

JA49HER1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 CR 379 (PKC)

5 JUAN ANTONIO HERNANDEZ  
6 ALVARADO,

7 Defendant.

8 New York, N.Y.  
9 October 4, 2019  
10 10:10 a.m.

11 Before:

12 HON. P. KEVIN CASTEL,

13 District Judge

14 APPEARANCES

15  
16 GEOFFREY S. BERMAN,  
17 United States Attorney for the  
18 Southern District of New York

19 EMIL J. BOVE, III

20 AMANDA HOULE

21 JASON RICHMAN

22 Assistant United States Attorneys

23 OMAR MALONE

24 MICHAEL R. TEIN

25 Attorneys for Defendant

ALSO PRESENT: FRANCISCO OLIVERO, Interpreter (Spanish)  
KARIN GUNILLA MEDINA, Interpreter (Spanish)  
MERCEDES AVALOS, Interpreter (Spanish)  
MARCIA GOTLER, Interpreter (Spanish)  
BRIAN FAIRBANKS, DEA  
MORGAN HURST, Paralegal, USAO

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1 THE COURT: Please remain standing for our jurors.

2 (Jury present)

3 THE COURT: Good morning, ladies and gentlemen.

4 Hope you had a good evening. For you Yankee fans  
5 today and tomorrow will be big days. I didn't reveal this  
6 during jury selection but I'm a Met fan but I'm not one of  
7 those Met fans who if the Mets are out of it, you know, are  
8 routing against the Yankees. I had a friend who did that when  
9 the Mets were -- he was a Yankee fan and the Mets were playing  
10 the Red Sox in the World Series in 1986 and because he was an  
11 American League Yankee fan he actually rooted for the Red Sox  
12 and I have never forgiven him for that so I am more balanced  
13 this time of year.

14 Anyway, thank you for being here for a good, early  
15 start.

16 And Victor Hugo Diaz Morales, the Court reminds you  
17 that you are still under oath.

18 THE WITNESS: OK.

19 THE COURT: You may continue.

20 MS. HOULE: Thank you.

21 THE COURT: Ms. Houle.

22 VICTOR HUGO DIAZ MORALES, resumed

23 DIRECT EXAMINATION

24 BY MS. HOULE:

25 Q. Sir, where we left off yesterday you had been discussing

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1 certain meetings in approximately 2007. In approximately 2007  
2 did you participate in any meetings with the defendant where  
3 police officers were discussed?

4 A. Yes.

5 Q. Are you familiar with an individual named Normando Rafael  
6 Lozano?

7 A. Yes.

8 Q. I'm showing you what's been marked for identification as  
9 Government Exhibit 112.

10 MS. HOULE: And Ms. Hurst, if you could please pull  
11 that up for the Court and the parties.

12 Q. Who is shown in that photo?

13 A. Honduran Police Officer Normando Rafael Lozano.

14 Q. Does this photo fairly and accurately depict Lozano?

15 A. Yes.

16 MS. HOULE: The government offers 112, your Honor.

17 MR. MALONE: No objection, Judge.

18 THE COURT: Received.

19 MS. HOULE: Ms. Hurst could you please publish that  
20 for the jury and zoom in on the photo.

21 (Government's Exhibit 112 received in evidence)

22 Q. What was Lozano's position within the Honduran National  
23 Police in approximately 2007?

24 A. Police Officer Lozano was police chief in Santa Rosa de  
25 Copán for the Department of Copan.

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1 Q. And in approximately 2007 what, if any, assistance was  
2 Lozano providing you in cocaine trafficking?

3 A. Police Officer Lozano assisted me in escorting cocaine  
4 shipments throughout Honduran territory and especially in the  
5 Department of Copan where he was chief on to the western side  
6 of Honduras and then on to the Guatemalan border.

7 Q. And when Officer Lozano would assist you with your cocaine  
8 shipments, did he accompany the cocaine shipments?

9 A. Yes.

10 Q. What, if any, firearms would Lozano carry when he did that?

11 A. Officer Lozano would carry pistols and assault rifles.

12 Q. Was there any particular type of assault rifle that Lozano  
13 would carry?

14 A. A Galil assault rifle.

15 Q. I'm showing you what's been marked for identification as  
16 Government Exhibit 302.

17 MS. HOULE: Ms. Hurst, if you could please pull that  
18 up for the Court and the parties.

19 Q. What's shown in that photo?

20 A. A Galil assault rifle.

21 Q. Does this photo fairly and accurately depict the type of  
22 firearm you saw Lozano carry?

23 A. Yes.

24 MS. HOULE: The government offers 302.

25 MR. MALONE: Without objection, Judge.

1 THE COURT: All right. It's received.

2 (Government's Exhibit 302 received in evidence)

3 MS. HOULE: Ms. Hurst, could you please publish that  
4 for the jury.

5 Q. Now you've said, sir, that in 2007 Lozano was stationed in  
6 Santa Rosa.

7 MS. HOULE: Ms. Hurst could you please publish page 5  
8 of Government Exhibit 500 which has already been permitted for  
9 use as a demonstrative by the Court.

10 Q. Sir, can you please circle where Santa Rosa is located on  
11 this map?

12 MS. HOULE: For the record, the witness has circled  
13 the area around the dot to the left of the phrase Santa Rosa de  
14 Copán.

15 Q. Did there come a time, sir, when Lozano told you he was  
16 going to be transferred to a new location?

17 A. Yes.

18 Q. To which location?

19 A. To Tegucigalpa, the capital of the republic.

20 Q. Where is Tegucigalpa located on this map?

21 MS. HOULE: The witness has just circled the dot to  
22 the right of the word "Tegucigalpa" on the center of the map.

23 Q. Did you make any request of the defendant regarding  
24 Lozano's potential transfer?

25 A. I asked defendant, Tony Hernandez, for his assistance to

1 prevent having Officer Lozano transferred from Santa Rosa to  
2 the capital since for me it was more important to have him in  
3 the Department of Copan which is on the border of Guatemala in  
4 order to continue to be able to traffic cocaine through  
5 Honduras and into Guatemala.

6 Q. Initially, did you speak to the defendant directly  
7 regarding that request?

8 A. Yes.

9 Q. Was Lozano transferred?

10 A. No.

11 Q. Did you pay the defendant for this assistance?

12 A. Yes.

13 Q. How much did you pay?

14 A. Can you repeat that, please.

15 Q. How much did you pay?

16 MR. MALONE: Judge, can we have a timeframe.

17 THE COURT: Yes. Please fix a timeframe, if you will,  
18 Ms. Houle.

19 Q. When approximately did you make this payment to the  
20 defendant?

21 A. In approximately 2007.

22 Q. How much did you pay the defendant in approximately 2007?

23 A. \$5,000.

24 Q. After you made that payment, did you have any discussions  
25 with the defendant regarding the payment?

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1 A. During other meetings the defendant confirmed to me that he  
2 did receive that payment.

3 Q. Did the defendant say anything else about Lozano's -- did  
4 the defendant say anything else about the manner in which he  
5 had prevented Lozano's transfer?

6 A. Defendant Tony Hernandez said that he had prevented Police  
7 Officer Normando Lozano's transfer by using the connections  
8 that he had in the capital Tegucigalpa at the National Police  
9 Headquarters.

10 Q. Is that the only time the defendant assisted you with a  
11 police officer's placement?

12 A. No.

13 Q. For which other police officer did the defendant provide  
14 this type of assistance?

15 A. With Police Officer Mauro Flores Santos.

16 Q. Approximately when did the defendant provide you that  
17 assistance?

18 A. In approximately 2007 or 2008.

19 Q. I'm showing you what's been marked for identification as  
20 Government Exhibit 109.

21 MS. HOULE: Ms. Hurst, if you could please pull that  
22 up for the Court and the parties.

23 Q. What's shown in that photo?

24 A. Police Officer Mauro Flores Santos.

25 Q. Does this photo fairly and accurately depict Flores Santos?

1 A. Yes.

2 MS. HOULE: The government offers 109, your Honor.

3 MR. MALONE: Without objection.

4 THE COURT: Received.

5 (Government's Exhibit 109 received in evidence)

6 MS. HOULE: Ms. Hurst, could you please publish that  
7 for the jury.

8 Q. What did the defendant do to assist you with Flores Santos?

9 A. Defendant, Tony Hernandez, first helped by having Police  
10 Officer Flores Santos transferred from San Pedro Sula to the  
11 city of La Entrada, which is the main cocaine trafficking route  
12 from Honduras to Guatemala.

13 MS. HOULE: Ms. Hurst, could you please pull up  
14 Government Exhibit 500, page 5 again.

15 Q. Sir, could you please indicate for the jury on this map  
16 where La Entrada is.

17 MS. HOULE: The witness has just circled the area to  
18 the left of the word "La Entrada" on the left side of the map.

19 Q. Why did you want Police Officer Lozano stationed in La  
20 Entrada?

21 A. Can you please repeat that question.

22 Q. Why did you want Police Officer Flores Santos stationed in  
23 La Entrada?

24 A. I needed Police Officer Flores Santos stationed in La  
25 Entrada because that is the main cocaine trafficking route to



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1 the western side of Honduras and on the Guatemalan border and  
2 also to be sure, to be certain that the cocaine shipments were  
3 not at risk as they trafficked or traveled through the road to  
4 Guatemala.

5 Q. Did you pay the defendant for this assistance?

6 A. Yes.

7 Q. Approximately when did you make that payment?

8 A. In approximately 2007 or 2008.

9 Q. How much did you pay?

10 A. \$5,000.

11 Q. Did the defendant provide you any other assistance with  
12 respect to Flores Santos?

13 A. Yes.

14 Q. What assistance?

15 A. Defendant Tony Hernandez additionally helped me to prevent  
16 the transfer of Police Officer Flores Santos from La Entrada  
17 Copan to the capital of the republic.

18 Q. Approximately when did the defendant prevent that transfer?

19 A. In approximately 2008.

20 Q. Did you pay for that assistance?

21 A. Yes.

22 Q. Approximately when did you pay the defendant for that  
23 assistance?

24 A. In approximately 2008.

25 Q. How much did you pay?

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1 A. \$5,000.

2 Q. Before we move on I'd like to ask you about a few other  
3 police officers. I have left a folder in front of you that's  
4 marked Government Exhibit 111. Could you please turn to that?

5 MS. HOULE: Ms. Hurst, could you please pull that up  
6 for the Court and the parties.

7 Q. Who is shown in that photo?

8 A. Police Officer Mauricio Hernandez Pineda.

9 Q. Does the photo fairly and accurately depict Hernandez  
10 Pineda?

11 A. Yes.

12 MS. HOULE: The government offers 111.

13 MR. MALONE: Without objection.

14 THE COURT: Received.

15 (Government's Exhibit 111 received in evidence)

16 MS. HOULE: Ms. Hurst, could you please publish that  
17 photo for the jury and zoom in on it.

18 THE COURT: Ms. Houle, could you please give me a time  
19 estimate on the balance of your examination of this witness?

20 MS. HOULE: I have, your Honor, I think about 90  
21 minutes left.

22 THE COURT: Move it along, please.

23 BY MS. HOULE:

24 Q. Who is Mauricio Hernandez Pineda?

25 A. Mauricio Hernandez Pineda is a Honduran police officer who

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1 is cousins with defendant, Tony Hernandez. He is cousins with  
2 his brother, Juan Orlando Hernandez. And he is cousins with  
3 Hernan Hernandez.

4 Q. Did Mauricio Hernandez Pineda assist in your drug  
5 trafficking?

6 A. Yes.

7 Q. How so?

8 A. Police Officer Mauricio Hernandez Pineda assisted by  
9 providing information about checkpoints and also about  
10 investigations regarding cocaine trafficking in the Department  
11 of Santa Barbara.

