IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ANTONIO RAMOS-CRUZ,
Petitioner,

v.

LORRAINE MARTÍNEZ-ADORNO,
DOMINGO EMANUELLI-HERNÁNDEZ,
Respondents.

CIV. CASE NO.: 20-cv-1589-FAB
(28 U.S.C. § 2254)

***SECOND* AMENDED PETITION FOR RELIEF FROM A CONVICTION OR SENTENCE BY A PERSON IN STATE CUSTODY**

TO THE HONORABLE COURT:

Mr. Antonio Ramos-Cruz ("Mr. Ramos"), by and through undersigned counsel, respectfully submits this amended petition.

Mr. Ramos seeks a writ of habeas corpus, under 28 U.S.C. § 2254, from the judgment of the Puerto Rico Court of First Instance, Carolina Part; as well as subsequent rulings of the Puerto Rico Court of Appeals and the Puerto Rico Supreme Court.

The state court decision was based on an unreasonable application of clearly established federal law, as determined by the U.S. Supreme Court, regarding the granting of a new trial based on newly discovered evidence. *See* 28 U.S.C. § 2254(d)(1).

The state court decision also was based on an unreasonable determination of facts in light of the evidence presented in the state court proceedings. *See* 28 U.S.C. § 2254(d)(2).

TABLE OF CONTENTS

INTRODUCTION

Following a deeply flawed and highly publicized investigation, Mr. Ramos was convicted of three 1989 murders he did not commit, murders dubbed the Massacre of Trujillo Alto. For nearly eighteen months following these murders, of a young mother and her two children, the killings remained unsolved from an official viewpoint. The police investigation provided little help. As the state's prosecutor said at Mr. Ramos's 1992 trial: "Here we have presented a series of witnesses who have shown you a tragedy, a comedy of lies, a comedy also of errors committed by the police at the start of their investigation of the case[.] It's true we cannot use our hand to block out the sky." Trial Transcript ("Tr.")[1] 7564-65.[2]

The prosecutor behind these remarks, Andrés Rodríguez-Elías, was the same official who prosecuted *José Luis Latorre* and the case of *Caro Pérez*, *Ruiz Colón*, and *Ortiz Álvarez*, high-profile cases in the late 1980s and 1990s in which four people were wrongfully convicted and later released upon post-conviction review.[3]

---

[1] For record-keeping purposes, citations are to the Spanish-language transcript. On February 5, 2021, counsel for Mr. Ramos submitted a request to Respondents that they prepare, translate, and disclose the relevant state court records. *See* 28 U.S.C. § 2250; *see also Townsend v. Sain*, 372 U.S. 293, 319 (1963); *United States v. Connors*, 904 F.2d 535, 536 (9th Cir. 1990); Advisory Committee Note to Rule 5 of the Rules Governing Section 2254 Cases in the U.S. District Courts. Counsel for Mr. Ramos had a telephone conference with Respondent's counsel on April 9, 2021 to discuss the status of the record. Counsel has since made follow-up requests to Respondents, and, as of today, we have sent a total of twelve requests. The undersigned anticipates filing a motion to seek a ruling and translation of the record once it is produced. *See Núñez Pérez v. Rolón Suárez*, No. 19-cv-1555-WGY, ECF No. 30 (requiring Rule 5 record documents to be submitted by Respondents in English under D.P.R. Loc. R. 5(c) and 48 U.S.C. § 864).

[2] We provide record citations where possible based on an uncertified copy of the Spanish-language record provided by Mr. Ramos's family members.

[3] *Pueblo v. Jose Luis Latorre*, Criminal No. KVI1988G0007, CFI, San Juan Part, Hon. Eloina Torres Cancel (new trial granted Nov. 9, 2012, on the ground that the prosecution, represented by ex-prosecutor Rodríguez-Elías withheld exculpatory evidence); *Pueblo v. José A. Caro Pérez, Nelson Ruiz Colón, Nelson Ortiz Álvarez*, Criminal No. A VI1994G0002 and others,

By the time Rodríguez-Elías got involved in the case, Puerto Rico authorities had done irreparable damage to the crime scene. From the moment Haydeé Maymí Rodríguez ("Maymí") and her two children, Eduardito and Melissa, were discovered dead in their Trujillo Alto duplex, the crime scene was trampled and ruined by police and reporters. Maymí, found on her back in the bathtub and the two children, found in the refrigerator and freezer, had all been stabbed to death with knife wounds to their major organs. Biological and forensic evidence — that may have explained this brutal and unusual crime — was destroyed, lost, and moved. Evidence that actually was collected by the police was warehoused messily and left untested for a prolonged time.

Prosecutor Rodríguez-Elías, together with investigators, did not solve this crime through scientific evidence. Instead, they focused the investigation on a brother-sister pair of teenage witnesses, Bárbara ("Babi") and José ("Joíto") Martínez-Maldonado, who lived down the block from Maymí. Babi and Joíto claimed to be some of the last people to see Maymí and her kids alive. For eighteen months, these teens each disavowed knowledge of the culprits. But in highly suspect circumstances they changed their stories under extended interrogation and upon threat of prosecution on murder charges.

Until Rodríguez-Elías and others achieved this change in accounts, two suspects had been in the sights of law enforcement and media: Maymí's estranged husband, Eduardo Morales-Colberg, and Maymí's jilted lover, Juan Manuel Pagán-García (known as Juanma). Tr. 729.

CFI, Aguadilla Part, Hon. José Emilio González (new trial granted July 22, 2016, and case later dismissed).

Her estranged husband had taken their separation badly. Maymí's neighbors reported that Morales-Colberg had been stalking Maymí. Tr. 727-28. He was jealous. He questioned Maymí when she would go out. Tr. 328. He later fought physically with CIC[4] Investigator Pablo Quiñones-Laboy ("Quiñones-Laboy") when he was interviewed about Maymí's death. Tr. 328.

Before her death, and while Maymí and her husband were estranged, Maymí and Juanma were engaged in a sexual relationship. The two worked together. But Maymí had rejected Juanma, telling him he did not measure up as a lover.

Like the state's investigation of physical evidence, the witness investigations were sloppy. Juanma's proffered alibi, his motive, and his means to carry out the crime were not explored.

At trial, many of the deceased's neighbors testified. The prosecution had no direct evidence linking Mr. Ramos to the terrible crimes the state's floundering investigation sought to solve. It came down first to whether the jury believed the brother-sister account by Babi and Joíto claiming they had seen Mr. Ramos inside Maymí's home while Maymí's next-door neighbor, Juan Carlos Meléndez Serrano ("Meléndez"),[5] fought or argued with her. Then, to convict Mr. Ramos, the jury had to accept Rodríguez-Elías's invitation to infer that Mr. Ramos had somehow taken part in the triple homicide based on the Babi-Joíto claim that they saw him in Maymí's house.

Rodríguez-Elías, however, urged the jury to look beyond the state's lack of evidence, preaching biblical quotes implying that God was on the side of the prosecution and a guilty

---

[4] Criminal Investigations Unit ("CIC" by its Spanish initials).
[5] Meléndez filed his own § 2254 motion in D.P.R. Civil Case No. 20-cv-01588-WGY.

verdict would avenge the deceased who enjoy a special protected innocence. Rodríguez-Elías's arguments even blamed the accused for the glaring failures of law enforcement to obtain usable forensic evidence from a crime scene that was overrun by police and reporters and left unsecured for others to carry away and destroy evidence. Rodríguez-Elías went so far as to say that those neighbors who were related to Mr. Ramos and Meléndez perjured themselves to protect the young men from conviction.

Of the evidence recovered at the scene, the jury was left with a question mark as to what quantum of physical evidence linked Mr. Ramos and Meléndez to the crime. Rodríguez-Elías relentlessly advanced a theory that the killing of Maymí and her children was the result of a botched rape attempt by Mr. Ramos and Meléndez. Naturally, this would have left the jury wondering if better scientific techniques could have discovered some evidence of attempted sexual contact. The jury learned of hairs found atop the victims and learned some of them had been compared with samples from the victims themselves. The jury, however, never learned the origin of hair found atop Maymí's underwear, which she had worn on a completely shaved pubic area.

In 2016, Mr. Ramos and Meléndez sued to obtain DNA testing of hairs found atop Maymí's underwear. That changed the score of possible evidence linking the two men to the crime scene. It went from an unknown percentage in 1992 to zero percent. Not a single hair. Not a single fingerprint. Not anything. Upon analysis of this newly discovered mitochondrial DNA evidence (abbreviated throughout as mtDNA), an exhaustive, thorough decision by the Puerto Rico Court of First Instance ("CFI") granted Mr. Ramos's motion for a new trial, restoring Mr. Ramos's presumption of innocence and resulting in his release for two years while the state sought appellate review.

After the new trial was granted, Mr. Ramos — a person of exemplary in-prison conduct who already could return home several times per year on two-day passes — was released on bail to live at home full time with his wife and son, where he worked and lived an ordinary life.

Rather than turn its attention to reinvestigating this case and seeking to remedy the state's incompetent 1989-to-1991 investigation, the state frenetically litigated the case and convinced two Puerto Rico Court of Appeals ("PR COA")[6] judges to reverse the CFI's decision.

This habeas petition prays that this federal court will grant a writ of habeas corpus on Mr. Ramos's behalf. Mr. Ramos's new trial motion was not a challenge to the sufficiency of evidence. He did not have to undermine every piece of the state's evidence to get a new trial. The new DNA evidence was enough to get a new trial so long as it made a different result more probable. Both CFI judges to see the case support a new trial. So does the dissenting PR COA judge. The two judges in the majority erred in applying an unmeetable proof-of-innocence standard to Mr. Ramos's motion. They also took sides between two expert views on factual matters that should be left to a new jury. The undeniably dismal investigation by the state, along with trial misconduct by Rodríguez-Elías makes the case ever vulnerable to being impacted by the new evidence presented before the Honorable Seijo-Ortiz of the CFI.

