the merits of this argument, we would not be persuaded that Ramirez’s sentence is substantively unreasonable. To be substantively unreasonable, a sentence must be so “shockingly high, shockingly low, or otherwise unsupportable as a matter of law” that it would “damage the administration of justice.” *United States v. Rigas*, 583 F.3d 108, 123 (2d Cir. 2009). Far from being “shockingly high,” Ramirez’s sentence is actually well below the advisory Guidelines range of 210 to 240 months’ imprisonment. On this record, it is “difficult to find that a below-Guidelines sentence is unreasonable.” *United States v. Perez-Frias*, 636 F.3d 39, 43 (2d Cir. 2011). We therefore conclude that the district court did not impose a substantively unreasonable sentence.

\* \* \*

We have considered Ramirez's and Collins's remaining arguments and find them to be without merit. Accordingly, we **AFFIRM** the judgments of the district court.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

  
Catherine O'Hagan Wolfe

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA,

19-cr-395 (PKC)

-against-

ORDER

VANCE COLLINS, a/k/a "Big AK," and  
RAMON RAMIREZ, a/k/a "Obendy,"

Defendants.

-----X

CASTEL, U.S.D.J.:

For the reasons stated on the record at today's hearing:

1. The government's motion to admit selected portions of defendant Ramirez's post-arrest statement as redacted and edited pursuant to Bruton v. United States is granted, with the additional edits to the statement as ordered on the record;
2. Ramirez's motion to admit the entirety of his post-arrest statement is deemed withdrawn at this time;
3. The government's motion to admit evidence of certain uncharged acts as background evidence of the charged conspiracy is granted insofar as the government may elicit testimony about gang membership, status, and position without naming the particular gang, and the Court will give a limiting instruction at trial as necessary;
4. The government's motion to admit evidence of Collins's prior firearms possession is granted, subject to defendants' rights to renew their objections upon receipt and review of 18 U.S.C. § 3500 material;
5. The government's motion to preclude the defense from offering an expert on Santeria

is granted to the extent that the parties are precluded from mentioning this expert or her testimony in their opening statements. The Court will further determine admissibility of this expert's testimony based on the record developed at trial;

6. The government's motion to preclude certain cross-examination of cooperating witnesses is granted, subject to defendants' rights to renew their positions upon receipt and review of 18 U.S.C. § 3500 material.

To the extent defendants would like to renew any of their objections or arguments based on material disclosed pursuant to 18 U.S.C. § 3500, the defense will be required to notify the government and the Court of any such renewal and the basis for it within 7 days of receiving this material.

SO ORDERED.



P. Kevin Castel  
P. Kevin Castel  
United States District Judge

Dated: New York, New York  
August 11, 2020

K8bdcolm

## Tele-Motion

1 the fact that his overriding concern is to move the case  
2 forward, he certainly -- he gave me explicit authority to move  
3 forward with these motions without his presence.

4 THE COURT: All right. Thank you.

5 I find the waiver of appearance on the part of  
6 Mr. Collins and Mr. Ramirez to be knowing and voluntary and it  
7 is accepted.

8 The Court notes that it does not have a copy of the  
9 transcript, and it would be grateful if the government or  
10 someone could transmit a copy to chambers electronically or  
11 otherwise.

12 MR. BRESLIN: We were going to attach it to our motion  
13 papers, your Honor, if that is OK, which were due Thursday.

14 THE COURT: That's fine. That's fine. Thank you.

15 So the first order of business that I'd like to take  
16 up is the portions of Mr. Ramirez's post-arrest statement that  
17 in un-, if you will, Brutonized form includes mention of  
18 Mr. Collins. And I have read the parties' submissions, and I'm  
19 familiar with the controlling principles of law, but I wanted  
20 to give the defendants the opportunity, if they'd like to, to  
21 highlight anything concerning, in the first instance, limiting  
22 it to whether or not the redactions proffered by the government  
23 and the substitution of words such as "someone" or "the other  
24 guy," etc., meet Second Circuit precedence, or whether there is  
25 some issue they want to -- defense counsel wants to speak to

1 K8bdcolm

## Tele-Motion

1 regarding the redactions.

2 MR. KLUGER: I guess I'll take the lead on this,  
3 Judge, with respect to the fact that it is Mr. Ramirez's  
4 statement.5 THE COURT: Well, actually, Mr. Kluger, the whole  
6 thing is if this were a one-defendant trial, there would be no  
7 issue under Bruton, period. The issue under Bruton arises  
8 because the statement in its natural form alludes to Vance.  
9 That's the reason -- that's the Bruton motion.10 Now, you know, I'm fine, counsel can divide up the  
11 tasks any which way they want, but it's really Mr. Collins who  
12 has the Bruton argument.

13 MR. KLUGER: I take your Honor's point.

14 THE COURT: Mr. Breslin, is there anything you wanted  
15 to highlight?

16 MR. BRESLIN: Yes. I'll be brief, your Honor.

17 It's -- you know, it's not -- and I think the case law  
18 in this circuit sort of always comes around to this. It's not  
19 necessarily the use of a pronoun or "that guy" or "someone" or,  
20 you know, which particular -- you know, which particularly  
21 anodyne or nondescriptive substitution for the name you're  
22 using, it's even with that, read as a whole, even with "that  
23 guy" put in and the name "Vance" taken out, the statement does  
24 far more than mention or allude to Mr. Collins, which are I  
25 think the two terms that your Honor used.

K8bdcolm

## Tele-Motion

1                   The statement paints a very, very -- paints a very,  
2 very definite and damning picture of Mr. Collins as the  
3 organizer of the plan, the "Don't worry, I'll take care of it"  
4 guy, the one who had the contacts, had the experience, had the  
5 motivation, and that's a very, very -- going to be a very, very  
6 difficult picture for the defense to unpaint without  
7 cross-examination.

8                   There's going to be very little doubt that it is  
9 Mr. Collins to whom this statement refers. And so it's not so  
10 much, you know, the particular, you know, I went to his house,  
11 not Vance's house, or, you know, some guy's house, it's the  
12 whole thing taken as a whole that presents a picture of  
13 Mr. Collins as a bad guy to whom Mr. Ramirez sought refuge,  
14 advice, comfort, and expertise -- allegedly -- in formulating  
15 this plan, and I think, your Honor, that's the basis of our  
16 objection.

17                   THE COURT: OK.

18                   Mr. Kluger, anything you want to add?

19                   MR. KLUGER: There is a certain irony, as your Honor  
20 pointed out briefly the last -- a couple of phone calls ago,  
21 which is that I'm actually looking to -- not what I'm looking  
22 to, but my understanding of a lot of the, you know, the defense  
23 argument here as far as from Mr. Ramirez's point of view is  
24 that he did have discussions with Mr. Collins about possibly  
25 scaring the alleged victim in this case or about his situation

1 K8bdcolm

## 2 Tele-Motion

3 as a friend. He knew Mr. Collins. He was friendly with him.  
4 They were also religious colleagues, in a sense. So, the  
5 problem I'm having is the complete opposite, in a way, of what  
6 Mr. Breslin is having, which is that if you excise out the name  
7 of Mr. Collins, then it gives the jury this misimpression or  
8 misleading or confusing them that somehow Ramirez had direct  
9 contact or discussed the plan or talked about the plan with the  
10 cooperating witnesses in this case, because now that there's no  
11 name involved -- and I can go through the transcript, of  
12 course, and give the Court specific examples, but let me use  
13 one just to highlight maybe my concern. The government has  
14 taken out the name -- let me just find the example I was going  
15 to -- so, for example, I think the example may highlight my  
16 concern more than just -- there's a point, I think it's -- and  
17 there are a lot of examples like this throughout the  
18 transcript, but at one point during Mr. Ramirez's statement,  
19 the agent says to Mr. Ramirez, "Did you see any guns that day?"  
20 OK? And Ramirez answers, "I seen a gun one day that I went to  
21 Vance's house, like I said before." So he -- well, we don't  
22 deny that. We don't necessarily deny that at some point  
23 Mr. Ramirez had seen a gun at Mr. Collins' house, but we  
24 certainly don't agree that it was related to this case at all.  
25

23 But the government tries to clean that up for Bruton  
24 purposes by saying, "I seen a gun one day that I went to his  
25 house." So all of a sudden it's not clear, well, whose house

K8bdcolm

## Tele-Motion

1 did you see the gun at. You know, did you see it at the  
2 cooperating witness's house? Did you ever go to their house?  
3 So it's very misleading and confusing for the jury because for  
4 that very reason. It is easier to see the defense's point or  
5 Mr. Ramirez's point when you look at specific examples. And  
6 the transcript is replete with examples like that, like, Well,  
7 I'm going over to his house, or, I saw him do something, or, He  
8 was my friend, or I met with him. But it's unclear, what  
9 Mr. Breslin thinks that -- I mean, it's somewhat clear from  
10 Mr. Breslin's point of view that -- and who they aren't talking  
11 about, which is kind of true. But you can't rely on the jury  
12 assuming that. And now the jury can say, oh, well, the defense  
13 is arguing that Mr. Ramirez didn't have direct contact with the  
14 cooperating witnesses, which is my understanding at this point,  
15 and -- but at the same time, we have him saying in a statement  
16 that he went to their house or he saw a gun or he saw this. I  
17 don't see that as a workable way to do this.

18 On the one hand, it's going to hurt Mr. Collins, or on  
19 the other hand it's going to mislead the jury with respect to  
20 Mr. Ramirez, which is what I've kind of been highlighting for a  
21 while on this issue.

22 THE COURT: Thank you.

23 MR. KLUGER: And, of course, we can go through the  
24 whole transcript, but I think it's easier just to tell the  
25 Court that I object on almost every occasion where the

1 K8bdcolm

## 2 Tele-Motion

3 government has used a different type of pronoun or something to  
4 somehow clean up the transcript, so there's really no point in  
5 the transcript.6 And, by the way, I've sent this all to Ms. Cohen at  
7 this point, like this is -- I don't want to confuse the issue,  
8 but I -- well, I won't say this right now. But for the most  
9 part, though I am in agreement at this point with the  
10 government in terms of their portions of the statement, I've  
11 changed my initial position in terms of I looked through the  
12 statement that Ms. Cohen presented me with. I've compared it  
13 to the actual statement. There is a couple of things that I  
14 think should be in there to add to the narrative, but overall,  
15 I'm essentially in agreement with the government's proposed  
16 portions of the statement. So that's not even really in issue  
17 at this point from my point of view. The bigger issue, though,  
18 is this Bruton issue, I think.

19 THE COURT: Let me ask --

20 MR. KLUGER: Is anyone still on the call or did I lose  
21 everyone?

22 THE COURT: You didn't lose anybody.

23 MR. KLUGER: I thought maybe I lost everyone five  
24 minutes ago.25 THE COURT: Here is a question. Take a look at page  
12 of the statement. Is the statement improved by instead of  
the word "his house," if it said, "I seen a gun one day that I

1 K8bdcolm

## 2 Tele-Motion

1 went to the house of the guy who said he would take care of it.  
2 Like I said before, he tried to impress me. He bought a gun.  
3 I think it was a 30, or something like that, and he'd flip it  
4 like that," does that improve it for you, Mr. Kluger?

5 MR. KLUGER: I think that was actually one of the --  
6 so the Court said, "I seen a gun one day, that I went to his  
7 house?"

8 THE COURT: Instead of "his house," "to the house of  
9 the guy who said he would take care of it."

10 MR. KLUGER: Yes -- no, that makes it worse. That  
11 makes it worse, Judge, because we don't have -- like I said,  
12 there's a lot of reasons why Mr. Ramirez could have been at  
13 Mr. Collins' house and seen a gun that had nothing to do with  
14 the alleged allegation here.

15 THE COURT: The house is the guy -- It's just simply  
16 you want the jury to know which guy, and this takes it back to  
17 the statement that's on page 4, which is clearly --

18 MR. KLUGER: But the problem is that we don't  
19 necessarily -- one of the things that we have -- well, I don't  
20 want to speak for Mr. Breslin, but one of the problems that I  
21 have with -- one of the defenses is actually that I'm --  
22 Mr. Ramirez knows the conversations that he may have had with  
23 Mr. Collins, and his position has been consistently that none  
24 of them ever included to actually kill the victim. So whatever  
25 got lost in translation after that is unclear to us, if

1 K8bdcolm

## 2 Tele-Motion

3 anything ever got lost in translation. We don't concede that  
4 that ever happened, either. So we don't -- I don't -- so when  
5 the Court says that -- that it was the house of the guy that  
6 would take care of that, we don't know what you -- what your  
Honor means by that. That never -- there was never anyone who  
was going to take care of anything.

7 THE COURT: Not the guy who would take care of it.  
8 Not the house of the guy who would take care of it. I didn't  
9 say that.

10 MR. KLUGER: Oh, OK, Judge. I'm sorry.

11 THE COURT: I said the house of the guy who said he  
12 would, quote, take care of it.

13 MR. KLUGER: That's what I'm saying. Where is your  
14 Honor -- where is that coming from?

15 THE COURT: Anywhere in the transcript -- anywhere in  
16 the conversations. Page 4.

17 MR. KLUGER: Page 4, Judge. Oh, you are talking about  
18 line 85?

19 THE COURT: No. No. I'm looking -- I'm talking about  
20 page 4, line 94, 95.

21 MR. KLUGER: Oh, OK, Judge. I see. "When I came back  
22 from"...

23 (Pause)

24 I don't -- it's too misleading, that somehow the  
25 gun -- it's misleading, I think, Judge for -- of course, your

K8bdcolm

## Tele-Motion

1 Honor doesn't know, you know, the facts as well as the parties  
2 do. But the fact that Mr. Collins may have said at some point  
3 to Mr. Ramirez "I'll take care of it," you know, certainly that  
4 doesn't imply -- our position is that that doesn't mean that  
5 Mr. Collins was implying that he would somehow -- you know,  
6 that he was going to kill the alleged victim in this case.  
7 They were talking about maybe possibly scaring the guy or, you  
8 know, or there was more going on that I don't want to  
9 necessarily get into right now, so. But we don't agree that  
10 that particular mention that Mr. Collins said "I'll take care  
11 of it" in any way implies that Mr. Collins was intending to  
12 murder the victim or that he was planning on hiring anyone to  
13 murder the victim.

14 So when you then go back on page 12 and now bring up a  
15 gun and remind the jury of an earlier statement, it  
16 certainly -- you know, it gives a much more -- you know, I  
17 mean, it is true -- your Honor's statement is technically true,  
18 that we would be saying -- that Mr. Ramirez did say "I seen a  
19 gun one day at the guy's house, who indicated that he would  
20 take care of it." I mean, that's a -- I'm going back to my  
21 logic of A-plus -- that would be a true connection of those two  
22 dots. But to put that in that statement and somehow combine  
23 those two statements is extremely prejudicial, because now it  
24 makes the jury think that the statement is somehow tied to the  
25 gun, which it certainly in our position is not.

K8bdcolm

## Tele-Motion

1                   THE COURT: All right. Let me raise two other points  
2 about the transcript.

3                   In the government's reply brief, page 2, footnote 2,  
4 they have offered to change page 4, line 91, 92, which reads  
5 "because it was" -- well, picking up at the beginning of the  
6 sentence, "Because it was still after all that happened and I  
7 mentioned it to him -- I mentioned it to him to do it, I just  
8 mentioned it to him, and he said, 'Don't worry about it, I'll  
9 take care of it.'" The government has proposed that instead of  
10 just changing "him" to "someone," to add in "I mentioned it to  
11 a guy," and then drop the next, "I mentioned it to him to do  
12 it, I just mentioned it to him," and so it would read:  
13 "Because it was still after all that happened and I mentioned  
14 it to a guy and he said', Don't worry about it, I'll take care  
15 of it.'"

16                   Anybody object to that change, which the government is  
17 not asking to make, they're offering to make, but it seems to  
18 me that is an improvement, if the defendants want it. If they  
19 don't --

20                   MR. BRESLIN: I mean, on behalf of Mr. Collins, Judge,  
21 sure, it's an improvement, and we thank the government. It  
22 does not -- I'm not going to repeat myself. It does not  
23 address the overall issue, which is the statement as a whole  
24 reflects Mr. Ramirez as a nathe and reflects Mr. Collins as an  
25 accomplished criminal, and that's the basis of our objection.

1 K8bdcolm

## 2 Tele-Motion

3 But there is no doubt that the government's proposed edit is an  
4 improvement.5 THE COURT: OK. Now, I have another question, and  
6 this relates to page 11, line 272. Ramirez says: "So I went  
7 there one day and he was in his balcony." And then the part  
8 the government proposes to take out is, "If you go to Vance's  
9 house, there's a balcony in the front." I don't know what  
10 testimony or evidence is coming in at this trial, but if there  
11 is going to be other testimony which is going to establish  
12 Mr. Vance had a balcony, that would be a problem for me.13 So, from my standpoint, I would think a better way to  
14 phrase it would be, "So I went there one day and he was in the  
15 front of his house."

16 MR. BRESLIN: Again -- go ahead. I'm sorry.

17 THE COURT: No. Go ahead. Mr. Breslin, I understand  
18 your position. You're not waiving your objection --19 MR. BRESLIN: No, no, I understand. I mean, you know,  
20 I also think that -- I mean, well, I don't know if Mr. Cohen  
21 has a plan on showing a picture of Bond Street, I guess she  
22 might, and, if so, I think that would be a problem, and I think  
23 your Honor's solution would be an appropriate corrective. If  
24 she's not going to show a picture of the house or related -- or  
25 aver in any way to the physical attributes of the house,  
perhaps the whole question and answer should come out, because,  
really, what does it add to anything?

K8bdcolm

## Tele-Motion

1                   THE COURT: Well, then what do you do with 278? "So  
2 one time I met him there. He was there with them drinking."  
3 And the question is what's "there"? So you are just moving the  
4 can down the road.

5                   What I'm trying to find out is whether you, without  
6 prejudice to your objection to any of this coming in, whether  
7 you would ask me to make that change from "in his balcony" to  
8 "in the front of his house."

9                   MR. BRESLIN: May I just respond briefly, your Honor?

10                  THE COURT: I'm hoping you will.

11                  MR. BRESLIN: OK. I don't think we're kicking the can  
12 down the road, because if you look at page 10, line 267, there  
13 is -- there is already going to be, as sort of a place-setting  
14 for the next question and answer, a relation back to the house.  
15 So to remove 272, 273, 274 and 276 would -- the next comment  
16 would be, "So the one time I met him there, he was there with  
17 them drinking," which would then logically relate back to the  
18 house.

19                  That being said, if that is not your Honor's  
20 preference, then certainly your Honor's suggestion is better  
21 than the transcript and we would accept it with gratitude.

22                  THE COURT: All right. And, Mr. Kluger, where do you  
23 stand.

24                  MR. KLUGER: Judge, anything that implies to the jury  
25 that Mr. Ramirez went to anyone else's house other than

K8bdcolm

## Tele-Motion

1 Mr. Collins, we would object to. So that's my point. Like I  
2 don't -- he didn't go to anyone else's house, as far as I know.

3 THE COURT: No. Mr. Kluger, let's be fair here.

4 MR. KLUGER: OK.

5 THE COURT: I'm talking about a change on line -- page  
6 11, line 11 -- I'm sorry, line 271, and I'm trying to find out,  
7 without prejudice to your overall objection, whether you prefer  
8 me to change it to, "So I went there one day and he was in the  
9 front of his house," as distinguished from what it reads now,  
10 that "he was in his balcony."

11 MR. KLUGER: Why would that -- maybe I'm not following  
12 why that would be -- what the distinction is.

13 THE COURT: The distinction is as follows. This goes  
14 back to what I said at the outset. The predominantly affected  
15 person in all of this is Vance Collins, and I am fearful that  
16 the reference to a balcony may link Mr. Collins to the  
17 statement in not a fair way. You know, you look at the Second  
18 Circuit case law. It's not that the jury is never supposed to  
19 tie Mr. Collins to the statement, it's that the statement  
20 doesn't do it on its own. And so I'm concerned that if there  
21 is a picture of Mr. Collins' balcony introduced by somebody, or  
22 testimony that comes out about a balcony, Mr. Collins is linked  
23 to the statement in a way that may be prohibited by Second  
24 Circuit case law. That's why -- that's the distinction between  
25 "in the front of the house," his house, and "his balcony,"

K8bdcolm

## Tele-Motion

1 because I can take judicial notice that houses have fronts.

2 MR. KLUGER: Right. Given that understanding, Judge,  
3 and limited to that statement, no, I have no objection to that.

4 THE COURT: OK. Now let me hear from the government.  
5 Where does the government stand on this?

6 MS. COHEN: So, your Honor, a couple of things.

7 One, you're absolutely right that the state of the law  
8 in this circuit is the question of whether the statement  
9 standing alone, it directly implicates the codefendant. And  
10 the way it's described by the Circuit in I believe Jass and  
11 other cases is that if it's the first piece of evidence offered  
12 in a case, which I think should give your Honor comfort that,  
13 frankly, even if a photograph of the house were to come in,  
14 whether it be testimony about what the house looks like, that  
15 would not make this -- the current proposal by the government  
16 run afoul of Bruton, because you look at the transcript  
17 imagining Government's Exhibit 1 comes in as the very first  
18 thing at trial, before a photo, before any testimony, and it  
19 clearly does not directly implicate Mr. Collins.

20 THE COURT: Listen, I don't want to get into an  
21 academic debate. But what you're saying, if I'm taking it to  
22 its logical conclusion, if Mr. Ramirez said, "He's the guy with  
23 the tattoo of Popeye the Sailor Man who's upside-down on his  
24 arm," you would say -- and Mr. Collins had such a tattoo, and  
25 underneath it it said, you know, "I love Suzie," and all of

K8bdcolm

## Tele-Motion

1 that was on his arm, if that was in the statement and it was  
2 going to come out he had such a tattoo, you believe that would  
3 be fine under Second Circuit case law? Is that what you're  
4 saying?

5 MS. COHEN: Yes, your Honor.

6 THE COURT: You could tie him to the statement through  
7 that identifying detail, you would be allowed to argue that to  
8 the jury?

9 MS. COHEN: I think that's right, and I'm looking for  
10 the case. There is a case we cited in our brief -- and I'm  
11 sorry that I don't have the cite off the top of my head --  
12 where the statement was describing the other person as a person  
13 who was arrested with me that day, and there was evidence that  
14 the codefendant was arrested with him on the same day. I think  
15 that's basically what your Honor is saying. The Circuit says  
16 there is no problem with that.

17 But I can cut this short by just saying I don't -- the  
18 government is fine with the Court's modification, if that makes  
19 the Court more comfortable. I just wanted to make the record  
20 clear that we don't think that that is required under the  
21 Circuit case law, but we have no objection to the change that  
22 the Court is proposing.

23 THE COURT: OK. I'll just direct you to the Jass case  
24 at page 63 about unique physical description such as race, age,  
25 height, and weight, but I don't think I need to get into it.

K8bdcolm

## Tele-Motion

1                   So, I thank everybody for their arguments. Let me  
2 give you my ruling on this.

3                   The government seeks to admit portions of Ramirez's  
4 post-arrest statement that include mention of Collins. And  
5 under Bruton, in a joint criminal trial, a non-testifying  
6 defendant's statement that names his codefendant cannot be  
7 admitted without violating the codefendant's Confrontation  
8 Clause rights.

9                   In Richardson v. Marsh, the Supreme Court held that  
10 the confrontation clause is not violated by the admission of a  
11 non-testifying codefendant's confession with a proper limiting  
12 instruction when the confession is redacted to eliminate not  
13 only the defendant's name but any reference to his or her  
14 existence.

15                   The Second Circuit has held that a redacted statement  
16 in which the names of codefendants are replaced by neutral  
17 pronouns, with no indication to the jury that the original  
18 statement contained actual names and where the statement,  
19 standing alone, does not otherwise connect the codefendant to  
20 the crimes, may be admitted without violating the codefendant's  
21 Bruton rights.

22                   And so the Circuit says -- the question is, one, did  
23 the redacted statement give any indication to the jury that the  
24 original statement contained actual names, and, two, did the  
25 statement, standing alone, otherwise connect codefendants to

K8bdcolm

## Tele-Motion

1 the crime? And the Circuit has approved neutral words like  
2 "friend," "another guy," "another person," "individual" or  
3 "person." There was one instance in the Taylor case that was  
4 condemned by the Circuit because it was convoluted, stilted  
5 language that did not -- that was totally unnatural. The quote  
6 was, "The robbery was the idea of the person who waited with  
7 Luana, Miller and Taylor at the gas station."

8 So the standard is, taken together, these cases  
9 suggest that a permissible redacted statement must not be  
10 obviously redacted in a way that indicates that the original  
11 statement contained actual names, must sound natural enough  
12 that it resembles the statement of a person who was  
13 deliberately shielding the specific identity of his  
14 confederate, and must not, standing alone, facially incriminate  
15 or connect the defendant to the crime. And so I find, based on  
16 my careful review of the transcript, that this transcript, with  
17 the government's proffered redactions and changes, does so.

18 I will order the change on line 90. So instead of  
19 reading, "I mentioned it to him or someone," it will say, "I  
20 mentioned it to a guy," and then strike out the repetition, "I  
21 mentioned it to him to do it, I just mentioned it to him." so  
22 it will just say, "I mentioned it to a guy," and pick up with  
23 the words, "and he said, 'don't worry about it,'" etc.