12 Q. In approximately 2007 did you have any discussion with the  
13 defendant regarding Hernandez Pineda?

14 A. Yes.

15 Q. What, if anything, did the defendant say about Hernandez  
16 Pineda?

17 A. Defendant, Tony Hernandez, said that Police Officer  
18 Mauricio Hernandez Pineda, who was defendant Tony Hernandez's  
19 cousin, would be assigned in Santa Barbara on the western  
20 region of Honduras which is where the main cocaine trafficking  
21 route into Guatemala and then into the United States is  
22 located. The police officer would also assist with  
23 investigations regarding or targeting drug trafficking and  
24 providing information regarding checkpoints on the route.

25 Q. What, if anything, did the defendant say about how you

1 would receive this information from Hernandez Pineda?

2 A. Defendant --

3 THE INTERPRETER: May the interpreter ask the witness  
4 to repeat that response.

5 A. Defendant Tony Hernandez said that Police Officer Hernandez  
6 Pineda would get information to him and that defendant, Tony  
7 Hernandez, said that Mauricio Hernandez Pineda would have this  
8 information get to the defendant through Hernan Hernandez.

9 Q. Who would provide you with the information?

10 MR. MALONE: Judge, excuse me, excuse me. I'm going  
11 to object. The question was who provided this information.

12 THE COURT: Don't interrupt the answer. You can wait  
13 until the answer is finished before it's translated.

14 MR. MALONE: Yes, sir.

15 THE COURT: What's the basis of your objection?

16 MR. MALONE: The question was who gave you the  
17 information, a name, and the witness kept going on and on but I  
18 apologize for interrupting the interpretation.

19 THE COURT: All right. One second, please.

20 THE COURT: The question you are were asked was "Who  
21 would provide you with the information," and this was in  
22 relation to information that you referred to in your prior  
23 answer.

24 Can you answer that question?

25 THE INTERPRETER: Your Honor, is the interpreter being

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1 instructed not to render the prior utterance by the witness?

2 THE COURT: Yes. I'm sustaining the objection.

3 THE INTERPRETER: Thank you, Judge.

4 THE WITNESS: Can you please repeat that question,  
5 your Honor?

6 THE COURT: A moment ago you testified defendant Tony  
7 Hernandez said that Police Officer Hernandez Pineda would get  
8 information to him and that defendant Tony Hernandez said that  
9 Mauricio Hernandez Pineda would have this information get to  
10 the defendant through Hernan Hernandez. The question that you  
11 were asked was: Who would provide you with the information?  
12 Can you answer that question?

13 THE WITNESS: Hernan Hernandez would provide the  
14 information to me.

15 THE COURT: Thank you.

16 BY MS. HOULE:

17 Q. Following your conversation with the defendant, did you  
18 begin to receive information from Hernandez Pineda through  
19 Hernan Hernandez?

20 A. Yes.

21 Q. There is a folder in front of you, sir, marked for  
22 identification as Government Exhibit 113. Could you please  
23 review that photo.

24 MS. HOULE: And Ms. Hurst, could you please pull it up  
25 for the Court and parties.

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1 Q. Sir, is this a photo of Giovany Rodriguez?

2 A. Yes.

3 Q. Does the photo fairly and accurately depict Giovany  
4 Rodriguez?

5 A. Yes.

6 MS. HOULE: The government offers 113.

7 THE COURT: Any objection?

8 MR. MALONE: Without objection, Judge.

9 THE COURT: Received.

10 (Government's Exhibit 113 received in evidence)

11 MS. HOULE: Ms. Hurst, please publish that for the  
12 Court and the jury.

13 Q. Where did Giovany Rodriguez work?

14 A. Giovany Rodriguez is a Honduran police officer who worked  
15 in cocaine trafficking.

16 Q. Did he assist with your cocaine trafficking?

17 A. Yes.

18 Q. When approximately did Rodriguez begin to assist you?

19 A. In approximately 2004.

20 Q. What type of assistance did he provide you?

21 A. This police officer, Rodriguez, would assist me by -- in  
22 the transshipment and transportation of the cocaine throughout  
23 Honduran territory by receiving cocaine shipments that were  
24 being transferred to or transported to the border of Guatemala.

25 THE INTERPRETER: Interpreter correction: By

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1 providing security for cocaine shipments that were being  
2 transported to the border of Guatemala.

3 MS. HOULE: Thank you.

4 Ms. Hurst, you can take that down.

5 Q. Who first introduced you to Rodriguez?

6 A. Honduran drug trafficker Ruben Mejia introduced me to  
7 Police Officer Rodriguez.

8 Q. Who is Ruben Mejia?

9 A. He is a Honduran cocaine trafficker who worked in  
10 transporting cocaine throughout Honduran territory, cocaine  
11 that came from Colombia with a destination of the United  
12 States.

13 Q. Did Ruben Mejia use any particular stamp for the cocaine he  
14 distributed?

15 A. Yes.

16 Q. What stamp?

17 A. His name's initials, RM.

18 Q. Have you seen a kilogram of cocaine stamped with the RM  
19 stamp?

20 A. Yes.

21 Q. Who showed you that kilogram of cocaine?

22 A. Ruben Mejia.

23 Q. Did Mejia own any other businesses in Honduras?

24 A. Yes.

25 Q. What type of business?

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1 A. Ruben Mejia was the owner of a butcher shop, of a sale of  
2 car parts store, and also of a car dealership.

3 Q. Directing your attention to approximately 2008, did you  
4 participate in any meeting with the defendant at a restaurant?

5 A. Yes.

6 Q. Where was that restaurant located?

7 A. That restaurant was located in the capital, Tegucigalpa.

8 Q. Who are some of the people who were present for this  
9 meeting?

10 A. The defendant Tony Hernandez, Carlos Toledo, Marlon  
11 Recinos, Sentado, Oscar Martinez, Mario Jose Calix, and I were  
12 there.

13 Q. Who is Marlon Recinos?

14 A. Marlon Recinos was a Honduran drug trafficker who received  
15 ships in the Tela area at Laguna de los Micos -- at the Laguna  
16 delos Micos which would then be transported to the border of  
17 Honduras and Guatemala.

18 THE INTERPRETER: The interpreter needs to clarify.

19 THE COURT: Proceed.

20 THE WITNESS: When we were working with Hector Emilio  
21 Fernandez Rosa.

22 Q. Who was Sentado?

23 A. Sentado is a Honduran cocaine trafficker who was also  
24 partners with the Honduran cocaine trafficker Marcos Merren.

25 Q. What was the purpose of this meeting?



1 A. The purpose of this meeting with the defendant, Tony  
2 Hernandez, was to investigate whether we could have small  
3 planes coming from Colombia land in Honduran territory.

4 THE INTERPRETER: Interpreter's addition: Land at  
5 clandestine airstrips in Honduran territory.

6 Q. What did you intend to have those planes carry?

7 A. The planes that we were investigating the possibility of  
8 having them land on clandestine airstrips in Honduran territory  
9 would be loaded with cocaine.

10 Q. During this meeting did the topic of the Honduran Air Force  
11 pilots come up?

12 A. At that meeting with the defendant, Tony Hernandez, the  
13 defendant, Tony Hernandez, said that the DEA was training  
14 pilots from the Honduran Air Force to be able to fly  
15 helicopters with night vision. Because of that it was  
16 impossible to have the small planes loaded with cocaine landing  
17 that were coming from Colombia. And besides that there was  
18 also a combined operation going on involving several different  
19 countries which was meant to combat the trafficking of cocaine  
20 coming from Colombia going through Honduran territory with an  
21 ultimate destination of the United States.

22 Q. Did the defendant provide any advice at this meeting?

23 A. The defendant, Tony Hernandez, said that it would be better  
24 to wait and not have any of those small planes loaded with  
25 cocaine coming from Colombia because it would be very difficult

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1 to land them in Honduran territory because there was such a  
2 high level of control and that it would be better to wait and  
3 schedule the movements of those small planes landed -- planes  
4 loaded with cocaine for a later date.

5 Q. Did there come a time when the defendant advised you that  
6 the DEA operations had ended?

7 A. Yes.

8 Q. Did you then resume your cocaine flights to transport  
9 cocaine into Honduras?

10 A. Yes.

11 Q. Are you familiar with an individual named Fernando Chang?

12 A. Yes.

13 Q. I'm showing you what's been marked for identification as  
14 Government Exhibit 106.

15 MS. HOULE: And Ms. Hurst, if you could pull that up  
16 for the parties and the Court, please.

17 Q. Who is shown in that photo?

18 A. Luis Fernando Chang.

19 Q. Does this photo fairly and accurately depict Fernando  
20 Chang?

21 A. Yes.

22 MS. HOULE: The government offers 106.

23 MR. MALONE: Without objection, Judge.

24 THE COURT: Received.

25 (Government's Exhibit 106 received in evidence)

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1 MS. HOULE: Ms. Hurst, could you please publish that  
2 for the jury.

3 Q. Who is Fernando Chang?

4 A. Fernando Chang is a Guatemalan drug -- cocaine trafficker  
5 who works in purchasing planes in the United States and moving  
6 them to Guatemala in order to traffic cocaine by making some  
7 modifications to their fuel tanks so that they can hold a  
8 larger.

9 THE INTERPRETER: Interpreter's correction: So that  
10 they can have greater flight range.

11 Q. In approximately 2008 did you and Fernando Chang  
12 participate in any plane shipments of cocaine?

13 A. Yes.

14 Q. Did Fernando Chang provide the planes for those cocaine  
15 shipments?

16 A. Yes.

17 Q. Did he also provide a pilot?

18 A. Yes.

19 Q. What was the name of the pilot that Fernando Chang  
20 provided?

21 A. A/k/a Parejita.

22 Q. In 2008 approximately how many of these plane shipments did  
23 you and Fernando Chang participate in together?

24 A. In approximately two shipments.

25 Q. Let's turn to the first one. Where did the first planeload

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1 of cocaine land?

2 A. The first load with Fernando Chang, that plane landed in  
3 the area of Sico Honduras.

4 Q. Approximately how many kilograms of cocaine were contained  
5 in this shipment?

6 A. Approximately 400 kilos.

7 Q. From whom had you purchased that cocaine?

8 A. I purchased that cocaine from the defendant, Tony  
9 Hernandez, and Colombian cocaine trafficker, Cinco.

10 Q. You mentioned an individual yesterday named Pablo who  
11 worked for Cinco. What, if anything, did Pablo tell you about  
12 where this cocaine had been manufactured?

13 A. Pablo told me that that cocaine had been manufactured in a  
14 place that's near the border between Colombia and Venezuela  
15 called Aceiticos at a laboratory belonging to the defendant,  
16 Tony Hernandez, and to Colombian cocaine trafficker Cinco.

17 MS. HOULE: Ms. Hurst, could you please publish for  
18 the jury Government Exhibit 500.

19 Q. Sir, which color route did you use to transport the cocaine  
20 from Cinco?

21 A. Blue.

22 Q. What security was there for the shipment as it was  
23 transported along this route?

24 A. In order to move that cocaine shipment security was  
25 provided by the police and it was also provided by my workers

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1 in order to move the shipment from Cinco through --

2 THE INTERPRETER: Interpreter's correction: In order  
3 to escort the shipment from Cinco to Guatemala.

4 Q. Did that security carry any guns?

5 A. Yes.

6 Q. What types of guns?

7 A. Pistols and assault rifles.

8 Q. Did you inspect the cocaine at any point along the route?

9 A. Yes.

10 Q. At what location?

11 A. In the place near the border with Guatemala called  
12 Tracerros.

13 Q. Can you please indicate for the jury where Tracerros is on  
14 Government Exhibit 500?

15 MS. HOULE: The witness has just circled the area  
16 around the dot below the word "Tracerros" on the left side of  
17 the map.

18 Q. Is this the same shipment that you described briefly  
19 yesterday inspecting?

20 A. Yes.

21 MS. HOULE: Ms. Hurst, could you please publish  
22 Government Exhibit 305 which is in evidence. Could you zoom in  
23 on the photo.