The score of state-court views says it all. The new-trial-motion judge explained the potential impact of the new evidence presented. It was written by Judge Seijo-Ortiz who has decades of criminal trial experience and was appointed to the CFI *with* experience in criminal

[6] Where followed by a number, "PR COA" refers to to the PR COA's written decision.

jury trials as attorney.[7] The original CFI judge Hiram Sánchez-Martínez did not think the trial evidence was sufficient.[8] According to Judge Sánchez, had this been a bench trial, he would have found Mr. Ramos not guilty. This was one of just two cases in Judge Sánchez's career that left him with lingering concerns of the outcome. The following is an excerpt from a letter Judge Sánchez wrote to the former governor of Puerto Rico. *See* Exhibit A (including Spanish translation from DE-61-1).

> Durante todos estos años he vivido convencido de que si el caso se hubiera visto por tribunal de Derecho, es decir, sin jurado, lo habría tenido que declarar a él no culpable. Pero, Antonio había escogido ver su caso por jurado y, al este declararlo culpable, solo me restó sentenciarlo.
>
> Este es uno de dos casos que atendí como juez del entonces Tribunal Superior (hoy Tribunal de Primera Instancia) en los cuales he quedado insatisfecho con el resultado del proceso. (El otro caso no está relacionado con este).
>
> Escribo esta carta porque sé que Antonio Ramos Cruz está o estará solicitando clemencia ejecutiva. Y pienso que es mi obligación moral dejarle saber a usted, como gobernadora de Puerto Rico, que este caso es meritorio para concederle a este reo algún tipo de clemencia que pueda resultar en su liberación de prisión.
>
> .Cordialmente,
>
> Hiram Sánchez Martínez

Only two PR COA judges were willing to adopt a view that there was no need to send Mr. Ramos's case back to trial based on evidence now demonstrating his absolute exclusion from any contribution to crime-scene evidence. Those two judges were the only ones willing to evaluate the trial evidence *without* consideration of the theory Rodríguez-Elías put before

---

[7] P.R. Senate Nomination Testimony from March 17, 2016, at 36,939-40, *available at* https://www.senado.pr.gov/Sessionsdiary/031716.pdf.
[8] Judge Sánchez, the trial judge, went on to a lengthy career as a PR COA judge.

the 1992 jury. PR COA 36. Respectfully, these two judges were wrong in their reversal of the highly experienced trial judge's decision; their decision unreasonably demanded a heightened degree of proof of innocence at the motion-for-a-new-trial stage. The viewpoints of CFI Judge Seijo-Ortiz, CFI Judge Sánchez, and the dissenting PR COA Judge Salgado Schwarz reflect an accurate application of the law to new trial motions. The following representation makes clear the positions taken by the state court judges.

CFI Seijo-Ortiz A new trial must be granted.	**PR COA Dissent Salgado-Schwarz**[9] A new trial must be granted.	**PR COA Colom-García** Disagreeing with new trial determination.	**PR COA Rivera-Torres** Disagreeing with new trial determination.
CFI Sánchez-Martínez Would not have convicted Mr. Ramos if it had been a bench trial.			

This petition does not ask the Court to declare Mr. Ramos innocent, but to exercise its authority to grant the writ so that the PR COA's unreasonable factual and legal determinations are reversed and Mr. Ramos is retried by a jury with presentation of the newly discovered exculpatory mtDNA evidence.

I. CONVICTION, APPEAL AND POST-CONVICTION MOTIONS

A. Conviction Information

The original 1992 conviction was for three counts of First Degree Murder following a jury trial before the Honorable Hiram Sánchez-Martínez in the Court of First Instance, Carolina.

[9] Judge Salgado-Schwarz was appointed to the PR COA *with* experience in criminal jury trials as an attorney and trial judge.

Commonwealth of Puerto Rico Court of First Instance, Carolina Part	
Case Numbers:	F VI1991G0093-95 F VI1991G0090-92, F LA1991G0484 KLCE201701397, KLCE201701398
Date of Judgment/Conviction:	April 10, 1992
Date of Sentencing:	April 10, 1992
Length of Sentence:	Three Consecutive ninety-nine-year sentences
Sentencing Judge:	Hon. Hiram Sánchez-Martínez
Nature of Crime:	First Degree Murder Art. 83 of the Penal Code of the Commonwealth of Puerto Rico
Mr. Ramos was convicted after a jury trial.	

B. Direct Appeal Information

Mr. Ramos appealed directly from his conviction and sentence to Puerto Rico Court of Appeals.

Date of Filing:	Unknown
Case Number:	CR-93-43
Result:	Judgment affirmed.
Date of Ruling:	Jan. 26, 1999

C. Motions Filed After Direct Appeal

1. First Motion for New Trial

Mr. Ramos filed his first motion for a new trial based on the new discovered microscopic hair analysis and conduct of the state prosecutor.

The motion was denied after an evidentiary hearing. The court alluded to the necessity of mitonchrial DNA testing of the hairs tested microscopically.

Date of Filing:	Feb. 10, 2011
Case Number:	CR-93-43
Result:	Motion denied.
Date of Ruling:	April 4, 2012

2. Motion for Mitochondrial DNA Analysis

After the Puerto Rico legislature passed the Puerto Rico Post-Conviction DNA Analysis Law of 2015,[10] Mr. Ramos filed a motion for mtDNA testing of materials that had not been tested by Respondents. With no opposition from Respondents, it was granted.

3. Second Motion for New Trial under Puerto Rico Crim. Proc. Rule 192

Based on the results of the mtDNA testing, Mr. Ramos filed his second motion for a new trial under Puerto Rico Criminal Procedure Rule 192.1, P.R. Laws Ann. tit. 34, App. II, R. 192.1. It was granted by the Honorable Berthaida Seijo-Ortiz of the CFI.[11] The CFI held that Mr. Ramos had met all parts of the new-trial-based-on-newly-discovered-evidence test based on an overall finding that the mtDNA evidence would have likely resulted in a different outcome had it been presented to the jury.

Date of Filing:	Oct. 17, 2016
Case Number:	KLCE20170139
Result:	New trial granted (later reversed on appeal)
Date of Ruling:	June 13, 2017

D. Puerto Rico Appellate Court Decision

The state appealed the order granting Mr. Ramos a new trial. A divided PR COA panel reversed the new trial grant. The dissenting judge would have affirmed the new trial grant.

[10] 2015 P.R. Laws No. 246, Art. 5; P.R. Laws Ann. tit. 34, § 4021, et seq.
[11] Where followed by a page number, "CFI" refers to the CFI's written decision.

Date of Filing:	Aug. 7, 2017
Case Number:	KLCE20170139
Result:	Reversal of trial court grant of new trial.
Date of Ruling:	May 7, 2019

E. Request for Certiorari to the Supreme Court of the Commonwealth of Puerto Rico

The Puerto Rico Supreme Court ("P.R. Supreme Court") denied Mr. Ramos's petition for certiorari and denied two subsequent petitions for reconsideration. The first attempt at certiorari was rejected by Chief Justice Oronoz, along with Justices Rodríguez Rodríguez and Rivera García. Justice Rivera García would have granted certiorari so the P.R. Supreme Court could decide the case. Justice Oronoz also denied the first motion for reconsideration with Associate Justices Pabón Charneco and Feliberti Cintrón. In Mr. Ramos's second motion for reconsideration, he objected to the P.R. Supreme Court's recycling of Justice Oronoz through the first and second panel as it did not permit all nine members of the P.R. Supreme to evaluate the certiorari request under P.R. Supreme Court Rule 4(b).

Date of Filing:	June 4, 2019
Case Number:	CC-19-0413
Result:	Affirmed reversal of trial court grant of new trial.
Date of Ruling:	Nov. 1, 2019

II. FACTUAL AND PROCEDURAL BACKGROUND

A. The Investigation and the Death of Haydeé Maymí Rodríguez and Her Two Children in the "Massacre of Trujillo Alto"

1. In the early hours of a June morning in 1989, Maymí and her two children were stabbed to death inside a Lomas de Trujillo Alto residence. The residence belonged to Maymí and her estranged husband, Eduardo Morales-Colberg, who had moved out shortly after the two purchased the house.

2. Shortly after the killings, Maymí's fifteen-year-old neighbor, Babi, was interviewed by Channel 11 News, saying she was with Maymí until 10:30 p.m. the evening she was killed, and she did not know anything else about the case. Tr. 5008-09.

3. The night Maymí and the children were killed, Morales-Colberg had dropped the kids off.

4. Police and forensics personnel responded to the crime scene, took pictures, and examined it. Countless police rushed around, destroying possible fingerprints with their own prints, and at one point flushing something that appeared to be blood down the toilet after using the same. Those officers failed to secure the scene, which was overrun by news media. Officers then abandoned the scene. The deceased's relatives later picked through Maymí's home, removing countless items, cleaning up human blood, and destroying evidence by burning it. Tr. 23-27, 303.

B. Family members "cleaned up" the crime scene, carrying away and burning evidence.

5. Maymí's cousin, Nydia Magalie Agosto Rodríguez ("Nydia") (now deceased) went to the crime scene with her brother and mother the day after because the neighbors were complaining of a stench and flies. Tr. 26. They cleaned the house with water, throwing away bloody clothing, and burning Maymí's blood-soaked mattress, an item the prosecutor in charge of the scene had ordered be collected. Tr. 27.

6. Nydia returned to the crime scene a week later with a different group of relatives to clean again and box up Maymí's belongings. Tr. 27. She packed the belongings including kitchenware, which she boxed up after washing. Tr. 27-28. She had no recollection of seeing or touching the murder weapon displayed at trial.

C. The murder weapon was found in Morales-Colberg's possession.

7. Nydia gave much of these belongings to Morales-Colberg. Nydia never recalled cleaning or seeing the murder weapon, which was later found in the belongings after Morales-Colberg received them. Morales-Colberg was seen with Maymí the night she died as he dropped their kids off at her home.

D. The only fingerprints found at the crime scene belonged to Morales-Colberg, but a swarm of agents in an unsecured scene destroyed the prospect of dusting for other prints.