24 So that is that change.

25 And also on page 11, at lines 272, 273, instead of

K8bdcolm

## Tele-Motion

1 reading, "So I went there one day and he was in his balcony,"  
2 it will read, "So I went there one day and he was in the front  
3 of his house."

4 Otherwise, the statement will stand. And with regard  
5 to -- and so it satisfies the Bruton case law of the Circuit,  
6 and Mr. Collins' objection is therefore overruled.

7 Mr. Ramirez's objection, I take it, is one to the  
8 admission of the statement because it overall is prejudicial to  
9 Mr. Ramirez, but the probative value of the defendant's own  
10 statement is substantially outweighed by the danger of any  
11 unfair prejudice. It's admissible under the law of evidence as  
12 the witness' statement. And the redactions, deletions, and  
13 substitutions do not enhance the probative end or the probative  
14 value of the statement. It doesn't make it more incriminating  
15 than it is without those redactions and changes. So the  
16 objection by Mr. Ramirez is overruled.

17 Let me move on to a point that Mr. Kluger raised, but  
18 I just want to get clarification on it. Earlier on -- and this  
19 is fine, but earlier on in the case, he had indicated that  
20 under the rule of completion, or completeness, that he wanted  
21 the entirety of the post-arrest statement received into  
22 evidence under Rule 106 of the Federal Rules of Evidence, the  
23 rule of completeness.

24 Am I correct, Mr. Kluger, that that request is  
25 withdrawn at this time?

## UNITED STATES DISTRICT COURT

Southern District of New York

UNITED STATES OF AMERICA	)	JUDGMENT IN A CRIMINAL CASE
v.	)	
VANCE COLLINS	)	Case Number: 1: S1 19 CR 00395-001 (PKC)
	)	USM Number: 86959-054
	)	Eric R. Breslin, Esq. (AUSA, Adam Hobson)
	)	Defendant's Attorney

**THE DEFENDANT:**

- pleaded guilty to count(s) \_\_\_\_\_
- pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.
- was found guilty on count(s) 1, 2 and 3. after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1958	Conspiracy to Commit Murder-for-Hire	12/31/2018	1
18 U.S.C. § 1958	Murder-for-Hire	12/31/2017	2
18 USC 922(g)(1)	Felon in Possession of a Firearm	6/13/2019	3

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) \_\_\_\_\_
- Count(s) all underlying  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

5/12/2021

Date of Imposition of Judgment

Signature of Judge



P. Kevin Castel, U.S.D.J.

Name and Title of Judge



Date

DEFENDANT: VANCE COLLINS

CASE NUMBER: 1: S1 19 CR 00395-001 (PKC)

**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

120 months on each Count 1 and 2 to run concurrently and  
24 months on Count 3 to run consecutively to Counts 1 and 2 for a total of 144 months.

The court makes the following recommendations to the Bureau of Prisons:

- (1) defendant serve his sentence as close as possible to New York City to facilitate family visits; and
- (2) defendant be evaluated for appropriate drug treatment programs.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

- at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_
- as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- before 2 p.m. on \_\_\_\_\_
- as notified by the United States Marshal.
- as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: VANCE COLLINS

CASE NUMBER: 1: S1 19 CR 00395-001 (PKC)

**SUPERVISED RELEASE**

Upon release from imprisonment, you will be on supervised release for a term of:

3 years.

**MANDATORY CONDITIONS**

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.  
 The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4.  You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5.  You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6.  You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7.  You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: VANCE COLLINS  
CASE NUMBER: 1: S1 19 CR 00395-001 (PKC)

## STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. You must follow the instructions of the probation officer related to the conditions of supervision.

## U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: VANCE COLLINS

CASE NUMBER: 1: S1 19 CR 00395-001 (PKC)

**SPECIAL CONDITIONS OF SUPERVISION**

You will participate in an outpatient treatment program approved by the United States Probation Office, which program may include testing to determine whether you have reverted to using drugs or alcohol. You must contribute to the cost of services rendered based on your ability to pay and the availability of third-party payments. The Court authorizes the release of available drug treatment evaluations and reports, including the presentence investigation report, to the substance abuse treatment provider.

You shall submit your person, and any property, residence, vehicle, papers, computer, other electronic communication, data storage devices, cloud storage or media, and effects to a search by any United States Probation Officer, and if needed, with the assistance of any law enforcement. The search is to be conducted when there is reasonable suspicion concerning violation of a condition of supervision or unlawful conduct by the person being supervised. Failure to submit to a search may be grounds for revocation of release. You shall warn any other occupants that the premises may be subject to searches pursuant to this condition. Any search shall be conducted at a reasonable time and in a reasonable manner.

It is recommended that you be supervised by the district of residence.

DEFENDANT: VANCE COLLINS

CASE NUMBER: 1: S1 19 CR 00395-001 (PKC)

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

<b>TOTALS</b>	<b>Assessment</b>	<b>Restitution</b>	<b>Fine</b>	<b>AVAA Assessment*</b>	<b>JVTA Assessment**</b>
	\$ 300.00	\$	\$	\$	\$

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	----------------------	----------------------------	-------------------------------

<b>TOTALS</b>	\$ <u>0.00</u>	\$ <u>0.00</u>
---------------	----------------	----------------

Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the  fine  restitution.

the interest requirement for the  fine  restitution is modified as follows:

\* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

\*\* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

\*\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: VANCE COLLINS

CASE NUMBER: 1: S1 19 CR 00395-001 (PKC)

**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A  Lump sum payment of \$ 300.00 due immediately, balance due

not later than \_\_\_\_\_, or  
 in accordance with  C,  D,  E, or  F below; or

B  Payment to begin immediately (may be combined with  C,  D, or  F below); orC  Payment in equal \_\_\_\_\_ (*e.g., weekly, monthly, quarterly*) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (*e.g., months or years*), to commence \_\_\_\_\_ (*e.g., 30 or 60 days*) after the date of this judgment; orD  Payment in equal \_\_\_\_\_ (*e.g., weekly, monthly, quarterly*) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (*e.g., months or years*), to commence \_\_\_\_\_ (*e.g., 30 or 60 days*) after release from imprisonment to a term of supervision; orE  Payment during the term of supervised release will commence within \_\_\_\_\_ (*e.g., 30 or 60 days*) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; orF  Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

 Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
---	--------------	-----------------------------	--

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
:  
UNITED STATES OF AMERICA : SUPERSEDING INDICTMENT  
:  
- v. - : S1 19 Cr. 395 (PKC)  
:  
VANCE COLLINS, :  
a/k/a "Big AK," and :  
:  
RAMON RAMIREZ, :  
a/k/a "Obendy," :  
:  
Defendants. :  
:  
----- X

COUNT ONE  
(Murder-for-Hire Conspiracy)

The Grand Jury charges:

1. From at least in or about 2017 through in or about 2018, in the Southern District of New York and elsewhere, VANCE COLLINS, a/k/a "Big AK," and RAMON RAMIREZ, a/k/a "Obendy," the defendants, and others known and unknown, knowingly did combine, conspire, confederate, and agree together and with each other to travel in and cause another to travel in interstate and foreign commerce, and to use and cause another to use a facility of interstate and foreign commerce, with intent that a murder be committed in violation of the laws of a State and the United States as consideration for the receipt of, and as consideration for a promise and agreement to pay, a thing of pecuniary value, to wit, COLLINS and RAMIREZ agreed to pay someone to murder an

individual believed to be having an affair with RAMIREZ's wife.

(Title 18, United States Code, Sections 1958.)

**COUNT TWO**

(Murder-for-Hire)

The Grand Jury also charges:

2. In or about late 2017, in the Southern District of New York and elsewhere, VANCE COLLINS, a/k/a "Big AK," and RAMON RAMIREZ, a/k/a "Obendy," the defendants, did travel in and cause another person to travel in interstate and foreign commerce, and did use and cause another person to use a facility of interstate and foreign commerce, with intent that a murder be committed in violation of the laws of a State and the United States as consideration for the receipt of, and as consideration for a promise and agreement to pay, a thing of pecuniary value, and aided and abetted the same, to wit, COLLINS and RAMIREZ agreed to pay someone to murder an individual believed to be having an affair with RAMIREZ's wife.

(Title 18, United States Code, Sections 1958 and 2.)

**COUNT THREE**

(Felon in Possession of a Firearm)

The Grand Jury also charges:

3. On or about June 13, 2019, in the Southern District of New York and elsewhere, VANCE COLLINS, a/k/a "Big AK," the defendant, knowing he had previously been convicted in a court

of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess a firearm, to wit, a .25 caliber Phoenix Arms pistol, Raven model, a .25 caliber Beretta pistol, model 418, and a .44 caliber Rossi revolver, model M720, and the firearms were in and affecting commerce.

(Title 18, United States Code, Sections 922(g)(1) and 2.)

FORFEITURE ALLEGATION

4. As a result of committing the offenses alleged in Counts One and Two of this Indictment, VANCE COLLINS, a/k/a "Big AK," and RAMON RAMIREZ, a/k/a "Obendy," the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28 United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense that the defendants personally obtained.

SUBSTITUTE ASSETS PROVISION

5. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981; Title 21, United States Code, Section 853; and Title 28, United States Code, Section 2461.)

  
\_\_\_\_\_  
FOREPERSON

  
\_\_\_\_\_  
GEOFFREY S. BERMAN  
United States Attorney

Form No. USA-33S-274 (Ed. 9-25-58)

---

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA

v.

VANCE COLLINS, a/k/a "Big AK," and  
RAMON RAMIREZ, a/k/a "Obendy,"

Defendants.

---

INDICTMENT

S1 19 Cr. 395 (PKC)

(18 U.S.C. §§ 1958, 922(g)(1), and 2.)

GEOFFREY S. BERMAN

United States Attorney

         2/5/20

Foreperson

---

2/5/2020 SUPERSEDING INDICTMENT FILED  
HON. SARAH NETBURN, USMS



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x  
:  
UNITED STATES OF AMERICA :  
:  
- v. - :  
:  
VANCE COLLINS, : S1 19 Cr. 395 (PKC)  
a/k/a "Big AK," and :  
:  
RAMON RAMIREZ, :  
a/k/a "Obendy," :  
:  
Defendants. :  
----- x

**MEMORANDUM OF LAW IN SUPPORT OF THE  
GOVERNMENT'S MOTIONS *IN LIMINE***

GEOFFREY S. BERMAN  
United States Attorney  
Southern District of New York  
Attorney for the United States of America

Celia V. Cohen  
Christopher D. Brumwell  
Assistant United States Attorneys  
- *Of Counsel* -

## **TABLE OF CONTENTS**

<b>I.</b>	<b>Motion to Admit Portions of Ramirez's Post-Arrest Statement.....</b>	<b>2</b>
<b>II.</b>	<b>Motion to Admit Certain Uncharged Acts.....</b>	<b>4</b>
A.	Applicable Law .....	5
1.	Other Acts Evidence as Direct Proof of the Charged Crimes .....	5
2.	Federal Rule of Evidence 404(b).....	5
B.	Discussion .....	7
<b>III.</b>	<b>Motion to Preclude Expert Testimony .....</b>	<b>10</b>
A.	Applicable Law .....	10
B.	Discussion .....	10
<b>IV.</b>	<b>Motion to Preclude Cross-Examination Regarding Certain Matters .....</b>	<b>11</b>
A.	Applicable Law .....	11
B.	Discussion .....	15
1.	Prior Convictions that Do Not Bear on Cooperating Witnesses' Truthfulness .....	15
2.	Arrests Not Resulting in a Conviction.....	16
3.	Details of the August 2018 Murder .....	17
4.	[REDACTED] .....	18
5.	Witnesses' Personal Drug Use .....	19
<b>CONCLUSION .....</b>		<b>20</b>

## **PRELIMINARY STATEMENT**

The Government respectfully submits this memorandum in support of its motions *in limine* in advance of trial against defendants Vance Collins, a/k/a “Big AK,” and Ramon Ramirez, a/k/a “Obendy,” which is scheduled to begin on April 6, 2020. The Government moves *in limine* on the following four matters:

- (1) Ramirez’s post-arrest statement should be admitted, subject to certain limited redactions;
- (2) Evidence of Collins’ membership in the Piru Bloods and related criminal activity should be admitted both as direct evidence and as permissible evidence of prior bad acts pursuant to Rule 404(b) of the Federal Rules of Evidence;
- (3) Expert testimony regarding Santeria and related religions should be precluded under Rule 702 of the Federal Rules of Evidence; and
- (4) Cross-examination of the Government’s cooperating witnesses with respect to certain irrelevant, cumulative, harassing, or unfairly prejudicial subjects should be precluded under Rules 401, 403, 608, 609, and 611 of the Federal Rules of Evidence.

## **BACKGROUND**

At least as early as 2016, Vance Collins was a member of a gang known as the Piru Bloods, and was the leader of a Bronx-based subset of the Piru Bloods (the “Bronx Piru Bloods”). An individual who is now cooperating with the Government (“CW-1”) will testify that in 2016, Collins recruited CW-1 to become a member of the Bronx Piru Bloods, telling CW-1 that he would provide him with a marijuana supplier, as well as influence over other members of the gang. CW-1 will testify that there were several other members of the Bronx Piru Bloods under Collins, and that Collins also had connections to other Piru Bloods sets in other parts of the country.

CW-1 joined the Bronx Piru Bloods and, as a member and subordinate to Collins, sold marijuana on consignment for Collins. CW-1 also agreed to help collect debts, engage in extortion through force, and carried out an assault at Collins' direction. CW-1 will testify that after joining the Bronx Piru Bloods, he saw Collins with firearms and discussed with Collins the fact that Collins kept firearms in his home.

In 2017, after CW-1 had joined the Bronx Piru Bloods, Collins told CW-1 that Collins wanted him to murder someone (the "Intended Victim") for a friend of Collins' known to CW-1 as "Obendy" (who the Government has identified as defendant Ramon Ramirez). According to CW-1, Collins told CW-1 that he would receive cash, forgiveness of marijuana-related debts to Collins, and potentially other benefits if he murdered the Intended Victim (the "Murder for Hire Plot").

Collins informed CW-1 that Ramirez wanted the Intended Victim dead because the Intended Victim was having an affair with Ramirez's wife. In his post-arrest interview, Ramirez admits, among other things, that he wanted the Intended Victim to be harmed because of the affair, that he put a GPS tracker on his wife's car and on one occasion followed her to the Intended Victim's residence, and that he had a dispute with her over the affair, which led to the police being called.

During 2018, Collins continued pressuring CW-1 to murder the Intended Victim. In August 2018, CW-1 and another individual ("CW-2") committed an unrelated murder in Westchester County in connection with a drug dispute (the "August 2018 Murder").<sup>1</sup> Afterwards, CW-1 asked CW-2 whether he would assist him in carrying out the Murder for Hire

---

<sup>1</sup> CW-1 and CW-2 have pleaded guilty to various charges pursuant to cooperation agreements, including to one violation each of 18 U.S.C. § 924(j) for their role in the August 2018 Murder. They are currently awaiting sentencing.

Plot, and CW-2 agreed. Fortunately, CW-1 and CW-2 did not complete the Murder for Hire Plot before they were arrested.

On June 13, 2019, Collins was arrested pursuant to a warrant issued in connection with the Indictment in this case. On the day of his arrest, members of the FBI recovered three firearms in his residence—a .44 caliber Rossi revolver, a .25 caliber Phoenix Arms pistol, and a .25 caliber Beretta.

Consistent with the foregoing, the Government intends to proceed against Collins and Ramirez on the following two charges, and against Collins on the third charge:

- (1) Participating in a conspiracy to hire CW-1 to murder the Intended Victim during 2017 and 2018, in violation of 18 U.S.C. § 1958;
- (2) Hiring CW-1 to murder the Intended Victim, in violation of 18 U.S.C. §§ 1958 and 2;
- (3) Possession by Collins, who has prior felony convictions, of the three firearms found at his residence during the June 13, 2019 search, in violation of 18 U.S.C. § 922(g) and 2.

## ARGUMENT

### **I. Motion to Admit Portions of Ramirez's Post-Arrest Statement**

The Government intends to offer in its case-in-chief portions of Ramirez's post-arrest statement. These statements are admissible against Ramirez as non-hearsay admissions by a party opponent pursuant to Federal Rule of Evidence 801(d)(2). However, because Ramirez's trial is joined with that of Collins, and because Collins is named in portions of Ramirez's post-arrest statement, the Government proposes to offer a redacted version of the post-arrest statement in order to comply with the dictates of *Bruton v. United States*, 391 U.S. 123 (1968), which prohibits the introduction of testimonial statements from a non-testifying co-defendant that clearly inculpate other defendants in the case. A transcript of the portions of Ramirez's

post-arrest statement that the Government intends to offer, including proposed redactions, is attached hereto as Exhibit A.<sup>2</sup>

As the Second Circuit has repeatedly held, “a redacted statement in which the names of co-defendants are replaced by neutral pronouns, with no indication to the jury that the original statement contained actual names, and where the statement standing alone does not otherwise connect co-defendants to the crimes, may be admitted without violating a co-defendant’s *Bruton* rights.” *United States v. Tutino*, 883 F.2d 1125, 1135 (2d Cir. 1989). Such redactions need not eliminate entirely the existence of co-defendants, but can instead use generic terms to replace names present in the original statement. *See, e.g., United States v. Jass*, 569 F.3d 47, 60 (2d Cir. 2009) (upholding redaction of co-defendant’s name to “another person”); *United States v. Yousef*, 327 F.3d 56, 149 (2d Cir. 2003) (upholding redaction of co-defendant’s name to “my neighbor”); *United States v. Kyles*, 40 F.3d 519, 526 (2d Cir. 1994) (upholding redaction of co-defendant’s name to “he”); *United States v. Williams*, 936 F.2d 698, 701 (2d Cir. 1991) (upholding redaction of co-defendant’s name to “this guy”); *United States v. Benitez*, 920 F.2d 1080, 1087 (2d Cir. 1990) (upholding redaction of co-defendant’s name to “friend”); *Tutino*, 883 F.2d at 1135 (substitution of “others,” “other people,” and “another person” for names of co-

---

<sup>2</sup> Because *Bruton*’s concerns derive from the inability of the implicated defendant to cross-examine a non-testifying co-defendant, these considerations become moot if Ramirez elects to testify at trial. Should Ramirez testify, the Government intends to confront him with the specifics of his post-arrest statement, including the identity of the individual he named as his co-conspirator in the charged offenses. If Ramirez denies identifying Collins, the Government will offer the details of Ramirez’s prior inconsistent post-arrest statement, including the identity of his co-defendant, in rebuttal, pursuant to Fed. R. Evid. 613(b) (allowing impeachment with prior inconsistent statement). Because Collins will have had an opportunity to cross-examine Ramirez, introduction of his identity through Ramirez’s other statements poses no *Bruton* or other Confrontation Clause concern. *See Nelson v. O’Neil*, 402 U.S. 622, 627 (1971) (finding no *Bruton* problem with admission of an out-of-court confession identifying a co-defendant where the declarant “takes the witness stand, . . . but denies that he made the statement and claims that its substance is false.”).

defendants). In evaluating whether redactions are sufficient, the Second Circuit has “uniformly held that the appropriate analysis to be used when applying the *Bruton* rule requires that we view the redacted confession in isolation from the other evidence introduced at trial. If the confession, when so viewed, does not incriminate the defendant, then it may be admitted with a proper limiting instruction even though other evidence in the case indicates that the neutral pronoun is in fact a reference to the [co-]defendant.” *Williams*, 936 F.2d at 700–01. In other words, “[s]o long as the confession standing alone is not incriminating, even if the confession taken together with other evidence implicates the defendant, the confession may be admitted.” *United States v. Wimbley*, 18 F. App’x 24, 27-28 (2d Cir. 2001). This is true even when the redacted statement interlocks with additional evidence to implicate a co-defendant. *United States v. Martinez-Montilla*, 135 F. Supp. 2d 422, 424 (S.D.N.Y. 2001) (explaining that “the *Bruton* rule is not violated even where the interlocking of the redacted statements with other evidence at trial could conclusively lead to the identification of the individual referred to through neutral pronouns as the codefendant” (citing *Williams*, 936 F.2d at 700; *United States v. Smith*, 198 F.3d 377, 385 (2d Cir. 1999)).

Because, consistent with the longstanding case law of this Circuit, the proposed redactions to Ramirez’s post-arrest statement adequately address any *Bruton* issue, the statement as contained in Exhibit A should be admitted at trial.

## II. Motion to Admit Certain Uncharged Acts

For the reasons detailed below, the Government should be permitted to elicit, as direct evidence of the charged murder-for-hire conspiracy and, alternatively, under Rule 404(b)(2): (1) Collins’ role as CW-1’s superior in the Bronx Piru Bloods, (2) the fact that this relationship involved CW-1 committing crimes at Collins’ direction, and (3) that Collins had access to weapons.

## A. Applicable Law

### 1. Other Acts Evidence as Direct Proof of the Charged Crimes

Direct evidence is “not confined to that which directly establishes an element of the crime.” *United States v. Gonzalez*, 110 F.3d 936, 941 (2d Cir. 1997). As the Second Circuit has explained, “[t]o be relevant, evidence need only tend to prove the government’s case, and evidence that adds context and dimension to the government’s proof of the charges can have that tendency.” *Id.*; *accord United States v. Coonan*, 938 F.2d 1553, 1561 (2d Cir. 1991). The Second Circuit has repeatedly held that actions and statements are admissible as direct evidence of the crimes charged, and are “not considered other crimes evidence under” Federal Rule of Evidence 404(b), if (a) they “arose out of the same transaction or series of transactions as the charged offense,” (b) they are “inextricably intertwined with the evidence regarding the charged offense,” or (c) they are “necessary to complete the story of the crime on trial.” *United States v. Carboni*, 204 F.3d 39, 44 (2d Cir. 2000) (internal quotation marks and citation omitted); *see also United States v. Quinones*, 511 F.3d 289, 309 (2d Cir. 2007). In the context of a conspiracy charge, evidence that shows “the development of a relationship of trust between the participants” is admissible as direct evidence of the charged conspiracy. *United States v. Pascarella*, 84 F.3d 61, 73 (2d Cir. 1996); *accord United States v. Escalera*, 536 F. App’x 27, 32 (2d Cir. 2013) (uncharged narcotics sales, even if not inextricably intertwined with charged narcotics sales, were properly admitted “as background to the conspiracy, helping the jury understand how the illegal relationship among the participants developed”).

### 2. Federal Rule of Evidence 404(b)

Federal Rule of Evidence 404(b) allows evidence of uncharged crimes, wrongs, or other acts for any purpose other than showing the defendant’s propensity to commit crimes. *See Fed. R. Evid. 404(b)*. Such evidence is admissible if (1) advanced for a proper purpose; (2) relevant

to the crimes for which the defendant is on trial; (3) more probative than prejudicial; and (4) admitted subject to a limiting instruction, if such an instruction is requested. *See United States v. Zackson*, 12 F.3d 1178, 1182 (2d Cir. 1993); *United States v. Ramirez*, 894 F.2d 565, 568 (2d Cir. 1990) (citing *Huddleston v. United States*, 485 U.S. 681, 691-92 (1988)). The Second Circuit follows an “inclusionary approach” under which “prior act evidence is admissible ‘for any purpose other than to show a defendant’s criminal propensity.’” *United States v. Dupree*, 870 F.3d 62, 76 (2d Cir. 2017) (quoting *United States v. Mejia*, 545 F.3d 179, 206 (2d Cir. 2008)).

Other act evidence is routinely admitted “to inform the jury of the background of the conspiracy charged, in order to help explain how the illegal relationship between participants in the crime developed, or to explain the mutual trust that existed between coconspirators.” *Id.* (citing *United States v. Diaz*, 176 F.3d 52, 79 (2d Cir. 1999)); *see also, e.g., United States v. Romero-Padilla*, 583 F.3d 126, 130 (2d Cir. 2009) (although evidence of defendant’s previous plans with a co-conspirator to import narcotics “did not concern the charged conspiracy, it was relevant background evidence” because, among other reasons, “it corroborated the charge that [the co-conspirator] and [defendant] were partners during the charged conspiracy”); *United States v. Guang*, 511 F.3d 110, 121 (2d Cir. 2007) (affirming admission of other acts evidence to show how “illegal relationship” between co-conspirators evolved); *United States v. Fabian*, 312 F.3d 550, 557 (2d Cir. 2002) (affirming admission of prior drug dealing convictions in a robbery case where the evidence showed the co-conspirators’ “long-standing friendship” and “made the allegation that [one co-conspirator] had served as a tipster for the robbery more likely”); *United States v. Williams*, 205 F.3d 23, 33-34 (2d Cir. 2000) (affirming admission of prior narcotics, fraud, and abuse-of-process crimes with co-conspirators “to inform the jury of the background

of the conspiracy charged, to complete the story of the crimes charged, and to help explain to the jury how the illegal relationship between the participants in the crime developed.”” (quoting *United States v. Pitre*, 960 F.2d 1112, 1119 (2d Cir. 1992)); *United States v. Pipola*, 83 F.3d 556, 565-66 (2d Cir. 1996) (noting that “legitimate purpose[s] for presenting evidence of extrinsic acts” under Rule 404(b) include “explain[ing] how a criminal relationship developed,” and “help[ing] the jury understand the basis for the co-conspirators’ relationship of mutual trust”); *United States v. Langford*, 990 F.2d 65, 70 (2d Cir. 1993) (affirming admission of prior, uncharged crimes between co-conspirators to show how the illegal relationship between co-conspirators evolved); *United States v. Rosa*, 11 F.3d 315, 333-34 (2d Cir. 1993) (evidence of prior drug dealing properly admitted to show development of illegal relationship between defendant and co-conspirator and to explain how defendant came to play important role in conspiracy).