24 Q. What did you see at Tracerros when you inspected the  
25 cocaine?

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1 A. A kilo of cocaine with the initials of the defendant, Tony  
2 Hernandez, TH.

3 Q. Was that consistent with the kilo that you identified  
4 yesterday as Government Exhibit 305?

5 A. Yes.

6 Q. What was the ultimate destination of this cocaine shipment?

7 A. The United States.

8 Q. You said that the defendant and Cinco provided this  
9 cocaine. How much did you pay per kilogram?

10 A. Ten thousand dollars.

11 Q. Did you make any other payments to the defendant in  
12 connection with this shipment?

13 A. Yes.

14 Q. What payments?

15 A. I paid the defendant, Tony Hernandez, \$50,000 for radar  
16 information and \$5,000 for police checkpoints.

17 Q. What do you mean by "radar information"?

18 A. The radar takes account of everything that is going on in  
19 Honduran airspace and this way you can see if the sky is open  
20 and whether or not there would be any problem landing planes on  
21 clandestine airstrips in Honduras; that is, if the skies are  
22 open.

23 THE INTERPRETER: The interpreter would like to confer  
24 with her colleague.

25 (Interpreters confer)

1 THE INTERPRETER: That is what the information from  
2 the radar would provide.

3 (Continued on next page)

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1 BY MS. HOULE:

2 Q. What, if any, code names have you heard used to refer to  
3 radar information?

4 A. In order to define the word "radar," it was called TV or  
5 television.

6 Q. Let's turn to the second plane shipment with Chang in  
7 approximately 2008. What was the approximate size of that  
8 shipment?

9 A. That shipment with Luis Fernando Chang was approximately  
10 500 kilos.

11 Q. From whom did you purchase that cocaine?

12 A. From the defendant, Tony Hernandez, and Colombian  
13 trafficker Cinco.

14 Q. Where did the cocaine first land in Honduras?

15 A. The cocaine arrived in Honduran territory in the area of  
16 Gualaco, Olancho.

17 Q. Who provided the air strip in Gualaco?

18 A. Mario Jose Calix got the airstrip in Gualaco, Olancho.

19 MS. HOULE: Ms. Hurst, please publish page 5 of  
20 Government Exhibit 500.

21 Q. Sir, which color route did you use to transport this  
22 cocaine shipment within Honduras?

23 A. Red.

24 Q. Which border crossing location did you use to cross the  
25 cocaine into Guatemala?



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1 A. The El Florida area.

2 Q. What was the security for this shipment as it was  
3 transferred along that route?

4 A. The national police and my workers who worked in cocaine  
5 trafficking provided security for that shipment of cocaine.

6 Q. Did the security carry any guns?

7 A. Yes.

8 Q. What types of guns?

9 A. Pistols and assault rifles.

10 Q. How much did you pay per kilogram for this shipment of  
11 cocaine?

12 A. \$10,000.

13 Q. Did you make any other payments to the defendant in  
14 connection with this shipment?

15 A. Another payment was made to the defendant, Tony Hernandez,  
16 for the police checkpoints and the radar information.

17 Q. How much did you pay for the police checkpoints?

18 A. \$5,000.

19 Q. How much did you pay for the radar information?

20 A. \$50,000.

21 Q. What was the ultimate destination of this cocaine shipment?

22 A. The ultimate destination was to the United States.

23 Q. In approximately 2008 did you participate in any cocaine  
24 shipment from Espiritu?

25 A. Please repeat the question.

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1 Q. In approximately 2008 did you participate in any cocaine  
2 shipment from Espiritu?

3 A. Yes.

4 Q. Can you please indicate for the jury where Espiritu is  
5 located on the map at Government Exhibit 500.

6 MS. HOULE: Let the record reflect the witness has  
7 drawn a circle over the dot to the right of the word "Espiritu"  
8 on the left side of the map.

9 Q. What was in Espiritu?

10 A. El Espiritu is the town where the leaders of the Valle  
11 Valle cartel live.

12 Q. Can you please remind us of the names of the leaders of the  
13 Valle Valle cartel.

14 A. The leaders are named Luis Valle Valle and Arnulfo Valle  
15 Valle.

16 Q. What was the total size of the cocaine shipment that you  
17 picked up in Espiritu?

18 A. Approximately 1,000 kilos.

19 Q. From whom did you purchase that cocaine?

20 A. I purchased that cocaine from the defendant, Tony  
21 Hernandez, and Colombian drug trafficker, Cinco.

22 Q. How much did you pay per kilogram for those 1,000 kilograms  
23 of cocaine?

24 A. \$10,000.

25 Q. What, if anything, did Cinco say about how you should pay

JA4THER2

Diaz Morales - Direct

1 for this shipment of cocaine?

2 A. The Colombian drug trafficker Cinco said part of that  
3 shipment had to be paid for in \$100 bills corresponding to the  
4 amount of the deal that belonged to Tony Hernandez.

5 Q. What did Cinco say about what portion of that payment  
6 should be made in \$100 bills?

7 A. The Colombian drug trafficker Cinco said that they wanted  
8 an amount of \$1.5 million to be paid with \$100-dollar.

9 Q. Did you sell any portion of the shipment to Fernando Chang?

10 A. Yes.

11 Q. Approximately how many kilograms of cocaine did you sell to  
12 Fernando Chang?

13 A. Approximately 700 kilos of cocaine.

14 Q. Did you meet with Fernando Chang regarding this shipment?

15 A. Yes.

16 Q. Where did that meeting take place?

17 A. I met with Fernando Chang in San Pedro Sula at a house that  
18 I kept for meetings regarding cocaine trafficking.

19 Q. Who else was present for that meeting?

20 A. Antonio Santos, Luis Fernando Chang, Oscar Martinez and I  
21 were present.

22 Q. Where were the kilograms sold to Chang transported once you  
23 received them in Espiritu?

24 A. Those kilos of cocaine were transported to the border at  
25 Florida, Copan.

1 Q. What, if any, security was there for that shipment?

2 A. The security for that shipment was provided by the Honduran  
3 national police and also by co-workers who were working in  
4 cocaine trafficking.

5 Q. What, if any, guns were used by that security as they  
6 escorted the shipment?

7 THE INTERPRETER: May the interpreter add something to  
8 the end of the last utterance?

9 THE COURT: You may proceed.

10 THE INTERPRETER: Thank you, Judge.

11 A. Security for that shipment was provided by the Honduran  
12 national police, and also by those of us who worked in cocaine  
13 trafficking.

14 THE COURT: Thank you.

15 THE INTERPRETER: Thank you, Judge.

16 Q. What, if any, guns were used by that security to escort  
17 that shipment?

18 A. I don't understand the question.

19 Q. What, if any, guns were used by that security to escort  
20 that shipment?

21 A. Pistols and assault rifles.

22 Q. What was the ultimate destination of this cocaine?

23 A. The United States.

24 MS. HOULE: Thank you, Ms. Hurst, you can take down  
25 that exhibit.

JA4THER2

Diaz Morales - Direct

1 Q. Directing your attention to 2009, did you make any payments  
2 to any campaigns?

3 A. Yes.

4 Q. Which campaigns?

5 A. To the national party campaign for Pepe Lobo as president,  
6 and for Juan Orlando Hernandez's reelection as congressman of  
7 the republic's national congress.

8 Q. What was the amount of the payment that you made?

9 A. \$100,000.

10 Q. Where did you get that money?

11 A. I obtained that money from the profits of cocaine  
12 trafficking, which is what I work in.

13 Q. Before you made that payment in 2009, did you discuss it  
14 with the defendant?

15 A. Yes.

16 Q. What did the defendant say?

17 A. The defendant, Tony Hernandez, said that if that payment  
18 was made to the national party campaign, and that if Pepe Lobo  
19 was elected as president and Juan Orlando was reelected into  
20 the national Congress, that we will have more connections and  
21 greater access to information, information of the national  
22 police and the Honduran Army. And therein, the seizure of  
23 cocaine and the arrest of those of us working in the  
24 trafficking of the cocaine would be prevented, and that the  
25 information would be of better quality and also of more

1 importance.

2 Q. After you made that payment, did you again discuss it with  
3 the defendant?

4 A. Yes.

5 Q. Approximately when did that conversation take place?

6 A. Approximately early in July during my birthday party.

7 THE INTERPRETER: Interpreter correction: Early  
8 January during my birthday party.

9 Q. During what year?

10 A. In 2010.

11 Q. At what location was your birthday party held?

12 THE COURT: Ladies and gentlemen, that's a good  
13 juncture for a break. I will leave you in suspense and we'll  
14 pick up with that answer after our break. As always, silence  
15 in the back of the courtroom, please.

16 Please remain seated and silent.

17 We'll pick up after the break, and as always, do not  
18 discuss the case among yourselves, keep an open mind, there's  
19 plenty more to come, and see you in ten minutes. Thank you.

20 (Recess taken)

21 THE COURT: Ms. Houle, whenever you're ready.

22 MS. HOULE: Thank you, your Honor.

23 BY MS. HOULE:

24 Q. Just before the break you were describing, sir, a birthday  
25 party that you held in 2010, and I had asked you at what

1 location was your birthday party held.

2 A. That birthday party was held at a business belonging to  
3 defendant Tony Hernandez called Termas del Rio El Gracias  
4 Lempira.

5 Q. Did any other cocaine traffickers attend this party?

6 A. Yes.

7 Q. Approximately how many?

8 A. Approximately over ten.

9 Q. During your conversation with the defendant at this party,  
10 what, if anything, did the defendant say about that \$100,000  
11 payment that you described before the recess?

12 A. Defendant Tony Hernandez said that he had received that  
13 payment, and that through that payment better connections at  
14 the capital city had been obtained and a lot of information in  
15 order to prevent the seizure of the cocaine that was being  
16 trafficked throughout Honduran territory.

17 Q. Sir, there's a folder in front of you that's been marked  
18 for identification as Government Exhibit 104.

19 MS. HOULE: And Ms. Hurst, please display it to the  
20 Court and the parties.

21 Q. Who is shown in that photo?

22 A. Tigre Bonilla.

23 Q. Does the photo fairly and accurately depict Bonilla?

24 A. Yes.

25 MS. HOULE: The government offers 104.

1 MR. MALONE: No objection.

2 THE COURT: Received.

3 (Government's Exhibit 104 received in evidence)

4 MS. HOULE: Ms. Hurst, please publish that for the  
5 jury and zoom in on the photo.

6 Q. Who is shown in this photo?

7 A. Tigre Bonilla, Honduran police officer.

8 Q. What, if anything, did the defendant say about Bonilla  
9 during this 2010 birthday party?

10 A. Defendant Tony Hernandez said that Police Officer Tigre  
11 Bonilla was a man of great trust for both defendant, Tony  
12 Hernandez, and also the defendant's brother, Juan Orlando  
13 Hernandez, that he was highly trusted by defendant, Tony  
14 Hernandez, and also by defendant's brother, that he could be  
15 placed in very good positions, that he was also very violent  
16 and that he would be able to even commit murders.

17 Q. During this conversation with the defendant in January of  
18 2010, did the topic of extradition come up?

19 A. Yes.

20 Q. What did the defendant say about extradition?

21 A. Defendant Tony Hernandez said that it would be very  
22 unlikely that extradition be approved in Honduras, but that  
23 even if it were to be approved by pressures by the U.S.  
24 embassy, that at the supreme court level there were internal  
25 processes that could be used in stopping the extraditions, that



1 there would be ways to prevent -- interpreter correction -- to  
2 delay the processes of extradition within Honduran territory.