8. When Agent Frank Figueroa-Álvarez arrived at the crime scene, there were innumerable officers there, so he did not try to dust the area for prints. Tr. 604. In Maymí's bedroom, officers could not identify a single fingerprint of value. Tr. 604.

9. Among four fingerprints found was one on a vase used as an ashtray. It belonged to Morales-Colberg. Tr. 607-08.

E. Knives were identified by crime-scene investigators in Maymí's kitchen but were not dusted for prints or retained by law enforcement.

10. Investigating Prosecutor Carlos Beltrán ordered the seizure of various knives from the crime scene, thinking one of them might be the murder weapon. Tr. 85-86. Similarly, Agent Figueroa-Álvarez observed a knife on the kitchen table and told investigators to bring it to the laboratory. Tr. 608-09. Other objects in the kitchen had been "wiped" so Figueroa-Álvarez did not dust them for prints. Tr. 608. Despite orders from Beltrán and Figueroa-Álvarez, the knives were not recovered by law enforcement officers. Tr. 87, 110.

F. Other pertinent pieces of evidence were spotted at the crime scene but were never recovered or preserved.

11. In the kitchen, officers encountered a pair of bloody children's pants on the kitchen table. Tr. 498. It looked as if the pants had been used to wipe up blood. Tr. 499. The pants were not recovered. In Maymí's bedroom, a bloody mattress and sheets were found.

Tr. 290, 477. The television was on and had blood on it. Tr. 290. The walls also had blood on them. Tr. 292. The mattress had three blood stains, one large one, and two smaller stains. Tr. 291. The mattress was not recovered, and the sheets were apparently recovered but never saved for forensic analysis. Tr. 131-32.

12. Homicide Investigator Quiñones-Laboy from CIC testified that there was not much physical evidence retrieved in the case. Tr. 720. When he went through evidence bags one by one looking for the bloody sheets photographed at the scene, he never found them. Tr. 722. And he found Maymí's sweater and pants and her daughter's pajamas and underwear but none of the son's clothing.

13. Overall, the crime scene was described by Dean Casillas — a police officer turned, in his own words, "professional clown" after this case — as an "uncontrolled situation" and one that he was ashamed to say was "unguarded" and characterized by looky-loos who were messing around with whatever they felt like. Tr. 500. As Casillas noted, police and non-police swarmed the inside and outside of Maymí's residence. Tr. 500.

14. Before photographing knives in the kitchen, a forensics officer moved the child-size pants and knives from their original position where a knife was found sitting on top of the bloody shorts. Tr. 507, 525, 545.

15. Maymí and the children were buried without law enforcement comparing hairs found at that scene with their hairs. Tr. 722. Their bodies later had to be exhumed so some hair comparisons could be made to hairs found at the scene and the murder weapon later found at Morales-Colberg's house. Tr. 722, 724.

G. Maymí's body was found in a bathtub mostly dressed but with her pants unbuttoned.

16. Trial witnesses testified that Maymí's body was found in a bathtub dressed in a sweatshirt rolled up to her breasts and green shorts, which were unbuttoned. Tr. 472-73, 528, 630 (pathologist testimony). Beneath the shorts, she had underwear[12] on. Tr. 533.[13]

H. A forensic examination of Maymí revealed no signs of bruising to Maymí, but forensics personnel discovered three hairs of unknown origin atop her panties.

17. At trial, a pathologist testified that no bruising to Maymí was documented. Tr. 693. Maymí arrived at the Puerto Rico Forensic Science Institute (better known as "ICF" for its Spanish initials) with short green pants and a black shirt. Tr. 630.

18. Human hairs were found on Maymí's panties among other places. Tr. 695.

I. The law enforcement investigation initially focused on Morales-Colberg and Maymí's paramour, Juanma, before a new group of investigators took over months into the investigation.

19. The investigation was initially led by Sergeant Gerardo Román who was supervised by Lieutenant Jorge Rivera. Tr. 719. In August 1990, Homicide Investigator Pablo Quiñones-Laboy became involved in the investigation. Tr. 718. Until that point, Sergeant Román had focused on Morales-Colberg even before the murder weapon was found in Morales-Colberg's possession. Tr. 727. Witnesses had indicated that Morales-Colberg was jealous of Maymí and was following her. Tr. 727. Also, other information was offered that on the night of Maymí's death she had run out of her house screaming earlier in the evening that there had been a man spying on her through a window in the rear of her house. Tr. 727.

---

[12] The underwear were described as "pink panties."
[13] The pathologist did not recall whether the body was brought to ICF with underwear on or off.

Meléndez had made efforts to find the person peeping. Tr. 728. Román had told Quiñones-Laboy that there had been a peeping Tom spying on Maymí the Sunday before she was killed.

20. Román further was investigating a theory that Juanma had killed Maymí. Tr. 729. Juanma had gone to look for Maymí in the early morning hours the day before she was killed and honked his horn while parked in front her house. Tr. 729. Juanma had been to Maymí's house on two occasions and had sex with her. Tr. 868. He claimed he was with his girlfriend the night of Maymí's murder, but police could not recall what follow-up work was done to check his alibi. No one ever talked to his girlfriend or located her. Tr. 869-73.

21. Juanma was suspected and his arrest did not reduce suspicion. He was arrested with a kitchen knife in his car, a change of clothes, and a copy of El Vocero newspaper reporting on the triple murder. Juanma told investigators that Maymí recently terminated their sexual relationship after causing him extreme humiliation by telling him he was not "man enough" to be with her. A friend of Maymí's told police Maymí had grown tired of Juanma, had made a fool of him ("le cogió de pendejo") and wanted another paramour ("chillo").

22. Following the killings of Maymí and her children, Babi was interviewed by law enforcement and prosecutors, including Rodríguez-Elías on numerous occasions. Tr. 5009-10; 5038. From June 1989 to December 1990, prosecutors interrogated Babi many, many times; it could have been more or less than fifteen. Tr. 5012-13. Then on December 14, 1990, a year and a half after the murders, Babi changed her version of the facts during an interrogation to implicate Mr. Ramos and Meléndez. Tr. 5017. That day, she was picked up before school by Agent Quiñones-Laboy, and interrogated all morning, afternoon, and evening. Tr. 5018-19. After being told *she* was being charged with murdering Maymí and her

two children, and after fifteen hours of interrogation, prosecutors obtained a statement from Babi, still a minor at the time, placing Mr. Ramos and Meléndez at the scene of the crime. Tr. 5017.

23. The next day, prosecutors interrogated Joíto, Babi's brother, warning him that he was also suspected of the killings. At the time of the murder, Joíto was seventeen years old, and Babi was fifteen. Tr. 3039-40.

24. After another fifteen-hour interrogation, prosecutors obtained a statement from Joíto also incriminating Mr. Ramos and Meléndez.

25. At the time, in 1989, Mr. Ramos was nineteen years old and worked at Suiza Dairy with his uncle. Tr. 3041; 7044.

26. Law enforcement agents investigated the alibi of Morales-Colberg, Maymí's estranged husband who had dropped off their children to Maymí the night they were stabbed to death.

27. The actual murder weapon, a blood-and-hair-encrusted knife had been found in Morales-Colberg's possession by his mother, Carmen Rosa Colberg, five months after. Tr. 723-24. The knife was analyzed forensically and found to be consistent with the wounds to Maymí and her children. Tr. 725. Morales-Colberg claimed he received the knife from Maymí's cousin. Morales-Colberg consulted a lawyer before the knife was turned over to investigators. CFI 17.

J. The 1992 Trial: Witnesses claimed Mr. Ramos was at Maymí's home with co-defendant Meléndez the night she was murdered.

28. According to Joíto's trial testimony, on the evening in question, Joíto was watching a basketball game while his sister Babi was outside with a group of people in front of Maymí's house. This included Mr. Ramos and Meléndez when Joíto passed by around

10:30 p.m. Tr. 3045. Meléndez lived in the duplex connected to Maymí's duplex and Mr. Ramos lived a couple houses away with his aunt and uncle and four cousins. After the game ended, Joíto left his house around 1:00 or 1:30 a.m. to look for his sister. Tr. 3049-50, 3098.[14] Joíto called out to his sister who came out of Maymí's residence. Tr. 3050.

29. At this time, testified Joíto, Mr. Ramos and Meléndez were standing near Maymí's house, and Joíto stood around with them making what he called "dumb comments." Tr. 3052. This included Meléndez saying *in a joking way* ("en forma de broma") that he would like to have sex with Maymí. Tr. 3052-53.

30. Joíto talked with Meléndez and Mr. Ramos, and the three tried to come up with an excuse to go in Maymí's house. Then Maymí came out and called out to Joíto, saying that Babi had left with her keys and asking Joíto to look for her. Tr. 3054-55.

31. Babi, for her part, testified that she hung out with Maymí that night starting around 7:00 p.m. when Maymí's cousin dropped her off. Tr. 4078. The two walked to the bakery together and Maymí made a call to someone nicknamed "el Prieto." Babi did not hear the conversation. Tr. 5059.

32. Babi went back to Maymí's house with her and talked to Maymí while Maymí took a shower. Tr. 4081. Babi then left for some time and returned to find Maymí outside talking to Meléndez. Tr. 4084. She stayed and talked to them both.

---

[14] Notwithstanding Joíto's testimony to watching a basketball game that night, the parties stipulated that, according to a WAPA TV representative, no basketball games were transmitted June 28, 1989; on June 26, 1989 a game between San Germán and Ponce was aired from 10:02 p.m. to midnight; and, on June 25, 1989, a game between Arecibo and Aibonito was broadcast from 8:57 p.m. to 10:47 p.m. WAPA TV was the exclusive broadcaster of Puerto Rico basketball games at that time.

33. Later, around 9:30 p.m., Morales-Colberg arrived with Maymí's son and daughter and went in the house. Tr. 4085, 5063. At that time, Babi stayed outside Maymí's house talking to Meléndez and Mr. Ramos (who had walked over around that time). Tr. 4085. Babi claimed, once she changed her story eighteen months after the police investigation began, that Meléndez told Babi to go inside Maymí's house and get Maymí's keys so he would have an excuse to talk to Maymí. Tr. 4086. So while Morales-Colberg was still inside, Babi entered Maymí's house, went to her kitchen, and stole her keys. Tr. 4087. Babi did not actually see where in the house Morales-Colberg was. Tr. 5065. Babi then returned to hang out outside of Maymí's house. Tr. 4090.

