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VIA ECF

The Honorable P. Kevin Castel
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Juan Orlando Hernandez, et al*, 15 Cr. 379 (PKC)

Dear Judge Castel:

I write to renew and supplement my request to reopen the record to correct the government's rebuttal summation when the government stated: "And you heard from the government's expert witness how the volume of cocaine through Honduras went up during the defendant's presidency, from 2014 through 2022." Tr. 1756:19-21.

The government was referencing trial testimony by DEA Analyst Jennifer Taul, who the Court qualified as an expert in cocaine manufacturing processes, as well as drug trafficking routes and pricing. Ms. Taul testified as follows:

Q: Well, just putting COVID aside because that was – so let's do between – because you raise a good point. Between 2014 and let's say 2019, did cocaine trafficking through Honduras go up or down?

A: Up.

Q: You say it went up between 2014 and 2019?

A: I believe so.

Q: What's your basis for saying that?

A: There are statistics reported by a number of different bodies, both private and government, DEA reporting mostly.

Hernandez Alverado Tr. 614:12-21.

We believe that the testimony offered by DEA Analyst Jennifer Taul was false or at least severely misleading, that the government had reason to know it was not accurate, and should have corrected it with Ms. Taul, not emphasized it, during summations.

I have now reviewed the trial transcript in *United States v. Geovanny Fuentes Ramirez*, 15-CR-379 (PKC), which was tried by one of the prosecutors in this case and presided over by this Court. In *Ramirez*, the government called Dr. Dario Euraque, who was qualified by the Court as an expert in Honduran history and its social and political systems. On both cross-examination and redirect examination, Dr. Euraque testified in a manner that contradicts Ms. Taul's testimony and the statement made in the government's rebuttal summation in this case. On cross-examination in *Ramirez*, Dr. Euraque testified as follows:

Q: Over the past eight years or seven years that President Hernandez has been in power, there's been a substantial reduction in the amount of narco-trafficking through Honduras, isn't that right.

A: Correct.

Ramirez Tr. 628:17-22. Dr. Euraque then testified that:

Q: The number went from 87 percent of cocaine travelling from South America up to the United States, stopping in Honduras, to now, more or less, let's call it, being 5 percent?

A: About.

Q: An 82 percent reduction, at least.

A: Pretty much.

Ramirez Tr. 629:10-15.

On redirect examination of Dr. Euraque in *Ramirez*, the government did not dispute the reduction, but tried to attribute some of it to other causes, such as the efforts of the DEA:

Q: Professor Euraque, you just testified about the reduction in narcotics trafficking from Honduras, is that correct?

A: Yes, I did.

Q: Can you say whether that's attributable to the efforts of Juan Orlando Hernandez or the efforts of the DEA?

A: Can you repeat the question?

Q: Sure. Can you say whether that reduction is attributable only to Juan Orlando Hernandez?

A: Oh, I don't think it's attributable only to Juan Orlando Hernandez.

Q: Could it also be attributable to efforts by the DEA?

A: Yes.

Q: Other organizations?

A: Yes.

Ramirez Tr. 636:6-20.

The government obviously declined to call Dr. Euraque at this trial to avoid him repeating this damaging testimony. While that was the government's prerogative, it was improper to rely on contradictory and irreconcilable testimony from Ms. Taul and argue it to the jury.

As I noted to the Court on the record yesterday, there are several International Narcotics Control Strategy Reports (INCSR) that document the reduction in the flow of cocaine through Honduras during Mr. Hernandez's presidency. Pursuant to Section 489 of the Foreign Assistance Act of 1961, those reports are required to be submitted by the President to Congress on March 1 of every year and must include, inter alia, "information from the Drug Enforcement Administration." Several of the published INCSR reports on Honduras contradict Ms. Taul's trial testimony, as follows:

INCSR 2016 Report on Honduras: "According to U.S. estimates, the volume of cocaine that transited Honduras to the United States over this period decreased by 40 percent from 2014."

INCSR 2017 Report on Honduras: "In 2016, the U.S. government estimated that the number of aircraft suspected of smuggling cocaine into Honduras decreased by approximately 30 percent from the previous year, to 35 in total."

INCSR 2020 Report on Honduras: "The United States estimates approximately 4 percent, or 120 metric tons (MT), of cocaine shipments from South America made a first stop by air or by sea in Honduras in 2019."

INCSR 2022 Report on Honduras: "During the first nine months of 2021, the Government of Honduras reported seizing 14.2 metric tons (MT) of cocaine – four times more than all seizures in 2020."

For all these reasons, I request that the Court reopen the record and instruct the jury as follows: “The volume of cocaine through Honduras went down during the defendant’s Presidency, from 2014 through 2022.”

I thank the Court for its continued consideration.

Respectfully submitted,

/s/

Renato C. Stabile

cc: All counsel
(via ECF)