3 Q. Did you make any offer to the defendant during this  
4 conversation?

5 A. I asked defendant, Tony Hernandez, if he needed bribes in  
6 order to get votes such that Tony Hernandez's brother could be  
7 elected. At the time, defendant's brother was running for a  
8 seat at the national congress, his brother is Juan Orlando  
9 Hernandez, and I asked him if he needed bribes to be paid out  
10 to let me know such that we could secure that his brother would  
11 become president of congress.

12 Q. What did the defendant say in response?

13 A. Defendant Tony Hernandez told me that he would let me know  
14 if he needed me to do that, because at the time he already had  
15 helped with bribes by the Mayor of El Paraiso, Alexander Ardon  
16 Chandler, and also through Javier and Leonel Rivera, and also  
17 through Congressman Rodolfo Irias Navas on the Atlantic coast  
18 of Honduras.

19 Q. You said that this discussion happened at your birthday  
20 party. Have you ever attended a birthday party for the  
21 defendant?

22 A. Yes.

23 Q. Approximately when was that?

24 A. In approximately 2010.

25 (Continued on next page)

1 Q. In approximately what month?

2 A. Approximately in the month of June.

3 Q. Where was that party held?

4 A. That party was held in Gracias Lempira at a place where  
5 there are many country homes and it's called Villa Verde.

6 MS. HOULE: Thank you, Ms. Hurst. You can take that  
7 exhibit down.

8 Q. Directing your attention to approximately February of 2010  
9 did you meet with the defendant at that time?

10 A. Yes.

11 Q. Did the topic of Juan Orlando come up at that meeting?

12 A. Yes.

13 Q. What did the defendant say?

14 A. Defendant, Tony Hernandez, said that defendant's brother,  
15 Juan Orlando Hernandez, would be the next Honduran presidential  
16 candidate for the National Party. I told defendant that  
17 defendant's brother, Juan Orlando Hernandez, should wait awhile  
18 because he was too young to become president of the Republic of  
19 Honduras.

20 Defendant, Tony Hernandez, replied to me, "Very few  
21 people know the news that my brother, Juan Orlando Hernandez,  
22 will be running as the next Honduran presidential candidate for  
23 the National Party. It is only you and a few members of my  
24 family that know this."

25 Q. What, if anything, did the defendant say would be the

1 result of Juan Orlando becoming the next presidential  
2 candidate?

3 A. Defendant, Tony Hernandez, said that if his brother, Juan  
4 Orlando Hernandez, were to become president of the republic  
5 that there would be full power and that there would be no  
6 issues with the cocaine that was being trafficked throughout  
7 Honduran territory.

8 Q. Following this meeting in February of 2010 did you meet  
9 with the defendant at a hotel in Gracias Lempira?

10 A. Yes.

11 Q. What is the name of that hotel?

12 A. La Finca del Capitan.

13 Q. Who owns that hotel?

14 A. Mario Jose Calix and Mario Leonel Calix are the owners of  
15 that hotel.

16 Q. During this meeting with the defendant was Cinco discussed?

17 A. Yes.

18 Q. What did the defendant say about Cinco?

19 A. Defendant said that Cinco had been murdered in Colombia.

20 Q. What, if anything, did the defendant say about how Cinco's  
21 death would impact your cocaine trafficking?

22 A. Defendant, Tony Hernandez, said that cocaine trafficking at  
23 the time would now be done through -- Wilson Gongora a/k/a  
24 Pablo who was now in charge of the cocaine laboratories that  
25 produced cocaine in Colombia and which belonged to both

JA49HER3

Diaz Morales - Direct

1 defendant Tony Hernandez and the now dead Cinco.

2 Q. Between approximately 2004 and 2010 how many months out of  
3 the year were you typically shipping cocaine throughout  
4 Honduras?

5 A. Approximately between eight and ten months out of the year.

6 Q. Focusing you on the time period between approximately 2004  
7 and 2007, approximately how many cocaine shipments were you  
8 shipping per month?

9 A. Approximately between three and four cocaine shipments.

10 Q. And now focusing you on the time period between  
11 approximately 2007 and 2010, approximately how many cocaine  
12 shipments were you shipping per month?

13 A. Approximately four to five cocaine shipments.

14 Q. What typically was the size of these cocaine shipments  
15 between 2004 and 2010?

16 A. Approximately they were between five hundred to one  
17 thousand kilos of cocaine.

18 Q. Did you ever participate in larger shipments?

19 A. Yes. On a couple of occasions.

20 Q. Approximately what size were those larger shipments?

21 A. Approximately 2,500 kilos.

22 Q. And during the time period of approximately 2004 to 2010  
23 how often per year did you engage in those shipments of  
24 approximately 2500 kilograms?

25 A. Approximately two times per year.

JA49HER3

Diaz Morales - Direct

1 Q. Directing your attention to approximately 2010, did you  
2 engage in a sale of ammunition around that time?

3 A. Yes.

4 Q. What type of ammunition?

5 A. Ammunition for FAL assault rifles.

6 Q. Who did you receive this ammunition from?

7 A. I received that ammunition from Normando Lozano.

8 Q. What, if anything, did Lozano tell you about the source of  
9 that ammunition?

10 A. Police Officer Normando Lozano told me that he had  
11 purchased that ammunition from defendant, Tony Hernandez.

12 Q. Approximately how many rounds of ammunition did you obtain?

13 A. Approximately between four thousand to six thousand rounds  
14 of ammunition.

15 Q. How was the ammunition packaged?

16 A. The ammunition was packaged in metal boxes bearing the  
17 Honduran National Army logo.

18 Q. Did you sell that ammunition?

19 A. Yes.

20 Q. To whom?

21 A. I sold that ammunition to Luis Fernando Chang.

22 Q. Where was Fernando Chang provided that ammunition?

23 A. I provided those ammunitions to Luis Fernando Chang at  
24 Guatemalan drug trafficker Jose Manuel Ché's warehouse in  
25 Camotán, Chiquimula, Guatemala.

1 Q. You mentioned an individual earlier named Hernan Hernandez.  
2 Did he have any involvement in this ammunition shipment?

3 A. Hernan Hernandez transported the ammunitions from San Pedro  
4 Sula to the Honduran Guatemalan border where they were to be  
5 delivered to Jose Manuel Ché's workers.

6 Q. You've testified today about payments made to the  
7 defendant. Did you give the defendant anything else of value?

8 A. Yes.

9 Q. What?

10 A. I gifted the defendant with two Rolex watches, one was for  
11 the defendant, Tony Hernandez, and one for his wife, Vanessa.  
12 I also gave defendant one bull, one Peruvian horse, and two  
13 pistols.

14 MR. MALONE: Judge, can we have a timeframe?

15 Q. Approximately when did you give those guns to Tony  
16 Hernandez?

17 A. In approximately 2007.

18 Q. And approximately when did you give the defendant the other  
19 gifts that you described?

20 A. The bull and the Peruvian horse, approximately in 2008.  
21 The Rolex watches I gave to the defendant and his wife Vanessa  
22 in approximately 2009.

23 Q. Why did you give these gifts to the defendant?

24 A. I gave these gifts to defendant, Tony Hernandez, because he  
25 was helping me in cocaine trafficking throughout Honduran

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Diaz Morales - Direct

1 territory and also because I wanted him to continue to help me  
2 with trafficking cocaine from Honduras and into the United  
3 States.

4 Q. Did there come a time when you left Honduras to live in  
5 Colombia?

6 A. Yes.

7 Q. Approximately when was that?

8 A. Approximately in early 2011.

9 Q. Why had you left Honduras at that time?

10 A. I left Honduras because I was at war with Hector Emilio  
11 Fernandez Rosa a/k/a Don H.

12 Q. Why were you at war with Hector Emilio?

13 A. I was at war with Hector Emilio Fernandez Rosa because I  
14 wanted absolute control and I wanted to take the business of  
15 cocaine trafficking away from Hector Emilio Fernandez Rosa.

16 Q. Did you try to have Hector Emilio killed?

17 A. Yes.

18 Q. Did he try to have you killed?

19 A. Yes.

20 Q. Were other people killed as a result of your war with  
21 Hector Emilio?

22 A. Yes.

23 Q. Did that include Carlos Toledo?

24 A. Yes.

25 Q. Who is responsible for Toledo's death?

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Diaz Morales - Direct

1 A. I am.

2 Q. As part of this war with Hector Emilio, did you also have  
3 an individual named Javier Benitez Rosa killed?

4 A. Yes.

5 Q. Why did you have Benitez Rosa killed?

6 A. I had Javier Benitez Rosa killed because he was supporting  
7 Hector Emilio Fernandez Rosa and he was --

8 THE INTERPRETER: The interpreter needs to consult.

9 (Interpreters confer)

10 A. -- and he was also a cousin of Hector Emilio Fernandez Rosa  
11 as well as being in charge of locating me in San Pedro Sula  
12 Honduras with the goal of attacking or threatening my life.

13 THE INTERPRETER: Interpreter's correction: With the  
14 goal of having me killed.

15 Q. During Benitez Rosa's murder was anyone else killed?

16 A. Yes.

17 Q. Who else was killed?

18 A. His daughter.

19 Q. How old was his daughter when she was killed?

20 A. Three years old, approximately.

21 Q. Separate from this war with Hector Emilio have you had  
22 other people murdered?

23 A. Yes.

24 Q. And you've also had other people injured, correct?

25 A. Yes.



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Diaz Morales - Direct

1 Q. Have you injured your wife?

2 A. Yes.

3 Q. How did you injure your wife?

4 A. I shot my wife in the face.

5 Q. After this war with Hector Emilio, did you eventually  
6 return to Honduras?

7 A. Yes.

8 Q. Approximately when was that?

9 A. In late 2011 approximately.

10 Q. Did you continue to engage in cocaine trafficking when you  
11 returned to Honduras?

12 A. Yes.

13 Q. Directing your attention to approximately 2012, did you  
14 meet with Mario Jose Calix at a hotel in Honduras?

15 A. I met with Mario Jose Calix and Wilson Gongora in the Finca  
16 del Capitan Hotel in Gracias Lempira.

17 Q. What other names does Wilson Gongora go by?

18 A. Pablo, Picapiedra, Pica.

19 Q. Is that the same Pablo who you described earlier?

20 A. Yes.

21 Q. At this meeting with Calix and Pablo was any particular  
22 cocaine trafficking route discussed?

23 A. The cocaine trafficking route that was discussed was  
24 arriving in southern Honduras through Choluteca.

25 Q. Did Pablo make any proposal to you at this meeting?

1 A. Pablo asked me to invest the amount of two hundred thousand  
2 dollars in those cocaine shipments.

3 Q. What was your response?

4 A. I said yes, that I would invest the amount of two hundred  
5 thousand dollars in those cocaine shipments.

6 Q. What, if anything, did Calix say at this meeting regarding  
7 the defendant?

8 A. Mario Jose Calix said that the defendant, Tony Hernandez,  
9 would still be giving information about the Honduran Navy  
10 operations and would also give information about police  
11 checkpoints.

12 Q. Following this meeting, did these cocaine shipments through  
13 Choluteca occur?

14 A. Yes.

15 Q. Approximately how many cocaine shipments were there?

16 A. Approximately eight shipments of cocaine.

17 Q. How large was each shipment, approximately?

18 A. Approximately three hundred kilos.

19 Q. What, if any, involvement did Hernan Hernandez have in  
20 these Choluteca shipments?

21 A. Hernan Hernandez would give information regarding Honduran  
22 Navy operations and police checkpoints provided to him by the  
23 defendant, Tony Hernandez, and he would also drive trucks of  
24 cocaine which were being shipped loaded with cocaine and would  
25 also provide security for the movement of the cocaine.

1 Q. What was the ultimate destination of the cocaine being  
2 shipped through this Choluteca route?

3 A. The final --interpreter's correction -- the ultimate  
4 destination of that cocaine would be to the United States.

5 Q. Did you continue to work with Calix on cocaine shipments  
6 until you were arrested in Guatemala?

7 A. Yes.

8 Q. Directing your attention to approximately 2014. Did you  
9 have any discussions with Calix regarding a potential plane  
10 shipment of cocaine?