34. Joíto went home, found Babi, got the keys from her and returned to Maymí's house. Tr. 3055-56. He called out to Maymí, who was in the carport at her house, and gave Maymí her keys. Tr. 3056.

35. At that time, Mr. Ramos and Meléndez were still outside, and they approached Maymí's gate when Joíto was returning her keys. Joíto testified that one of the young men asked Maymí for a glass of water (he didn't know which), and one of them told Joíto this was "the opportunity" to "deal with" her. Tr. 3057. Joíto said he refused to participate in what the two were "plotting" and went home for a few minutes.

36. But just five minutes later, Joíto returned to the street and saw Maymí's gate open and no one outside. Tr. 3059. Joíto then snuck into the dark first floor of Maymí's house and went up the stairs. Tr. 3060. There, said Joíto, he saw Mr. Ramos leaning against the wall and heard the voices of Meléndez and Maymí who were inside the bedroom adjacent to the hallway. Tr. 3060, 3064.

37. According to Joíto, he did not see Mr. Ramos inside Maymí's room but in the hallway outside it while he heard Maymi and Meléndez's voices from inside the room. Tr. 3060, 3062, 3064-65. Maymí said, "[Meléndez], it's late. Go home. If you want we can talk later." But Juan Carlos did not want to, and the two started arguing. Tr. 3064.

38. After his brief foray upstairs in Maymí's house in the wee hours of the morning, Joíto claims he went downstairs to sit on Maymí's living room sofa and think about what they might have been arguing about upstairs. Tr. 3065, 3066. After Joíto sat on the couch for ten minutes, he claims his sister emerged in the dark, grabbed his arm and said, "let's go. We don't like this. We don't like what's going on upstairs." Tr. 3067.

39. Joíto and Babi testified they entered the residence of Maymí, and, from different perspectives, saw Mr. Ramos and Meléndez. They claim to have seen Mr. Ramos standing in a second-floor doorway while Meléndez and Maymí either shouted at each other or fought physically. CFI 19. Then Joíto and Babi went home.

40. Joíto and Babi did not witness the murder of Maymí and her children.

41. In the years before Joíto and Babi disclosed a story implicating Mr. Ramos and Meléndez, they were interviewed on numerous occasions. *See* Tr. 894-95. José Armando Cruz López ("Armando") was friends with Joíto and Babi and saw them in front of Maymí's house the night she was killed. Tr. 1040-41. Armando went by there after playing basketball with Joíto and other boys from the neighborhood. Tr. 1041, 1053. Armando never saw Mr. Ramos or Meléndez in front of Maymí's house that evening. Tr. 1045, 1054.

42. Armando went by Joíto and Babi's house on Monday morning to talk to Joíto. Tr. 1046. On Wednesday, Armando found out about the deaths of Maymí and her children

from Babi who went over to Armando's house to tell him. Tr. 1047. But at no time did Joíto and Babi ever tell Armando they had seen people going into Maymí's house. Tr 1064.

K. The 1992 Trial: No physical evidence linked Mr. Ramos or Meléndez to a crime scene rife with biological evidence.

43. The prosecution's case involved no direct evidence linking Mr. Ramos and Meléndez to the crime. The police investigation of the crime scene involved leaving the scene unattended such that Maymí's family members entered the crime scene and removed and destroyed evidence.

44. Only the hairs on the knife found in Morales-Colberg's possession were analyzed forensically. CFI 12. The hairs found atop Maymí's panties were not subjected to any testing. CFI 12. There was a test for semen done on certain pieces of evidence: green shorts, bikini-style panties, and a black sweater. PR COA 15[15]; Tr. 2078. Police apparently failed to turn these over to forensics personnel until March 1991, some twenty-one months after the crime scene was processed. Tr. 2080.

45. The 1992 trial involved no direct evidence, but rather circumstantial evidence that depended in large part on the testimony of two adolescents who had given numerous previous declarations that never mentioned Mr. Ramos or Meléndez. CFI 18. Joíto and Babi gave varying accounts alleging they saw or just heard Meléndez either punching Maymí or Meléndez and Maymí mutually fighting.

46. They claimed Mr. Ramos was standing nearby during that confrontation. No other action was alleged against Mr. Ramos. No specific act was alleged against Mr. Ramos other than that he was there.

---

[15] This decision is now lodged at DE-52-1.

L. The 1992 Trial: Mr. Ramos's aunt testified that he was at home sleeping on the night of the murders.

47. Mr. Ramos at the time lived with his aunt and uncle and worked with his uncle at Suiza Dairy. Tr. 7044. At that time, Mr. Ramos shared a bed with his two cousins. His aunt, Margarita Cruz, testified that Mr. Ramos did not leave the house that night after getting home around 9:30 p.m. She locked the doors from the inside, and she had seen Mr. Ramos around 3:30 a.m. Mr. Ramos shared a room with Margarita's sons, one of whom suffered seizures. She went to check on him during the night.

M. The 1992 Trial: The prosecution closing recognized failings in the state's investigation but invoked religious imagery of Jesus Christ protecting children and encouraged the jury that God was on the side of the prosecution.

48. The prosecution argued that forensic tests identified Maymí's hair on the murder weapon. Tr. 7564. The prosecution argued that Mr. Ramos and Meléndez returned to the crime scene to clean up the blood, saying the authorities questioned the small amount of blood they found. Tr. 7564. Yet the prosecution referred to the police crime scene investigation as a "comedy of errors." CFI 18-19. And investigating officers had been unable to find evidence initially seen at the crime scene after police took control of it. Tr. 722.

49. The prosecution argued that the defense witnesses lied under oath at trial because they were neighbors or relatives of Mr. Ramos, disparaging Puerto Ricans as people who say untrue things to help others. Tr. 7569.

50. The prosecution repeatedly argued that Mr. Ramos and Meléndez entered Maymí's house with the intention to rape her. Tr. 7561, 7569. They argued that Maymí died defending her honor. Tr. 7561; CFI 19-20. This was the state's theory from start to finish. *See* Tr. 7003-04 (arguing against "peremptory acquittal" motion based on intent-to-rape theory);

Tr. 7005 (court denying "peremptory acquittal" motion, in part, based on intent-to-rape theory).

51. The prosecution made arguments at closing by quoting and paraphrasing extensively from the Christian Bible, preaching to the jury that when Jesus Christ arrived to Jerusalem, and went to the temple, children began to surround him, and he picked up a child, putting the child on his knee. Tr. 7571. The prosecutor, paraphrasing and editorializing the Bible, told the jurors that people said: "'Get them [the children] out of here; they're a bother' to the master." The prosecutor continued, saying Jesus responded, reprimanding them: "Let the children come to me because creatures like these are the ones that elevate the kingdom of heaven, and [woe] to the one who hurts a child like these. I tell you there will be no forgiveness on earth, nor will there be forgiveness in heaven." Tr. 7571. "Why?" the prosecution preached on. "Because children are saints and I am sure that their mother, having done all she could do will find favor with the Lord, because she defended them [her children], defended their home." Tr. 7571. In final argument, the prosecution mixed discussion of the applicable burden with religious motifs: "As the men and women that will retire to deliberations, you will make a decision and you will make a decision consistent with this proof to find these two men guilty beyond a reasonable doubt, so they can pay for what they did. I assure you that once this is all over, when we all go back home to rest, you all can wake up the next day at peace, look yourselves in the mirror, and say I completed my mission, mission complete. Teresa, Eduardito, Melissa, may they rest in peace." Tr. 7572.

52. After defense argument and rebuttal, the jury returned a unanimous guilty verdict that was later affirmed on appeal and petition to the Puerto Rico Supreme Court.

N. What the Jury Never Heard: The hairs found atop Maymí's underwear matched mitochondrial DNA from Maymí's matrilineal line.

53. Because the prosecution never sought to test the subject hairs, the jury heard no testimony as to whom the hairs may belong to. Mr. Ramos was not a donor. At the time of the 1992 trial, mtDNA testing was not available, and only later became available in the United States. The new evidence not only excludes Mr. Ramos but is also linked to Maymí's matrilineal line, pointing to a possible donor who could be the real perpetrator or an accomplice.

O. What the Jury Never Heard: Zero percent of the crime scene evidence had a link to Mr. Ramos.

54. At trial, the prosecution urged the jury to convict despite the "comedy of errors" that was the police investigation. Because only some biological evidence was tested and the case pathologist did not testify, the jury was left with the possibility that some evidence could have linked Mr. Ramos to the crime scene.

55. The 2016 testing and evidentiary hearing eviscerated that possibility. Between microscopic hair analysis and mtDNA analysis of previously untested evidence, there is no physical link whatsoever between Mr. Ramos and the tragic crime.

P. Post-Conviction Relief: Mr. Ramos first sought a new trial based on microscopic analysis of crime-scene hairs.

56. In 2011, Mr. Ramos and Meléndez moved for a new trial based on alleged prosecutorial misconduct by the trial prosecutor and based on results from hair serological hair-comparison tests done on hairs found on Maymí's underwear and a piece of Eduardo's clothing. PR COA 4.

57. The CFI concluded that testimony from Pathologist Lydia Álvarez Pagán, who did the three victims' autopsies, was available at the time of the trial and made available to

the defense who decided not to use her. PR COA 4. With respect to microscopic hair analysis, the court concluded that technology existed in 1992 and it was necessary to conduct mtDNA testing, which was not available in Puerto Rico. The first new trial motion was denied. PR COA 4. In its subsequent decision, the CFI later arrived at a different conclusion based on testimony received at an evidentiary hearing.

Q. Post-Conviction Relief: Mr. Ramos sought and obtained a new trial based on newly discovered mitochondrial DNA evidence revealing that he was not a contributor to the panty hairs and the contributor was in Maymí's matrilineal line.