## B. Discussion

As described above, witness testimony will establish that Collins was the leader of the Bronx Piru Bloods. As the Second Circuit has observed, “courts routinely admit evidence of gang membership . . . where the evidence is relevant for a proper purpose,” *United States v. Williams*, 930 F.3d 44, 63 (2d Cir. 2019), and here, Collins’ membership and leadership position in the Piru Bloods, as well as his participation in the gang’s activities, is admissible both as direct evidence of the charged murder-for-hire conspiracy and under Rule 404(b).

Collins’ affiliation with the Piru Bloods and his participation in the gang’s criminal activities underlie the connection between the co-conspirators in this case. *Diaz*, 176 F.3d at 79-80 (gang affiliation admissible to prove “the illegal relationship between participants in the crime, or to explain the mutual trust that existed between coconspirators”). In particular, it is necessary to explain how CW-1 met Collins and, because CW-2 only knew Collins as CW-1’s “Big Homey”

in the Bronx Piru Bloods, it is necessary to CW-2's explanation of who passed the order to kill the Intended Victim. CW-1's and Collins' membership in the Piru Bloods is also necessary to explain why Collins trusted CW-1 to carry out the Murder for Hire Plot, and conversely, why CW-1 trusted that Collins would compensate him—through marijuana and other means—for committing the murder.

Additionally, the marijuana distribution, extortion, and assault that CW-1 agreed to carry out as a member of the Bronx Piru Bloods and under Collins' direction is admissible to show the hierarchical nature of their relationship and that the relationship involved criminal activity, including violence. The marijuana distribution is particularly probative because part of CW-1's compensation for killing the Intended Victim included forgiveness of CW-1's marijuana-related debts to Collins. *Williams*, 205 F.3d at 33-34 (quoting *Pitre*, 960 F.2d at 1119). Thus, Collins' criminal activity with the Bronx Piru Bloods is admissible as direct evidence because it is "inextricably intertwined with the evidence regarding the charged offense," and "necessary to complete the story of the crime on trial." *Carboni*, 204 F.3d at 44; *see also United States v. Inserra*, 343 F.3d 83, 89 (2d Cir. 1994) ("[E]vidence of other bad acts may be admitted to provide the jury with the complete story of the crimes charged by demonstrating the context of certain events relevant to the charged offense.").

Additionally, Collins' affiliation with the Piru Bloods is relevant to proving motive, opportunity, planning, and preparation for the charged crimes. Collins' membership and leadership in the Piru Bloods gave him access to and control over CW-1, which is displayed in the fact that CW-1 committed other crimes at his direction. This evidence is therefore admissible to show Collins' opportunity to carry out the Murder for Hire Plot, as well as to explain how he planned and prepared to carry it out. *Williams*, 930 F.3d at 63 (collecting cases); *United States v.*

*Santiago*, 46 F. 3d 885,889 (9th Cir. 1995) (admitting evidence of gang affiliation to prove motive, planning, and opportunity to acquire murder weapon). Likewise, since CW-1 was subordinate to Collins in the Bronx Piru Bloods, Collins' affiliation in the gang is admissible to explain that CW 1's motive for agreeing to the Murder for Hire Plot included the fact that his gang leader asked him to do so.

Finally, Collins' prior possession of firearms is admissible to prove his access to weapons that could be used to carry out the Murder for Hire Plot, and, with respect to the firearms charge, to prove his opportunity and absence of mistake with respect possessing such weapons. *United States v. Taylor*, 767 F. Supp. 2d 428, 438 (S.D.N.Y. 2010) (holding in Hobbs Act case that prior gun possession "is directly relevant to the issue of opportunity and absence of mistake and also admissible to demonstrate [the defendant's] ability to access such a weapon"); *United States v. Slaughter*, 248 F. App'x 210, 212 (2d Cir.2007) (finding that at trial for possession of a firearm, admission of evidence relating to defendant's two prior incidents of possession of a semiautomatic handgun was relevant to show defendant's opportunity to be in possession of such firearms); *United States v. Robinson*, 560 F.2d 507, 513 (2d Cir. 1977) (finding that defendant's "possession of the gun was also admissible under [Rule 404(b) ] on the independent ground that it tended to show he had the 'opportunity' to commit the bank robbery, since he had access to an instrument similar to that used to commit it").

Evidence Collins' gang affiliation and related criminal activity is admissible under Rule 403. Collins' membership in the Piru Bloods is no more prejudicial than the gun ownership and murder for hire charges that form the focus of this case. *See United States v. Livoti*, 196 F.3d 322, 326 (2d Cir. 1999) (evidence of uncharged act properly admitted where it "did not involve conduct more inflammatory than the charged crime"). Therefore, because evidence concerning Collins'

gang affiliation and related criminal conduct has several permissible non-propensity purposes, a limiting instruction restricting the jury's use of this evidence to proper 404(b) purposes would be sufficient to mitigate any potential prejudice that could arise. *Williams*, 930 F.3d at 63.

### **III. Motion to Preclude Expert Testimony**

For the reasons detailed below, the Court should preclude the defense from offering expert testimony from Migene Gonzalez-Whippler regarding Santeria and related religions, because that testimony does not satisfy Rule 702(a). *See Exhibit B (2/18/20 Expert Disclosure)*.

#### **A. Applicable Law**

Where "specialized knowledge will assist the trier of fact," an expert witness may give opinion testimony if "(1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case." Fed. R. Evid. 702. District courts have a "gatekeeping" function of ensuring that expert testimony "rests on a reliable foundation" and is "relevant to the task at hand," *Amorgianos v. Romano Enterprises*, 303 F.3d 256, 267 (2d Cir. 2002) (citation and internal quotation marks omitted), and assists the jury by shedding light on activities not within the common knowledge of the average juror, *United States v. Wexler*, 522 F.3d 194, 204 (2d Cir. 2008).

#### **B. Discussion**

The proposed testimony of Ms. Gonzalez-Whippler should be precluded because it will not help the trier of fact understand the evidence or to determine a fact in issue, as required for admission under Rule 702. Indeed, it would be entirely improper for defense counsel to make arguments about how Collins and Ramirez acted or about their state of mind based exclusively on an expert's general testimony about Santeria. Since there is no indication in the defense's notice that the proposed expert has any familiarity with Collins or Ramirez at all—let alone any

knowledge of their personal religious practices and beliefs—it would be mere speculation for the jury to believe that the expert's general testimony about Santeria applies to the particular circumstances in this case. Nor has the defense explained how it would otherwise lay the necessary factual foundation for any such testimony. Courts have upheld excluding this type of general expert testimony regarding cultural and religious beliefs as not helpful to the jury under Rule 702(a). *See, e.g., United States v. Sayakhom*, 186 F.3d 928, 936 (9th Cir. 1999) (upholding exclusion of expert testimony on, *inter alia*, Laotian burial rites and the history in Laos of pooling money for paying burial expenses); *United States v. Rubio-Villareal*, 927 F.2d 1495, 1502 (9th Cir. 1991) (upholding exclusion of expert testimony on Mexican culture concerning “the lifestyles of Mexicans in the lower socio-economic bracket” and claiming that the defendant’s “failure to register his truck is a common phenomenon in Mexico”); *United States v. Hoac*, 990 F.2d 1099, 1103 (9th Cir. 1993) (upholding exclusion of expert testimony “about how Chinese cultural factors might lead [the defendant] to travel long distances for legitimate business dealings”). Accordingly, Ms. Gonzalez-Whippler’s proposed testimony should be precluded.

#### **IV. Motion to Preclude Cross-Examination Regarding Certain Matters**

For the reasons detailed below, the Court should preclude cross-examination about: (1) prior convictions that do not bear on cooperating witnesses’ truthfulness; (2) witnesses’ arrests not resulting in convictions; (3) details of the August 2018 Murder; (4) [REDACTED] and (5) witnesses’ personal drug use.

##### **A. Applicable Law**

Rules 608 and 609 of the Federal Rules of Evidence limit the circumstances under which specific acts of a witness may be introduced at trial, whether through extrinsic evidence or mere questioning of the witness.

Rule 609 governs the admissibility of a witness's prior convictions. Any conviction more than 10 years old (meaning that "more than 10 years have passed since the witness's conviction or release from confinement for it, whichever is later") is presumptively inadmissible unless "its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect." Fed. R. Evid. 609(b). In order to admit a conviction that is more than 10 years old, a court must make an "on-the-record determination supported by specific facts and circumstances that the probative value of the evidence substantially outweighs its prejudicial effect." *United States v. Mahler*, 579 F.2d 730, 736 (2d Cir. 1978). The Second Circuit "ha[s] repeatedly 'recognized that Congress intended that convictions over ten years old be admitted very rarely and only in exceptional circumstances.'" *Farganis v. Town of Montgomery*, 397 F. App'x 666, 669 (2d Cir. 2010) (quoting *Zinman v. Black & Decker (U.S.), Inc.*, 983 F.2d 431, 434 (2d Cir. 1993)).

Within the 10-year timeframe, there are two categories of convictions that must be admitted: (1) evidence of a witness's prior felony conviction, subject to Rule 403; and (2) convictions for crimes of dishonesty or false statements, regardless of whether they are felonies. Fed. R. Evid. 609(a)(1)(A), 609(a)(2). With respect to the second category—*crimen falsi*—a conviction involves a crime of dishonesty or false statements "if the court can readily determine that establishing the elements of the crime required proving—or the witness's admitting—a dishonest act or false statement." Fed. R. Evid. 609(a)(2). However, the Second Circuit has recognized that "Congress meant to narrowly define *crimen falsi*." *United States v. Khalil*, 2005 WL 3117195, at \*2 (2d Cir. Nov. 22, 2005) (citing *United States v. Payton*, 159 F.3d 49, 57 (2d Cir. 1998)). "The use of the second prong of Rule 609(a) is thus restricted to convictions that bear directly on the likelihood that the [witness] will testify truthfully (and not merely on whether he

has a propensity to commit crimes).” *Id.* (quoting *United States v. Hayes*, 553 F.2d 824, 827 (2d Cir. 1977)).

Rule 608 governs the admissibility of both extrinsic and intrinsic evidence of a witness’s prior conduct more generally. Pursuant to Rule 608(b), “extrinsic evidence is not admissible to prove specific instances of a witness’s conduct in order to attack or support the witness’s character for truthfulness,” except for a criminal conviction that falls within the parameters of Rule 609. While the admissibility of extrinsic evidence is thus cabined, the Court “may, on cross-examination, allow [specific instances of a witness’s conduct] to be inquired into,” but only if the instances “are probative of the character for truthfulness or untruthfulness of . . . the witness.” Fed. R. Evid. 608(b)(1). Any such cross-examination also must satisfy Rule 403—that is, specific instances of a witness’s conduct may be inquired into on cross-examination only if their probative value is not substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. *See Fed. R. Evid. 403.* In this context, evidence is unfairly prejudicial if it would invite the jury to decide an issue material to the outcome of the case for reasons that have nothing to do with the factual issues properly before the jury. *See United States v. Harvey*, 991 F.2d 981, 996 (2d Cir. 1993).

More generally, a trial court's discretion to limit the scope of cross-examination is well-established. *See, e.g., United States v. Scarpa*, 913 F.2d 993, 1018 (2d Cir. 1990). Indeed, Rule 611 provides that “[c]ross-examination should not go beyond the subject matter of the direct examination and matters affecting the witness's credibility” and that the Court should “avoid wasting time” and “protect witnesses from harassment or undue embarrassment.” Fed. R. Evid. 611.

Such limitations on cross-examination do not run afoul of the Constitution. As the Supreme Court has explained:

[T]rial judges retain wide latitude insofar as the Confrontation Clause is concerned to impose reasonable limits on such cross-examination [of a prosecution witness] based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant. . . . “[T]he Confrontation Clause guarantees an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish.”

*Delaware v. Van Arsdall*, 475 U.S. 673, 679 (1986) (emphasis in original) (quoting *Delaware v. Fensterer*, 474 U.S. 15, 20 (1985)). “As long as a defendant's right to confront the witnesses against him is not violated, limitations on cross-examination are not grounds for reversal,” *United States v. Roldan-Zapata*, 916 F.2d 795, 806 (2d Cir. 1990), and “[t]he decision of the trial court to restrict cross-examination will not be reversed on appeal unless its broad discretion has been abused,” *United States v. Maldonado-Rivera*, 922 F.2d 934, 956 (2d Cir. 1990). “A trial judge does not abuse his [or her] discretion by curtailing cross-examination as long as the jury has ‘sufficient information to make a discriminating appraisal of the particular witness's possible motives for testifying falsely in favor of the government.’” *Scarpa*, 913 F.2d at 1018 (quoting *United States v. Singh*, 628 F.2d 758, 763 (2d Cir. 1980))

## B. Discussion

### 1. Prior Convictions that Do Not Bear on Cooperating Witnesses' Truthfulness

The defense should be precluded from cross-examining cooperating witnesses on the following convictions:

- CW-1: (i) 2005 conviction for criminal sale of a controlled substance in the fifth degree, a felony, for which he was sentenced to one year imprisonment; (ii) 2006 conviction for unlawful possession of a firearm, a felony, for which he was sentenced to 46 months' imprisonment; (iii) 2006 conviction for unauthorized use of a vehicle, a misdemeanor, for which he sentenced to conditional discharge and then resentenced in 2009 to time served; and (iv) 2012 conviction for criminal possession of a controlled substance, a misdemeanor, for which he served 30 days' imprisonment.
- CW-2: a 2017 conviction for criminal possession of a controlled substance in the seventh degree, a misdemeanor, for which was sentenced to three years' probation.

To start, these convictions are inadmissible under Rule 609. CW-1's convictions from 2009 and earlier are presumptively inadmissible under Rule 609(b) because they are each more than 10 years old. *See Mahler*, 579 F.2d at 736; *Farganis*, 397 F. App'x at 669. Moreover, narcotics sales, weapons possession, and unauthorized use of a vehicle are plainly not probative of truthfulness. *See Agostini*, 280 F. Supp. 2d at 261-62 (precluding cross-examination on witness's criminal possession of a weapon conviction and noting "the Second Circuit's inclination to the discussion of a witness's prior commission of violent crimes because of such crimes' lack of relevance to the issue of the witness's veracity"). Accordingly, the defendants

cannot demonstrate that the probative value of these dated convictions “substantially outweighs” their prejudicial effect, as required to overcome the 10-year bar under Rule 609(b). CW-1’s 2012 misdemeanor conviction for criminal possession of a controlled substance in the seventh degree, and CW-2’s 2017 conviction for the same offense, are also inadmissible under Rule 609. While not out of time under Rule 609(b), they are not felonies and did not involve dishonesty or a false statement, as required for admission under Rule 609(a).

Not only should the defense be precluded from offering these convictions under Rule 609, but they should also be precluded from questioning witnesses about the underlying conduct under Rule 608(b)(1) because, for the reasons already explained, the conduct is in no way probative of the witnesses’ credibility.<sup>3</sup>

## 2. Arrests Not Resulting in a Conviction

The defense should be precluded from cross-examining any witness about the fact of an arrest if that arrest did not result in a conviction. As the Supreme Court long-ago recognized: “Arrest without more does not, in law any more than in reason, impeach the integrity or impair the credibility of a witness.” *Michelson v. United States*, 335 U.S. 469, 482 (1948); *see also Woods v. START Treatment & Recovery Centers, Inc.*, 864 F.3d 158, 170 (2d Cir. 2017) (“[A]ccusations have little, if any, probative value because the innocent and guilty alike can be accused of wrongdoing.” (citing *Michelson*, 335 U.S. at 482)). Accordingly, courts in this district routinely preclude cross-examination on the fact of an arrest. *See, e.g., United States v. Urena*, 2014 WL 1303114, at \*3 (S.D.N.Y. Apr. 1, 2014) (“As to the offenses which led to arrests but not

---

<sup>3</sup> The Government notes that in the event the defendants intend to cross-examine any of the Government’s witnesses regarding the criminal history detailed herein, it is the defendants’ burden to demonstrate that the conduct at issue bears on the witness’s credibility. *Khalil*, 2005 WL 3117195, at \*2 (“The proponent of the evidence bears the burden of demonstrating that the conviction was for a crime that involved dishonesty or false statement.”).

convictions, counsel are directed not to elicit the fact of the arrest, which is itself irrelevant.”); *United States v. Mason*, 2000 WL 718447, at \*1 (S.D.N.Y. June 2, 2000) (precluding cross-examination on murder arrest).

### 3. Details of the August 2018 Murder

The defense should not be permitted to probe the details of the August 2018 Murder on cross-examination; such questioning is not probative of truthfulness and serves only to inflame the jury against the cooperating witnesses. The Government anticipates that it will elicit from CW-1 and CW-2 the fact that they participated in the August 2018 Murder, that CW-1 recruited CW-2 into the Murder for Hire Plot thereafter, that they each began cooperating with law enforcement after their respective arrests, and that as part of their cooperation, they have each pled guilty to murder in violation of 18. U.S.C. § 924(j). The defense, however, should be precluded from inquiring about the specific details of the physical violence involved that murder.

As the Second Circuit has observed, acts of violence are not probative of a witness’s character for truthfulness and present significant risk of unfair prejudice. *United States v. Flaharty*, 295 F.3d 182, 191 (2d Cir. 2002) (approving trial court’s prohibition of cross-examination into witness’s participation in a murder because the murder “was not relevant to [the witness’s] credibility”); *United States v. Barnes*, 560 F. App’x 36, 40 (2d Cir. 2014) (affirming district court preclusion of cross-examination regarding torture of a drug dealer victim in the course of a robbery and regarding hate crime because they had no bearing on witnesses’ credibility (citing *United States v. Estrada*, 430 F.3d 606, 618 (2d Cir.2005)); *United States v. Rosa*, 11 F.3d 316, 336 (2d Cir. 1993) (“Nor was it abuse of discretion to exclude evidence of certain types of acts such as rape and burglary as having an insufficient bearing on the witness’s credibility.”). Moreover, even when the acts themselves have some probative value, details about the violence are often precluded under Rule 403. See *United States v. Salim*, 189 F. Supp. 2d 93, 98 (S.D.N.Y. 2002) (exclusion

of disturbing photograph where it was not probative of any issue in dispute); *United States v. Williams*, 181 F. Supp. 2d 267, 302 (S.D.N.Y. 2001) (noting that while proof of violent acts themselves may be admissible to prove the narcotics conspiracy, evidence of the details of those acts not admissible under Rule 403); *United States v. Pimentel*, 2001 WL 185086, at \*8 (E.D.N.Y. January 22, 2001) (limiting cross examination regarding “the details of a gruesome murder” due to concerns over their probative value).

While the Government readily concedes that the fact of the August 2018 Murder is relevant to explaining CW-1 and CW-2’s relationship and their cooperation with law enforcement, the details of that murder are not probative of the witnesses’ credibility or of any factual dispute in the case, and introducing such evidence would needlessly expose the jury to gruesome details about tragic and disturbing violence. This Court should therefore bar the defendants, under Rule 403, from inquiring into such prejudicial details.

4. [REDACTED]

Consistent with the terms of his cooperation agreement, [REDACTED] disclosed to the Government all of the crimes that he has committed, including [REDACTED]

[REDACTED] As detailed in the cooperation agreement, it was determined that this conduct—under the particular facts presented—could not be prosecuted by this Office. [REDACTED] is therefore not receiving “coverage” for this conduct in any meaningful sense. The conduct is nonetheless included in the cooperation agreement as conduct that the sentencing court may take into consideration at sentencing. Because this conduct is not probative of [REDACTED]’s credibility and because it presents significant risk of unfair prejudice, the defense should be precluded from questioning [REDACTED] about it at trial.

The Second Circuit routinely upholds exclusion of evidence of a witness's crimes when those crimes have limited bearing on credibility. *See, e.g., Rosa*, 11 F.3d at 336 ("Nor was it abuse of discretion to exclude evidence of certain types of acts such as rape and burglary as having an insufficient bearing on the witness's credibility."); *United States v. Rabinowitz*, 578 F.2d 910, 912 (2d Cir. 1978) (approving trial court's prohibition of cross-examination into witness's "prior acts of sodomy upon young children" because such acts did not bear on the witness's credibility); *Flaharty*, 295 F.3d at 191 (approving trial court's prohibition of cross-examination into witness's participation in a murder because the murder "was not relevant to [the witness's] credibility"). This is particularly true when the crimes are sexual in nature and their negligible probative value is therefore weighed against the prejudice that would result from putting such crimes before the jury. *See, e.g., United States v. Rodriguez*, 648 F. App'x 9, 11 (2d Cir. 2016); *United States v. Reed*, 570 F. App'x. 104, 109 (2d Cir. 2014); *Rosa*, 11 F.3d at 336; *Rabinowitz*, 578 F.2d at 912; *United States v. Calderon-Urbina*, 756 F. Supp. 2d 566, 570 (S.D.N.Y. 2010); *United States v. Shaw*, 2008 WL 4899541, at \*8 (S.D.N.Y. Nov. 13, 2008); *United States v. Devery*, 935 F. Supp. 393, 408 (S.D.N.Y. 1996), *aff'd sub nom. United States v. Torres*, 128 F.3d 38 (2d Cir. 1997). Consistent with the case law in this Circuit, the defense should therefore be precluded from cross-examining [REDACTED]

##### 5. Witnesses' Personal Drug Use

The defense should be precluded from cross-examining witnesses about personal drug use. While it may be proper to inquire as to whether a witness's capacity to observe and remember was impaired by contemporaneous drug use on a particular occasion, it is not proper to attempt to impeach a witness's credibility on the grounds that he was a drug user. *Dobson v. Walker*, 150 F. App'x 49, 52 (2d Cir. 2005) (distinguishing permissibility of questioning witness about drug use at the time of the event in question from questioning witness about the fact that

she was on her way to use drugs at the time of the event in question). *Cf. United States v. Vitale*, 459 F.3d 190, 196 (2d Cir. 2006) (nothing that drug treatment several years after the pertinent events had only “marginal probative value” concerning witness’s mental capacity during the events about which he testified.”). Thus, absent a showing that any witness was intoxicated during an event about which he will testify, questions about that witness’s personal drug use should not be permitted.

**CONCLUSION**

The Government respectfully requests that the Government’s motions *in limine* be granted.

Dated: New York, New York  
March 3, 2020

Respectfully submitted,

GEOFFREY S. BERMAN  
United States Attorney for the  
Southern District of New York

By: \_\_\_\_\_/s/  
Celia V. Cohen / Christopher D. Brumwell  
Assistant United States Attorneys  
(212) 637-2466/2477

# EXHIBIT A

1 DATE: June 13, 2019  
2  
3 TIME: 7:46 a.m.  
4  
5 PARTICIPANTS: RAMON RAMIREZ  
6 AGENT-1: Male  
7 AGENT-2: Female  
8

9 ABBREVIATIONS: (UI) = Unintelligible  
10 \*\*\*\*\* = portion of recording  
11 redacted

---

12 \*\*\*\*\*  
13

14 [7:57:22]  
15

16 AGENT-1: Now, why don't you tell me about Eric  
17 Santiago?  
18

19 RAMIREZ: Eric Santiago, I know I was mad at a  
20 certain point because he used to work  
21 for me, I feed him and everything, and  
22 then he had an affair with my wife.  
23

24 AGENT-1: Okay.  
25  
26

27 RAMIREZ: Maybe in the moment I was mad, you  
28 know — you know I went to looking  
29 for him and everything because that  
30 moment, what happened in that  
31 moment.

32  
33 AGENT-1: Right, and you were heated.

34  
35 RAMIREZ: And after that, you know, I forgot about  
36 that. I didn't even bother him because at  
37 one time I went about a year ago — my  
38 wife, my, actually, my (UI) he said we  
39 didn't have nothing, we broke up and  
40 everything. And I was looking for her  
41 and I went to his house, I finally found  
42 out the address, didn't even know his  
43 address. I saw my wife's truck, which I  
44 have pictures, in front of his house. And  
45 I called her, I was gonna walk into it,  
46 but then I said, you know, to not end it  
47 like this I didn't do it.

48  
49 \*\*\*\*\*

50 [7:58:44]  
51

52

53 RAMIREZ: So, she told me she was gonna go to  
54 work late. And I said you gonna go to  
55 work at 11? So, I followed her, and I  
56 went to his house, and I went to the  
57 house and I send the pictures and  
58 message to her.

59  
60 AGENT-2: Where does he live?

61  
62 RAMIREZ: In...Queens. By uh, by the Belt  
63 Parkway.

64  
65 AGENT-2: Okay.

66  
67 AGENT-1: So, when did — when did you find out  
68 about Eric and your wife?