11 A. There was a discussion with Mario Jose Calix about the  
12 possibility of trafficking cocaine in a G2 plane belonging to  
13 Don Albino Quintero, a Mexican trafficker of the Sinaloa  
14 cartel. Don Albino Quintero and I would get the drugs from a  
15 Colombian named Cosano.

16 THE INTERPRETER: Interpreter's correction: Don  
17 Albino Quintero would provide the plane. I would obtain the  
18 drugs from a Colombian named Cosano. And Mario Jose Calix,  
19 together with Tony Hernandez, would take care of the arrival of  
20 the plane in Honduras and make sure that there were no slipups  
21 and in order to avoid seizure of cocaine by handling radar  
22 information.

23 Q. Approximately how many kilograms of cocaine did you plan to  
24 ship on that plane?

25 A. Between approximately 1400 and 1600 kilos of cocaine.

1 Q. What, if anything, did Calix say about whether the  
2 defendant would be paid for his participation in this shipment?

3 A. Mario Jose Calix said that the defendant would be paid for  
4 radar information.

5 Q. Who was responsible for paying the defendant for the radar  
6 information?

7 A. Mario Jose Calix.

8 Q. Did you keep ledgers of your cocaine transactions?

9 A. Yes.

10 Q. What types of information did you keep in your ledgers?

11 A. Some notes and writings about earnings and payments.

12 Q. When, approximately, did you begin keeping those records?

13 A. I kept those records from approximately.

14 THE INTERPRETER: Interpreter's correction:

15 Approximately from the time that I worked for Hector Emilio

16 Fernandez Rosa. During the war with Hector Emilio Fernandez

17 Rosa the notes that I had kept from working with Hector Emilio

18 Fernandez Rosa were burned. I began keeping them again in

19 2012, approximately, until 2016.

20 Q. When you were arrested in this case did you turn over any  
21 ledgers to the government?

22 A. Yes.

23 Q. Approximately how far back do those ledgers go?

24 A. To approximately 2012.

25 Q. Until approximately what year?

1 A. To approximately 2016.

2 Q. There are three bags in front of you that contain  
3 Government Exhibits 240A through 240S. What is contained in  
4 those bags?

5 A. These are my ledgers.

6 Q. In advance of your testimony today did you review those  
7 ledgers?

8 A. Yes.

9 Q. Are the ledgers in substantially the same condition as they  
10 were when you turned them over to the government after you were  
11 arrested?

12 A. Yes.

13 Q. Did you mark each of those exhibit bags with your initials  
14 after you reviewed the ledgers?

15 A. Yes.

16 MS. HOULE: Your Honor, the government offers  
17 Government Exhibits 240A through 240S.

18 MR. MALONE: No objection, Judge.

19 THE COURT: Received.

20 (Government's Exhibits 240A through 240S received in  
21 evidence)

22 MS. HOULE: Your Honor, may we publish Government  
23 Exhibit 240E on the screen?

24 Ms. Hurst, could you please pull up Government Exhibit  
25 240E. And Ms. Hurst, if you could turn to the third page,

1 please.

2 Q. Sir, what is the year listed for this ledger?

3 A. 2014.

4 MS. HOULE: Ms. Hurst, could you please pull this up  
5 for the jury. Thank you.

6 Q. Does this ledger contain transactions from the year 2014?

7 A. Yes.

8 MS. HOULE: Ms. Hurst, could you please turn to page  
9 43.

10 Q. Sir, there's a set of entries under the number 12 in the  
11 center of the page. To what date do those entries relate?

12 A. They correspond to September 8, September 9, September 10,  
13 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, and 14<sup>th</sup>.

14 MS. HOULE: Ms. Hurst, could you zoom in on the entry  
15 for September 12, please.

16 Q. To what transaction does this entry relate?

17 A. This transaction relates to the plane belonging to Don  
18 Albino Quintero.

19 THE INTERPRETER: The interpreter needs to consult  
20 with her colleague.

21 (Interpreters confer)

22 THE WITNESS: The plane that was potentially going to  
23 be handled by Don Albino Quintero with Mario Jose Calix and  
24 with the defendant. The plane was belonging to Don Albino  
25 Quintero.

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Diaz Morales - Direct

1 Q. Is that the same plane transaction that you described a few  
2 minutes ago?

3 A. Yes.

4 MS. HOULE: Ms. Hurst, could you please highlight the  
5 line beginning with the number 35.

6 Q. Sir, what does this line reflect?

7 A. This line reflects --

8 THE INTERPRETER: Interpreter's correction: The  
9 amount of \$35,000 for expenses for kbeta. Kbeta is one of the  
10 nicknames that I used for Mario Jose Calix. That is on this  
11 line.

12 Q. What was this \$35,000 payment for?

13 A. Mario Jose Calix asked me for a payment of \$35,000.

14 THE INTERPRETER: Interpreter's correction: Mario  
15 Jose Calix told me that the defendant, Tony Hernandez, had  
16 asked for a payment of \$35,000 as a downpayment for handling  
17 radar information for the flight of the G2 if it were to be  
18 carried out.

19 Q. Are there any direct references to the defendant in this  
20 entry?

21 A. No.

22 Q. Why not?

23 A. At that time Mario Jose Calix was the one who made  
24 arrangements with the defendant, Tony Hernandez, regarding  
25 payment matters.

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Diaz Morales - Direct

1 Q. In the ledgers that you kept between approximately 2012 and  
2 the time of your arrest, are there any direct references to the  
3 defendant?

4 A. No.

5 Q. Why not?

6 A. As I said before, at that time Mario Jose Calix was the one  
7 who was responsible for payments to the defendant, Tony  
8 Hernandez.

9 MS. HOULE: Thank you, Ms. Hurst. You can take that  
10 down.

11 THE COURT: What did you mean by "at that time"?

12 THE WITNESS: During those dates.

13 THE COURT: Those dates that were on the screen?

14 THE WITNESS: From the time beginning in 2012 until  
15 2016 Mario Jose Calix was in charge of the payments to the  
16 defendant, Tony Hernandez.

17 THE INTERPRETER: The interpreter would like to  
18 confirm something with the witness.

19 THE WITNESS: I'm sorry. From 2012 until 2016 shortly  
20 before my arrest Mario Jose Calix was the one who was in charge  
21 of payments to the defendant, Tony Hernandez.

22 THE COURT: Next question.

23 Q. Before we finish I'd like to ask you about a few additional  
24 individuals. Are you familiar with an individual named Oscar  
25 Ramirez?



1 A. Yes.

2 Q. If you could please turn to the folder in front of you  
3 marked Government Exhibit 401-7.

4 MS. HOULE: And Ms. Hurst, if you could please pull  
5 that up for the Court and the parties.

6 Q. Who is shown in that photo?

7 A. Oscar Ramirez a/k/a Alero.

8 Q. Does this photo fairly and accurately depict Ramirez?

9 A. Yes.

10 MS. HOULE: The government offers 401-7.

11 MR. MALONE: Without objection.

12 THE COURT: Received.

13 (Government's Exhibit 401-7 received in evidence)

14 MS. HOULE: Ms. Hurst, could you please publish that  
15 for the jury.

16 Q. Who is Oscar Ramirez?

17 A. Oscar Ramirez is a Honduran attorney and cocaine trafficker  
18 who in his work bribes judges and prosecutors. Oscar Ramirez  
19 was the one who handled the case when Hector Emilio Fernandez  
20 was arrested in Honduras.

21 Q. Have you had any conversations with Ramirez regarding  
22 Choluteca?

23 A. Yes.

24 Q. When approximately did that conversation with Ramirez take  
25 place?

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Diaz Morales - Direct

1 A. In 2012 or 2013 approximately.

2 Q. What did Ramirez say during that meeting about Choluteca?

3 A. Oscar Ramirez told me that he would sell me a property near  
4 the beach in the Choluteca region in order to receive cocaine  
5 shipments.

6 MS. HOULE: Thank you, Ms. Hurst. You can take that  
7 down.

8 Q. Are you familiar with an individual known as Wilson from  
9 the area of La Entrada?

10 A. Yes.

11 Q. Have you ever been involved in a cocaine shipment with  
12 Wilson?

13 A. In approximately 2012 I provided a plane to Luis Fernando  
14 Avendano which was to transport cocaine from Colombia to  
15 Honduras.

16 THE INTERPRETER: The interpreter needs to clarify.

17 (Interpreters confer)

18 THE WITNESS: Together with Wilson from La Entrada.

19 Q. Approximately how large was that shipment of cocaine?

20 A. Approximately 500 kilos.

21 Q. You've discussed Hector Emilio Fernandez Rosa throughout  
22 your testimony. In connection with your cocaine trafficking  
23 with Hector Emilio did you meet anyone by the name Daniel?

24 A. Yes.

25 Q. Do you know Daniel's last name?

JA49HER3

Diaz Morales - Direct

- 1 A. Romaro.
- 2 Q. Did Daniel have any other last name?
- 3 A. Yes.
- 4 Q. What was it?
- 5 A. Miranda.
- 6 Q. When approximately did you meet Daniel?
- 7 A. In approximately 2007 or 2008.
- 8 Q. What was his role in cocaine trafficking?
- 9 A. Daniel Romaro was trafficking cocaine throughout Honduran  
10 territory for both Hector Emilio Fernandez and me.
- 11 Q. What if any relationship did Daniel have to Carlos Toledo?
- 12 A. Daniel and Carlos Toledo come from the same town, Gracias  
13 Lempira.
- 14 Q. Approximately when were you arrested in this case?
- 15 A. In approximately 2017.
- 16 Q. Where were you arrested?
- 17 A. In Guatemala City.
- 18 Q. Were you extradited from Guatemala to the United States?
- 19 A. Yes.
- 20 Q. When you were flown to the United States did you begin  
21 cooperating with the government?
- 22 A. Yes.
- 23 Q. When you initially began cooperating with the government  
24 were you honest about your cocaine trafficking with the  
25 defendant?

1 A. No.

2 Q. Why not?

3 A. I was afraid given that the defendant, Tony Hernandez, and  
4 his brother, Juan Orlando Hernandez, who is the current  
5 president of the Honduras, have full power throughout Honduras.

6 Q. Did you have family in Honduras at that time?

7 A. Yes.

8 Q. You've testified earlier that you ultimately entered into a  
9 cooperation agreement with the United States. What are some of  
10 the things that you are required to do under that agreement?

11 A. It requires that I tell the truth, to testify if requested  
12 to do so, and not to commit anymore crimes.

13 Q. If you do those things, what is your understanding of what  
14 the government may do for you?

15 A. As far as I understand, the government could submit a  
16 letter to the judge indicating -- detailing my cooperation as  
17 well as all of my crimes.

18 Q. If that letter is submitted, will it be sent to the Court  
19 around the time of your sentencing?

20 A. Yes.

21 Q. Has anyone guaranteed that you will get that letter from  
22 the government?

23 A. No.

24 Q. What mandatory minimum sentence do you currently face for  
25 your crimes?

1 A. Forty years.

2 Q. What is the maximum sentence you face under your  
3 cooperation agreement?

4 A. Life plus 30 years.

5 Q. If your sentencing judge receives that letter from the  
6 government, can the judge give you less than the mandatory  
7 minimum?

8 A. Yes.

9 Q. Is the judge required to sentence you to less time if the  
10 judge receives that letter from the government?

11 A. No.

12 Q. Has anyone made any promises to you about what sentence you  
13 will receive?

14 A. No.

15 Q. Who is going to decide your sentence?

16 A. The judge.

17 MS. HOULE: One moment, your Honor.

18 No further questions.

19 THE COURT: All right. Cross-examination.

20 MR. MALONE: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. MALONE:

23 Q. Good morning, sir. My name is Omar Malone and I represent  
24 Tony Hernandez.

25 Sir, before I proceed in great detail I'd like to know

1 a little bit about you, OK?