58. In January 2016, Mr. Ramos and Meléndez filed a new trial motion ("NTM")[16] under the Puerto Rico Post-Conviction DNA Analysis Act of 2015. Mr. Ramos was represented by the Puerto Rico Innocence Project. Mr. Ramos and Meléndez obtained testing of hairs found on the underwear of deceased victim, Maymí. After an evidentiary hearing, the CFI granted the NTM.

59. As discussed below, the results of this new testing supported a conclusion that, had this evidence gone before the jury in the original trial, the jury would have reached a different result. Today, with the advent of new technology for replication, sequencing, and analysis of genetic material, the expert evidence that was not available at the original trial supports the innocence of Antonio Ramos Cruz.

R. Post-Conviction Relief: Court of Appeals Decision

60. In a two-to-one decision, the PR COA reversed the CFI, with two judges concluding the CFI abused its discretion in ordering a new trial. The panel agreed the new evidence was not merely cumulative. But the PR COA appears to not believe that the new

[16] Where followed by a page number, citations are to Mr. Ramos's written motion.

evidence was material to the trial evidence and would not have produced a different result at trial. PR COA 24-34. The PR COA accused the CFI of ignoring important facts from the trial record and giving weight to irrelevant and immaterial facts. PR COA 25, 32. The PR COA came up with its own distinct reading of the trial testimony and did so while ignoring the parties' trial arguments. PR COA 25.

61. For the panel majority, it was unimportant that the prosecution proceeded with a theory that the triple murder was motivated by an intent to rape Maymí. It concluded that the hairs found atop the deceased's underwear were not germane to the guilty verdict because they were "just one more piece of evidence admitted to the ICF" and there was no controversy about their admissibility. As mentioned, the PR COA was focused on witness testimony only not the theories advanced at trial. PR COA 22.

S. Post-conviction Relief: Certiorari

62. The Puerto Rico Supreme Court affirmed the PR COA decision with the final decision rendered November 1, 2019.

III. GROUNDS FOR RELIEF

CLAIM 1. MR. RAMOS'S FIFTH, SIXTH, AND FOURTEENTH AMENDMENT DUE PROCESS RIGHTS REQUIRE A NEW TRIAL BASED ON NEWLY DISCOVERED EVIDENCE. HIS CONVICTION AND CONTINUED INCARCERATION FOR FIRST DEGREE MURDER DENY HIM HIS RIGHT TO DUE PROCESS OF LAW.

63. The federal new trial standard requires a defendant seeking a new trial on the basis of newly discovered evidence to demonstrate that: "(1) the evidence was unknown or unavailable to the defendant at the time of trial; (2) failure to learn of the evidence was not due to a lack of diligence by the defendant; (3) the evidence is material, and not merely cumulative or impeaching; and (4) it will probably result in an acquittal upon retrial of the defendant." *United States v. Wright*, 625 F.2d 1017, 1019 (1st Cir. 1980). "New evidence is

material if it has the potential to alter the outcome of the lawsuit under the applicable legal tenants." *United States v. Hernández-Rodríguez*, 443 F.3d 138, 145 (1st Cir. 2006). The question of materiality under federal law thus dovetails with the question whether newly discovered evidence will "probably result in an acquittal upon retrial of the defendant." *Wright*, 625 F.2d at 1019.

64. The standard applied by the state courts incorporates the federal new trial standard, requiring Mr. Ramos to present newly discovered evidence that: (1) could not have been discovered with reasonable diligence before trial, (2) was not merely cumulative, (3) was not merely impeachment evidence, (4) was credible, and (5) would have probably produced a different result when evaluated in light of all of the evidence admitted at the original trial. CFI 7.

65. Habeas must be granted on this claim for two reasons: (A) the state appellate court applied an unreasonable interpretation of the constitutionally required federal new-trial standard; and (B) the state appellate court's decision was reached by relying on an unreasonable factual determination.

A. The PR Supreme Court's decision to affirm revocation of the CFI's new trial decision involved an unreasonable application of clearly established Federal law, because the new mtDNA evidence would have resulted in a different result at trial and the state court standard demanded a far higher level of proof at the motion phase.

66. On habeas review, courts must consider whether either the rules governing a motion for a new trial or the state court's application of those rules "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental or transgresses any recognized principle of fundamental fairness in operation." *District Attorney's Office v. Osborne*, 557 U.S. 52, 69 (2009). Federal rights are violated "when state rules

or particular results are shocking or indefensible." *O'Brien v. Marshall*, 453 F.3d 13, 19-20 (1st Cir. 2006).

67. The COA's application of the new-trial-based-on-newly-discovered-evidence test relied on a distorted and reductionist frame of analysis to reverse the trial court. The COA mistakenly found that the CFI granted a new trial not by evaluating the entirety of trial evidence but by ignoring some important facts.

68. The COA arrives at its conclusion only by applying an unmeetable proof-of-innocence standard and by using unintelligible elements to the new trial standard that strip fact-finding courts of their discretion to grant a new trial when warranted. Mr. Ramos obtained a new trial based on Rule 192.1 of Puerto Rico Criminal Procedure, P.R. Laws Ann. tit. 34, App. II, R. 192.1, and the trial court's scrupulous analysis under both the state law analysis and federal new trial analysis. CFI 1-21.

69. Federal courts are empowered to grant habeas relief to "person[s] in custody pursuant to the judgment of a State court" if that custody is "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). Nevertheless, if a petitioner raises claims that have been "adjudicated on the merits" in state court, a federal court sitting in habeas jurisdiction may grant relief only if the underlying proceeding, (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding. 28 U.S.C. § 2254(d); *Rashad v. Walsh*, 300 F.3d 27, 34 (1st Cir. 2000).

70. The term "clearly established federal law" refers to Supreme Court precedent. *Woods v. Donald*, 135 S. Ct. 1372 (2015) (per curiam). Decision of lower federal courts cannot serve as a basis for overturning a state court decision, *Kernan v. Cuero*, 138 S. Ct. 4, 9 (2017) (per curiam). Still, some circuits look to those decisions as "persuasive authority" in determining (1) "whether a particular state court decision is an 'unreasonable application' of Supreme Court law, and [(2)] … what law is 'clearly established.'" *Duhaime v. Ducharme*, 200 F.3d 597, 600 (9th Cir. 2000).

71. The Supreme Court need not have spoken on precisely the issue at hand to satisfy § 2254(d)(1). The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") "does not require state and federal courts to wait for some nearly identical factual pattern before a legal rule must be applied. Nor does AEDPA prohibit a federal court from finding an application of a principle unreasonable when it involves a set of facts different from those of the cases in which the principle was announced." *Panetti v. Quarterman*, 551 U.S. 930 (2007) (citations and internal quotation marks omitted). A state court decision is "contrary to" clearly established federal law either (i) if it "applies a rule that contradicts the governing law set forth in [Supreme Court] cases," *Williams v. Taylor*, 529 U.S. 362, 405 (2000), or (ii) if it "confronts a set of facts that are materially indistinguishable from a [Supreme Court] decision … and nevertheless arrives at a result different from [that] precedent." *Id.* at 406.

72. A state court decision involves an "unreasonable application" of clearly established federal law "if the state court correctly identifies the correct governing legal rule … but unreasonably applies it to the facts of the particular state prisoner's case." *White v. Woodall*, 572 U.S. 415, 425 (2014) (quoting *Williams*, 529 U.S. at 407-08); *see also Cronin v. Comm'r of Prob.*, 783 F.3d 47, 50 (1st Cir. 2015) (citation omitted) (enumerating two additional

circumstances under which a decision may involve an unreasonable application of federal law). A "state court decision may be unreasonable if it is devoid of record support for its conclusions or is arbitrary." *McCambridge v. Hall*, 303 F.3d 24, 36-37 (1st Cir. 2002). To satisfy § 2254(d)(1)'s "unreasonable application" clause, the state court's analysis "must be 'objectively unreasonable, not merely wrong….'" *Virginia v. LeBlanc*, 137 S. Ct. 1726, 1728 (2017) (per curiam) (citation omitted); *see also Lockyer v. Andrade*, 538 U.S. 63, 75-76 (2003) (discussing "objectively unreasonable" standard).

73. If a state court's decision was "contrary to, or involved an unreasonable application of, clearly established federal law," 28 U.S.C. § 2254(d)(1), habeas relief is warranted only if the error had a "substantial and injurious effect or influence in determining the jury's verdict." *Fry v. Pliler*, 551 U.S. 112, 116 (2007) (quoting *Brecht v. Abrahamson*, 507 U.S. 619, 631 (1993)). This increment, however, "need not be great; otherwise, habeas relief would be limited to state court decisions so far off the mark as to suggest judicial incompetence." *Francis S. v. Stone*, 221 F.3d 100, 111 (2d Cir. 2000) (citation omitted).

74. Additionally, AEDPA "sets out a separate and exacting standard applicable to review of a state court's factual findings." *Pike v. Guarino*, 492 F.3d 61, 68 (1st Cir. 2007). Factual findings are "presumed to be correct" unless "clear and convincing evidence" established they are not correct. 28 U.S.C. § 2254(e)(1).

i. Under the correct federal standard, the CFI properly granted Mr. Ramos a new trial.

75. The CFI, in a detailed and well-reasoned opinion found all new trial elements met. CFI 1-21. The PR COA agreed that requires (1) and (2) were met.

a. The state court accepted that the new evidence was not previously discoverable, was credible, and was not merely cumulative.

76. The evidence was unknown or unavailable to the defendant at the time of trial, and could not have been discovered with reasonable diligence before trial. At the time of Mr. Ramos's 1992 trial, mtDNA testing was not available. PR COA 15; CFI 42-43. There were no forensic technicians available to do such analysis in Puerto Rico at that time up to present. It was only with the passing of the Puerto Rico Post-Conviction DNA Analysis Act of 2015 that Mr. Ramos moved for testing of the hairs found on Maymí's undergarments. PR COA 15.