69  
70 RAMIREZ: That was way before I met my, even my  
71 godfather and ~~Vance~~.

72  
73 AGENT-1: So, you knew something was going on  
74 for a while.

75  
76 RAMIREZ: Uh, we had, uh, she created some  
77 situation like we supposed to, if you  
78 seen my record I got arrested when I  
79 find out, it was in 2017 or 2016, I got  
80 arrested when I, when I found out...

81 \*\*\*\*\*

82 8:05:10

83 AGENT-1:

84 So, at what point did you tell **Vance**  
85 [someone] about the situation that you  
86 had?

87 RAMIREZ:

88 When uh, when I came back from Cuba.  
89 Because it was still after all that  
90 happened and I mentioned it to **him**  
91 [someone], I mentioned it to him to do  
92 it, I just mentioned it to him, and he  
93 said, “Don’t worry about it, I’ll take  
94 care of it.” And that was what I — what  
95 was the comment, you know. I didn’t  
96 tell him to do anything you know, he  
97 said he’s gonna take care of him you  
98 know like scare him to go away from  
99 my wife. That was all about, but then  
100 after that I lost the communication, you  
101 can check it out on my phone — I  
102 didn’t speak to him for maybe over a  
103 year.

104 AGENT-1:

105 But it did get a little more serious than  
106 just, than just that one conversation.

108 RAMIREZ: What happened is like a, like a, like tell  
109 you, like I mention you before. I was  
110 helping him at the beginning, and he  
111 feel like it—because I was helping him,  
112 he feel like it was a commitment, but he  
113 was a bullshitter. Because he never look  
114 for Eric, he never look for him at all.  
115 And I find out that because when I  
116 met—when I went to his house, the day  
117 when I found out the . . . I put the GPS  
118 on my wife and I met him, I went to his  
119 house and I said, “**Vance**, you told me  
120 all this time you know, you gonna fuck  
121 it up this guy.” He didn’t even know  
122 where he lives and everything. He said,  
123 “No I know where he lives.” “Where he  
124 lives?” “Oh he lives you know by  
125 Maspeth.” I said, “You’re full of shit.”  
126 And I walk away. Because really you  
127 know, when I want to find out things I  
128 can find it—I’m smart enough.

129

130 AGENT-1: But, but you provided him a photo of  
131 Ramsey.

132

133 RAMIREZ: Yes, it’s on the internet.

134

135 AGENT-1: And, and an envelope with the address  
136 on it.

137  
138 RAMIREZ: That's what I'm saying, I'm giving the  
139 address and the picture to him.

140  
141 AGENT-1: Right, you did.

142  
143 RAMIREZ: Yeah, but he never did and ...

144  
145 AGENT-2: When did you do it?

146  
147 AGENT-1: Yeah, I know, but I'm saying, when you  
148 said he didn't know the address, you  
149 gave him the address.

150  
151 RAMIREZ: Yeah, I gave him the address, but he  
152 never went there because like I told you  
153 before he's bullshitting.

154  
155 AGENT-1: Yeah, do you remember, do you  
156 remember the guy he introduced you  
157 to? That was gonna handle it.

158  
159

160 RAMIREZ: He, uh, I met a couple of guys that was  
161 supposed to be his friends. He didn't  
162 tell me who was gonna handle it. He  
163 told me, "Give me the address and his  
164 picture."

165  
166 AGENT-1: (UI) No, you knew who was gonna  
167 handle it.

168  
169 RAMIREZ: I met a couple guys, like I told you  
170 before.

171  
172 AGENT-1: Right.

173  
174 RAMIREZ: I met a couple guys and all of them to  
175 me you know they was just impressing  
176 him or impressing to me, and I know  
177 there was one guy who was arrested in  
178 Westchester and another guy was  
179 arrested in Brooklyn. It was, it was two  
180 guys, so...

181  
182 AGENT-1: How did you know, how, how they  
183 were arrested?

184  
185 RAMIREZ: Because they said these things to  
186 impress when I was talking to them  
187 because when they met me—

188 AGENT-2: You mean prev— they had been  
189 previously arrested?

190  
191 RAMIREZ: Yeah, arrested, arrested before then.

192  
193 AGENT-2: So you knew they had records. Why  
194 were they trying to impress you?

195  
196 RAMIREZ: They were trying to impress because  
197 they say, “Oh if we got arrested for this  
198 you know we can handle this stuff,  
199 right.” And, like I told you before I give  
200 him the picture and he can find on the  
201 internet too because he has a website  
202 and (UI). How do I find out his  
203 address—because I went to my wife  
204 pocket book and I found two address,  
205 one in Far Rockaway and one’s in  
206 Queens, which is uh, by uh, Merrick, uh  
207 I think it’s Merrick Boulevard, Merrick  
208 Boulevard. And I give it to him, but he  
209 never, he never doing anything because  
210 when I ask him—

211  
212 AGENT 2: ~~You gave it, you gave it to Vance?~~

213

214

215 RAMIREZ: Yeah, he tell me “Give me his address,  
216 I’m gonna, we gonna fuck him up.” I  
217 said, “Alright, so here you are.” And he  
218 never did anything because when I went  
219 there, when I find the address and I  
220 went to his house, in front of his house  
221 – I still have pictures, you know, when I  
222 find my wife truck in front of his house,  
223 and I said, “**Vance**, you say you went  
224 looking for this guy, do you know  
225 where he lives?” He said, “Yeah, he  
226 lives in Mas-Maspeth, he moved.” He  
227 still live in the same place. Because my  
228 wife was paying his uh, internet bill, his  
229 (UI) bill, she had the address in her  
230 pocket book. So and I already, you  
231 know, I told (UI) Eric Santiago and they  
232 seen both address.

233  
234 AGENT-1: Alright, now, who — what was the  
235 name of the **[other]** guy that **Vance**  
236 **[you were]** introduced **you** to?

237  
238 RAMIREZ: They never said the names.

239  
240 AGENT-2: Not even like a nickname?

241  
242 AGENT-1: Nickname?

243  
244 RAMIREZ: No, they never said their name.  
245  
246 AGENT-2: What'd they look like?  
247  
248 RAMIREZ: They look like uh, Puerto Rican or  
249 Panamanian, but they had the same  
250 accents, like the Jamaican accent, like  
251 Caribbean accent.  
252  
253 AGENT-2: How tall?  
254  
255 RAMIREZ: They was taller than me like around  
256 maybe 5'11"  
257  
258 AGENT-1: Did you, how many times did you meet  
259 these, it's two different guys – were  
260 they together?  
261  
262 RAMIREZ: No, what happened is they hang out.  
263 That's what I was telling you before,  
264 that was a reason that I distanced myself  
265 also because ~~(UI) they hang out in~~  
266 ~~Vance's house~~, they hang out in his  
267 house and I don't know if they live  
268 there or they sleep there.  
269  
270 AGENT-1: Right.

271  
272 RAMIREZ: So, I went there one day and he was in  
273 his balcony. ~~If you go to Vance house~~  
274 ~~there's a balcony in the front.~~

275  
276 AGENT-1: Right.

277  
278 RAMIREZ: So, one time I met him there, he was  
279 there with them drinking.

280  
281 AGENT-1: The two of them?

282  
283 RAMIREZ: Yeah, with them.

284  
285 AGENT-1: Okay.

286  
287 RAMIREZ: ~~With his cousin and him.~~

288  
289 AGENT-1: ~~And, so you know his cousin?~~

290  
291 RAMIREZ: ~~Yeah, I know his cousin, yeah. So, I~~  
292 ~~saw them both over there.~~

293  
294 AGENT-1: And that's when you guys starting  
295 talking about the situation?

296  
297 RAMIREZ: We men— we mentioned it that day.

299 AGENT-1: Right.

300  
301 RAMIREZ: But he didn't tell, you know he told me  
302 he was gonna handle this guy, he can  
303 handle anything—"Oh this one of my  
304 boys" and because, of course...

305  
306 AGENT-1: You see any guns that day?

307  
308 RAMIREZ: I seen a gun one day that I went to  
309 ~~Vance~~ [his] house, like I said before he  
310 tried to impress me, he bought a gun, I  
311 think it was 30 or something like that.  
312 And he flip it like that.

313  
314 AGENT 1: So you ~~Vance~~ or the other guy?

315  
316 RAMIREZ: ~~Vance. Him~~ I don't remember him, I  
317 don't remember him showing any, any  
318 guns.

319  
320 AGENT 1: Okay, um.

321  
322 AGENT-2: Why did he show you the gun?

323  
324

325 RAMIREZ: Like I said before, you know, they try to  
326 impress you because what happen is  
327 I'm not in that world – I'm not in that  
328 type of people here.

329  
330 AGENT-1: Right.

331  
332 RAMIREZ: So, I'm a tough man, I show you that  
333 I'm tough, and you know.

334  
335 AGENT-1: ~~Right, now what were you gonna give~~  
336 ~~them in return? If they if they took~~  
337 ~~care of it.~~

338  
339 RAMIREZ: ~~He told me he was gonna do it because~~  
340 ~~we brothers, in the religion. And when~~  
341 ~~we are in the room, he told me, you~~  
342 ~~know, I told him the story what~~  
343 ~~happened and he said, "That's fucked~~  
344 ~~up—"~~

345  
346 AGENT-1: Okay—

347  
348 RAMIREZ: “I'm gonna fuck him up,” yeah, you  
349 know, “give him a beat,” or something  
350 like that.

351

352 AGENT-1: Where else did you guys have  
353 conversations?

354

355 RAMIREZ: We have in his house, most of the time  
356 was in his house.

357

358 AGENT-1: You remember the restaurant?

359

360 RAMIREZ: We went to a Jamaican restaurant, yeah  
361 we went to a Jamaican restaurant.

362

363 AGENT-1: Do you remember what it was called?

364

365 RAMIREZ: I don't remember the name, I know it's  
366 in the Bronx, yeah in the Bronx.

367

368 AGENT-1: Fish N' Tings?

369

370 RAMIREZ: Fish N' Tings, yeah. Fish N' Tings,  
371 yeah.

372

373 \*\*\*\*\*

374 [8:12:44 ]

375

376 AGENT-1: The other guy that was with **Vance** [you  
377 guys] when you guys were at the  
378 restaurant – did you ever go to his  
379 house?

380  
381 RAMIREZ: No. Oh yeah, one time – we went to  
382 pick him up in Westchester. I tell you  
383 he's from Westchester – we went to  
384 pick him up from somewhere in  
385 Westchester.

386  
387 AGENT-1: Right.

388  
389 RAMIREZ: ~~Vance~~ know the address, [We] went to  
390 pick him up, we went to the restaurant.

391  
392 \*\*\*\*\*

393 [8:16:50]

394  
395 AGENT-1: Right, I knew you were getting  
396 frustrated too, cause you called him a  
397 few times and you said what's going on  
398 why isn't this getting done. Like you,  
399 you were upset that, um ...

400  
401 RAMIREZ: Yeah I know, because he was  
402 bullshitting me. He said he was gonna  
403 beat him up and I never seen anything  
404 result, right.

405  
406 AGENT-1: Right–

408 RAMIREZ: And that's the reason I went to his  
409 house.

410  
411 \*\*\*\*\*

412 [8:23:07]

413  
414 AGENT-1: But when did it change that he wanted  
415 money?

416  
417 RAMIREZ: To be honest, never ask me for money. I  
418 was helping him because . . . and he  
419 told me at one point—you're right on  
420 that one—one time he told me, “I need  
421 money so I could give it to this guy  
422 money,” but he never, he never give me  
423 price for to do what he does.

424  
425 AGENT-1: He said, “I need money to give it the  
426 guy who was gonna do it”?

427  
428 RAMIREZ: He said, yeah, “The guy is supposed to,  
429 you know, to follow this guy and beat  
430 him” and stuff like that. “I need some  
431 money”—so I give him some money  
432 (UI)

433  
434 AGENT-1: How much – how much did you give  
435 him?

436  
437 RAMIREZ: Two thousand dollars, I think.  
438

439 AGENT-1: Okay.  
440

441 Ramirez: Two thousand something like that.  
442 Around (UI).  
443

444 \*\*\*\*\*

445 [8:27:00]  
446

447 AGENT-1: When you guy— when you guys met,  
448 did you – what'd you give him – how'd  
449 you give him the address? Did you  
450 write it down for him? For Eric – for  
451 Ramsey? Did you write it down for  
452 him?  
453

454 RAMIREZ: I gave him the bill.  
455

456 AGENT-1: The bill, right.  
457

458 RAMIREZ: That Masia, my wife, had in her pocket  
459 book, but I didn't know what address it  
460 was.  
461

462 AGENT-1: There were two addresses?  
463

464 RAMIREZ: Yea, there were two addresses. One for  
465 Far Rockaway, the other one was in  
466 Queens. I didn't know which it was.

467  
468 AGENT-1: Which one was right one?

469  
470 RAMIREZ: Yea.

# EXHIBIT B

NEW YORK  
LONDON  
SINGAPORE  
PHILADELPHIA  
CHICAGO  
WASHINGTON, DC  
SAN FRANCISCO  
SILICON VALLEY  
SAN DIEGO  
LOS ANGELES  
TAIWAN  
BOSTON  
HOUSTON  
AUSTIN  
HANOI  
HO CHI MINH CITY

# DuaneMorris®

*FIRM and AFFILIATE OFFICES*

ERIC R. BRESLIN  
DIRECT DIAL: +1 973 424 2063  
PERSONAL FAX: +1 973 556 1552  
E-MAIL: ERBreslin@duanemorris.com

[www.duanemorris.com](http://www.duanemorris.com)

SHANGHAI  
ATLANTA  
BALTIMORE  
WILMINGTON  
MIAMI  
BOCA RATON  
PITTSBURGH  
NEWARK  
LAS VEGAS  
CHERRY HILL  
LAKE TAHOE  
MYANMAR  
OMAN  
*A GCC REPRESENTATIVE OFFICE  
OF DUANE MORRIS*

ALLIANCES IN MEXICO  
AND SRI LANKA

February 18, 2020

**VIA E-MAIL**

All Counsel:

**Re: United States of America v. Ramon Ramirez and Vance Collins 19 Cr. 395 (PKC)**

Dear Counsel:

Pursuant to Rule 16 (b) (1) (C) of the Federal Rules of Criminal Procedure, counsel for Vance Collins write to provide notice of expert testimony that it may use at trial under Rules 702, 703 and/or 705 of the Federal Rules of Evidence. If you have any objections to the introduction of testimony from this expert witness or any questions regarding the anticipated testimony, please advise counsel as soon as possible.

At trial, the defense expects to offer testimony from Migene Gonzalez-Whippler. Ms. Whippler is an expert on the Afro-Cuban religion of Santería. Ms. Whippler has a Ph.D. in cultural anthropology from Columbia University and lectures frequently at universities and other educational institutions.

Ms. Whippler has published multiple books on Santería. The titles include: *Santería: African Magic in Latin America* (Original Publ'ns 5th ed. 2017) (1973); *Rituals and Spells of Santería* (Original Publ'ns 1984); *Santería: The Religion* (Llewellyn Publ'ns 2d ed. 2019) (1989); *Powers of the Orishas: Santería and the Worship of Saints* (Original Publ'ns 1992).

The defense expects that if called as a witness, Ms. Whippler will testify to:

**The General Beliefs and Practices of Santería**

Ms. Whippler will explain the basic tenets of Santería. Namely, that Santería (also known as Lukumi) is an Afro-Cuban religion and one of the Afro-Caribbean religions developed by the Yoruba people when they were captured in Nigeria and brought as slaves to various places in the

**Duane Morris**

All Counsel:  
 February 18, 2020  
 Page 2

Caribbean and South America. The enslaved Yoruba were forced to convert to Catholicism by the Spanish in Cuba, but preserved their traditions by associating each of their deities, known as “orishas,” with a Catholic saint. There are over 20 orishas worshiped in Santería, and each is associated with different ritualistic practices. Sacred stones are used to represent each orisha, and the stones are kept in specific vessels with certain items depending on the orisha’s personality and attributes.

Similar religions were developed by the slaves in Brazil, Trinidad, and Haiti. Now, it is estimated that 80% of the people in Cuba practice some form of Santería. The religion is also widely practiced in every American city that has a large Latinx or Afro-Caribbean population. There are Santería stores or “botanicas” selling religious items in every borough of New York City, and the religion is practiced by many thousands in the city.

#### Santería Initiation Practices and Religious Rules

Ms. Whippler will testify to the process to become a “santero” or priest in Santería<sup>1</sup>. Only certain practitioners are permitted to undergo the initiation ceremonies necessary to become a santero (priest) or “babalocha” (high priest). The ceremonies are very time-consuming, complicated, and expensive. Many of the ceremonies can cost thousands of dollars. The santero who assists a new initiate with his ceremonies is called the initiate’s “godfather” or “padrino.” The relationship between a godfather and initiate is like that between a parent and child. The initiate has to respect and obey the wishes of his godfather. Other initiates who share the same godfather are considered brothers and sisters and are a part of the same “family.” The ceremonies are so costly because they involve multiple people, can last for days, and require many different supplies.

The initiation ceremonies must be performed in a certain order, and with each ceremony a practitioner increases his rank in the religion. All initiates hoping to become santeros must undergo the initiation of the Warriors. This initiation is considered foundational in Santería and is associated with the warrior orishas Oggun and Ochosi. As part of the initiation, the sacred stones representing Oggun and Ochosi are placed inside of a black cauldron, along with the items associated with each orisha. Oggun is associated with iron and war, so his items include weapons, such as guns and knives, a metal rake, a sledgehammer, an anvil, a pick, a hoe, railroad nails, and other metal objects. Ochosi is associated with a crossbow and arrow. The Warriors initiation is supposed to protect the initiate from evil, and the cauldron is normally placed near the door to one’s home. The warrior orishas must be properly cared for and given offerings of things they like, such as rum, honey, and cigars, in order for the initiate to receive their protection.

---

<sup>1</sup> Men and women are both permitted to become santeros/santeras in Santería, but the male pronoun is used since there are no women involved with this case.

Duane Morris

All Counsel:  
February 18, 2020  
Page 3

The ceremony where an initiate becomes a santero is called the “asiento.” The asiento is very time-consuming and expensive, often costing between four and seven thousand dollars. The actual rituals practiced during the asiento are secret and only allowed to be viewed by other santeros, however it is known that the ceremony lasts for seven days. During the seven days, the initiate’s head is shaved, he must sleep on the floor by his godfather’s bed, and he is not permitted to read or watch television. He is watched and fed like a newborn child by his godfather.

After the asiento, the initiate can return home, but it is still another year before he is considered a santero. During that year, the initiate must follow many specific rules including wearing only white clothing, covering his head when he goes outside, avoiding physical contact with the un-initiated, staying indoors between 6:00 pm and 6:00 am, avoiding all rowdy or social activities, avoiding being photographed, and generally must live a very quiet, peaceful life. During the year, the initiate must also avoid arguing or harming other people, and it is forbidden to commit crimes or carry any weapons with an aggressive purpose. After the asiento, the initiate is considered “reborn” and vulnerable like a baby. The white clothing worn by the initiates, and white linens they must sleep on, are considered symbols of peace and purity. Only after a full year of following the rules, plus an additional seven days, is the initiate finally a santero. Along with the large investment of both time and money, it is believed the orishas will punish santeros who do not follow the rules of the religion.

Respectfully yours,



Eric R. Breslin

ERB

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

vs.

Docket No.: 19-cr-395 (PKC)

VANCE COLLINS and RAMON RAMIREZ,

Defendants.

**MEMORANDUM OF LAW IN OPPOSITION TO THE GOVERNMENT'S  
MOTIONS IN LIMINE**

Eric R. Breslin, Esq.  
Arletta K. Bussiere, Esq.  
**DUANE MORRIS LLP**  
One Riverfront Plaza  
1037 Raymond Blvd., Suite 1800  
Newark, New Jersey 07102  
Telephone: 973.424.2000  
Facsimile: 973.424.2001  
*Attorneys for Defendant Vance Collins*

## TABLE OF CONTENTS

<b>I.</b>	<b>The Government's Proposed Redactions to Mr. Ramirez's Post-Arrest Statement are Insufficient to Protect Mr. Collins' Sixth Amendment Right to Confrontation.....</b>	1
<b>II.</b>	<b>The Proposed Other Acts Evidence Should be Excluded from Trial as Prejudicial and Not Relevant to Any Fact in Issue.....</b>	5
A.	Allegations of Mr. Collins' purported gang affiliation is inadmissible either as direct evidence or as 4040(b) evidence.....	6
B.	Allegations of Mr. Collins' purported possession of a firearm is inadmissible either as direct evidence or as 4040(b) evidence.....	9
<b>III.</b>	<b>The Government's Motion to Preclude Mr. Collins' Santería Expert is Baseless in Substance, Premature, and Should Be Denied.....</b>	10
<b>IV.</b>	<b>The Government's Attempts to Improperly Insulate Cooperating Witnesses From Cross-Examination Should be Rejected.....</b>	13
A.	The fact of cooperating witnesses' prior convictions is admissible.....	13
B.	Details of the August 2018 Murder are Admissible.....	14
C.	The government's additional applications.....	16

## TABLE OF AUTHORITIES

### Cases

<i>Brinson v. Walker</i> , 547 F.3d 387 (2d Cir. 2008) .....	15
<i>Bruton v. United States</i> , 391 U.S. 123 (1968).....	1-2, 5
<i>Crawford v. Washington</i> , 541 U.S. 36 (2004) .....	1
<i>Daubert v. Merrell Dow Pharm., Inc.</i> , 509 U.S. 579 (1993) .....	10
<i>Davis v. Alaska</i> , 415 U.S. 308 (1974) .....	15
<i>Gray v. Maryland</i> , 523 U.S. 185 (1998).....	2, 5
<i>Kumho Tire Co. v. Carmichael</i> , 526 U.S. 137 (1999) .....	10, 12
<i>Pointer v. Texas</i> , 380 U.S. 400 (1965) .....	1
<i>United States v. Amuso</i> , 21 F.3d 1251 (2d Cir. 1994) .....	11
<i>United States v. Carboni</i> , 204 F.3d 39 (2d Cir. 2000).....	5
<i>United States v. Diaz</i> , 176 F.3d 52 (2d Cir. 1999) .....	8
<i>United States v. Estrada</i> , 430 F.3d 606 (2d Cir. 2005).....	13-14
<i>United States v. Gonzalez</i> , 110 F.3d 936 (2d Cir. 1997).....	5
<i>United States v. Guang</i> 511 F.3d 110 (2d Cir. 2007) .....	8
<i>United States v. Hoac</i> , 990 F.2d 1099, 1103 (9th Cir. 1993) .....	11
<i>United States v. Herron</i> , No. 10-CR-0615 NGG, 2014 WL 1871909 (E.D.N.Y. May 8, 2014) .....	10
<i>United States v. Jass</i> , 569 F.3d 47 (2d Cir. 2009) .....	3, 5
<i>United States v. Jobson</i> , 102 F.3d 214 (6th Cir. 1996).....	9
<i>United States v. Kadir</i> , 718 F.3d 115 (2d Cir. 2013).....	11
<i>United States v. Kassir</i> , No. S204CR356(JFK), 2009 WL 910767 (S.D.N.Y. Apr. 2, 2009) .....	11
<i>United States v. Ramirez</i> , 894 F.2d 565 568 (2d Cir. 1990) .....	5
<i>United States v. Roark</i> , 924 F.2d 1426 (8th Cir. 1991) .....	9

<i>United States v. Rubio-Villareal</i> , 927 F.2d 1495 (9th Cir. 1991) .....	11
<i>United States v. Sayakhom</i> , 186 F.3d 928, 936 (9th Cir.) .....	11
<i>United States v. Siddiqui</i> , 699 F.3d 690 (2d Cir. 2012) .....	6
<i>United States v. Taylor</i> , 745 F.3d 15 (2d Cir. 2014) .....	3-4
<i>United States v. Tutino</i> , 883 F.2d 1125 (2d Cir. 1989) .....	3
<i>United States v. Williams</i> , 936 F.2d 698 (2d Cir. 1991) .....	4
<i>Untied States v. Khan</i> , 591 F. Supp. 2d 202 (E.D.N.Y. 2008) .....	8

### **Other Authorities**

U.S. Const., VI Amend. .....	1, 3
Fed. R. Evid. 403.....	5
Fed. R. Crim. P. 16.....	10, 12
Fed. R. Evid. 404(b) .....	5-6, 9
Fed. R. Evid. 609.....	13-14
Fed. R. Evid. 702.....	10-11
Rule 3500.....	9

Defendant Vance Collins submits this memorandum of law in opposition to the government's motions *in limine* to admit a co-defendant statement, to introduce 404(b) evidence, to preclude the testimony of one of Mr. Collins' proposed expert witnesses, and to limit cross-examination of the government's two cooperating witnesses. As set forth below, each of these motions should be denied.

**I. The Government's Proposed Redactions to Mr. Ramirez's Post-Arrest Statement are Insufficient to Protect Mr. Collins' Sixth Amendment Right to Confrontation.**

The government makes only the barest nod to the constitutional protections embodied in *Bruton* when crafting its proposed redactions to the Ramirez statement. In its proposed redactions, government clumsily seeks to circumvent *Bruton* and, in doing so, circumvent Mr. Collins' Sixth Amendment rights. What the government seeks to do here is cynical and wrong and should be rejected by the Court.