2 THE COURT: Just ask questions.

3 MR. MALONE: Yes, sir.

4 Q. Do you have a wife?

5 A. Yes.

6 Q. Do you have kids?

7 A. Yes.

8 Q. Biological kids?

9 A. Yes.

10 Q. Do you have grandchildren?

11 A. No.

12 Q. Over the course of your life one of the happiest days of  
13 your life had to have been when one of your kids or your kids  
14 were born; is that accurate?

15 A. Yes.

16 Q. You'd do anything to spend time with your children, right?

17 A. That's not right.

18 Q. Spending time with your children isn't something that's  
19 extremely important to you?

20 A. Can you please repeat the question.

21 Q. My question is, sir: One of the most important things you  
22 could ever do is to spend time with your biological offspring;  
23 isn't that right?

24 A. Yes.

25 Q. And the last time you saw your children was when?

1 A. Approximately 30 months ago.

2 Q. You were in Guatemala?

3 A. Yes.

4 Q. That was before you got arrested, right?

5 A. Yes.

6 Q. Your life was very different before you got arrested,  
7 wasn't it, sir?

8 A. Yes.

9 Q. You had plenty of wealth as a result of the activities  
10 you've described here in court; isn't that correct, sir?

11 A. Yes.

12 Q. I mean you've told this jury you sold one hundred --  
13 approximately 145,000 kilograms of cocaine? Isn't that what  
14 you said, sir?

15 A. I said 140,000 kilos.

16 Q. OK. You sold 140,000 kilos. That's accurate?

17 A. Approximately.

18 Q. Approximately how much money did you, El Rojo, receive for  
19 each of the 140,000 kilograms of cocaine you testified to this  
20 jury you sold?

21 A. Approximately five hundred dollars per kilo.

22 Q. And if we add that five hundred dollars per kilo with all  
23 of the deliveries you've indicated you've participated in, we  
24 will have an accurate number -- an accurate accounting of how  
25 much money you've made over the course of your drug trafficking

1 career; is that right?

2 A. Yes.

3 Q. Have you added up how much money you made over the course  
4 of your drug trafficking career?

5 A. Can you please repeat the question.

6 Q. Do you know how much money you made from selling drugs?

7 A. More or less.

8 Q. Tell us the less first and then I'll ask you about the  
9 more. How much?

10 A. Several million dollars.

11 Q. More than five?

12 A. Yes.

13 Q. More than ten?

14 A. I don't have a calculator here.

15 Q. You miss your wife, sir?

16 A. Yes.

17 Q. That's the wife you shot in the face, isn't it?

18 A. Yes.

19 Q. Despite you shooting her in the face, you would do anything  
20 you could to reunite with her; isn't that correct, sir?

21 A. That's not correct.

22 Q. You don't care about spending time with your wife?

23 A. Yes.

24 Q. You'd like to spend time with her but you can't because you  
25 are in jail in the United States; isn't that correct, sir?



1 A. Yes.

2 Q. Did you tell your wife that you had been engaged in drug  
3 trafficking from the 1990s until the time you were arrested in  
4 2017? Did she know you were a drug trafficker?

5 A. Yes.

6 Q. You never told your kids you were a drug trafficker, right?

7 A. (No response).

8 Q. I mean did you tell your kids that you were selling  
9 thousands and thousands of kilograms of cocaine to people  
10 throughout the world?

11 A. No.

12 THE COURT: Let's take our lunch break at this point.  
13 And, ladies and gentlemen, please do not discuss the case among  
14 yourselves. Please keep an open mind. See you back in action  
15 at 2 o'clock. Thank you.

16 (Luncheon recess)

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1 AFTERNOON SESSION

2 (2:05 p.m.)

3 (Jury present)

4 THE COURT: Mr. Malone, any time you're ready.

5 MR. MALONE: Thank you, Judge.

6 BY MR. MALONE:

7 Q. Sir, before we went to break we were talking about those  
8 things that you love. Your wife, right?

9 A. Yes.

10 Q. And your kids.

11 A. Yes.

12 Q. And you would do anything to reunite with them if you  
13 could.

14 A. That's not true.

15 Q. You would do the best that you can to reunite with your  
16 wife and children, is that right?

17 A. That's not true.

18 Q. Okay. What is true, sir, is that from the early '90s you  
19 have been a drug dealer, is that right?

20 A. Yes.

21 Q. Did you have any businesses that you bought or utilized  
22 that didn't appear to be drug businesses, in other words,  
23 legitimate businesses purchased or acquired by drug money?

24 A. Yes.

25 Q. Tell the jury what those businesses were.

1 A. A Cablevision business and a business that purchased  
2 coffee.

3 Q. Where were those businesses located, sir?

4 A. The Cablevision business was in Gracias, Lempira, and the  
5 coffee business was in Esquipulas, Guatemala.

6 Q. With those businesses, sir, you did transactions with  
7 regular people, correct, people who were not in the drug  
8 business. Isn't that right?

9 Did you hear my question, sir?

10 A. Please repeat the question.

11 MS. HOULE: Your Honor, I object to the form of that  
12 question.

13 MR. MALONE: I'll rephrase, Judge.

14 THE COURT: Yeah.

15 MR. MALONE: Okay.

16 Q. Sir, you indicated that you had a Cablevision business in  
17 Gracias, Lempira, is that right?

18 A. Yes.

19 Q. That business was not involved in distributing kilograms of  
20 cocaine, was it?

21 A. Everything that I have done I have always done with drug  
22 money.

23 Q. Not my question. My question is slightly different, and  
24 here it is: The Cablevision business did business involving  
25 cable, is that right?

JA4THER4

Diaz Morales - Cross

1 A. Yes.

2 Q. You had customers, correct?

3 A. Yes.

4 Q. And you never told those customers that you were a major  
5 international drug trafficker, did you?

6 A. That's right.

7 Q. How long was that Cablevision business performing the kind  
8 of work it performed?

9 A. I don't understand your question.

10 Q. How long was it in business?

11 A. I don't understand the question.

12 Q. Was the Cablevision business around in 2004?

13 A. I sold the business between approximately 2003 and 2004.

14 Q. The people who you dealt with in that business, that that  
15 company dealt with, did not know you were involved in drug  
16 trafficking, isn't that accurate?

17 A. They did know.

18 Q. Okay. The coffee business that you had, that was in  
19 Guatemala you indicated, is that right?

20 A. Yes.

21 Q. And by the way, the cable business that we just talked  
22 about, are any of those customers in the ledgers you spoke  
23 about, your ledgers, are any of them customers in those books?

24 MS. HOULE: Objection, your Honor, to form.

25 Q. Are any of the names of the people you dealt with in the

1 cable business contained in those ledgers?

2 THE COURT: Referring to the ledgers shown in direct  
3 examination.

4 MR. MALONE: Very well, Judge, absolutely.

5 THE INTERPRETER: Can the question be repeated for the  
6 interpreter?

7 MR. MALONE: Yes, it can.

8 Q. Are the people you dealt with in the Cablevision business  
9 we were just talking about, are any of them listed in the  
10 ledgers that have been introduced through your testimony and  
11 are sitting on the desk over here?

12 A. Yes.

13 Q. Now with the cable business and the coffee business, you  
14 created those companies so you could look legitimate, isn't  
15 that accurate?

16 A. That's right.

17 Q. You don't walk around and you didn't walk around from 2004  
18 until you got arrested with a sign that said "drug dealer,"  
19 isn't that accurate?

20 A. Yes, that's accurate.

21 Q. You don't want to advertise that you're a drug dealer for  
22 law enforcement or otherwise, isn't that right?

23 A. The people who were close to me did know what I did for a  
24 living.

25 Q. Understood. My question was slightly different, sir, let

JA4THER4

Diaz Morales - Cross

1 me try it again. You didn't want law enforcement to know you  
2 were involved in drugs, right?

3 A. That's right.

4 Q. And you figured with the Cablevision business and the  
5 coffee business you could disguise the income you were making  
6 from drugs with those businesses, isn't that right, sir?

7 A. That's right.

8 Q. And that's what you did, disguise your drug business with  
9 those two front companies, isn't that right?

10 A. That's right.

11 Q. Did you have employees for the Cablevision company?

12 A. Yes.

13 Q. Did those employees know you were involved in drug  
14 trafficking?

15 A. Yes.

16 Q. Did you have employees for the coffee company?

17 A. Yes.

18 Q. Did they know you were involved in drug trafficking?

19 A. That's right.

20 Q. Did you have to register those businesses? For example, in  
21 Honduras, did you have to register the Cablevision business in  
22 order to operate as a business? Did you have to do that with  
23 the Cablevision business?

24 MS. HOULE: Objection.

25 THE COURT: Basis?

1 MS. HOULE: As to form, your Honor.

2 THE COURT: Overruled.

3 A. Don Mario Calix registered the company.

4 Q. Whoever registered the company didn't tell the authorities  
5 that it wasn't doing legitimate cable work and that it was  
6 doing drug trafficking business. That's the way it was  
7 designed, right?

8 THE COURT: Rephrase your question.

9 MR. MALONE: Yes, sir.

10 Q. The business was registered so that it didn't appear as  
11 though it was engaging in anything illegal, is that correct?

12 A. I don't understand the question.

13 Q. When you were testifying on direct examination the last two  
14 days, you recall that, right?

15 A. Yes.

16 Q. You had a lot of preparation for your testimony, isn't that  
17 accurate?

18 A. No.

19 Q. Isn't it accurate, sir, that before you testified in this  
20 case that you sat down with prosecutors and agents 20 times to  
21 prepare for your testimony?

22 A. That's not accurate.

23 Q. Okay. Let's talk about what is accurate. You are aware,  
24 sir, that in the course of this case the government has to turn  
25 over the interview reports conducted with you. Discovery, you

1 heard of that, right, in the jail?

2 MS. HOULE: Objection.

3 THE COURT: Sustained.

4 Q. Sir, when you got arrested in March of 2017, you would  
5 agree with me that that was pretty much the worst day of your  
6 life?

7 A. That's right.

8 MR. MALONE: May I approach, Judge?

9 THE COURT: You may.

10 MR. MALONE: Having already shared what I will mark  
11 just for identification as Defense Exhibit 6.

12 Q. Sir, could you take a look at Defense Exhibit 6 for  
13 identification?

14 A. Yes.

15 Q. You've taken a look at it?

16 MR. MALONE: Judge, if I may.

17 Q. Sir, you recognize that picture?

18 A. That's right.

19 Q. Does that picture accurately depict what's in it?

20 Is it an accurate picture?

21 A. I cannot know whether it's accurate.

22 Q. Is it you in the picture?

23 A. Yes.

24 Q. Do you remember the events that are depicted in the  
25 picture?



JA4THER4

Diaz Morales - Cross

1 A. More or less.

2 Q. You remember getting arrested, right?

3 A. Yes.

4 Q. And you remember being walked through whatever agency  
5 arrested you, right?

6 A. I don't have a memory of that.

7 Q. Sir, what is in this picture, is it accurate?

8 A. I don't know exactly when that photo was taken.

9 Q. Regardless of when it was taken, is it accurate? Does it  
10 show you?

11 A. Yes.

12 MR. MALONE: Move for admission of Defense Exhibit 6.

13 THE COURT: Any objection?

14 MS. HOULE: No, your Honor.

15 THE COURT: Received.

16 (Defendant's Exhibit 6 received in evidence)

17 MR. MALONE: Permission to publish?

18 THE COURT: Yes.

19 Q. On this date, March 4 of 2017, you were arrested in  
20 Guatemala, is that right?

21 A. Yes, I was arrested in Guatemala.

22 Q. You didn't turn yourself in, did you?

23 A. That's right.

24 Q. Law enforcement was looking for you and you were trying to  
25 avoid them, weren't you, sir?

1 MS. HOULE: Objection to form.

2 MR. MALONE: I'll rephrase, Judge.

3 THE COURT: Please.

4 Q. You were trying to avoid law enforcement on March 4 of  
5 2017, is that accurate?

6 A. That is not accurate.

7 Q. Were you looking to be caught on March 4 of 2017, sir?  
8 Were you looking to be arrested?

9 A. No.

10 Q. You wanted to remain a free man, right?

11 A. That's right.

12 Q. And enjoy the millions and millions of dollars you earned  
13 through drug trafficking, is that correct?

14 A. That's right.

15 Q. And enjoy your wife and your kids, isn't that right?

16 A. Yes.

17 Q. And you knew of other drug traffickers who have been  
18 extradited from either Guatemala or Honduras to the United  
19 States, you knew that on March 4 of 2017, didn't you, sir?