77. At the 1992 trial it was apparently not possible to test other crime scene hairs using conventional DNA testing because they carried insufficient nuclear DNA material. PR COA 15. By not appealing or objecting or opposing this ruling below, the state has waived the opportunity to challenge this element.

78. As both the trial court and the Court of Appeals concluded, the mtDNA evidence was not cumulative to any trial evidence because no DNA testing or hair analysis was done on the underwear taken from the crime scene. PR COA 9; CFI 4. The crime scene, described as an "uncontrolled situation," unearthed no physical link to Mr. Ramos. *See* Tr. 131-32, 500. Nevertheless, the prosecution alluded to some possible link and the specter of some alteration of the scene by someone. *See* Tr. 608. By not appealing or objecting or opposing this ruling below, the state has waived the opportunity to challenge it.

79. To the extent that "credibility" is a factor considered in granting a new trial, this factor was not in dispute in state court. The COA first announced that the new mtDNA evidence was credible and testimony regarding it remained uncontroverted. PR COA 16. Expert testimony at the motion-for-new-trial hearings established that mtDNA evidence

excluded Mr. Ramos and Meléndez as contributors to the hairs retrieved from Maymí's underwear. PR COA 16. The evidence further reliably indicated that the source of the hairs belonged to Maymí or someone from her matrilineal line.

80. While the COA would have substituted its own determination that mtDNA evidence was no better than microscopic hair analysis at excluding both petitioners, it still would have found a complimentary effect of mtDNA and hair comparison analysis. Thus, this prong of the state new trial test was met. By not appealing or objecting or opposing this ruling below, the state has waived the opportunity to challenge it.

b. The COA was wrong to conclude the new mitochondrial DNA evidence was not likely to change the result at trial.

81. The evidence was relevant and credible, and not merely cumulative or merely impeachment. The trial court applied a nuanced standard regarding impeachment evidence that comported with due process, noting first the federal standard, and second speaking in detail as to the degree of impeachment of witnesses that would require a new trial. The trial court noted that a new trial motion must be based on "new evidence that is material to the controversy, and credible, not merely cumulative or impeaching." CFI 36. The trial court further elaborated that Puerto Rico jurisprudence provides that just because new evidence may be classified as impeachment material does not mean it will be automatically rejected. CFI 8. Rather, impeachment evidence may be of exculpatory character. As such, proof that impeaches the prosecution's case is of great importance both to Puerto Rico law and federal law, and considered necessary exculpatory evidence under due process. CFI 8.

82. But the COA applied an inflexible standard to find error in the trial court's decision, stating categorically: "We reaffirm, moreover, that new trial requests cannot be based on new evidence impeaching the character or credibility of one or several witness."

COA 16. This unreasonable statement of law ignored the key fact that evidence excluded Mr. Ramos from the crime scene (already disgracefully managed by law enforcement), undermining the testimony of the two already questionable and inconclusive witness accounts alleging Mr. Ramos was simply present at Maymí's home. As several circuits have plainly recognized, "it is within the Court's power to grant a new trial if it appears that had the impeaching evidence been introduced, it is likely that the jury would have reached a different verdict." *United States v. Lipowski*, 423 F. Supp. 864, 867 (D.N.J. 1976) (citing cases from the Sixth and Ninth Circuits). Impeachment evidence can favor granting a new trial when it could have been the proverbial "straw that broke the camel's back" with respect to a witness's credibility such that a different verdict would likely result. *See id.*

83. Even though the new evidence here has some value in impeaching trial witnesses — including forensics technicians — its effect goes much further. It strikes a serious blow against the state's dismally investigated case. The mtDNA evidence obtained from the untested hairs gathered from Maymí's underwear at the 1989 crime scene, together with testimony obtained at the new trial hearing, were sufficient for a reasonable juror to have reasonable doubt if it they could be exposed at a new trial. Not only did the 1992 jurors not have the benefit of this scientific evidence, trial proceeded despite significant constitutional violations, with no direct evidence, and questionable testimony alleging Mr. Ramos's presence at the scene and nothing more in a case that amounted to a "comedy of errors" since its inception. What is more, the credibility of the state's witnesses was under threat as their changed version of events happened eighteen months after the fact and only after Rodríguez-Elías threatened them with prosecution during ten-plus-hour interrogations

84. Newly discovered evidence, along with new testimony at the NTM evidentiary hearing would have resulted in a distinct result at trial.

ii. The Mitochondrial DNA report proved no link between Mr. Ramos and Meléndez and a crime scene rife with biological tissue and signs of a struggle.

85. Mr. Ramos was convicted in a 1992 trial in which no DNA testing was conducted on pubic hairs found on Maymí's underwear. At that trial, the prosecution argued extensively that the murder of Maymí was motivated by a motive to rape Maymí. *See* Tr. 7563. The prosecutor argued that Mr. Ramos and Meléndez entered Maymí's home with the intention to rape her. Tr. 7561, 7569. The prosecution argued that Maymí was defending her honor, implying that she was protecting herself from rape. Tr. 7561; CFI 19-20.

86. No evidence was presented that Maymí had been raped. The prosecution did not present testimony from the pathologist who had done Maymí's autopsy. No semen or biological material of anyone was found on Maymí's clothing. Tr. 2078.

87. The autopsy report produced at trial did not say that Maymí had underwear on, did not say investigators recovered pubic hairs, and did not indicate that Maymí shaved her pubic area. CFI 4. No DNA testing was done in 1989 on the evidence that was recovered in this case.

iii. The mitochondrial DNA studies of pubic hairs and the condition of Maymí at the time of the autopsy are newly discovered exculpatory evidence.

88. The subject mtDNA results were not available at the time of trial and not obtainable outside of Puerto Rico. Nor did the pathologist testify at the trial. A surrogate presented testimony about the autopsy. The pathologist's recent testimony was that the deceased was wearing green pants and a black shirt when found. CFI 4. The pathologist's report

was unclear as to whether Maymí had underwear on when the external examination was conducted or the undergarment had been taken off. Maymí had her pubic area completely shaved, which the pathologist found rare in Puerto Rico at the time of Maymí's death. PR COA 6. Nevertheless, the pathologist recovered three pubic hairs from somewhere atop the deceased's underwear. PR COA 6.

89. These hairs never underwent microscopic hair comparison analysis to evaluate whether Mr. Ramos and Meléndez could be excluded from them. PR COA 9; CFI 4. Hair evidence was so important to the state, as jurors learned, that the victims were dug up so hair samples could be compared to hairs taken from the knife recovered at Morales-Colberg's house. Tr. 722, 724. Despite a two-plus-year delay and the state's circumstantial-evidence-based trial theory, the case was brought to trial a few short months after Mr. Ramos was charged. A categorical DNA-based exclusion would have cast doubt on the prosecution's theory that Mr. Ramos and Meléndez had attempted to rape Maymí and were in any way linked to the crime. These hairs never underwent mtDNA analysis, which would have both excluded Mr. Ramos and Meléndez as possible contributors and pointed to other possible suspects in the murders.

iv. Mitochondrial DNA results exclude Mr. Ramos and Meléndez and point to a narrow range of other possible suspects.

90. At the NTM hearing, ICF Forensic Specialist Mireya Hernández testified that serological testing and DNA analysis were not the same, and that the ICF had sought mtDNA analysis from another laboratory because ICF does not do that analysis. The Puerto Rico Department of Justice agreed to the request. PR COA 6.

91. Testimony from Philip Hopper from the Serological Research Institute in California established that genetic material on the three hairs continued different sequences

than those assessed in Mr. Ramos's hairs. CFI 6-7. They were therefore ruled out as donors. Compared to control hairs taken from Maymí, the sequence was the same. PR COA 7. Hopper explained that in contrast to nuclear DNA, mtDNA only contained genetic material from a person's mother. PR COA 8. Hopper's conclusion therefore was that the hairs assessed had to come from someone within the same matrilineal as Maymí or from Maymí herself. PR COA 8.

92. Once the prosecution opted not to analyze these hairs at the time of the 1992 trial, they were not within reach of the defense. PR COA 9. The hairs found on Maymí's underwear were relevant to identifying the real perpetrator of the crime. PR COA 9. The critical import of these hairs was evident from the fact that the state went so far as to dig up the victims' bodies to compare their hairs to other hairs at the crime scene.

93. Testimonial and physical evidence at the trial pointed to another individual involved in the murder. Maymí's cousin Nydia gave many of Maymí's belongings to her estranged husband, Morales-Colberg. Morales-Colberg had been seen stalking Maymí in the neighborhood and was very jealous of her.

94. Law-enforcement agents investigated the alibi of Morales, who had dropped off their children to Maymí the night Maymí and the children were stabbed to death. The day after the killings, nearby neighbor Eluzmindrina Feliciano saw someone climb the gate to Maymí's house and leave in a blue car with damaged front end. NTM 6. She later identified Morales-Colberg as the man who climbed the gate.

95. The actual murder weapon, a blood-and-hair-encrusted knife was found in Morales's possession by his mother, Carmen Rosa Colberg. The knife was analyzed

forensically and found to be consistent with the wounds to Maymí and her children. Morales-Colberg consulted a lawyer before the knife was turned over to investigators. CFI 17.

96. Similarly, while estranged from her husband, Maymí had recently rejected her paramour Juanma for not being "man enough" for her. He was seen looking for Maymí in the early morning before she was killed; he was honking his horn outside her house. Tr. 729. The police investigation revealed unclear follow-up work to check Juanma's alibi. Tr. 869-73.

97. The complete and total exclusion of Mr. Ramos from any crime scene evidence would have strengthened these alternative accounts in the minds of the jury. The new evidence challenges the state's evidence, which lacked scientific evidence, evinced colossal investigative failures by the Puerto Rico Department of Justice, and was contradicted by numerous witnesses who testified at trial. At trial, other witnesses testified that Mr. Ramos and Meléndez were not in front of Maymí's home the night in question. NTM 3. The new evidence demonstrates that the two men never had physical contact with Maymí that night. The new evidence is particularly compelling given that the state relied over and over on a theory that the crime was motivated by rape and Maymí died protecting herself from being raped. Tr. 7561, 7569.

v. The new evidence casts serious doubt on the prosecution's theory that a motive to rape motivated the killing.