The United States maintains that all *Bruton* requires is that the government redact a defendant's name from a co-defendant's statement. If this were true, *Bruton*, and the constitutional concerns *Bruton* addresses, would be read out of existence. The cases the government purports to rely on for its argument offer no support for such a position.

The opportunity to cross-examine one's accusers is a touchstone of the American justice system. *See Pointer v. Texas*, 380 U.S. 400, 410 (1965) (Stewart, J., concurring). It is only through the crucible of cross-examination that a witness' statement can be truly tested. *See Crawford v. Washington*, 541 U.S. 36, 61 (2004). Where the statement at issue is the "powerfully incriminating extrajudicial statement of a co-defendant, who stands accused side-by-side with the defendant," the importance of cross-examination increases. *Bruton v. United States*, 391 U.S. 123, 135–36 (1968). As the Court in *Bruton* observed, "[n]ot only are the incriminations [of a co-defendant] devastating to the defendant but their credibility is inevitably

suspect, a fact recognized when accomplices do take the stand and the jury is instructed to weigh their testimony carefully given the recognized motivation to shift blame onto others.” *Id.* The Court recognized that, “[i]t was against such threats to a fair trial that the Confrontation Clause was directed.” *Id.*

The government offers redactions that, with very limited exceptions, merely remove Mr. Collins’ name from the transcript. Sometimes the name is removed altogether, and sometimes it is replaced by a pronoun. In all instances, it is blatantly obvious that a name has been redacted or replaced with a pronoun. For example:

AGENT-1: So, at what point did you tell ~~Vance~~ [someone] about the situation that you had?

RAMIREZ: When, uh, when I came back from Cuba. Because it was still after all that happened and I mentioned it to [someone], I mentioned it to him to do it, I just mentioned it to him, and he said, “Don’t worry about it, I’ll take care of it.”

(Gov’t MIL Ex. A (Ramirez Statement), Tr. 4:85-95).

In another instance, the transcript reads:

AGENT-1: You see any guns that day?

RAMIREZ: I seen a gun one day that I went to ~~Vance~~ [his] house, like I said before he tried to impress me, he bought a gun. . .

(*Id.* at 12:308-310).

Such obvious substitutions and redactions “accuse[] the defendant in a manner similar to...a testifying codefendant’s accusatory finger.” *Gray v. Maryland*, 523 U.S. 185, 194 (1998) (rejecting redactions that replace a proper name with a blank space or the word “deleted”). The “unnatural, obvious, and conspicuous” pruning of names from the text serves to narrow the implied identity of the individual referenced and does not satisfy the demands of *Bruton* and the Sixth Amendment. *United States v. Taylor*, 745 F.3d 15, 29 (2d Cir. 2014). Thus, a co-defendant’s statement may be used at a joint trial, in redacted form, only where “there is no

indication to the jury that the original statement contained actual names.” *United States v. Tutino*, 883 F.2d 1125, 1135 (2d Cir. 1989). In other words, the redactions and substitutions must be words “that might actually have been said by a person admitting his own culpability in the charged conspiracy while shielding the specific identify of his confederate.” *United States v. Jass*, 569 F.3d 47, 62 (2d Cir. 2009). That simply may not be possible in the case of the Ramirez transcript. Certainly, the government’s effort falls far short.

The government cites to *Jass* for the proposition that generic terms can be used to replace proper names in a co-defendant’s statement. (Gov’t MIL, p. 3). But, the government fails to note the Second Circuit’s strong, accompanying admonition that, “[n]eutral pronoun substitution should be employed only when complete redaction would distort the confession, for example, by ‘exclud[ing] substantially exculpatory information, or chang[ing] the tenor of the utterance as a whole.’” *Jass*, 569 F.3d at 56 n.5 (quoting *United States v. Yousef*, 327 F.3d 56 (2d Cir. 2003)). The court in *Jass* cautioned district courts to, “wherever possible, [] eliminate completely from a confession any mention of a non-declarant defendant’s existence. . .” *Id.* Where no amount of redactions can alleviate the concern that a jury will not be able to follow a limiting instruction, then a court must exclude the statement or sever the trials. *Id.*

Here, there is only one unnamed individual in the Ramirez Statement, corresponding to the superseding indictment’s sole co-defendant: Mr. Collins. *See Taylor*, 745 F.3d at 29 (finding that the statement was not sufficiently redacted and noting that the “unnamed persons correspond by number (two) and by role to the pair of co-defendants.”). Even with the government’s “pruning,” it is painfully obvious to whom Mr. Ramirez refers, and that Mr. Collins’ name has been deliberately removed.

The role of the unnamed individual in the redacted statement corresponds exactly to Mr. Collins' alleged role as co-defendant. *See id.* The redactions further lead to the weird syntax shown above, in which it is clearly apparent that Mr. Ramirez referenced a specific person, and was not speaking in a way designed to hide Mr. Collins' identity.

The government's version of the Ramirez statement is decidedly not a statement where attempts have been made to remove references to Mr. Collins. Nor is it a statement where one or two redactions or substitutions may or may not refer to Mr. Collins. The Ramirez statement as proffered by the government is a statement that is clearly and obviously about Mr. Collins and only about Mr. Collins. *See United States v. Williams*, 936 F.2d 698, 700 (2d Cir. 1991) (holding that redacted confessions are only permitted where "the statement standing alone does not otherwise connect co-defendants to the crimes" (internal quotations omitted)).

The damage to Mr. Collins will be severe should this statement be admitted. We are constrained to note that is exactly the point of this government exercise. In the snippets the government is advancing, Mr. Ramirez paints Mr. Collins as the organizer of the entire alleged plot, an accusation that the defense cannot test on cross-examination. (*See, e.g.*, Gov't MIL, Ex. A, Tr. 4:94-100 ("I just mentioned it to him, and he said, "Don't worry about it, I'll take care of it". . ."I didn't tell him to do anything you know, he said he's gonna take care of him. . ."); Tr. 12:301-302 ("But he didn't tell, you know he told me he was gonna handle this guy, he can handle anything – 'Oh this is one of my boys'. . ."). In this circumstance, the jury "need only lift [their] eyes to [Mr. Collins] sitting at counsel table," to intuit the individual redacted from the statement. *Gray*, 523 U.S. at 193. This will inflict a degree of prejudice on Mr. Collins that no limiting instruction will ever be able to cure.

At the end of the day, the government's proposed redactions are a classic elevation of form at the expense of substance and even basic fairness. The government's proposed redactions fail to comply with the demands of *Bruton*, *Richardson*, and *Jass*. Accordingly, the Ramirez Statement, as proffered by the government, should be excluded.

**II. The Proposed Other Acts Evidence Should be Excluded from Trial as Prejudicial and Not Relevant to Any Fact in Issue.**

The government seeks to introduce, either as direct evidence or as 404(b) evidence: (1) allegations that Mr. Collins is the leader of a gang called the Piru Bloods, (2) allegations that CW-1 committed other unspecified crimes at Mr. Collins' direction, and (3) that Mr. Collins had access to weapons. None of these allegations are appropriate for admission at this trial. They are not direct evidence of any of the crimes charged, nor do they meet the test for admission under Rule 404(b). Even if they did meet the test for admission, they are far more prejudicial than probative. The government's motion should be denied.

Other acts evidence constitutes direct evidence only when, (1) it "ar[ises] out of the same transaction or series of transactions as the charged offense," (2) the other acts are inextricably intertwined with the evidence of the charged offense, or (3) the other acts are necessary to complete the story of the charged offense. *United States v. Gonzalez*, 110 F.3d 936 (2d Cir. 1997). Other acts evidence, even direct evidence, must still be excluded if it is more prejudicial than probative. *See* F.R.E. 403; *United States v. Carboni*, 204 F.3d 39, 44 (2d Cir. 2000).

Evidence admitted under 404(b) must be: (1) advanced for a proper purpose, (2) relevant to the crime for which the defendant is on trial, (3) more probative than prejudicial, and (4) admitted with a limiting instruction to the jury, if requested. *United States v. Ramirez*, 894 F.2d 565 568 (2d Cir. 1990) (citing *Huddleston v. United States*, 485 U.S. 681, 691-92 (1988)). Permissible uses include proving motive, opportunity, intent, preparation, plan, knowledge,

identity, absence of mistake, or lack of accident. Fed. R. Evid. 404(b). Other acts evidence may not be admitted as proof of a defendant's propensity to commit crimes. *See id.* Further, other acts evidence may only be admitted where probative of a fact actually in dispute. *United States v. Siddiqui*, 699 F.3d 690, 702 (2d Cir. 2012), *as amended* (Nov. 15, 2012).

The government is light on the specifics of what other acts evidence it seeks to admit. Other than a vague claim that CW-1 committed unspecified crimes at Mr. Collins' direction, and that Mr. Collins headed up a gang, the defense is left to wonder what the government will seek to admit. This sort of vague disclosure makes it almost impossible to respond completely to the government's motion, considering that the defense has yet to receive any 3500 material. But, the "other acts" evidence that has been proffered by the government clearly serves only one purpose: to paint a picture of Mr. Collins as a member of a gang with a propensity to break the law. This evidence has little to no probative value relative to the charged crimes, and is so inflammatory that there is great risk that the jury will disregard everything else. The government's proposed "other acts" evidence should be excluded.

A. Allegations of Mr. Collins' purported gang affiliation is inadmissible either as direct evidence or as 4040(b) evidence.

The government argues that the alleged gang relationship between CW-1 and Mr. Collins demonstrates the "development of a relationship of trust," between CW-1 and Mr. Collins. (Gov't MIL, p. 5). It appears that the government is attempting to argue that the prior association of these two individuals is "necessary to complete the story of the charged offense."<sup>1</sup> The evidence is inadmissible for this purpose.

---

<sup>1</sup> The government does not specify under what theory it seeks to admit this evidence as direct evidence.

First, CW-1's uncorroborated testimony that Mr. Collins supposedly led a violent faction of the Bloods has no value as direct evidence. It does not arise out of the "same transaction or series of transactions" as the alleged murder for hire scheme. The government does not suggest that this alleged murder for hire was gang related, had its genesis in any intra or inter-gang dispute or other gang business, was designed to enrich the gang, or implicated the Bloods as an organization in any way at all.

To the contrary, this was all about the putative victim's affair with Mr. Ramirez's wife. *See* Superseding Indictment at 1-2 (ECF 38). It is not alleged that Mr. Ramirez, Ms. Ramirez or the alleged victim are gang members or that the alleged extra-marital affair was of any relevance to any gang interest. Nor has the government presented any argument that the alleged Piru Bloods were so entwined with the charged offense as to be inseparable.

At best, the government argues that it needs to reference the Piru Bloods to "complete the story of the charged offense." This rote statement has a certain patina of reasonableness that dissolves upon close inspection. The government argues that the purported gang relationship demonstrates a relationship of trust between CW-1 and Mr. Collins. But, this only becomes relevant if the defense advances an argument that Mr. Collins did not trust CW-1 enough to approach him about a murder for hire. It is by no means clear from the government's memorandum why that "relationship of trust," is essential, or even relevant, at this stage of the case.<sup>2</sup> The government's argument is further undercut by the fact that CW-2 apparently had no affiliation with the Piru Bloods, and therefore no relationship of trust.

---

<sup>2</sup> Within the motion *in limine*, the government proffers two different motives for CW-1 agreeing to commit murder for hire, changing the motivation from one to the other as best supports its argument in the moment. First, it argues that CW-1 agreed to commit murder because Mr. Collins agreed to forgive a marijuana debt. (Gov't MIL, p. 8.) Then it argues that CW-1 agreed to commit murder because the leader of the Piru Bloods told him to do so. (Gov't MIL, p. 9.) There is no explanation as to why CW-2 agreed to the supposed plot.

The cases cited by the government do not support its position. In each of the cited cases, the uncharged acts are all part of the larger, charged conspiracy, or were so substantially similar to the charged crime, as to make them probative at trial. *See e.g. United States v. Guang* 511 F.3d 110, 120-21 (2d Cir. 2007) (permitting testimony from a victim that there were uncharged incidents of the defendant making threats and committing assault as part of the charged extortion conspiracy.); *United States v. Diaz*, 176 F.3d 52, 79 (2d Cir. 1999) (allowing evidence of other uncharged crimes committed by the Latin Kings because it tended to prove the “existence, organization and nature of the RICO enterprise.”). No such allegation exists here.

Second, while the government, in boilerplate fashion, asserts that this evidence goes to Collins’ opportunity and plan to carry out the murder for hire plot, it fails to explain why or how. The defense remains mystified as to how an alleged gang affiliation offered the opportunity for, facilitated or even involved the alleged plot. Nor is it clear how this alleged affiliation furthered any plan, to the extent the government alleges there was a plan, beyond offering to pay CW-1 and CW-2 to commit a murder.

Finally, this evidence, whether offered as direct evidence or under 404(b), is so inflammatory and prejudicial that it far outweighs its limited probative value. Courts in the Second Circuit “have repeatedly expressed disapproval of the admission of uncharged criminal conduct that is more serious than the charged crime.” *United States v. Khan*, 591 F. Supp. 2d 202, 206 (E.D.N.Y. 2008). Here Mr. Collins is charged with participation in a murder for hire. The government now seeks to introduce evidence that he was the head of a violent street gang, directed the large-scale sale of marijuana, committed extortion, and ordered violent assaults, in an organized fashion.<sup>3</sup> Seeking to arrange a murder that never took place is undoubtedly serious.

---

<sup>3</sup> As noted above, the government’s motion *in limine* is nearly devoid of *specific* prior bad acts and fails to satisfy the government’s disclosure obligation under 404(b). And, as the defense has yet to see the Rule 3500 material, Mr.

Serving as the kingpin of a violent street gang is unequivocally more serious. As the Sixth Circuit observed, “[m]ost jurors, after all, are likely to look unfavorably upon the joining of a street gang, particularly one involved with firearms.” *United States v. Jobson*, 102 F.3d 214, 220 n.4 (6th Cir. 1996). Thus, attempts to obtain convictions by eliciting evidence of unrelated gang affiliation should be regarded with extreme caution. *See United States v. Roark*, 924 F.2d 1426, 1434 (8th Cir. 1991) (holding that the government’s attempt to tie defendant’s guilt with his association with the Hell’s Angels was reversible error).

The government can offer no theory of admissibility for its new, and highly suspect accusation that Mr. Collins led a violent street gang. The evidence is not direct evidence of the murder for hire conspiracy, nor is it appropriately admitted under Rule 404(b). The evidence should be excluded.

**B. Allegations of Mr. Collins’ purported possession of a firearm is inadmissible either as direct evidence or as 404(b) evidence.**

The government also seeks to admit evidence that CW-1 saw Mr. Collins with firearms and that Mr. Collins told him he keeps firearms in his home. (Gov’t MIL p. 1.) The government argues that this shows that Mr. Collins had access to firearms that could be used to carry out the murder for hire plot, and his “absence of mistake.” (Gov’t MIL, p. 9.) These arguments are entirely pretextual. The government does not allege that Mr. Collins provided weapons or offered to provide weapons to carry out the murder for hire plot. Nor has Mr. Collins argued that he possessed weapons by mistake. He has never denied that the weapons were in his house.

---

Collins also has no idea what varied and nefarious crimes he is alleged to have directed and controlled. In fact, the first the defense heard of the Piru Bloods was when it received the government’s motion *in limine*. It does appear, however, that the sole source of testimony about this purported gang is from one cooperator’s uncorroborated testimony.

Therefore, the evidence is not relevant to any issue actually in dispute, is far more prejudicial than probative, and should be excluded.

**III. The Government's Motion to Preclude Mr. Collins' Santería Expert is Baseless in Substance, Premature, and Should Be Denied.**

The defense proffered the possible testimony of Migene Gonzalez-Wippler, an expert in Santería. The government now moves to preclude her from testifying. It argues that it would be inappropriate for the defense expert to opine on Santería when that expert "has no familiarity" with either defendant. (Gov't MIL, p. 10.) This is not the point of Ms. Gonzalez-Wippler's testimony as is amply clear from the defense's Rule 16 disclosure, which is attached to the government's moving papers.

Contrary to the government's argument, Rule 702 permits an expert to offer background information to the jury as to relevant religious, cultural, or organizational norms that are outside the average juror's ken. *See United States v. Herron*, No. 10-CR-0615 NGG, 2014 WL 1871909, at \*7 (E.D.N.Y. May 8, 2014), *aff'd*, 762 F. App'x 25 (2d Cir. 2019) (permitting expert witness to testify as to gansta rap); *see also Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 148 (1999) (holding that *Daubert* principles apply to non-scientific testimony). Nor is there any requirement that an expert's testimony rely on firsthand knowledge or observation. *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 592 (1993).

In the Second Circuit, the exclusion of expert testimony "is the exception rather than the rule." *Herron*, 2014 WL 1871909, at \*6. Consequently, courts routinely admit expert testimony that provides relevant, non-scientific background information, and prosecutors in this district often rely on such testimony on matters ranging from organized crime to religious extremism. *See, e.g., United States v. Kadir*, 718 F.3d 115, 121 (2d Cir. 2013) (upholding the admission of expert testimony to describe terrorist organization's activities and to explain terms related to

terrorism); *United States v. Amuso*, 21 F.3d 1251, 1263 (2d Cir. 1994) (upholding admission of expert testimony into the existence and structure of New York crime families, common terminology, and operational methods of organized crime); *United States v. Kassir*, No. S204CR356(JFK), 2009 WL 910767, at \*4 (S.D.N.Y. Apr. 2, 2009) (permitting expert testimony into the origins, history, structure, leadership, and operational methods of al Qaeda and collecting cases admitting expert testimony related to terrorism and organized crime).

The cases cited by the government, all of which are from the United States Court of Appeals for the Ninth Circuit, and all of which were decided over twenty years ago, do not alter, or even color, these basic principles of Rule 702. *United States v. Sayakhom*, contains no analysis as to why the proffered expert testimony was considered irrelevant. 186 F.3d 928, 936 (9th Cir.), *amended*, 197 F.3d 959 (9th Cir. 1999). The same holds true for *United States v. Rubio-Villareal*, in which the defendant was charged with drug trafficking offenses. 927 F.2d 1495 (9th Cir. 1991), *on reh 'g*, 967 F.2d 294 (9th Cir. 1992). Further, in *Rubio-Villareal*, it is clear that the expert in Mexican culture, proffered with regard to the defendant's failure to register his vehicle, could have little to say that was relevant to the drug trafficking charges. *See id.* at 1502. In *United States v. Hoac*, the proffered expert testimony was a forensic psychologist's opinion as to the defendant's "intellect and general naivete." 990 F.2d 1099, 1103 (9th Cir. 1993). Given the expert's limited dealings with the defendant, the court found that the testimony was unlikely to be helpful to the jury. *Id.* None of these cases support precluding Ms. Gonzalez-Wippler's testimony.

The government does not appear to object to Ms. Gonzalez-Wippler's qualifications. Rather, the government argues that the defense will not be able to "lay a foundation" for the

testimony.<sup>4</sup> Although opaquely stated, this appears to be an argument that Ms. Gonzalez-Wippler's testimony is potentially not relevant. This argument lacks merit.

The government will no doubt attempt to make much of the guns found in Mr. Collins' home. By way of its motion, it seeks to introduce highly suspect evidence that Mr. Collins led a faction of the Bloods gang. Even should the government lose that application, it will almost certainly offer evidence that puts various members of this putative conspiracy together.

It is to rebut this inevitable government thrust that Ms. Gonzalez-Wippler's testimony is essential. The evidence adduced at trial will show Mr. Collins is a devout follower and practitioner of Santería. The evidence will show that it is through the practice of this religion that he became acquainted with Mr. Ramirez in the first place, and that religious observances accounted for most, if not all, of the time the two men spent together. The importance of the relationship, the necessity for in-person communication with fellow practitioners, the nature of the guidance Mr. Collins provided to devotees of the religion, and the types of rituals and practices he observed are all relevant to place Mr. Collins' defense in context to a religion that is not within the normal juror's general knowledge.

It is important that the jury understand the dealings between the two defendants and how they were shaped and circumscribed by their common faith. As set forth in the defense's Rule 16 disclosure as to Ms. Gonzalez-Wippler, the presence of guns in the Collins' home is consistent with a recognized and important Santería based ritual. This is an alternative narrative

---

<sup>4</sup> The government also argues that it would be inappropriate for Mr. Collins to make an argument about his state of mind based on general testimony about Santería. The government offers no authority for the proposition that a defendant can be precluded from offering an argument that he lacked the state of mind to commit an offense. And, if expert testimony would assist the jurors in putting that argument into context, it is properly admitted. *See Kumho Tire Co.*, 526 U.S. at 156 (finding an expert's testimony admissible where she "had sufficient specialized knowledge to assist the jurors in deciding the particular issues in the case.") (internal quotations omitted).

that explains the presence of firearms in Mr. Collins' home that is at odds with participation in a murder for hire conspiracy or even gang membership, should the gang evidence be admitted.

The jury is entitled to hear this evidence. Whether they credit the defense's view or subscribe to the government's interpretation is a matter for the jury to decide. To the extent that the government argues that this testimony will not be relevant by the time the defense begins its direct case, then its motion is premature, given that no evidence has yet been introduced. But it is far too early in this case to preclude Ms. Gonzalez-Wippler's testimony.

There can be no serious argument that Santería and its means and methods of worship are not matters far outside the ken of the average New York juror. Expert testimony explaining the relevant religious institutions, cultural norms, and background of this religion is admissible. The jury should be provided with all the information necessary to properly evaluate Mr. Collins' conduct and determine whether they believe it was motivated by his religious practices or by something darker.

#### **IV. The Government's Attempts to Improperly Insulate Cooperating Witnesses From Cross-Examination Should be Rejected.**

The government also moves to preclude cross-examination into various prior crimes by CW-1 and CW-2.

##### **A. The fact of cooperating witnesses' prior convictions is admissible.**

In its analysis, the government fails to heed the admonition from the Second Circuit that, while Rule 609 protects government witnesses as well as the defendant, “[t]he probability that prior convictions of an ordinary government witness will be unduly prejudicial is low in most criminal cases.” *United States v. Estrada*, 430 F.3d 606, 619 (2d Cir. 2005) (quoting Fed.R.Evid. 609 Advisory Committee's Note (1990)). Thus, the Second Circuit cautions that

courts should err on the side of admissibility when considering whether to admit conviction evidence against a non-defendant witness. *Id.*

Furthermore, Rule 609 applies only where the sole purpose of offering the evidence is to attack the witness's character for truthfulness. *See Fed. R. Evid. 609.* It does not apply where the evidence is offered for another purpose, such as bias, a desire to curry favor with the government, or an overall motive to lie. The defense has no interest in quizzing the cooperating witnesses on the details of the prior convictions identified in the government's motion *in limine*. That being said, these witnesses now face life in prison. If the cooperating witnesses have served time in jail or prison, the defense has every right to put that experience before the jury, and to make the common and logical argument that these witnesses would do just about anything (including lying under oath) for even the remote chance that they will someday be released from incarceration.

B. Details of the August 2018 Murder are Admissible.

The government made a cooperation deal with two cooperators who committed a violent murder in August 2018. These two individuals will face sentencing after this trial, and will hope to rely on their cooperation to obtain a 5K letter from the government, a recommendation for a below-guidelines sentence, and to seek leniency from the sentencing judge. The government intends to bring all that out in their direct examination, but now wishes to prevent the defense from fully cross-examining the cooperators about that same crime. This makes little or no sense.

The defense does not seek to introduce this evidence merely to shock and prejudice the jury against the witnesses. The details of that murder are directly relevant to the witnesses' motive to cooperate with the government, and to do all they can to help obtain a conviction in this case for the government. In other words, it goes directly to the witnesses' motive to lie or even exaggerate their narratives.

The sentencing judge will be in full possession of the facts of the murder, as the cooperating witnesses are well aware. The worse the details of the murder, the more credit they will need from the government. While the defense does not intend to dwell on any yet unidentified gruesome particulars of the murder (again, this motion was the first the defense even heard of the murder), the jury is entitled to hear the full extent of what the cooperators will face in front of the sentencing judge and to understand why they are appearing on the stand for the government and what they hope to receive in exchange. *See Davis v. Alaska*, 415 U.S. 308, 316-17 (1974) (holding “the exposure of a witness’ motivation in testifying is a proper and important function of the constitutionally protected right of cross-examination”); *see also Brinson v. Walker*, 547 F.3d 387, 392 (2d Cir. 2008) (holding that “the Confrontation Clause requires that a criminal defendant be afforded a meaningful opportunity to cross-examine witnesses against him in order to show bias or improper motive for their testimony.”).

Further, the defense suspects that the 2018 August murder was a shooting related to a marijuana distribution conspiracy that occurred in Mount Vernon, New York. If so, the details of the murder are especially relevant because they contradict the government’s assertions regarding Mr. Collins’ alleged involvement with the Piru Bloods. CW-1 and CW-2’s commission of a murder related to a marijuana distribution conspiracy begs the question why Mr. Collins was not also implicated if he is supposed to be the leader of the gang and was in control of CW-1. (Gov’t MIL p. 8.) Also, the government never alleges that CW-2 is a member of the Piru Bloods, but he and CW-1 seem to have committed a murder in furtherance of the same marijuana distribution conspiracy in August 2018. If CW-1 testifies to Mr. Collins’ alleged gang leadership and control over him, it is essential that the defense be permitted to cross-examine the cooperators regarding these stark factual contradictions.