20 MS. HOULE: Objection to form, your Honor.

21 THE COURT: Rephrase it, please.

22 Q. Sir, on March 4 of 2017 you knew of other drug traffickers  
23 who had been sent to the U.S., is that true?

24 A. That's right.

25 Q. The last thing you wanted to do was to come to the U.S. and

JA4THER4

Diaz Morales - Cross

1 face charges for all the drug trafficking you knew you had  
2 done, isn't that right, sir?

3 A. I did not know that there was an arrest warrant out for me.

4 Q. I understand. You didn't want there to be an arrest  
5 warrant out for you, did you?

6 A. That's right.

7 Q. You did all you could to avoid law enforcement during your  
8 whole drug trafficking career, isn't that right, sir?

9 A. Please repeat the question.

10 Q. Throughout your whole drug trafficking career you did  
11 whatever you needed to do to avoid law enforcement capturing  
12 you, isn't that correct, sir?

13 A. That's right.

14 Q. Some of the things you did were injure people you thought  
15 were going to law enforcement and possibly spilling the beans,  
16 telling what was going on.

17 A. That's not correct.

18 Q. We talked a little bit about a gentleman by the name of  
19 Marlon Recinos earlier today. Do you remember that gentleman's  
20 name?

21 A. Yes.

22 Q. You remember being at a drug meeting with him, correct?

23 A. That's right.

24 Q. That wasn't a meeting that Tony Hernandez was at, right?

25 A. That's right.

JA4THER4

Diaz Morales - Cross

1 Q. And at that meeting you felt Mr. Recinos appeared a bit  
2 nervous, didn't you?

3 A. I don't have a memory of that.

4 Q. Do you remember executing him after that drug trafficking  
5 meeting because you thought he was a bit too nervous for you at  
6 that meeting, sir?

7 A. Please repeat the question.

8 Q. In 2010, sir, you were at a drug trafficking meeting that  
9 you initiated, correct?

10 A. That is not correct.

11 Q. Were you at a drug trafficking meeting with Marlon Recinos,  
12 sir, at any point?

13 A. That's right.

14 Q. Was it in 2011?

15 A. That is not correct.

16 Q. What year was it, sir?

17 A. In 2008.

18 Q. In 2008, whenever that date was, after that drug  
19 trafficking meeting, because you felt he was a threat to you,  
20 you took his life after that meeting, didn't you?

21 A. That is not correct.

22 Q. You hired someone to take his life.

23 A. That's correct.

24 Q. So because you didn't pull the trigger but you asked that  
25 it be done or you demanded that it be done, you feel like to

JA4THER4

Diaz Morales - Cross

1 this jury you're not the cause of his death, is that what  
2 you're saying, sir?

3 MS. HOULE: Objection, your Honor, misstates the  
4 testimony.

5 THE COURT: I'll allow it as a question.

6 A. Please repeat the question for me.

7 Q. You indicated that you didn't pull the trigger, you're not  
8 the one who physically carried out the act of taking the life  
9 of Marlon Recinos.

10 A. I did not understand the question.

11 Q. Sir, did you order the execution of Marlon Recinos?

12 A. Yes.

13 Q. In 2008?

14 A. No.

15 Q. When was it?

16 A. In approximately 2010 or 2011.

17 Q. Okay. And the reason you did it is because you thought  
18 that person was, in the U.S. terminology, a snitch, isn't that  
19 right?

20 A. That's not right.

21 Q. Sir, on the day that you were arrested they took you to  
22 jail, right?

23 A. Yes.

24 Q. Took you to a maximum security jail?

25 A. Yes.

JA4THER4

Diaz Morales - Cross

1 Q. Because you were well known in Guatemala, weren't you?

2 A. That's not true.

3 Q. When you got to maximum security, to that jail in  
4 Guatemala, it's a bad place, isn't it, sir?

5 A. That's right.

6 Q. I mean it's cold, correct?

7 A. That's right.

8 Q. It's loud, right?

9 A. That's not right.

10 Q. You don't get to choose what you eat at the jail, right?

11 A. That's right.

12 Q. When you got to the jail, you knew you had some choices to  
13 make, isn't that right, sir?

14 A. That's not right.

15 Q. When you got to the jail in Guatemala, did you hire a  
16 lawyer?

17 A. That's right.

18 Q. And you met with that lawyer, right?

19 A. Yes.

20 Q. And you explained to that lawyer why you were incarcerated,  
21 why you were in maximum security, right?

22 A. Can you please repeat the question?

23 Q. When you met with the lawyer at the jail in Guatemala, you  
24 explained to him your circumstance, right?

25 A. That's right.

JA4THER4

Diaz Morales - Cross

1 Q. And you told him you were wanted by the United States  
2 authorities for drug trafficking, correct?

3 A. That's right.

4 Q. That lawyer helped you get a U.S.-based attorney, is that  
5 right?

6 A. That's right.

7 Q. Did you know that lawyer from the U.S. prior to you being  
8 arrested?

9 A. No.

10 Q. While you were in maximum security in Guatemala, did that  
11 lawyer from the United States come and visit you there?

12 A. That's right.

13 Q. When he got there, you and he discussed your history. I  
14 don't want to know what you said, but you discussed your facts  
15 and circumstances surrounding your arrest, isn't that right,  
16 sir?

17 A. That's right.

18 Q. You explained to him the kind of things that could pose a  
19 problem for you in the U.S. and why the U.S. authorities had  
20 sought your extradition to the United States, right?

21 A. Can you please repeat the question?

22 Q. You had a discussion with the U.S.-based lawyer when he  
23 flew down to Guatemala to visit with you, right?

24 A. That's right.

25 Q. And you discussed what had taken place -- what was taking

JA4THER4

Diaz Morales - Cross

1 place in the U.S. in terms of you being extradited from  
2 Guatemala to the Southern District of New York, isn't that  
3 right, sir?

4 A. That's right.

5 Q. Did he meet with you more than once in Guatemala?

6 A. That's right.

7 Q. The Guatemalan-based attorney who referred the U.S. lawyer,  
8 was he a part of those meetings as well?

9 A. That's right.

10 Q. At some point you decided that you wanted your lawyers to  
11 reach out to the U.S. government, didn't you, sir?

12 A. Can you please repeat the question?

13 Q. Yes, sir. At some point you had your U.S.-based lawyer and  
14 your Guatemalan lawyer on your behalf reach out to the federal  
15 prosecutors here in the Southern District of New York, is that  
16 correct, sir?

17 A. That's right.

18 Q. And that U.S.-based lawyer -- and the reason why you wanted  
19 them to reach out to the prosecutors is at that point you  
20 realized you had a real problem in the United States, isn't  
21 that right, sir?

22 A. That's right.

23 Q. You knew you had killed people in connection with your drug  
24 trafficking, right?

25 A. Can you please repeat the question?



1 Q. You knew, when you were preparing with your lawyers to make  
2 a connection, communicate with the prosecutors here in the  
3 Southern District of New York, you knew that you had  
4 involvement in a whole bunch of murders in connection with your  
5 drug trafficking, isn't that correct?

6 MS. HOULE: Objection, your Honor.

7 THE COURT: I'll allow it.

8 A. I don't understand the question.

9 Q. Let me break it down as simple as possible.

10 In terms of the charges that were pending against you  
11 in the United States of America, you knew you had been involved  
12 in at least 18 murders and four malicious woundings, is that  
13 right?

14 THE COURT: I don't understand that question.

15 MR. MALONE: I'll repeat it, Judge. I tried to ask it  
16 basic.

17 Q. While you're in Guatemala, you know at that point you had  
18 been involved in many murders that were related directly to  
19 your drug trafficking, right?

20 A. That's right.

21 Q. You knew you had been involved in weapons and destructive  
22 device crimes in connection with your drug trafficking,  
23 correct?

24 A. That's right.

25 Q. And finally, you knew you had imported or at least caused

1 to come to the United States at least 140,000 kilograms of  
2 cocaine, isn't that right?

3 A. That's right.

4 Q. And you asked -- well, strike that.

5 And you learned that it was necessary for your lawyer  
6 to prepare what's called a proffer to the United States  
7 Attorney's Office, isn't that right?

8 MS. HOULE: Objection.

9 THE COURT: I'll allow it.

10 A. Can you please repeat the question?

11 Q. Yes, sir. You knew your lawyer needed to communicate with  
12 the Southern District prosecutors to tell them something about  
13 what information you had and were willing to share with them,  
14 right?

15 A. I don't understand the question.

16 Q. You knew you needed to tell the prosecutors in New York  
17 what information you had that might be of interest to them here  
18 in New York. Didn't you have that discussion with your  
19 lawyers?

20 A. That is not right.

21 (Continued on next page)

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JA49HER5

Diaz Morales - Cross

1 Q. Did your lawyer on your behalf send communication to the  
2 Southern District of New York telling them what you knew?

3 MS. HOULE: Objection.

4 THE COURT: Overruled.

5 A. That's right.

6 Q. You wrote them a letter, right? You communicated with  
7 them, my client knows, and it goes on to explain what it is you  
8 know, right?

9 MS. HOULE: Objection.

10 THE COURT: Basis?

11 MS. HOULE: Foundation.

12 THE COURT: Overruled.

13 A. Can you please repeat the question?

14 Q. Yes, sir. Your lawyer on your behalf wrote a letter to the  
15 prosecutors here in New York telling them what you knew that  
16 might be of interest to them here in New York, didn't he?

17 THE COURT: Didn't who?

18 MR. MALONE: Didn't he.

19 THE COURT: Oh, OK.

20 A. I don't know what might have been of interest for the  
21 prosecutors.

22 Q. Your lawyer asked you, didn't he, what you knew?

23 A. That's right.

24 Q. And you told him basically what you knew -- not everything  
25 but you told him what you knew, right?

1 A. That's right.

2 Q. Because you wanted to cooperate with the U.S. Government  
3 and convince them that you had information that was important  
4 to them, right?

5 A. That's not right.

6 Q. You didn't want to convince the prosecutors here in  
7 New York that you had useful information for them? You didn't  
8 want to communicate that to them? Is that what you're saying?

9 MS. HOULE: Objection as to form.

10 THE COURT: I'll allow it.

11 THE WITNESS: I don't understand the question.

12 Q. Through your lawyer you communicated with the Southern  
13 District of New York that the only thing you knew about Tony  
14 Hernandez was that you gave him \$40,000, a mule, a donkey, and  
15 a Rolex watch as a bribe; isn't that correct, sir?

16 A. That's right.

17 Q. That's what you told them in March of 2017 when you were  
18 trying to convince them you were worthy of cooperating with  
19 them; isn't that right?

20 A. I don't understand, "you were trying to."

21 Q. You wanted to convince the prosecutors you had information  
22 that was helpful to them. That's the question. Isn't that  
23 right?

24 A. I don't know what is useful for the prosecutors.

25 Q. Well you know it would have been useful for you to tell

1 them that Tony Hernandez had been engaged, the brother of the  
2 president of Honduras, it would have been useful to put in that  
3 letter that he was this major drug trafficker and you didn't,  
4 did you?

