

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANÍBAL ACEVEDO VILÁ, et al.,

Defendants.

SEALED

CRIMINAL NO. 08-0036 (PJB)

**GOVERNMENT’S SEALED MOTION REQUESTING EXPEDITED
TELEPHONIC CONFERENCE AND OTHER RELIEF**

COMES NOW the United States of America, by and through its undersigned attorneys, and files this request for a telephonic status conference in the above-entitled case. In support of this expedited request, the government respectfully states as follows:

1. Three major newspapers in Puerto Rico¹ reported that the defendant, **ANIBAL ACEVEDO VILA**, is scheduled to address the Island this afternoon and evening. The announcement appeared in a page long advertisement, with the bold headline **“YOU BE THE JUDGE”** (**“JUZGA TÚ”** in Spanish).
2. The advertisement announced that Aníbal Acevedo Vilá will speak directly and openly to the people of Puerto Rico about the charges against him and regarding his finances. A copy of the advertisement is attached hereto as Exhibit A.
3. The defendant’s address is scheduled to air at 5:45 p.m., 6:45 p.m., 7:00 p.m., 7:30 p.m., 8:00 p.m., and 9:00 p.m. this evening on eight television stations and 10 radio stations.
4. The undersigned counsel discussed with defense counsel the government’s concern

¹ El Nuevo Dia, El Vocero, and Primera Hora have each announced the Governor’s address.

regarding the effect that commentary of this nature, in conjunction with the prejudicial discourse that has preceded it, could have on the potential jury pool in this case. These concerns are exacerbated by the fact that we are a mere three months from the trial date of February 9, 2008.

5. The government was advised by defense counsel that the defendant's speech had been purged of language that could be construed as an attack against the government or an attack against particular witnesses in the case. The government was also advised, in general terms, that the defendant would be discussing each count of the indictment, denying his guilt, and commenting on his conduct with respect to each count.
6. The defendant has routinely characterized the investigation in this case as politically motivated and the indictment as an attack on the people of Puerto Rico and their sovereignty. This discourse is intended to promote the notion that the people of the Commonwealth of Puerto Rico are parties to the case. This frequent chorus is inapposite with the jury's proper role as impartial and independent judges of the facts of the case, and has the effect of confusing the role of voter with the role of juror for all Puerto Ricans.
7. Furthermore, in a press conference held by the defendant in November 2007, during the pendency of the investigation, Acevedo Vilá made patently false and reckless accusations against the government, defense attorneys, members of the judiciary, and the United States Attorney personally, with the intent of undermining the credibility of the investigation. He further leveled accusations against potential government

witnesses, as a means of pressuring the witnesses and inciting adverse public opinion against them and the investigation.² An English translation of the transcript of that press conference is attached hereto as Exhibit B.

8. During that press conference the defendant also made reference on various occasions to information provided to him by his lawyers. While there is an understandable need and duty for defense counsel to discuss the evidence in the case with their client, the government is concerned that the defendant may choose to comment on matters he has become privy to as a result of the extensive discovery provided in this case, including witness statements and documentary evidence.³
9. Courts have an affirmative constitutional duty to minimize the effects of prejudicial pretrial publicity. The Local Rule 83.7(g) for the District of Puerto Rico permits the Court to enter a special order governing extrajudicial statements to protect the rights of the parties to a fair trial by and impartial jury, particularly in widely publicized or sensational cases. In light of this authority, the government hereby alerts the Court of the defendant's scheduled address to the people of Puerto Rico. The government requests the Court to schedule a telephonic conference with counsel for the government and counsel for Acevedo Vilá this afternoon in order to discuss the

²

For example, the defendant stated that, "Witnesses have been pressured and manipulated here to say *something* about the governor. You know that all this started with mister... an investigation regarding Mr. Cándido Negrón. The information that the attorneys have is that Mr. Cándido Negrón had been cooperating with this investigation for about a year. His lawyer during that period of time was Rachel Brill, the wife of Judge Fusté. And those of you who are covering this know that - strangely, if you ask me - in some instances Judge Fusté has had some interventions with witnesses in this case." (Page 4 of Exhibit B) "This is disrespectful to the democratic institutions of the People of Puerto Rico. It is an attempt to tell each Puerto Rican, "we are in charge here, and we can make or break anyone we feel like". But you can be assured that I am not afraid of them." (Page 9 of Exhibit B).

³ A protective order was entered by the Court with respect to documents provided to the defendants in the discovery process. (D.E. 156).

particulars of this issue.

WHEREFORE, the government respectfully requests that the Court take notice of the instant motion, and schedule a telephone conference for this afternoon, in order to address the prejudicial pre-trial publicity that could be generated by the defendant's public discussion of each of the counts of the indictment, and potential measures that could be taken by the Honorable Court to ameliorate this effect.

Respectfully submitted, on this 27th day of October, 2008, at San Juan, Puerto Rico.

ROSA EMILIA RODRIGUEZ VELEZ
UNITE STATES ATTORNEY

/s/ María A. Domínguez Victoriano

María A. Domínguez Victoriano

U.S.D.C. # 210908

Ernesto G. López Soltero

U.S.D.C # 208806

United States Attorney's Office, District of
Puerto Rico

350 Carlos Chardon Avenue

Torre Chardon, Suite 1201

Hato Rey, P.R. 00918

Telephone: (787) 766-5656

Fax: (787) 766-5326

Email: maria.a.dominguez@usdoj.gov;

ernesto.lopez2@usdoj.gov

Peter M. Koski

Ethan H. Levisohn

U.S. Department of Justice, Criminal Division

Public Integrity Section

950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530

Telephone: (202) 514-1412

Attorneys for the United States of America

CERTIFICATION OF SERVICE

I, María A. Domínguez, hereby certify that on this 24th day of October, 2008, I electronically filed the foregoing Government's Sealed Motion Requesting Expedited Telephonic Conference and Other Relief with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ María A. Domínguez

María A. Domínguez

United States Attorney's Office

District of Puerto Rico

Torre Chardón, Suite 1201

Hato Rey, Puerto Rico 00918

Telephone: (787) 766-5656

Fax: (787) 766-5632

Email: María.A.Dominguez@usdoj.gov