C. The government's additional applications.

The defense has no intention of cross-examining the witnesses on arrests that did not lead to convictions. Nor does the defense intend on questioning the witnesses about their sexual misconduct. As to the witnesses' personal drug use, the government has been incredibly vague. Without further information as to the nature of the drug use, the type of drug, and the consistency of use, the defense cannot analyze whether cross-examination is proper. A daily marijuana use habit, for example, is of decidedly less concern than a persistent addiction to opioids, which can severely impact an individual's cognitive function and memory. Without further information, the defense cannot respond to this application by the government, and reserves its right to raise the issue with the Court as needed.

Dated: March 13, 2020  
Newark, New Jersey

By: /s/ Eric R. Breslin.  
Eric R. Breslin  
Arletta K. Bussiere  
**DUANE MORRIS LLP**  
A Delaware Limited Liability Partnership  
One Riverfront Plaza  
1037 Raymond Blvd., Suite 1800  
Newark, NJ 07102-5429  
Telephone: +1 973 424 2000  
Fax: +1 973 424 2001  
*Attorneys for Defendant Vance Collins*

1 DATE: June 13, 2019  
2  
3 TIME: 7:46 a.m.  
4  
5 PARTICIPANTS: RAMON RAMIREZ  
6  
7 AGENT-1: Male  
8  
9 AGENT-2: Female

10  
11 ABBREVIATIONS: (UI) = Unintelligible  
12  
13 \*\*\*\*\*  
14 [7:57:22]  
15  
16 AGENT-1: Now, why don't you tell me about Eric  
17 Santiago?  
18  
19 RAMIREZ: Eric Santiago, I know I was mad at a  
20 certain point because he used to work  
21 for me, I feed him and everything, and  
22 then he had an affair with my wife.  
23  
24 AGENT-1: Okay.  
25  
26

27 RAMIREZ: Maybe in the moment I was mad, you  
28 know — you know I went to looking  
29 for him and everything because that  
30 moment, what happened in that  
31 moment.

32  
33 AGENT-1: Right, and you were heated.

34  
35 RAMIREZ: And after that, you know, I forgot about  
36 that. I didn't even bother him because at  
37 one time I went about a year ago — my  
38 wife, my, actually, my (UI) he said we  
39 didn't have nothing, we broke up and  
40 everything. And I was looking for her  
41 and I went to his house, I finally found  
42 out the address, didn't even know his  
43 address. I saw my wife's truck, which I  
44 have pictures, in front of his house. And  
45 I called her, I was gonna walk into it,  
46 but then I said, you know, to not end it  
47 like this I didn't do it.

48  
49 \*\*\*\*\*

50 [7:58:44]  
51

52

53 RAMIREZ: So, she told me she was gonna go to  
54 work late. And I said you gonna go to  
55 work at 11? So, I followed her, and I  
56 went to his house, and I went to the  
57 house and I send the pictures and  
58 message to her.

59

60 AGENT-2: Where does he live?

61

62 RAMIREZ: In...Queens. By uh, by the Belt  
63 Parkway.

64

65 AGENT-2: Okay.

66

67 AGENT-1: So, when did — when did you find out  
68 about Eric and your wife?

69

70 RAMIREZ: That was way before I met my, even my  
71 godfather.

72

73 AGENT-1: So, you knew something was going on  
74 for a while.

75

76 RAMIREZ: . . . it was in 2017 or 2016 . . . when I  
77 found out...

78

79 \*\*\*\*

80 8:05:10

81  
82 AGENT-1: So, at what point did you tell someone  
83 about the situation that you had?

84  
85 RAMIREZ: When uh, when I came back from Cuba.  
86 Because it was still after all that  
87 happened and I mentioned it to a guy  
88 and he said “Don’t worry about it, I’ll  
89 take care of it.” And that was what I —  
90 what was the comment, you know. I  
91 didn’t tell him to do anything you  
92 know, he said he’s gonna take care of  
93 him you know like scare him to go  
94 away from my wife. That was all about,  
95 but then after that I lost the  
96 communication, you can check it out on  
97 my phone — I didn’t speak to him for  
98 maybe over a year.

99  
100 AGENT-1: But it did get a little more serious than  
101 just, than just that one conversation.

102 RAMIREZ: What happened is like a, like a, like tell  
103 you, like I mention you before. I was  
104 helping him at the beginning, and he  
105 feel like it—because I was helping him,  
106 he feel like it was a commitment, but he  
107 was a bullshitter. Because he never look  
108 for Eric, he never look for him at all.  
109 And I find out that because when I  
110 met—when I went to his house, the day  
111 when I found out the . . . I put the GPS  
112 on my wife and I met him, I went to his  
113 house and I said, “You told me all this  
114 time you know, you gonna fuck it up  
115 this guy.” He didn’t even know where  
116 he lives and everything. He said, “No I  
117 know where he lives.” “Where he  
118 lives?” “Oh he lives you know by  
119 Maspeth.” I said, “You’re full of shit.”  
120 And I walk away. Because really you  
121 know, when I want to find out things I  
122 can find it—I’m smart enough.

123  
124 AGENT-1: But, but you provided him a photo of  
125 Ramsey.

126  
127 RAMIREZ: Yes, it’s on the internet.  
128

129 AGENT-1: And, and an envelope with the address  
130 on it.

131  
132 RAMIREZ: That's what I'm saying, I'm giving the  
133 address and the picture to him.

134  
135 AGENT-1: Right, you did.

136  
137 RAMIREZ: Yeah, but he never did and ...

138  
139 AGENT-2: When did you do it?

140  
141 AGENT-1: Yeah, I know, but I'm saying, when you  
142 said he didn't know the address, you  
143 gave him the address.

144  
145 RAMIREZ: Yeah, I gave him the address, but he  
146 never went there because like I told you  
147 before he's bullshitting.

148  
149 AGENT-1: Yeah, do you remember, do you  
150 remember the guy he introduced you  
151 to? That was gonna handle it.

152  
153

154 RAMIREZ: He, uh, I met a couple of guys that was  
155 supposed to be his friends. He didn't  
156 tell me who was gonna handle it. He  
157 told me, "Give me the address and his  
158 picture."

159  
160 AGENT-1: (UI) No, you knew who was gonna  
161 handle it.

162  
163 RAMIREZ: I met a couple guys, like I told you  
164 before.

165  
166 AGENT-1: Right.

167  
168 RAMIREZ: I met a couple guys and all of them to  
169 me you know they was just impressing  
170 him or impressing to me, and I know  
171 there was one guy who was arrested in  
172 Westchester and another guy was  
173 arrested in Brooklyn. It was, it was two  
174 guys, so...

175  
176 AGENT-1: How did you know, how, how they  
177 were arrested?

178  
179 RAMIREZ: Because they said these things to  
180 impress when I was talking to them  
181 because when they met me—

182 AGENT-2: You mean prev— they had been  
183 previously arrested?  
184  
185 RAMIREZ: Yeah, arrested, arrested before then.  
186  
187 AGENT-2: So you knew they had records. Why  
188 were they trying to impress you?  
189  
190 RAMIREZ: They were trying to impress because  
191 they say, “Oh if we got arrested for this  
192 you know we can handle this stuff,  
193 right.” And, like I told you before I give  
194 him the picture and he can find on the  
195 internet too because he has a website  
196 and (UI). How do I find out his  
197 address—because I went to my wife  
198 pocket book and I found two address,  
199 one in Far Rockaway and one’s in  
200 Queens, which is uh, by uh, Merrick, uh  
201 I think it’s Merrick Boulevard, Merrick  
202 Boulevard. And I give it to him, but he  
203 never, he never doing anything because  
204 when I ask him—  
205  
206  
207

208 RAMIREZ: He tell me “Give me his address, I’m  
209 gonna, we gonna fuck him up.” I said,  
210 “Alright, so here you are.” And he  
211 never did anything because when I went  
212 there, when I find the address and I  
213 went to his house, in front of his house  
214 – I still have pictures, you know, when I  
215 find my wife truck in front of his house,  
216 and I said, “You say you went looking  
217 for this guy, do you know where he  
218 lives?” He said, “Yeah, he lives in Mas-  
219 Maspeth, he moved.” He still live in the  
220 same place. Because my wife was  
221 paying his uh, internet bill, his (UI) bill,  
222 she had the address in her pocket book.  
223 So and I already, you know, I told (UI)  
224 Eric Santiago and they seen both  
225 address.

226  
227 AGENT-1: Alright, now, who — what was the  
228 name of the other guy that you were  
229 introduced to?

230  
231 RAMIREZ: They never said the names.

232  
233 AGENT-2: Not even like a nickname?

234  
235 AGENT-1: Nickname?

236  
237 RAMIREZ: No, they never said their name.  
238  
239 AGENT-2: What'd they look like?  
240  
241 RAMIREZ: They look like uh, Puerto Rican or  
242 Panamanian, but they had the same  
243 accents, like the Jamaican accent, like  
244 Caribbean accent.  
245  
246 AGENT-2: How tall?  
247  
248 RAMIREZ: They was taller than me like around  
249 maybe 5'11''  
250  
251 AGENT-1: Did you, how many times did you meet  
252 these, it's two different guys – were  
253 they together?  
254  
255 RAMIREZ: No, what happened is they hang out.  
256 That's what I was telling you before,  
257 that was a reason that I distanced myself  
258 also because they hang out in his house  
259 and I don't know if they live there or  
260 they sleep there.  
261  
262 AGENT-1: Right.  
263

264 RAMIREZ: So, I went there one day and he was in  
265 front of the house.

266  
267 AGENT-1: Right.

268  
269 RAMIREZ: So, one time I met him there, he was  
270 there with them drinking.

271  
272 AGENT-1: The two of them?

273  
274 RAMIREZ: Yeah, with them.

275  
276 AGENT-1: And that's when you guys starting  
277 talking about the situation?

278  
279 RAMIREZ: We men— we mentioned it that day.

280  
281 AGENT-1: Right.

282  
283 RAMIREZ: But he didn't tell, you know he told me  
284 he was gonna handle this guy, he can  
285 handle anything—“Oh this one of my  
286 boys” and because, of course...

287  
288 AGENT-1: You see any guns that day?

289  
290 RAMIREZ: I seen a gun one day that I went to his  
291 house, like I said before he tried to

292 impress me, he bought a gun, I think it  
293 was 30 or something like that. And he  
294 flip it like that.

295  
296 AGENT-2:

Why did he show you the gun?

297  
298 RAMIREZ:

Like I said before, you know, they try to  
299 impress you because what happen is  
300 I'm not in that world – I'm not in that  
301 type of people here.

302  
303 AGENT-1:

Right.

304  
305 RAMIREZ:

So, I'm a tough man, I show you that  
306 I'm tough, and you know.

307  
308 RAMIREZ:

When we are in the room, he told me,  
309 you know, I told him the story what  
310 happened and he said, “That's fucked  
311 up—”

312  
313 AGENT-1:

Okay—

314  
315 RAMIREZ:

“I'm gonna fuck him up,” yeah, you  
316 know, “give him a beat,” or something  
317 like that.

319 AGENT-1: Where else did you guys have  
320 conversations?

321

322 RAMIREZ: We have in his house, most of the time  
323 was in his house.

324

325 AGENT-1: You remember the restaurant?

326

327 RAMIREZ: We went to a Jamaican restaurant, yeah  
328 we went to a Jamaican restaurant.

329

330 AGENT-1: Do you remember what it was called?

331

332 RAMIREZ: I don't remember the name, I know it's  
333 in the Bronx, yeah in the Bronx.

334

335 AGENT-1: Fish N' Tings?

336

337 RAMIREZ: Fish N' Tings, yeah. Fish N' Tings,  
338 yeah.

339

340 \*\*\*\*\*

341 [8:12:44 ]

342

343 AGENT-1: The other guy that was with you guys  
344 when you were at the restaurant – did  
345 you ever go to his house?

346

347 RAMIREZ: No. Oh yeah, one time – we went to  
348 pick him up in Westchester. I tell you  
349 he's from Westchester – we went to  
350 pick him up from somewhere in  
351 Westchester.

352

353 AGENT-1: Right.

354

355 RAMIREZ: We went to pick him up, we went to the  
356 restaurant.

357

358 \*\*\*\*\*

359 [8:16:50]

360

361 AGENT-1: Right, I knew you were getting  
362 frustrated too, cause you called him a  
363 few times and you said what's going on  
364 why isn't this getting done. Like you,  
365 you were upset that, um ...

366

367 RAMIREZ: Yeah I know, because he was  
368 bullshitting me. He said he was gonna  
369 beat him up and I never seen anything  
370 result, right.

371

372 AGENT-1: Right–

373

374 RAMIREZ: And that's the reason I went to his  
375 house.

376

377 \*\*\*\*\*

378

379 [8:23:07]

380

381 AGENT-1: But when did it change that he wanted  
382 money?

383

384 RAMIREZ: To be honest, never ask me for money. I  
385 was helping him because . . . and he  
386 told me at one point—you're right on  
387 that one—one time he told me, “I need  
388 money so I could give it to this guy  
389 money,” but he never, he never give me  
390 price for to do what he does.

391

392 AGENT-1: He said, “I need money to give it the  
393 guy who was gonna do it”?

394

395 RAMIREZ: He said, yeah, “The guy is supposed to,  
396 you know, to follow this guy and beat  
397 him” and stuff like that. “I need some  
398 money”—so I give him some money  
399 (UI)

400

401 AGENT-1: How much – how much did you give  
402 him?  
403

404 RAMIREZ: Two thousand dollars, I think.  
405

406 AGENT-1: Okay.  
407

408 RAMIREZ: Two thousand something like that.  
409 Around (UI).  
410

411 AGENT-2: When was that?  
412

413 RAMIREZ: In 2017. When I came from Cuba.  
414

415 \*\*\*\*\*  
416 [8:27:00]

417 AGENT-1: When you guy— when you guys met,  
418 did you – what'd you give him – how'd  
419 you give him the address? Did you  
420 write it down for him? For Eric – for  
421 Ramsey? Did you write it down for  
422 him?  
423

424 RAMIREZ: I gave him the bill.  
425

426 AGENT-1: The bill, right.  
427

429 RAMIREZ: That Masia, my wife, had in her pocket  
430 book, but I didn't know what address it  
431 was.

432

433 AGENT-1: There were two addresses?

434

435 RAMIREZ: Yea, there were two addresses. One for  
436 Far Rockaway, the other one was in  
437 Queens. I didn't know which it was.

438

439 AGENT-1: Which one was right one?

440

441 RAMIREZ: Yea.

KAFPCOL2

Opening - Ms. Bagliebter

1 MS. BAGLIEBTER: Thank you, your Honor.

2 On a fall night in 2018, an electrician named Eric  
3 Santiago was outside of his house in Queens with a friend. Two  
4 men, who he had never seen before, approached his front gate.  
5 They said they were lost and they asked for a ride. Santiago  
6 gave them directions to the train, but not wanting to get into  
7 a car with two strangers, he said no to giving them a ride.

8 That was the last he thought of it. Little did he  
9 know that those two strangers were hitmen, and they had been  
10 sent there to kill him. They had been stalking him for months,  
11 and they were armed.

12 So who sent these hitmen to kill Eric Santiago and  
13 why? The people who sent them are those men, the defendants,  
14 Ramon Ramirez and Vance Collins. And why? That's simple.  
15 Eric Santiago was having an affair with Ramirez's wife. Ladies  
16 and gentlemen, if the defendants had their way, Eric Santiago  
17 would be dead. But thankfully, the FBI arrested the defendants  
18 before they could carry out their plan. But hiring someone,  
19 hiring hitmen to kill someone? That's a federal crime. It's  
20 known as murder for hire.

21 This opening statement is the government's opportunity  
22 to talk to you about what the evidence will show and how we're  
23 going to prove it. So what will the evidence show? You'll  
24 learn that back in 2017, Ramirez's wife was having an affair  
25 with Eric Santiago, the victim.

KAFPCOL2

Opening - Ms. Bagliebter

1           When Ramirez learned about the affair, he started  
2 spinning out of control. He knew the victim through work and  
3 he hated him, and he hated that his wife was cheating on him.  
4 He sent her threatening messages. He berated her. He even put  
5 a GPS tracker on her car.

6           Consumed by this anger, he turned to his friend, Vance  
7 Collins. Collins is a leader of a Bronx gang. Ramirez and  
8 Collins are close. They call each other godbrothers.

9           So Ramirez talked to Collins about the affair, and  
10 together, they made a plan to take care of the situation. That  
11 brings us to our two hitmen. One of the hitmen is a member of  
12 Collins' gang. Collins approached him in 2017 and got him to  
13 agree to do the murder. The deal was that Ramirez and Collins  
14 would pay him thousands of dollars and get him guns and even a  
15 job at Ramirez's construction company.

16           The hitman agreed and then, in turn, recruited a  
17 second man to help him, promising that he would also be  
18 compensated.

19           Over the course of the next year, the group made  
20 efforts to carry out the murder. Ramirez got photographs and  
21 addresses for the victim so that the hitmen would have them.  
22 Collins and one of the hitmen, got a gun to use in the murder,  
23 and Collins and the hitman went out and did surveillance around  
24 the victim's home.

25           Ramirez and Collins, the defendant, they practice the

KAFPCOL4

Santiago - Cross

1 A. No. I wouldn't even recognize them if they walked past me  
2 right now.

3 MS. BAGLIEBTER: Your Honor, if I could have one  
4 moment, please?

5 THE COURT: Yes.

6 (Pause)

7 MS. BAGLIEBTER: No further questions.

8 THE COURT: All right. One moment, please.

9 (Pause)

10 You may inquire. First, we need to do a wipe down.  
11 Excuse me. You may stand up and stretch, if you'd like.

12 (Pause)

13 THE COURT: All right. You may inquire.

14 CROSS-EXAMINATION

15 BY MR. KLUGER:

16 Q. Good afternoon, Mr. Santiago. It's difficult for me to see  
17 you, so with the glare and everything. It's an unusual way to  
18 question, so if you need me to repeat or you don't hear me, let  
19 me know. Okay?

20 A. Okay.

21 Q. So what's the nickname Ramsey, what's that from?

22 A. Ramsey, biblical name from the pharaoh of Egypt.

23 Q. And what's the purpose? What's the meaning of that?

24 A. The meaning, it's power, respect, kingship.

25 Q. Okay.

KAFPCOL4

Mowatt - Direct

1 Q. What does it mean to sell marijuana on consignment?

2 A. It means that somebody gives you the weed, and then you  
3 take it and you sell it, and you pay them their money back.

4 Q. As of the summer of 2017, did you owe Big AK any money for  
5 the marijuana?

6 A. Yes, I did.

7 Q. Approximately how much?

8 A. Close to \$3,000.

9 Q. Let's get back to the murder for hire now. When you first  
10 met with Big AK in the summer of 2017, what did Big AK tell you  
11 he wanted you to do?

12 A. Big AK told me that his godbrother, Obendy, wanted to get  
13 this guy beat up and put in the hospital.

14 Q. Did he tell you why?

15 A. He alluded to the fact that there may be something to do  
16 with Obendy's wife. He didn't go into detail.

17 Q. Had you ever met Obendy at that point?

18 A. I think I had met him at one point, one time in passing.

19 Q. What was the nature of that meeting?

20 A. We were just hanging out at Big AK's house and Obendy came  
21 over and he introduced me as his little shooter and introduced  
22 Obendy as his godbrother.

23 Q. I'm sorry, let me clarify. He, Big AK, introduced you as  
24 his little shooter?

25 A. Yes.

KAFPCOL4

Mowatt - Direct

1 Q. He introduced you to whom?

2 A. To Obendy.

3 Q. What did you understand that to mean?

4 A. I understood that to mean I would commit violence on behest  
5 or on behalf of the gang to commit crimes.

6 Q. Do you know how Big AK and Obendy knew each other?

7 A. Yes, they were godbrothers in the Santeria religion.

8 Q. Are you in that religion?

9 A. No. I was.

10 Q. How did you join the religion when you were in it?

11 A. I was given the ceremony of initiation.

12 Q. Who was involved in that ceremony?

13 A. Big AK, Ashton Frasier and some other people who were  
14 involved in the religion.

15 Q. Is Big AK the one who introduced you to the religion?

16 A. Yes.

17 Q. What position did Big AK hold in the position?

18 A. He held the position of Babalu or a priest.

19 Q. What about Obendy?

20 A. He held the same position.

21 Q. You said earlier that they were godbrothers within the  
22 religion. What does it mean to be a godbrother in the  
23 religion?

24 A. As I understand it, it's more serious than even normal  
25 siblings. They hold each other down and make sure nothing

KAFPCOL4

Mowatt - Direct

1 A. Yes, I do.

2 Q. What is that?

3 A. That's Big AK's house.

4 MR. HOBSON: Your Honor, the government offers  
5 Government Exhibit 213 into evidence.

6 MR. BRESLIN: No objection.

7 MR. KLUGER: No objection.

8 THE COURT: No objection? Received.

9 (Government's Exhibit 213 received in evidence)

10 MR. HOBSON: Ms. Bosah, if you could please display it  
11 to the jury.

12 BY MR. HOBSON:

13 Q. What happened at Big AK's house the day you got the  
14 victim's information?

15 A. The day that I got the victim's information, myself and Big  
16 AK, as well as Little AK, we was smoking in front of Big AK's  
17 house and Obendy pulled up. And when he pulled up, they went  
18 into the house together, and then Obendy came back out and  
19 eventually he left.

20 Q. And let me ask you, you mentioned a Little AK. Who is  
21 Little AK?

22 A. Little AK is Big AK's cousin.

23 Q. Is Little AK in the gang?

24 A. Yes.

25 Q. What, if anything, happened after Obendy left?

KAFPCOL4

Mowatt - Direct

1 A. After Obendy left, Big AK called me into the house, and we  
2 went into the kitchen and he told me that he had the  
3 information for the intended victim.

4 Q. And what happened next?

5 A. Next he showed me pictures of the victim, and he gave me  
6 also his work address and showed me a cable bill with a printed  
7 address that was supposed to be his home address.

8 Q. What did you do with this information?

9 A. I took pictures of all of those things and put them in my  
10 phone.

11 MR. HOBSON: Ms. Bosah, if you could please display  
12 Government Exhibit 204, which is already in evidence, or I'm  
13 sorry. It was introduced, but subject to connection for  
14 relevance. We will be establishing its relevance now, but I  
15 believe you can show it to the jury.

16 Q. Mr. Mowatt, do you recognize Government Exhibit 204?

17 A. Yes, I do.

18 Q. What is that?

19 A. That's the picture of the intended victim.

20 Q. Is it one of the pictures that Big AK gave you that day?

21 A. Yes, it is.

22 MR. HOBSON: Ms. Bosah, if you could please display  
23 Government Exhibit 205.

24 Q. Mr. Mowatt, do you recognize that document?

25 A. Yes, I do.

KAFPCOL4

Mowatt - Direct

1 A. A few months had passed, actually.

2 Q. Why hadn't you done the murder yet?

3 A. Because I was going in and out of town, and I was -- I  
4 couldn't find the victim.

5 Q. Did Big AK say whether Obendy was upset about that?

6 A. Yes, he did.

7 Q. What did he say?

8 A. He said Obendy was getting mad the longer that it was  
9 taking to take care of this, and he didn't understand what it  
10 what was taking so long for me to kill a Puerto Rican who  
11 didn't know it was even coming.

12 Q. After Big AK called you, what did you do?

13 A. I went to Big AK's house.

14 Q. What did you do there?

15 A. I went in the kitchen and Big AK told me that I should make  
16 sure that when Obendy comes in, he sees me with a gun.

17 Q. So what did you do?

18 A. I started cleaning the gun at the kitchen table.

19 Q. Which gun?

20 A. The pearl handle pistol.

21 Q. Did Big AK say why he wanted you to have the gun out?

22 A. Yeah. He said he wanted Obendy to see the gun so that he  
23 know that I always had my gun on me, basically.

24 Q. Did Obendy come?

25 A. Yes, he did.

1 KAFPCOL4

Mowatt - Direct

1 Q. What happened once Obendy got to Big AK's house?

2 A. Obendy came into the kitchen and saw me with a gun on the  
3 table, and Big AK then said: See, my little shooter stays  
4 strapped.5 Q. What did you understand the defendant to mean by  
6 "strapped"?