98. When Puerto Rico Police Agent Dean Casillas arrived on the scene, he found Maymí's body in a bathtub, and her two children in the freezer and refrigerator. NTM 7. A mattress in the house was covered in blood with the covers in a mess and blood stains on the walls. NTM 7. The prosecutor in charge of the crime scene, Carlos Juan Beltrán, hypothesized that Maymí had been attacked on the bed and stabbed with a sharp object such that blood splattered on the walls. NTM 7. In the kitchen, Beltrán and Casillas didn't find any

blood stains but found a pair of bloody shorts with a steak knife on top of them. That knife and others in the kitchen had no signs of use. NTM 7.

99. Three pubic hairs were later found on Maymí's underwear and body hairs were found on a sweater worn by her son, Eduardo. NTM 8. They could not be identified at the time of trial. NTM 8. At the time of trial, available technology did not permit such identification. The bloody mattress, together with the prosecution's motivation-to-rape theory directs significant value to forensic examination of Maymí's underwear. The fact that Maymí had a shaved pubic area at the time makes the presence of hair on undergarments after she died by a physical struggle highly relevant evidence to be assessed. The fact that Mr. Ramos and Meléndez did not think to pursue an investigation based on the condition of the cadaver and pubic region shaving habits supports their actual innocence claims. They did not know to investigate those issues.

100. This evidence was additionally relevant since forensic evidence was presented to the jury, and the prosecution advanced a theory that the perpetrators cleaned up the crime scene. ICF Forensic Technician Leida Rodríguez testified that the hairs on the knife found in Morales' possession were analyzed to match those of Maymí. CFI 12. The hairs found on Maymí's underwear were made known to the jury but were not subjected to any testing. CFI 12. Without evidence, the prosecution argued that it was Mr. Ramos and Meléndez who destroyed forensic evidence at the crime, not police and the deceased's family members as evidence showed. Tr. 7564.

101. Countering the prosecution's theory with confirmation that no genetic material linked either man to the crime would have rebutted the state theory that Mr. Ramos and Meléndez had altered the crime scene. This was an already weak proposition given the fact

the scene was contaminated by news reporters, and the deceased's cousin removed and destroyed additional evidence.

102. This new evidence would have strengthened the defense argument that Maymí's estranged husband, Morales-Colberg, was involved in the murder since his fingerprints were the only ones found at the crime scene.

103. Abundant additional issues could have been challenged based on the newly discovered evidence. The teenage witness, Babi, testified she had seen Meléndez punching Maymí. The pathologist, however, testified that the deceased had no scratches or bruises when the autopsy was done. CFI 19.

104. Other witnesses, like José Cruz López and Luis Casillas, did not see Mr. Ramos and Meléndez at the scene. Even the state's theory relied on pure speculation to attribute murderous involvement to Mr. Ramos, saying that Mr. Ramos was not "merely present" at the scene while Meléndez was hitting Maymí. He was "standing, at times leaning against the wall on some occasions according to Barbara and on others in the "área de marco." Tr. 7562-63.

B. The state court unreasonably required the new evidence to undermine all other evidence in the trial and establish conclusive proof of innocence at the motion stages.

105. Despite the materiality and impact of the new evidence, the PR COA decision revoked relief for Mr. Ramos based on a distorted test for materiality and unduly parsimonious view of the trial evidence. Pages twenty-four through thirty-three of the opinion demonstrate a repeated fixation on some of the testimony supporting the state and make clear the two judges in the majority are not applying the correct new-trial standard. The opinion even comments that the new evidence lacks the "degree of relevance and sufficiency to

counteract *all evidence* presented at trial." PR COA 31 (emphasis added). In other words, it would not be enough for PR COA majority for the new evidence to probably lead to a different outcome.

106. It then purports to give both direct and circumstantial evidence exactly the same weight, which aids the PR COA to ignore the overwhelming weaknesses in the state's 1992 trial case and fails to heed the prosecution's own acknowledgment at trial that the state presented a "comedy of lies and comedy also of errors committed by the police" such that anyone viewing the case "cannot use [their] hand to block out the sky." Tr. 7564-65. Yet, the PR COA does just that and blocks out the very analytical CFI decision — by an experienced trial judge — which concludes the impact of newly discovered evidence stood to affect the result of the trial.

107. If any court is unreasonably ignoring relevant trial evidence, it is the PR COA which blocks out the shocking fact that the conviction was obtained based on the testimony of two teenage siblings that changed their story only after extreme conditions placed upon them by Rodríguez-Elías. Rodríguez-Elías got a new version of facts only after dozens of hours of interrogation and threats that the two would be charged with crimes. Rodríguez-Elías also improperly tempted the jury with highly improper religious arguments that implied that God was on the side of the prosecution and a guilty verdict would allow jurors to rest and sleep well as it would protect angel-like children.

C. The state court unreasonably applied an unintelligible standard of materiality to revoke Mr. Ramos's grant of a new trial.

108. The PR COA's decision is an unreasonable application of federal law both because it applied a higher-than-appropriate standard and because its application is simply unintelligible. The factfinding here was done at the CFI level by a trial judge with decades of

experience, and the appellate judges complain that biological evidence on murder victim's underwear is not relevant or material when the state's theory was that the victim died defending against rape and investigators exhumed the victim's body get hairs to compare with other evidence. What reasonable jury would not wish to consider whether or not the accused had been ruled out as donating biological materials that were found atop the victim's undergarment? Especially, when the state didn't get around to testing her clothing for semen until twenty-one months after the clothing was seized.

109. Yet, the Puerto Rico state court rejects this evidence as "merely impeaching." PR COA 13. At times in the decision, it is not clear that the panel understands the standard it wishes to apply. It even digresses to compare the new evidence here to evidence previously presented in Mr. Ramos's first new trial motion. *See* Ground 2, *infra*. As the dissenting opinion points out, it is not clear why the majority discusses the legislative predicates of the Puerto Rico Post-Conviction DNA Law in the context of any differences in Mr. Ramos's first and second new trial motions.

110. As the dissenting judge questions, shouldn't the prosecution have raised its arguments against the import of newly tested material when Mr. Ramos was petitioning for such testing? PR COA 35-36. The CFI judge did not distort the evidence of the original judgment. She properly exercised her discretion to place the new evidence on the scales of justice with the trial record, to conclude that, in totality, they no longer tilt toward guilt. *See* PR COA 37.

111. Finally, to make matters murkier, the PR COA rests its decision on the conclusion that the CFI committed all the errors complained of by the attorney general. PR COA 32. Again, while at times the PR COA seems to cite the correct standard, the first error

complained of by the prosecution states a different standard, arguing the CFI erred by not requiring the new evidence to prove innocence. PR COA 10. The state court's new-trial analysis was objectively unreasonable. *See* 28 U.S.C. § 2254(d)(1), and habeas relief is warranted. *Fry*, 551 U.S. at 116; *Brecht*, 507 U.S. at 631.

CLAIM 2. THE PR COURTS' DECISION WAS BASED ON AN UNREASONABLE DETERMINATION OF THE FACTS IN LIGHT OF THE EVIDENCE PRESENTED IN THE TRIAL COURT EVIDENTIARY HEARING.

112. The COA's decision is stitched together using unreasonable factual determinations. While Phillip Hopper testified to the state of the art in mtDNA analysis and forensic techniques, the PR COA reached an unreasonable determination that the scientific report writers' political affiliations affected the reliability of such report-based evidence and sided with a Puerto Rico forensics analyst over Hopper in a manufactured credibility dispute.

A. The COA erroneously held the probative value of microscopic hair analysis is no different that mtDNA analysis.

i. Definition of Hair Analysis

113. Microscopic hair analysis is at best a disputed pseudoscientific, subjective forensic discipline. In Mr. Ramos's new trial motion proceeding, he introduced a multi-agency, multi-stakeholder report with findings of substantial errors in cases relying on hair analysis. In response to the report, the U.S. Department of Justice ("DOJ") actually stated that in federal cases, it would not raise procedural objections (i.e., procedural default or statute-of-limitations claims) when defendants seek a new, fair trial because of the faulty pseudoscientific evidence. Because the majority of the problematic FBI examiner testimony had been provided in state court prosecutions, the report said individual states would have to determine if they would follow the DOJ's lead in permitting relitigation. Press Release, FBI, FBI Testimony on

Microscopic Hair Analysis Contained Errors in at Least 90 Percent of Cases in Ongoing Review (Apr. 20, 2015), available at https://perma.cc/MPT8-2NEP.

ii. Definition of Mitochondrial DNA Analysis

114. In contrast to microscopic hair analysis, which makes visual comparisons between hair samples, mtDNA examines DNA specimens found in the mitochondria of cells. PR COA 11. Mitochondrial DNA is inherited only from a person's mother, such that all the children of a given mother have the same mtDNA. And all the children of a mother's female children will carry the same mtDNA. PR COA 11.

iii. The state court's conclusion that microscopic hair analysis was no different that mtDNA testing for exclusion purposes was an unreasonable factual determination.

115. The COA first announced that the new mtDNA evidence was credible and testimony regarding it remained uncontroverted. PR COA 16. Nevertheless, a portion of the PR COA decision appears to depend on a conclusion that mtDNA results would not have yielded anything different than microscope analysis done years earlier. The PR COA rejected the mtDNA evidence based on its own conclusion of fact that mtDNA evidence has the same force of excluding donor as microscopic hair analysis. Effectively, the PR COA overruled the CFI's straightforward conclusion that mtDNA analysis is more convincing, conclusive, discriminating, and better at excluding contributors than hair comparisons by microscope. PR COA 9.

CLAIM 3. MR. RAMOS IS ACTUALLY INNOCENT OF THE CRIME OF FIRST-DEGREE MURDER BECAUSE EVIDENCE EXISTS THAT EXCLUDES HIM AS A CONTRIBUTOR TO ANY FORENSIC EVIDENCE AND POINTS TO ANOTHER PERPETRATOR OR ACCOMPLICE. HIS CONVICTION AND CONTINUED INCARCERATION FOR FIRST DEGREE MURDER DENY HIM HIS RIGHT TO DUE PROCESS OF LAW IN VIOLATION OF THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS.