7 A. Like I always got my gun on me.

8 Q. What happened after that?

9 A. After that, we ended up going into Obendy's car, and we  
10 went to a restaurant called Fish N' Tings.

11 Q. Where is Fish N' Tings?

12 A. Fish N' Tings is in The Bronx on Conner Street.

13 MR. HOBSON: Ms. Bosah, if you could please show  
14 Government Exhibits 210 and 211 to the witness.

15 Q. Do you recognize what's shown in Government Exhibit 210?

16 A. Yes, I do.

17 Q. And what is it?

18 A. That is the front of Fish N' Tings restaurant.

19 Q. And do you recognize what's in Government Exhibit 211?

20 A. Yes, that's the booth where we sat down and ate at.

21 Q. Is that at Fish N' Tings restaurant?

22 A. Yes, it is.

23 MR. HOBSON: Your Honor, we offer Government  
24 Exhibits 210 and 211 into evidence.

25 THE COURT: Any objection?

KAF7COL5

Mowatt - direct

1                   MR. HOBSON: If you can please display to the jurors.

2 Q. So can you tell me again, Government Exhibit 210, what is  
3 that?

4 A. That's the front of Fish N' Tings restaurant.

5 Q. And Government Exhibit 211, what is that?

6 A. That's the booth that we ate food in Fish N' Tings  
7 restaurant.

8 Q. By we who do you mean?

9 A. Myself, Obendy and Big AK.

10 Q. What if anything did you talk about on the drive to Fish N'  
11 Tings?

12 A. I was pretty much silent, but Big AK and Obendy I think  
13 they were talking about Obendy's last trip to Cuba or something  
14 like that.

15 Q. When you were at Fish N' Tings, what if anything did Obendy  
16 say to you?

17 A. Obendy basically asked me about my family situation as far  
18 as my son. My kid's mother was locked up, so he asked me how  
19 everything was going with her at the time. And then he also  
20 asked me if I was having some legal trouble because I had  
21 gotten -- I had a few open cases at the time, and he told me he  
22 might be able to help me with those.

23 Q. With what? With your legal cases?

24 A. Yes.

25 Q. What did you understand him to mean by that?

KAF7COL5

Mowatt - direct

1 A. I understood that to mean that if I took care of this  
2 murder for him, he would help me out with lawyer fees from my  
3 legal cases that I had open.

4 Q. After dinner at Fish N' Tings, what did you do?

5 A. After that I went back to Big AK's house and Obendy left.

6 Q. What if anything happened after Obendy left?

7 A. After that, Big AK told me that he wanted me to make sure  
8 that I took care of this murder and made sure that I could  
9 benefit myself and benefit the gang as well.

10 Q. Did he say how the gang would benefit?

11 A. He said that he would benefit basically with the demolition  
12 company, and that he would be able to give some of the homies  
13 jobs.

14 Q. Did he say whether -- how doing the murder affected him  
15 getting the demolition contract?

16 A. He said once the murder was taken care of, Obendy would  
17 feel indebted to him so he would definitely get the contract,  
18 but while it wasn't taking place it was just basically wasting  
19 more and more time so he wouldn't be able to get it and the  
20 opportunity might pass.

21 Q. When is the next time you saw Obendy?

22 A. The next time I saw Obendy was at my house.

23 Q. Where is your house?

24 A. My house is in Yonkers, 44 Tibbetts Road.

25 Q. Can you say the address?

KAF7COL5

Mowatt - direct

1 had a lot of money.

2 Q. What was Johnson's response when you asked him to help you  
3 with the murder?

4 A. He said no problem.

5 Q. After Johnson agreed to help with the murder, what if any  
6 steps did the two of you take to carry out the murder?

7 A. We went to Queens to do surveillance and to see if we saw  
8 the victim so that we could commit the murder that night.

9 Q. Approximately when was that?

10 A. That was shortly after we killed Degrace, so I believe that  
11 would be like around September of 2018.

12 Q. Do you remember what the weather was like?

13 A. It wasn't -- it wasn't that cold outside. I was wearing a  
14 sweatsuit.

15 Q. Before going out there to kill the victim that night, had  
16 you done any more surveillance?

17 A. Yes, I had went to Queens one time by myself.

18 Q. When was that?

19 A. In between -- in between me going with Big AK and me going  
20 with Barry Johnson.

21 Q. So turning to the night that you and Johnson went out to  
22 Queens, what was the purpose of that trip?

23 A. The purpose of that trip was to kill the victim if we saw  
24 him.

25 Q. Did you bring any weapons with you?

KAF7COL5

Mowatt - direct

1 A. Yes, I did.

2 Q. What did you bring?

3 A. I brought a butcher knife with me.

4 Q. Why didn't you bring a gun?

5 A. I didn't bring a gun because Barry Johnson told me that the  
6 gun would make too much noise so he didn't want to do it that  
7 way.

8 Q. Did you agree with Johnson about that?

9 A. Yes, I did.

10 Q. Do you know if Johnson had a weapon?

11 A. He was supposed to, but he didn't bring it.

12 Q. What was he supposed to have?

13 A. He was supposed to have a knife as well.

14 Q. When did you find out Johnson didn't have a knife?

15 A. When we got to Queens we found out -- I found out that he  
16 didn't have the knife on him.

17 Q. And what was your reaction when you found out?

18 A. I was upset. I told him if he knows that we're going to  
19 put in work, how come he didn't bring his weapon.

20 Q. Put in work, what do you mean by that?

21 A. Meaning kill this guy.

22 Q. Did you still intend to do the murder at that point?

23 A. Yes, I did.

24 Q. How did you and Johnson get to Queens that night?

25 A. We drove with a friend of mine named Jah Money from the

KAF7COL5

Mowatt - direct

1 Bronx.

2 Q. Who is Jah Money?

3 A. Jah Money is a friend of mine from the Bronx from the  
4 Wakefield area.

5 Q. What did you tell Jah Money about why you were going to  
6 Queens?

7 A. I told him my big homey wanted me to hit somebody in  
8 Queens, and I was going up there to stab him basically.

9 Q. When you got to Queens, where did Jah Money park?

10 A. He parked approximately two blocks away from the victim's  
11 house.

12 Q. What did you do next once Jah Money parked?

13 A. Once Jah Money parked, myself and Barry Johnson got out of  
14 the vehicle, and we started walking around the area and looking  
15 at the different houses and seeing if there were any cameras or  
16 anything like that. And I took some video at the time while we  
17 was walking as well.

18 Q. Why did you take video?

19 A. Just in case we didn't see the victim, to make sure that I  
20 had proof so that I could show Big AK so he can show Obendy  
21 that we wasn't playing around.

22 Q. What did you do with the video?

23 A. I sent the video to Big AK.

24 Q. The video, did you take that with your phone?

25 A. Yes, I did.

KAF7COL5

Mowatt - direct

1 how did that affect your plan?

2 A. Well, I became nervous because Barry didn't have a knife,  
3 and I didn't know whether or not this guy had a gun on him or  
4 what. So, I tried to get the victim either as close to me as  
5 possible or out of the gate so that I could commit this murder.

6 Q. Why? What was the plan?

7 A. The plan was to either try to get him to come close to the  
8 gate so that I could stab him, or to get him out of the gate to  
9 bring us to the train station so that I could stab him in his  
10 car.

11 Q. What happened next?

12 A. Next the victim came down the steps and walked right here  
13 behind the gate.

14 MR. HOBSON: Let the record reflect that the defendant  
15 has drawn a blue line from the steps down to the gate on  
16 Government Exhibit 202.

17 THE COURT: So noted.

18 Q. What happened once the victim came down to the gate?

19 A. Myself and Johnson told the victim that we were working in  
20 the area and we were looking for a way to get to the A train to  
21 get back to Harlem, and I asked the victim if he could give me  
22 a ride so that I could get him out of the backyard and towards  
23 me. And he told me that he would have done it but he was going  
24 someplace with his wife that night.

25 Q. Did you kill the victim that night?

KAF7COL5

Mowatt - direct

1 Ecstasy, how do those affect your perception of events?

2 A. Cocaine just gives me basically energy and an upbeat  
3 feeling. And the same thing with Ecstasy, I just feel a sense  
4 of euphoria, happiness.

5 Q. Did any of the drugs you were using this time period either  
6 in isolation or in combination with one another cause you to  
7 hallucinate?

8 A. Not at all.

9 Q. Did they ever cause you to see things that weren't there?

10 A. No, not at all.

11 Q. Did they ever cause you to hear voices that weren't there?

12 A. No, not at all.

13 MR. BRESLIN: Your Honor, I would like to just  
14 interpose an objection. This is questioning without  
15 foundation. He has no way of knowing.

16 THE COURT: Well, which question are you objecting to?  
17 They've been answered at this point.

18 Next question, please.

19 Q. You testified that you were arrested in October 2018 for  
20 illegal possession of a firearm among other things. Is that  
21 correct?

22 A. Yes.

23 Q. When you were first arrested that day, were you questioned  
24 by the F.B.I.?

25 A. Yes.

KAF7COL5

Mowatt - direct

1 Q. What did you tell them about the Degrace murder?

2 A. I gave them all of the details as far as to what took  
3 place.

4 Q. Did you tell them that Johnson helped you do the murder?

5 A. Yes, I did.

6 Q. To your knowledge, had Johnson been arrested for a murder  
7 at that point?

8 A. No, he had not.

9 Q. What did you tell them -- what did you tell the F.B.I.  
10 about the murder for hire?

11 A. I gave them all of the details as far as to everything that  
12 took place.

13 Q. After your arrest, did you meet with prosecutors and law  
14 enforcement?

15 A. Yes, I did.

16 Q. Did you meet on one occasion or many occasions?

17 A. On many occasions.

18 Q. Was your attorney present for at least some of those  
19 meetings with the government?

20 A. Yes, he was.

21 Q. Did you enter into a cooperation agreement with the  
22 government?

23 A. Yes, I did.

24 Q. Was that agreement oral or in writing?

25 A. It was in writing.

KAF7COL5

Mowatt - direct

1 Q. Did you review that agreement with your attorney?

2 A. Yes, I did.

3 Q. Did you sign it?

4 A. Yes, I did.

5 Q. After you signed it, did you plead guilty to the crimes we  
6 discussed earlier?

7 A. Yes, I did.

8 Q. Does that include the murder?

9 A. Yes, it does.

10 Q. Does that include the murder for hire?

11 A. Yes, it does.

12 Q. Have you been sentenced?

13 A. No, I have not.

14 Q. To your understanding, what is the maximum possible prison  
15 sentence you could receive for these crimes?

16 A. The maximum prison sentence I could receive for these  
17 crimes is life in prison.

18 Q. Is there a mandatory minimum sentence?

19 A. Mandatory minimum is 29 years with 19 running consecutive.

20 Q. Who will sentence you?

21 A. My sentencing judge.

22 Q. Who decides your sentence?

23 A. My sentencing judge.

24 Q. Will anyone else decide your sentence?

25 A. No, not at all.

KAGPCOL1

Mowatt - Cross

1 A. Yes, he did.

2 Q. He, in fact, was the one who introduced you to Santeria;  
3 was he not?

4 A. That's correct.

5 Q. And he wanted you to become -- or he told you that being  
6 involved in Santeria might help you, yes?

7 A. That's correct.

8 Q. Bring you a measure of peace and stability?

9 A. Yes.

10 Q. And he encouraged you to do that and become interested in  
11 the religion?

12 A. Yes.

13 Q. I'd like to talk a little bit about your personal drug use  
14 after the time that you met Mr. Collins in the summer of 2016.  
15 Okay?

16 A. Okay.

17 Q. After the time you met Mr. Collins in the summer of 2016,  
18 you were regularly using illegal drugs, were you not?

19 A. That's correct.

20 Q. Okay. Marijuana?

21 A. Yes.

22 Q. Cocaine?

23 A. Yes.

24 Q. Something called Mollies?

25 A. Yes, from time to time.

KAGPCOL1

Mowatt - Cross

1 Q. Okay. Could you tell the jury what a Molly is?

2 A. That's a derivative of MDMA Ecstasy.

3 Q. So Ecstasy and Molly are the same thing?

4 A. It's pretty much the same thing, yes.

5 Q. And any other drugs after you met -- any other illegal  
6 drugs after you met Mr. Collins in 2016?

7 A. No.

8 Q. Okay. And this drug usage, this illegal drug usage,  
9 continued up until the time you were arrested; did it not?

10 A. Correct.

11 Q. In fact, you're still using illegal narcotics in prison;  
12 are you not?

13 A. No, I'm not.

14 Q. Have you not been cited for smoking marijuana while you  
15 were incarcerated?

16 A. Yes, I smoked a few times when I first came to Orange  
17 County.

18 Q. How many times?

19 A. Two or three.

20 Q. And how many times were you caught?

21 A. None.

22 Q. But you still have been using illegal narcotics after you  
23 were incarcerated, yes?

24 A. I used them a few times. I'm not using them anymore  
25 currently.

KAGPCOL1

Mowatt - Cross

1 Q. Okay. When did you start smoking marijuana?

2 A. When I was a young kid.

3 Q. How old?

4 A. I'm not sure exactly what age.

5 Q. Okay. And after 2016 -- strike that.

6                   When did you start using cocaine?

7 A. When I was a teenager.

8 Q. And when did you start using Ecstasy?

9 A. Probably when I was about 19 or 20.

10 Q. After 2016, did you smoke something called a Woolly?

11 A. Yes.

12                   (Continued on next page)

13

14

15

16

17

18

19

20

21

22

23

24

25

KAG7COL2

Mowatt - cross

1 Q. Could you explain to the jury what a woolly is.

2 A. Cocaine and marijuana mixed together in a blunt.

3 Q. Was it in a cigarette?

4 A. In a cigar.

5 Q. So when you say a blunt, could you just explain to the jury  
6 what that means.

7 A. A rolled-up cigar.

8 Q. So you mixed cocaine and marijuana in a rolled-up cigar?

9 A. Correct.

10 Q. And was it cocaine or crack that you rolled up in the  
11 cigar?

12 A. Crack cocaine.

13 Q. So a woolly is crack cocaine and marijuana rolled up as a  
14 cigar?

15 A. Yeah.

16 Q. How often were you smoking that after the summer of 2016?

17 A. Not often.

18 Q. OK. Is there a difference between smoking a woolly and  
19 smoking marijuana?

20 A. Yes.

21 Q. What does a woolly make you feel like?

22 A. It gives you energy, your heart races, and you just feel  
23 high.

24 Q. Now, is it fair to say that from summer of 2016 to when you  
25 were arrested in October 2018 you basically smoked marijuana

KAG7COL2

Mowatt - cross

1 every day?

2 A. That's correct.

3 Q. Sometimes more than once a day.

4 A. That's correct.

5 Q. Sometimes in the morning?

6 A. Yes.

7 Q. Sometimes in the afternoon?

8 A. Yes.

9 Q. Sometimes also in the evening or at night.

10 A. That's correct.

11 Q. And you smoked with a whole bunch of people, right?

12 A. Not all the time.

13 Q. But sometimes.

14 A. I have before.

15 Q. You smoked with Mr. Johnson, correct?

16 A. Yes.

17 Q. That was one thing you had in common?

18 A. Correct.

19 Q. Sort of one basis for your friendship with Mr. Johnson?

20 A. Correct.

21 Q. You liked to smoke marijuana together.

22 A. Correct.

23 Q. Did Mr. Johnson smoke wool lease too?

24 A. No, he did not.

25 Q. Did he use Ecstasy?

KAG7COL2

Mowatt - cross

1 A. Not that I know of.

2 Q. Did you ever see him use cocaine or crack?

3 A. No.

4 Q. So, is it fair to say that when you were arrested, you had  
5 been using marijuana for years and years and years, yes?

6 A. Yes.

7 MR. HOBSON: Objection. It goes beyond the agreed  
8 scope of the second question.

9 THE COURT: Yeah, I think -- ladies and gentlemen, the  
10 issue here is whether at the time of the events about which the  
11 witness is testifying, that he was under the effects of any  
12 substance.

13 MR. BRESLIN: That is correct, your Honor.

14 THE COURT: So, limit it to that.

15 Q. Limited to the time you met Mr. Collins until you were  
16 arrested, you were smoking marijuana all the time.

17 A. On a daily basis.

18 Q. On a daily basis. And it's your belief that that had  
19 absolutely no impact on your perception.

20 A. That's correct.

21 Q. Absolutely no impact on your ability to understand what was  
22 happening around you.

23 A. That's correct.

24 Q. And that it had absolutely no impact whatsoever on your  
25 ability to negotiate your everyday life tasks.

KAG7COL2

Mowatt - cross

1 A. That's correct.

2 Q. Now, you would be on these drugs from time to time when you  
3 were with Mr. Collins, correct?

4 A. Correct.

5 Q. During some of the meetings that you talked about on  
6 direct, right?

7 A. Correct.

8 Q. So for the first meeting you had with Mr. Collins where you  
9 say you talked about Mr. Santiago, when was that?

10 A. That was -- that was in 2017.

11 Q. What month?

12 A. In the summertime.

13 Q. What month?

14 A. I'm not sure exactly what month.

15 Q. And that meeting took place, you say, at Mr. Collins' home?

16 A. Yes, I remember it was the summertime because we were  
17 outside smoking marijuana.

18 Q. So, on that meeting in which you say Mr. Collins and you  
19 discussed -- you and Mr. Collins discussed Mr. Santiago -- you  
20 were smoking marijuana.

21 A. That's correct.

22 Q. And then you talked about a second meeting in which  
23 Mr. Collins discussed Mr. Santiago with you, and that meeting I  
24 think you said Mr. Santiago was present for, right?

25 A. I don't understand.

KAG7COL2

Mowatt - cross

1 Q. Let me ask it a different way. Was there then a second  
2 meeting with Mr. Collins?

3 A. I had many meetings with Mr. Collins.

4 Q. Was there then a second meeting with Mr. Collins where the  
5 issues with Obendy was discussed?

6 A. Yes.

7 Q. And when you met Obendy.

8 A. Yes.

9 Q. And at that meeting you were smoking marijuana too, were  
10 you not?

11 A. That's correct.

12 Q. And at that meeting you also snorted some cocaine, did you  
13 not?

14 A. I had sniffed some coke earlier.

15 Q. And at that meeting you drank about six beers, give or  
16 take.

17 A. Maybe, maybe less.

18 Q. Maybe more?

19 A. No, maybe less than six beers.

20 Q. But you were also consuming alcohol at that meeting.

21 A. That's correct.

22 Q. And does alcohol diminish your perceptual abilities, in  
23 your opinion?

24 A. If I drink in excess.

25 Q. So alcohol does affect you, marijuana does not.

KAG7COL2

Mowatt - cross

1 A. Correct.

2 Q. Does taking Ecstasy affect you?

3 A. No.

4 Q. So you believe that taking Ecstasy has no impact  
5 whatsoever on your perceptual abilities.

6 A. It gives me a euphoric feeling, that's about it.

7 Q. And I think you also talked about a dinner, or lunch at a  
8 restaurant called Fish N' Tings.

9 A. That's correct.

10 Q. And you say you attended that meeting at that restaurant  
11 with whom?

12 A. Mr. Collins and Obendy.

13 Q. OK. And on the way to that meeting, or before that  
14 meeting, you smoked marijuana that day too?

15 A. That's correct.

16 Q. And you used Ecstasy that day as well.

17 A. That's correct.

18 Q. And of course this is just your personal drug use. We'll  
19 now turn to illegal narcotics that you sold to people for  
20 money. Correct? You understand that's a different topic.

21 A. Yes, I understand.

22 Q. All right. So aside from the robberies and the murder that  
23 we discussed -- and we will discuss again -- you've regularly  
24 been employed as a drug dealer, have you not?

25 A. That's correct.

KAGPCOL3

Mowatt - Cross

1 (In open court; jury not present)

2 THE COURT: Remain seated. Our jurors are on their  
3 way up.

4 (Pause)

5 THE DEPUTY CLERK: Jury entering.

6 THE COURT: All right. Remain seated, please.

7 (Jury present)

8 THE COURT: All right. Mr. Breslin, whenever you're  
9 ready. Thank you.

10 MR. BRESLIN: Thank you, your Honor.

11 New topic, ladies and gentlemen.

12 BY MR. BRESLIN:

13 Q. Mr. Mowatt, I think we alluded to it very briefly earlier,  
14 but you practice Santeria?

15 A. I once did, yes.

16 Q. Okay. And you're no longer following that religion?

17 A. No, I'm in jail.

18 Q. Okay. But you did for a while?

19 A. Yes, for a moment.

20 Q. And you know that Mr. Collins practices Santeria?

21 A. Yes.

22 Q. And did you know that he holds the position of Babalu in  
23 the religion?

24 A. Yes.

25 Q. And is that like a priest, is that a fair comparison?

KAGPCOL3

Mowatt - Cross

1 A. Yes.

2 Q. And when you were practicing Santeria, was Mr. Collins your  
3 godfather?

4 A. Yes.

5 Q. And that is a special relationship within Santeria?

6 A. Yes.

7 Q. It means you are close?

8 A. Yes.

9 Q. That you rely on him for spiritual guidance?

10 A. Yes.

11 Q. And he has a responsibility to help you along your path?

12 A. Correct.

13 Q. And I think you also testified that you and he were friends  
14 at one point?

15 A. Yes.

16 Q. Now, and I think you may have mentioned it yesterday,  
17 Mr. Collins arranged an initiation ceremony for you into  
18 Santeria?

19 A. Yes.

20 Q. About when was that?

21 A. This was after I received the amulet.

22 Q. Okay. Any idea what year?

23 A. This is 2017.

24 Q. What month?

25 A. I'm not exactly sure. It's after I received the amulet.

KAJPCOL2

Johnson - Direct

1 A. I'm 28.

2 THE COURT: Thank you.

3 Q. Where were you born?

4 A. Morristown, New Jersey.

5 Q. Where did you grow up?

6 A. Yonkers, New York.

7 Q. How far did you go in school?

8 A. I graduated high school.

9 Q. Mr. Johnson, where are you living now?

10 A. Orange County Correctional Facility.

11 Q. How long have you been in the correctional facility?

12 A. I've been in that one for a year now.

13 Q. And how long have you been in jail in total?

14 A. About 22 months.

15 Q. Why are you in jail?

16 A. Aiding and abetting in a murder in Mount Vernon.

17 Q. Are you in jail for any other crimes?

18 A. Yes.

19 Q. What other crimes?

20 A. I'm in jail for a murder-for-hire conspiracy, the act of  
murder for hire, possession and distribution of crack cocaine,  
powder cocaine, quantities of heroin and marijuana,  
participating in Uber -- fraud in Uber drivers, money transfer,  
fraudulent money transfers and fraudulent cashing checks and  
fraudulent money orders.

KAJPCOL2

Johnson - Direct

1 Q. Have you pled guilty to those crimes?

2 A. Yes.

3 Q. Have you pled guilty pursuant to a cooperation agreement  
4 with the government?

5 A. Yes.

6 Q. What are you required to do under that cooperation  
7 agreement?

8 A. I am to honestly and truthfully answer anything that's  
9 asked of me. I am to aid the district attorney's office, the  
10 Federal Bureau of Investigation, and any other law enforcement  
11 asking me. I am to attend all meetings. I am to handle any  
12 evidence related to me in this case and any other case. I am  
13 to testify to the grand jury, if asked of me, and agree to any  
14 court adjournments. I am to forthcoming to any crimes that I  
15 committed, knowing and unknowingly, and not commit any other  
16 crimes.

17 Q. You testified that you pled guilty to murder for hire and  
18 murder-for-hire conspiracy. I'd like to start there. Were  
19 you, in fact, hired to commit a murder?

20 A. Yes.

21 Q. Who were you hired to kill?

22 A. An older gentleman in Queens.

23 Q. Do you know his name?

24 A. No.

25 Q. And he was the intended victim of the murder?

KAJ7COL3

Johnson - direct

1 there, he was going to take me to his big homey's home, gonna  
2 have him meet us somewhere and have us all me.

3 I said, KD, I don't think that's a good idea. I said,  
4 homey, why would he want to meet me? He's like, nah, it's  
5 cool. KD referred to him as his father, so he was like, nah,  
6 it's cool, I'm going to introduce you all. He was like I'm  
7 gonna call him.

8 I was like all right. So, he called him. His big  
9 homey was busy at the time. He was doing something. KD asked  
10 his big homey, he said, yo, big homey, what's up, you busy  
11 right now? And his big homey replied, yeah, I am. But what's  
12 up though? What's up? Talk. He's like, no, like remember  
13 this dude that I told you about that I was going to go out  
14 there and handle the situation with? He like, yeah, why,  
15 what's up? He like, yeah. He was like, I was trying to see if  
16 he was doing something right now, or he was at the crib, I was  
17 going to bring him over to you and have you all meet.

18 So his big homey interrupted him and said, whoa, whoa,  
19 whoa. He says, homey, what the fuck are you talking about? He  
20 got quiet.

21 He said, homey, why would I need to meet? He said,  
22 yo. He said yo. He said I could understand if you already  
23 took care of the situation then maybe, but I don't need to meet  
24 that nigger, homey. He said, I don't know what the fuck you  
25 thinking. He said, that was the stupidest shit you could ever

KAJ7COL3

Johnson - cross

1 Q. Did you ever talk to Mr. Collins about it?

2 A. No, I never talked to Mr. Collins.

3 Q. Did you ever meet Mr. Collins?

4 A. No.

5 Q. Did Mr. Collins ever give you anything of value?

6 A. No.

7 Q. Ever offer you anything of value?

8 A. No.

9 Q. When KD referred to his big homey, did he ever use  
10 Mr. Collins' name?

11 A. No, I never even knew KD's name.

12 Q. So you never knew KD's name, and in all the time you were  
13 with KD talking about the murder for hire plot he never  
14 mentioned the names Vance Collins.