116. To establish actual innocence, a "petitioner must show that it is more likely than not that no reasonable juror would have found petitioner guilty beyond a reasonable doubt." *Schlup v. Delo*, 513 U.S. 298, 327 (1995). This standard, however, is less strict than the insufficient evidence standard outlined in *Jackson v. Virginia*, 443 U.S. 307, (1979), which "looks to whether there is sufficient evidence which, if credited, could support the conviction," because it focuses on what a reasonable juror would do. *Id.* at 329-30 (emphasis added). It also "does not require absolute certainty about the petitioner's guilt or innocence." *House v. Bell*, 547 U.S. 518, 538 (2006). Nor is "the mere existence of sufficient evidence to convict" outcome determinative. *Schlup*, 513 U.S. at 330.

117. "To be credible, [an actual innocence] claim requires petitioner to support his allegations of constitutional error with new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence—that was not presented at trial." *Id.* at 324 (emphasis added). Such evidence does not necessarily need to be newly discovered, merely newly presented. *Gómez v. Jaimet*, 350 F.3d 673, 679 (7th Cir. 2003) (finding "[i]f procedurally defaulted ineffective assistance of counsel claims may be heard upon a showing of actual innocence, then it would defy reason to block review of actual innocence based on what could later amount to the counsel's constitutionally defective representation.").

118. Mr. Ramos was convicted in a trial that presented no direct evidence of his involvement in the triple murder of Maymí and her two children. The crime scene rife with biological evidence had no link to Mr. Ramos. Two teenage witnesses claimed they saw Mr. Ramos in Maymí's house leaning against the wall, but their accounts were obtained by Rodríguez-Elías in highly suspect circumstances after agents interviews them dozens of times in a process culminating in threat of criminal charges against them.

119. Mr. Ramos's original trial judge, CFI judge Hiram Sánchez-Martínez, came out to the governor of Puerto Rico to state that he did not think there was sufficient evidence to convict Mr. Ramos, that, at most, he was merely present at a place a crime happened. *See* Exhibit A.

120. Prior to the newly discovered mtDNA evidence, law enforcement left the impression that some unknown quantum of forensic or biological evidence linked Mr. Ramos. The new trial motion proceedings have changed that: Now zero percent of the crime scene evidence has a link to Mr. Ramos.

PRAYER FOR RELIEF

For the foregoing reasons, and such others as may appear to this Court, Mr. Ramos respectfully requests that this Court:

a) issue a writ of habeas corpus to have Mr. Ramos brought before this Court to the end that he be discharged from his unconstitutional confinement and restraint;

b) conduct an evidentiary hearing at which evidence may be offered;

c) vacate Mr. Ramos's conviction and sentence; and

d) grant such other relief as may be appropriate to dispose of the matter as law and justice require. 28 U.S.C. § 2243.

RESPECTFULLY SUBMITTED,

ERIC ALEXANDER VOS
Federal Public Defender
District of Puerto Rico

S/ FRANCO L. PÉREZ-REDONDO
USDC-PR No. G02414
Assistant Federal Public Defender
Supervisor, Appeals Section

S/ KEVIN E. LERMAN*
USDC-PR No. G03113
Research & Writing Attorney

Federal Public Defender,
District of Puerto Rico
241 F.D. Roosevelt Ave.
San Juan, P.R. 00918-2441
T: (787) 281-4922
D: (787) 474-6389
E: Kevin_Lerman@fd.org

In San Juan, Puerto Rico, on October 10, 2022.

*I certify that on this date, I served a copy of this petition/complaint and any accompanying attachments on the parties of record by filing it in the CM/ECF system.

HIRAM A. SÁNCHEZ MARTÍNEZ
[redacted]
San Juan PR 00926-6809
[redacted]

22 de octubre de 2019

La Honorable Wanda Vázquez Garced
Gobernadora de Puerto Rico
La Fortaleza
San Juan, Puerto Rico 00901

Solicitud de clemencia ejecutiva de Antonio Ramos Cruz

Estimada señora Gobernadora:

Soy el juez que sentenció en 1992 a Antonio Ramos Cruz y a Juan Carlos Meléndez por los asesinatos de Haydée Teresa Maymí Rodríguez y sus dos hijos (niño y niña). Un jurado los había declarado culpables de esos delitos.

Hace algún tiempo, me le acerqué *motu proprio* al Lcdo. Julio Fontanet, abogado de Antonio Ramos Cruz, para manifestarle mi sentir, al cabo de más de veinticinco años, con respecto al caso del señor Ramos Cruz. Utilizo este medio para repetir lo que entonces le dije y le he vuelto a decir recientemente.

Siempre tuve dudas sobre la participación de Antonio Ramos Cruz en aquellos asesinatos. Mi mejor recuerdo sobre la prueba desfilada o del informe presentencia —no estoy muy seguro en cuál de estas— es que Antonio era hijo de una madre que lo tuvo en plena adolescencia, y quizás por eso me parecía ser un poco inmaduro e influenciable. Quedé convencido de que su vinculación con este caso podría explicarse por la aparente equivocación en que incurrió al escoger su compañía. La noche de los hechos Antonio fue una de las cuatro personas que vieron viva por última vez a Haydée Teresa Maymí y sus hijos (niño y niña). Las otras fueron Juan Carlos (el coacusado) y los hermanos Bárbara y Johíto (testigos del Ministerio Público; creo que así se llamaban o apodaban).

Mi percepción, a base de mi mejor recuerdo, es que fue Bárbara quien declaró haber visto a Antonio Ramos Cruz en la escena de los hechos, estando él de pie, tranquilo, de brazos cruzados, en el pasillo, en la puerta de un cuarto, mientras escuchaba que Haydée Teresa y Juan Carlos,

dentro de la habitación, discutían o se peleaban. Me parece recordar que la prueba pericial es que los asesinatos ocurrieron horas después, esa madrugada de domingo para lunes. No recuerdo haber escuchado ninguna otra prueba que vinculara a Antonio con esos asesinatos.

Durante todos estos años he vivido convencido de que si el caso se hubiera visto por tribunal de Derecho, es decir, sin jurado, lo habría tenido que declarar a él no culpable. Pero, Antonio había escogido ver su caso por jurado y, al este declararlo culpable, solo me restó sentenciarlo.

Este es uno de dos casos que atendí como juez del entonces Tribunal Superior (hoy Tribunal de Primera Instancia) en los cuales he quedado insatisfecho con el resultado del proceso. (El otro caso no está relacionado con este).

Escribo esta carta porque sé que Antonio Ramos Cruz está o estará solicitando clemencia ejecutiva. Y pienso que es mi obligación moral dejarle saber a usted, como gobernadora de Puerto Rico, que este caso es meritorio para concederle a este reo algún tipo de clemencia que pueda resultar en su liberación de prisión.

.Cordialmente,

Hiram Sánchez Martínez

CERTIFIED TRANSLATION

HIRAM A. SÁNCHEZ MARTÍNEZ
[redacted]
San Juan PR 00926-6809
[redacted]

October 22, 2019

The Honorable Wanda Vazquez Garced
Governor of Puerto Rico
La Fortaleza
San Juan, Puerto Rico 00901

Request for executive clemency for Antonio Ramos Cruz

Esteemed Madam Governor:

I am the judge who sentenced Antonio Ramos Cruz and Juan Carlos Meléndez in 1992 for the murders of Haydée Teresa Maymí Rodriguez and her two children (boy and girl). A jury had found them guilty of those crimes.

Some time ago, by my own initiative, I approached Mr. Julio Fontanet, attorney for Antonio Ramos Cruz, to express my feelings, over twenty-five years later, regarding the case of Mr. Ramos Cruz. I will herein repeat what I said to him then and recently said to him again.

I always had doubts about the participation of Antonio Ramos Cruz in those murders. My best recollection of the evidence presented or the presentence report—I'm not sure which—is that Antonio was the son of a mother who had him in the middle of her teens, and perhaps that is why he seemed to me to be a bit immature and impressionable. I became convinced that his involvement in this case could be explained by the obvious mistake he made in choosing his company. The night of the events, Antonio was one of the four people who saw Haydée Teresa Maymí and her children (boy and girl) alive for the last time. The others were Juan Carlos (the co-defendant) and the brothers Barbara and Johito (witnesses for the prosecution; I think those were their names or nicknames).

My perception, based on my best recollection, is that it was Barbara who stated that she had seen Antonio Ramos Cruz where the events took place, standing, calm, with his arms crossed, in the corridor, at the door of a room, while listening to Haydée Teresa and Juan Carlos,

CERTIFIED TRANSLATION

arguing or fighting inside the room. I seem to remember that the expert evidence is that the murders occurred hours later, during the early morning hours from Sunday to Monday. I don't remember hearing any other evidence that linked Antonio to those murders.

For all these years I have lived with the certainty that, had the case been a bench trial, that is, without a jury, I would have had to find him not guilty. But Antonio had opted for a jury trial and, once it found him guilty, all that was left for me to do was to sentence him.

This is one of two cases that I heard as a judge of the then Superior Court (today the Court of First Instance) in which I have been dissatisfied with the outcome of the process. (The other case is not related to this one.)

I am writing this letter because I know that Antonio Ramos Cruz is or will be requesting executive clemency. And I think it is my moral obligation to let you know, as Governor of Puerto Rico, that this case merits granting this inmate some type of clemency that might result in his release from prison.

Cordially,

/s/ *Hiram Sánchez Martínez*
Hiram Sánchez Martínez

CERTIFICATION BY TRANSLATOR

I, MARY JO SMITH-PARÉS, an English-Spanish interpreter certified to that effect by the Administrative Office of the United States Courts, do hereby certify that I have translated from Spanish into English the foregoing documents consisting of 2 pages, including this certification, and that this is a true and accurate translation to the best of my knowledge and ability.

Mary Jo Smith-Parés, USCCI

September 12, 2022
Date