15 A. No, he did not.

16 Q. So, let's talk a bit about the Degrace murder. When did  
17 that take place?

18 A. Sometime in August. I'd say August, maybe two days before  
19 the original date, the 26th, the 24th, of 2018.

20 Q. So it was late August of 2018?

21 A. Yes.

22 Q. And so how did you first -- strike that. Was it your idea  
23 to kill Mr. Degrace?

24 A. No.

25 Q. It was KD's idea to kill Mr. Degrace.

KAJPCOL4

Johnson - Cross

1 Homey?

2 A. Yeah, from what I remember, yeah, I have.

3 MR. BRESLIN: Thirty seconds, your Honor?

4 THE COURT: Yes.

5 (Pause)

6 MR. BRESLIN: No further questions, your Honor.

7 THE COURT: All right. Ms. Morales, any  
8 cross-examination?

9 MS. MORALES: Yes, Judge.

10 THE COURT: Okay.

11 CROSS-EXAMINATION

12 BY MS. MORALES:

13 Q. Good afternoon, ladies and gentlemen.

14 Good afternoon, Mr. Johnson.

15 A. Good afternoon, ma'am.

16 Q. My name is Jodi Morales, and I represent Mr. Ramon Ramirez.

17 Mr. Johnson, today, in this courtroom, this is the  
18 very first time you're seeing Mr. Ramon Ramirez, correct?

19 A. Yes.

20 Q. Prior to today, you've never seen him before, correct?

21 A. Yes, that's correct.

22 Q. Never spoke with him?

23 A. Yes, that's correct.

24 Q. Not by text?

25 A. Not whatsoever.

KAJ7COL5

Kenney - direct

1 Q. When did that occur?

2 A. June 13, 2019.

3 Q. Approximately what time, if you remember?

4 A. 6:15 a.m.

5 Q. Where did the arrest occur?

6 A. In front of his residence at 4777 Barnes Avenue in the  
7 Bronx.

8 Q. Did you have a warrant for his arrest at the time?

9 A. We did.

10 Q. What if anything did the F.B.I. do to prepare for Collins'  
11 arrest?

12 A. We conducted surveillance of Mr. Collins for numerous days  
13 and prepared an arrest plan.

14 Q. What was your involvement in Collins' arrest?

15 A. I was the on-scene commander.

16 Q. Can you describe what you observed leading up to Collins'  
17 arrest?

18 A. Myself and my team initiated surveillance in the area of  
19 Mr. Collins' residence. At approximately 6:15 I observed  
20 Mr. Collins departing the stairs from his door towards the  
21 street carrying a garbage bag. A New York Sanitation truck had  
22 passed his house, and he was walking towards the sanitation  
23 truck with the garbage bag.

24 Q. At that point what happened?

25 A. I gave the command to execute the arrest.

KAJ7COL5

Kenney - direct

1 503 into evidence.

2 THE COURT: Any objection?

3 MS. BUSSIÈRE: No, your Honor.

4 THE COURT: Received.

5 (Government Exhibit 503 received in evidence)

6 MR. HOBSON: Ms. Bosah, if you could please now  
7 display Government Exhibit 505.

8 This is a stipulation between Vance Collins, Ramon  
9 Ramirez and the government in which the parties have  
10 stipulated:

11 That three firearms were collected during the F.B.I.  
12 search of Vance Collins' home at June 13, 2019. The F.B.I.  
13 recovered a .44 millimeter S&W special caliber Rossi (made in  
14 Brazil) model 720, solid frame revolver, serial number ABI06694  
15 likely, manufactured in 1992.

16 When recovered the firearm was operable and five live  
17 cartridges were recovered with the firearm. One of the  
18 cartridges was used by the Westchester County Department of  
19 Public Safety Crime Laboratory to test the firearm. Visual  
20 inspection of the gun suggests that it was fired prior to being  
21 seized by the F.B.I.

22 The F.B.I. seized a 6.35 millimeter caliber (25 Auto),  
23 Beretta (made in Italy), Model 418, semi-automatic pistol,  
24 serial number 17881A, likely manufactured around 1948 based on  
25 a proof mark on the gun. The gun was recovered with the

KAJ7COL5

Kenney - direct

1 magazine attached. The fire warm as inoperable at the time it  
2 was recovered because it was missing a firing pin. No  
3 ammunition was recovered with the firearm.

4 The F.B.I. seized a .25 millimeter Auto Caliber,  
5 Phoenix Arms, Model Raven, semiautomatic pistol, serial number  
6 3083546. Phoenix Arms began manufacturing the Raven model in  
7 approximately 1991. The gun was cheaply made but in fair  
8 condition. The gun had a magazine disconnect feature which  
9 prevented the gun from firing if the magazine was not attached  
10 but was operable if the magazine was attached. The gun did not  
11 have a magazine attached at the time it was seized and no  
12 magazine was recovered. The Westchester County Department of  
13 Public Safety Crime Laboratory attached a magazine for testing  
14 and confirmed that with the magazine attached the gun was  
15 operable. No ammunition was recovered with the firearm.

16 It is further stipulated and agreed that this  
17 stipulation may be received in evidence as an exhibit at trial.

18 Your Honor, we move to enter Government Exhibit 505  
19 into evidence.

20 THE COURT: Any objection?

21 MR. KLUGER: Judge I'm going to have an objection to  
22 that subject to a possible limiting instruction.

23 THE COURT: All right. I will hear you at the next  
24 break on the limiting instruction. Thank you. It's received,  
25 subject to a limiting instruction.

KAJPCOL6

Kenney - Direct

1                   THE COURT: Pardon me?

2                   MR. KLUGER: No objection.

3                   THE COURT: All right, received.

4                   (Government's Exhibits 507, 601T and 602T received in  
5 evidence)

6                   MR. HOBSON: Ms. Bosah, if you could please place  
7 Government Exhibit 601T on the screen.

8 BY MR. HOBSON:

9 Q. Agent Kenney, I'd like you to assist me in reading this  
10 into the record. I'm going to read the part of the agents,  
11 Agent 1 and Agent 2, and I'd like you to read the part of  
12 Ramirez; do you understand?

13 A. Sure.

14 Q. "Now, why don't you tell me about Eric Santiago?"

15                   THE COURT: Let me understand this. This is a  
16 transcription of a recording; is that correct?

17                   MR. HOBSON: Yes, your Honor. It's a transcription of  
18 the recording of Ramon Ramirez's post-arrest statement that was  
19 just introduced.

20                   THE COURT: All right. Go ahead.

21 BY MR. HOBSON:

22 Q. Agent 1: "Now, why don't you tell me about Eric Santiago?"

23 A. "Eric Santiago, I know I was mad at a certain point because  
24 he used to work for me, I feed him and everything, and then he  
25 had an affair with my wife."

KAKPCOL1

Summation - Mr. Hobson

1 dispute here. Nobody seriously disputes that there were  
2 multiple guns in Collins' house, including the pearl handle .25  
3 caliber pistol, or that Collins knew that he was a convicted  
4 felony. He stipulated that the guns were seized from his  
5 house, that he knew he had been convicted of a felony and that  
6 the guns had traveled in interstate commerce. That proves  
7 Count Three right there. End of story.

8 Nobody seriously disputes that Ramirez's wife was  
9 having an affair with Eric Santiago or that Ramirez was mad  
10 about it. Nobody seriously disputes the Ramirez asked for  
11 someone to do something to Santiago. Ramirez admits to it in  
12 his post-arrest. Nobody seriously disputes that Mowatt and  
13 Barry Johnson showed up at Santiago's house.

14 What this case really comes down to is why two  
15 murderers traveled to Queens to kill a man whose name they  
16 didn't even know. You know why, because that man was sleeping  
17 with Ramirez's wife, and Ramirez had conspired with Collins to  
18 hire these two men to commit murder.

19 So let's now talk about why Ramirez and Collins hired  
20 someone to murder Santiago. Your common sense tells you that  
21 people don't often pay to murder someone for no reason, and  
22 Ramirez had one of the oldest reasons in the book. Eric  
23 Santiago was sleeping with his wife, and Ramirez wanted  
24 Santiago out of his life and out of his wife's life forever.

25 Ramirez himself admits it. Look what he told the FBI

KAKPCOL1

Summation - Mr. Hobson

1 after he was arrested. It's Government Exhibit 601T. "Eric  
2 Santiago, I know I was mad at a certain point because he used  
3 to work for me. I feed him and everything, and then he had an  
4 affair with my wife." Ramirez had given Santiago a job. He  
5 fed him and Santiago turns around and steals his wife.

6 You've seen some of the text messages Ramirez sent to  
7 his estranged wife, where he's berating her about the affair.  
8 And it's not just one day. They went on for months. Let's  
9 looks at just a few of them.

10 "Why I have to support your family after you did it.  
11 Maybe Eric Santiago could do. Good luck. I will give big  
12 surprises. I know where you are, but that fine. Would you  
13 like a picture? I am coming to your club. Call the cops  
14 ahead."

15 This is a threat.

16 "He got control over you. Even your phone. That is  
17 the reason you don't love me or text me please. I know  
18 everybody know Ramsey as your husband or your fiancé. Let me  
19 get arrested, like you said. It will be before Christmas and I  
20 will be your husband. Watch."

21 And then there's this one, sent on September 23rd,  
22 2018, just a few days before the two hitmen showed up at Eric  
23 Santiago's back gate: "Tell him to find a cheap funeral home."

24 Tell him to find a cheap funeral home, you know who  
25 Ramirez meant by "him." It's his wife's lover, and you know

KAKPCOL1

Summation - Mr. Hobson

1           In fact, Ramirez admitted to all of this. He admitted  
2 that after he found out his wife was sleeping with Eric  
3 Santiago, he spoke to someone who said: "Don't worry about it;  
4 I'll take care of it." He said this person was gonna "fuck up  
5 Eric Santiago."

6           And Ramirez admitted that he gave this person a photo  
7 of Santiago. He gave the guy an envelope with Santiago's  
8 address on it. He admitted how he got the address. He took it  
9 from his wife's pocketbook. And you already know how he got  
10 this handwritten address on the back of the bill, the correct  
11 address. He got it with his GPS tracker.

12           In other words, Ramon Ramirez admits that he tracked  
13 down Santiago's picture and address so that someone could find  
14 Santiago and fuck him up. Everything Mowatt said about all of  
15 that was, obviously, true because Ramirez himself admits it.

16           Mowatt was honest with you when he told you that, at  
17 first, Ramirez just wanted Santiago to be hurt badly, not  
18 killed. He also told you, though, that the plan quickly  
19 changed. He said: "Big AK called me on the phone one day and  
20 he told me that Obendy" -- remember, Obendy is Ramirez --  
21 "Obendy was so angry...he wanted the guy dead now." I asked  
22 Mowatt: "To be clear, did Big AK say that Obendy now wanted  
23 the victim dead?" There was no ambiguity in his answer: "Yes,  
24 he did."

25           It was Collins who gave Mowatt his new marching

KAKPCOL1

Summation - Mr. Hobson

1 orders. Collins didn't mince words either. He told Mowatt he  
2 "should just follow the victim either from his home address or  
3 his place of work, or going to or from work, and catch him and  
4 shoot him with a small handgun so it doesn't make much noise."  
5 That doesn't leave much room for doubt.

6 Mowatt also learned at this time what was in it for  
7 him, \$25,000, plus a job in Ramirez's construction company,  
8 plus Collins would let slide the \$3,000 or so Mowatt owed him  
9 for marijuana. That's serious money. \$25,000? You don't pay  
10 \$25,000 just to scare someone. You don't pay \$25,000 just to  
11 beat someone up. The price tag alone was enough to show Mowatt  
12 that Collins and Ramirez were serious about getting this guy  
13 killed.

14 And by now, you know why Collins knew that Mowatt was  
15 right for such a big job. You heard Mowatt talk about all the  
16 crimes that he committed. Defense counsel spent a lot of time  
17 asking him about it. He was a dangerous guy. Collins called  
18 him his "little shooter." Collins introduced him to Ramirez as  
19 his "little shooter." Mowatt had a reputation for shooting  
20 people, and Ramirez wanted Santiago shot dead.

21 And remember, one of the first thing Collins did after  
22 he told Mowatt the job had changed to murder, was he gave  
23 Mowatt \$300 to buy a new gun. Mowatt gave you a very precise  
24 description of the gun he bought, "a pistol, .25 caliber, about  
25 4 inches, chrome with a pearl handle." He told you that he

KAKPCOL1

Summation - Mr. Hobson

1 gave the gun to Collins to hold onto.

2 He also told you that he had no idea what other  
3 evidence the government has in this case. So Mowatt doesn't  
4 know, but you know, that the FBI found the very same gun hidden  
5 under a chair cushion in Collins' house on the day of his  
6 arrest. This gun, Government Exhibit 102, a .25 caliber,  
7 semiautomatic pistol, about four inches long, chrome with a  
8 pearl handle. Exactly like Mowatt said.

9 Mowatt didn't need this gun if he was just supposed to  
10 break Santiago's legs. He didn't need this gun if he was just  
11 supposed to punch him in the face a few times. He needed this  
12 gun to carry out the job he'd now been hired for, murder.

13 You also know that Ramirez knew about that  
14 pearl-handled gun. Collins told Mowatt to have the gun out  
15 when Ramirez came over; so Mowatt was sitting there at the  
16 kitchen table at Collins' house, cleaning the pistol when  
17 Ramirez came into the kitchen. And what did Collins say?  
18 "See, my little shooter stays strapped." In other words,  
19 Mowatt had a gun and he was set to shoot. Collins had staged  
20 this whole scene just to show Ramirez that Mowatt was up to the  
21 job of murdering Santiago.

22 And this is another point that even Ramirez admits is  
23 true. Look what Ramirez said. "I seen a gun one day that I  
24 went to his house. Like I said before, he tried to impress me.  
25 He bought a gun. I think it was a 30 or something like that.

KAKPCOL1

Summation - Mr. Hobson

1 And he flip it like that."

2                   Ramirez says they were trying to impress him and show  
3 him they're tough because he's not in that world. Ramirez was  
4 right. They were trying to show him that Mowatt was capable of  
5 doing the job Ramirez had hired him for. And Ramirez admits  
6 that he told the man about the situation with Santiago and the  
7 man assured him "I'm gonna fuck him up."

8                   That's the same day Ramirez, Collins and Mowatt all  
9 went to eat together at Fish N' Tings. Big AK told Mowatt that  
10 Obendy wanted the meeting, and that Obendy wanted the meeting  
11 to basically see where Mowatt's head was at and to make sure  
12 that Mowatt wasn't playing games with him.

13                  And Mowatt told you that the Big AK said Obendy was  
14 getting upset. He said Obendy was getting mad, the longer that  
15 it was taking to take care of this, and he didn't understand  
16 what was taking so long for me to kill a Puerto Rican who  
17 didn't even know it was coming. What a brutal, callous  
18 description, but that's what Ramirez was paying for.

19                  Mowatt showed you the exact booth they sat at,  
20 Government Exhibit 211. That's where Mowatt told Ramirez all  
21 about the criminal charges he was facing in his life. Ramirez  
22 admitted this. He admitted that he knew Mowatt was a serious  
23 criminal. He said he knew the guy that he met with had been  
24 arrested because the guy tried to impress Ramirez by telling  
25 him about his arrests.

KAK7COL2

Summation - Mr. Hobson

1 done quickly.

2                   The murder of Eric Santiago required more, in large  
3 part because they had to find him. They had to look around his  
4 neighborhood and make sure there weren't cameras nearby.  
5 That's why they took multiple trips out to so many different  
6 addresses. That's why there were so many calls between all of  
7 the relevant parties. You know that these men wouldn't have  
8 gone through that kind of effort just to scare Santiago or just  
9 to beat him up.

10                  You also heard how angry Collins and Ramirez were  
11 getting that all these months were passing and Mowatt still  
12 hadn't actually killed Santiago. Look what Ramirez said in his  
13 post-arrest statement. He says these guys were bullshitters,  
14 that they hadn't even been able to go to Santiago's correct  
15 address. And you know if Ramirez was upset, Collins was upset,  
16 because Collins was missing out on the demolition contract  
17 Ramirez had promised him in exchange for arranging the murder.  
18 Mowatt told you that Collins was very upset that Mowatt was out  
19 of town and wasn't spending all his time trying to get this  
20 murder over and done with.

21                  And meanwhile what was Mowatt doing? He was doing  
22 gunpoint robberies in Massachusetts and then killed someone  
23 else in New York.

24                  You know how angry Ramirez was, because he admitted it  
25 himself, saying these guy were bullshitters who couldn't get

KAK7COL2

Summation - Mr. Hobson

1 the job done. You know how angry Collins was because Mowatt  
2 told you. But you also know it because Barry Johnson told you  
3 the same thing. Remember, Johnson was with Mowatt when Mowatt  
4 talked to Collins on the phone. Mowatt put it on speaker so  
5 Johnson could hear.

6 Now, Johnson didn't know Collins by name, but he knew  
7 it was Mowatt's big homey, and Johnson told you how Mowatt's  
8 big homey would just yell at him, saying it should have been  
9 done by now, how he was going to have to come out of retirement  
10 to do it myself.

11 And then there was a call -- he describes it here at  
12 transcript 479 -- then there was a call where Mowatt's big  
13 homey was asking Mowatt if he was losing his touch, complaining  
14 that the job should have been taken care of by now. And he  
15 said I'm looking on the news, and I don't see nothing going on,  
16 nothing happening, so I'm trying to figure out what's going on.

17 What makes it into the news? One random guy  
18 threatening another random guy in Queens, even beating him up,  
19 scaring him? No. What makes the news is a murder, with  
20 headlines like "Electrician Gunned Down in Front of Queens  
21 Home."

22 Johnson's testimony to you confirmed everything that  
23 Mowatt told you. Johnson told you that a rich guy in the  
24 construction industry wanted them to kill the man that was  
25 sleeping with his wife. Johnson told you that the husband was

KAK7COL2

Summation - Mr. Hobson

1 we will talk about in a little bit, that's basically an  
2 admission of guilt to Count Three.

3 Then there is Ramirez, he was arrested and gave a  
4 post-arrest statement that same day. You heard it. We talked  
5 about some of it today. Ramirez admitted to almost everything.  
6 He admitted he was mad that his wife was sleeping with Eric  
7 Santiago. He admitted that he arranged for some guys to hurt  
8 Santiago. He admitted to meeting with him multiple times  
9 including at Fish N' Tings. He admitted that he knew those  
10 guys had criminal records, knew they were armed, saw them  
11 flashing a gun at the same time Ramirez was talking to them  
12 about fucking up Santiago. He admitted that he got them  
13 Santiago's pictures. He admitted that he used a GPS tracker to  
14 find Santiago's address and then got them the address. He  
15 admitted that he gave them money.

16 The only thing Ramirez didn't admit is the one thing  
17 he didn't think anyone else would be able to find out: That  
18 the hired guns weren't just supposed to fuck up Santiago; they  
19 were supposed to murder Santiago. But Ramirez wasn't counting  
20 on the fact that you would be hearing from the hitmen  
21 themselves. They knew why they had been hired. They knew what  
22 they had to do to get the \$25,000. And they told you. The job  
23 was for a murder. That's why it took months of surveillance.  
24 That's why they were constantly reporting back to Collins, and  
25 then Collins to Ramirez, letting them know they were getting

KAK7COL2

Summation - Mr. Hobson

1 close. That's why they came armed with guns and knives.  
2 That's the evidence.

3 I am now going to turn briefly to the law. I expect  
4 Judge Castel to explain the law on each of the three counts in  
5 detail. If anything I say is different at all from what Judge  
6 Castel says, obviously go with what he says, but I want to  
7 briefly highlight a few things that you will hear about.

8 First, let's talk about Count One, the conspiracy  
9 count. I expect Judge Castel will tell you that a conspiracy  
10 to commit murder for hire is really just an agreement to commit  
11 murder for hire. I expect he will tell you that the defendant  
12 had to knowingly become a member of that agreement. I also  
13 expect Judge Castel to tell you that the agreement doesn't have  
14 to be a formal agreement and that the conspirators don't  
15 usually write down their criminal agreements; much in a  
16 conspiracy is left to the unexpressed understanding. You saw  
17 that in this case. Mowatt told you how paranoid Ramirez was  
18 about discussing the murder and how Collins was fine with  
19 Johnson helping but didn't want to meet him face to face.

20 By now you know there was an agreement and that  
21 Ramirez and Collins knowingly became part of that agreement.  
22 You know this murder for hire wasn't just a one-man job.  
23 Multiple people including Ramirez and Collins worked together  
24 to make it happen. You heard how Ramirez was the man who put  
25 it all into motion. It was Ramirez's plot. Ramirez provided

KAK7COL2

Summation - Mr. Hobson

1 the identity of the victim. Ramirez said he wanted him killed.  
2 He offered a huge amount of money to have it done. And Collins  
3 agreed to recruit an actual hitman to carry out the job.  
4 That's an agreement to commit murder for hire. And because the  
5 defendants were part of this agreement -- knowingly part of the  
6 agreement -- they're both guilty of conspiracy.

7 Now, the goal of this conspiracy, as I've said, was  
8 murder for hire, which basically means hiring someone to kill  
9 another person. That's Count Two, and it's a separate count  
10 you have to decide on.

11 I expect that Judge Castel will tell you that we have  
12 to prove three things on Count Two: First, that the defendant  
13 used or caused someone else to use what is called a facility of  
14 interstate commerce, which I expect Judge Castel will tell you  
15 includes an interstate telephone network. The second element  
16 is that the defendant did this intending to help bring about a  
17 murder. And, third, that the murder was supposed to be done in  
18 return for payment of some kind.

19 I expect that Judge Castel is also going to tell you  
20 something the government does not have to prove. We do not  
21 have to prove that the murder was committed or that the murder  
22 was even attempted. The crime here is using a phone or another  
23 facility of interstate commerce with the intent of furthering a  
24 murder for hire. The crime is the hiring. That can take place  
25 in an instant, no matter how long it then takes to carry out

**MATTHEW J. KLUGER**  
ATTORNEY AT LAW

---

888 GRAND CONCOURSE, SUITE 1H  
BRONX, NEW YORK 10451  
(718) 293-4900 • FAX (718) 618-0140  
www.klugerlawfirm.com

March 13, 2020

By ECF

Honorable P. Kevin Castel  
United States District Court Judge  
Southern District of New York  
500 Pearl Street  
New York, N.Y. 10007

**Re: United States v. Ramon Ramirez**  
**19 Cr. 395 (PKC)**

Dear Judge Castel:

On behalf of defendant Ramon Ramirez, I write in response to the government's Motions *in limine* (See Doc. #53). With respect to the government's motions to preclude expert testimony and preclude or limit the defendant's cross examination of the government's cooperating witnesses, for the reasons stated therein, Mr. Ramirez *joins* in the Memorandum of Law in Opposition filed by codefendant Vance Collins. See Doc. #61.<sup>1</sup>

Additionally, the government advises that it "intends to offer in its case in chief portions of Ramirez's post-arrest statement." (See Doc. #53, Pt. I and *Exhibit A*). It is not entirely clear whether the government seeks to offer only "portions" of Ramirez's statement because they are attempting to mitigate the *Bruton* issue, or simply because they don't want the jury to hear the arguably exculpatory portions of Ramirez's statement.<sup>2</sup> Regardless of the reason, Federal Rule of Evidence 106, commonly referred to as "the rule of completeness," makes clear that should a party seek to introduce only a portion of a recorded (or written) statement, an adverse party may require the introduction of any other part of the statement "that in fairness ought to be considered at the same time." See Fed. R. Ev. 106.

Under the rule, if a party introduces part of a statement, the adverse party may introduce the remainder of the statement if "necessary to explain the admitted portion, to place the admitted portion in context, to avoid misleading the jury, or to ensure fair and impartial

---

<sup>1</sup> Mr. Ramirez takes no position with respect to the government's motion to admit 404(b) evidence against Mr. Collins.

<sup>2</sup> The defense agrees that the video statement *itself* is admissible against Ramirez pursuant to Fed. Rule Evid. 801(d)(2). Moreover, Mr. Ramirez takes no position with respect to the *Bruton* issue itself.

understanding of the admitted portion.” United States v. Castro, 813 F.2d 571, 575 (2d Cir. 1987), United States v. Marin, 669 F.2d 73, 84 (2d Cir. 1982), United States v. Williams, 930 F.3d 44 (2d Cir. 2019). Accordingly, whether to alleviate a potential Bruton issue or otherwise, because “admission of the statement in redacted form distorts its meaning [and] excludes information [which is] substantially exculpatory,” should the government seek to admit only the portions of Ramirez’s statement that it identifies in its motion, the defense will move for the introduction of *the entire* video-taped statement as well as “any other writing or recorded statement that in fairness ought to be considered at the same time.” FRE 106, United States v. Thiam, 934 F.3d 89, 96 (2d Cir. 2019).

Thank you.

Respectfully Submitted,

/s/ Matthew J. Kluger  
Matthew J. Kluger  
Jodi Morales  
*Attorneys for Ramon Ramirez*

cc: AUSA Celia V. Cohen  
AUSA Christopher Brumwell

Eric R. Breslin, Duane Morris LLP  
Arletta K. Bussiere, Duane Morris LLP  
*Attorneys for Vance Collins*