5 A. I did not know that.

6 Q. It would have been useful to tell the prosecutors in  
7 New York in October of 2017 through your lawyers that Tony  
8 Hernandez was taking five thousand dollars per month and had a  
9 drug lab in Colombia as you claim to this jury, wouldn't that  
10 have been useful to tell the prosecutors?

11 A. Can you please repeat the question.

12 Q. If it were true in October of 2017 you would have told the  
13 prosecutors the brother of the president of Honduras was  
14 engaged in drug trafficking by himself and with me, you would  
15 have told them that in that letter of October of 2017 if that  
16 were true; isn't that right?

17 MS. HOULE: Objection, your Honor.

18 THE COURT: Sustained.

19 Let me see you at sidebar, Mr. Malone.

20 (Continued on next page)

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1 (At the side bar)

2 THE COURT: Mr. Malone, you're a very talented lawyer  
3 and I think you know exactly what the problem is with your line  
4 of questioning and why you're having difficulty getting an  
5 answer.

6 MR. MALONE: Well I have a witness who doesn't want to  
7 answer my questions, for sure, that's part of it and a  
8 significant part of it, that's my major belief, because he's  
9 uncomfortable with the answers, that's part of it. But I  
10 respect and understand the other part that the Court is saying.  
11 I mean, so.

12 THE COURT: So what you're not doing is you're not  
13 endeavoring to develop a vital link.

14 MR. MALONE: OK.

15 THE COURT: Which is: Did he see the letter that went  
16 to the prosecutors? Did he write the letter? What was his  
17 connection with it? Because every time you ask the question  
18 you do a great job of making it look like he doesn't want to  
19 answer your questions but there's a fundamental problem in that  
20 you're not establishing what the relationship is between this  
21 man and the content of that letter. Undoubtedly anything that  
22 was in the letter originated with him. I don't have a problem  
23 with that proposition. But you haven't shown that he knows  
24 what his lawyer elected to put in that letter.

25 MR. MALONE: OK.

1 THE COURT: So, as a result -- and plus which, how  
2 would he know what's useful to the prosecutors? How would --  
3 and asking him, as you have asked, wasn't it necessary to put  
4 in. I don't know what you're talking about with the necessary.  
5 These questions are misleading and as a result you get the  
6 witness to say I don't know what you're talking about or can  
7 you restate it. So what I'm telling you, Mr. Malone, is you  
8 are more than able to ask crisp, understandable questions. I  
9 will start sustaining objections to your form if you don't do  
10 so.

11 MR. MALONE: Yes, sir.

12 MS. HOULE: Your Honor, may I just be briefly heard on  
13 one point. Just to note for the record that this letter was in  
14 English and it doesn't purport to be exhaustive and to the  
15 extent that this line of questioning continues we agree that  
16 it's been misleading and we may move to strike it.

17 THE COURT: That's denied.

18 (Continued on next page)

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1 (In open court)

2 BY MR. MALONE:

3 Q. Sir, eventually you made your way to New York City,  
4 correct?

5 A. Yes.

6 Q. When you arrived in New York, that lawyer from Guatemala  
7 met with you here in the U.S., correct?

8 A. Please repeat the question.

9 Q. When you got to New York to face the charges here in the  
10 Southern District did you meet with your lawyer?

11 A. Yes.

12 Q. Did you meet with the prosecutors eventually?

13 A. Yes.

14 Q. You met with them many times, correct?

15 A. That's right.

16 Q. The prosecutors always told you to tell the truth? Right?

17 A. That's right.

18 Q. And through your testimony to this jury you know it's  
19 important that you be truthful to the jury, correct?

20 A. That's right.

21 Q. You want them to believe you've told the truth yesterday  
22 and today; isn't that right?

23 A. Please repeat the question.

24 Q. You want the jury to believe that you are -- you testified  
25 truthfully yesterday as well as today, correct?



1 A. That's right.

2 Q. You want the jury to rely on you and what you've said in  
3 your testimony; isn't that right?

4 A. The jury will make its own decision.

5 Q. And you want them to believe you, right?

6 THE COURT: Asked and answered. Next question.

7 Q. You have not lied to this jury?

8 A. No.

9 Q. Because you're a truthful person, right?

10 A. That's right.

11 Q. And you don't have any pressure from the charges you face  
12 in coming here and telling the truth to the jury, right?

13 THE COURT: Rephrase your question.

14 Q. You don't feel the need to testify in a certain way, do  
15 you?

16 A. I must tell the truth.

17 Q. Because you're a truthful man, right?

18 A. Please repeat the question.

19 MR. MALONE: I'll move on, sir.

20 Q. You haven't always been honest and truthful; isn't that  
21 right?

22 A. Please repeat the question.

23 Q. Yes, sir. You have not always been honest and truthful;  
24 isn't that correct?

25 A. That's right.

1 Q. There was a point at which you were dishonest, right?

2 THE INTERPRETER: May the interpreter please repeat  
3 that question again.

4 THE WITNESS: I was afraid and I withheld information.

5 THE COURT: All right, ladies and gentlemen, let's  
6 take our midafternoon recess. Please do not discuss the case  
7 among yourselves or with anyone. See you back in action in ten  
8 minutes.

9 (Recess)

10 (Jury present)

11 THE COURT: Mr. Malone.

12 MR. MALONE: Yes, Judge.

13 THE COURT: Whenever you're ready.

14 MR. MALONE: Thank you, sir.

15 THE WITNESS: May I ask a question?

16 THE COURT: No.

17 Q. Mr. Diaz Morales, at the time you were arrested in  
18 Guatemala you were about to do a drug transaction; isn't that  
19 right?

20 A. Yes.

21 Q. That was the drug transaction you spoke about on direct  
22 examination involving that G2 private plane, correct?

23 A. Please repeat the question.

24 Q. The drug transaction that you were contemplating right  
25 before you got arrested was the same drug transaction you were

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Diaz Morales - Cross

1 speaking about on direct examination earlier today involving  
2 that G2 private airplane; is that correct?

3 A. That is not correct.

4 Q. Was it the drug transaction involving a private plane?

5 A. That is not correct.

6 Q. Sir, you were involved in discussions for a drug  
7 transaction while you were Guatemala; is that right?

8 A. Yes.

9 Q. And in that negotiation there was a confidential source  
10 that you did not know about; isn't that right?

11 A. Please repeat the question.

12 Q. In that drug transaction you were thinking about doing and  
13 trying to do, little did you know that there was a confidential  
14 source providing information to law enforcement on that  
15 transaction, right?

16 A. I did not know.

17 Q. Do you recall learning that there were recorded  
18 conversations of you about that drug transaction?

19 A. Yes.

20 Q. Did you listen to those recorded conversations, sir?

21 A. No.

22 Q. But you know from your own memory and your own  
23 participation that there is no mention of Tony Hernandez on  
24 those tapes; isn't that correct?

25 A. That's right.

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Diaz Morales - Cross

1 Q. Now, once you got to the United States and you arrived here  
2 and met with your lawyer you eventually met with the  
3 prosecutors here in the Southern District of Florida, right?

4 THE INTERPRETER: Counselor, the Southern District of?

5 MR. MALONE: I'm sorry. New York. I apologize. I'm  
6 sorry.

7 THE WITNESS: Yes.

8 Q. And when you get to this meeting there are a number of  
9 prosecutors there at that meeting and some agents, correct?

10 A. Yes.

11 Q. And your lawyer is there, right?

12 A. Yes.

13 Q. The same lawyer who wrote that letter to the prosecutors  
14 when you were in Guatemala, right?

15 MS. HOULE: Objection.

16 THE COURT: If you know.

17 THE WITNESS: Please repeat the question.

18 Q. Your lawyer who was at that meeting we just discussed, the  
19 lawyer there for you who represents you is the same lawyer you  
20 had communicate with the prosecutors while you were in  
21 Guatemala; isn't that correct?

22 THE COURT: That's a different question now you're  
23 asking.

24 MR. MALONE: I just asked it differently. I was  
25 asking it --

1 THE COURT: It's a different question. That's fine.  
2 So you're withdrawing the first question.

3 MR. MALONE: I'll withdraw it because he didn't  
4 understand. He asked me to rephrase.

5 THE COURT: I understand. But the question you asked  
6 the second time is a very different question.

7 MR. MALONE: OK. That's the question --

8 THE COURT: OK.

9 MR. MALONE: -- I'll ask him to answer.  
10 Do you need me to repeat the question, sir?

11 THE INTERPRETER: The interpreter has not yet rendered  
12 the question and the interpreter needs it repeated.

13 THE COURT: I'll have our court reporter, Karen,  
14 please read back the question.

15 (Record read)

16 THE WITNESS: That is correct.

17 Q. And before you and your lawyer went into that meeting he  
18 told you: Rule number one, do not lie, didn't he?

19 MS. HOULE: Objection, your Honor.

20 THE COURT: Basis.

21 MS. HOULE: Seeking to elicit privileged information.

22 THE COURT: I will certainly instruct the witness that  
23 the witness -- I'm not sure it's the basis for an objection but  
24 it may be the basis for an instruction.

25 MR. MALONE: Let me rephrase the question, Judge, make

1 it very easy.

2 BY MR. MALONE:

3 Q. Sir, when you and your lawyer went into that meeting with  
4 the prosecutors and the agents who had charged you with  
5 violations of U.S. federal law, you knew you were supposed to  
6 tell the truth to them, didn't you?

7 A. Yes, I did.

8 Q. In fact, do you recall them having you sign a document  
9 which basically said that you must tell the truth and not  
10 falsely accuse or exonerate anyone? Do you remember signing a  
11 document in Spanish saying that?

12 THE COURT: Sustained as to form.

13 Q. Do you recall signing a document at that meeting with the  
14 prosecutors, sir?

15 A. Please repeat the question.

16 Q. When you knew that you were supposed to go into the meeting  
17 telling the truth --

18 THE COURT: No, no. I'm going to have the reporter  
19 read back the question.

20 (Record read)

21 THE WITNESS: Yes.

22 Q. Do you remember it telling you that you are not to falsely  
23 accuse anyone during that meeting?

24 A. The document was in English.

25 Q. Do you remember the -- was there an interpreter there, sir?

1 A. Yes.

2 Q. You recall that interpreter translating that document into  
3 Spanish for you?

4 A. I don't recall.

5 Q. Do you recall the prosecutor explaining to you through the  
6 use of an interpreter that you are not to falsely accuse anyone  
7 of any crimes?

8 A. Please repeat the question.

9 MR. MALONE: Judge, I'm going to ask the court  
10 reporter through the Court.

11 THE COURT: I'll allow that. Go ahead.

12 (Record read)

13 THE WITNESS: I recall that he told me that I had to  
14 tell the truth.

15 Q. During that meeting you never mentioned anything about Tony  
16 Hernandez being involved in drug trafficking, did you, sir?

17 A. I don't remember what subjects were discussed at that  
18 meeting.

19 Q. Do you recall the prosecutors telling you that you had been  
20 untruthful to them?

21 THE COURT: Fix a point in time.

22 MR. MALONE: At the meeting with the prosecutors, that  
23 first meeting that we just discussed.

24 THE WITNESS: Several different subjects were  
25 discussed at that meeting.

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Diaz Morales - Cross

1 Q. Regardless of when it happened, what meeting it was, do you  
2 recall the prosecutors telling you you had been untruthful to  
3 them in your meeting?

4 A. There were many meetings. Maybe at some of them.

5 Q. They did tell you that, right?

6 A. (No response).

7 Q. That you had been untruthful?

8 A. That's right.

9 Q. Thank you. Now, I started out a little bit earlier asking  
10 you about honesty to the jury.

11 THE COURT: Just ask a question.

12 MR. MALONE: OK, Judge.

13 Q. You swore to be honest to this jury when you took your  
14 oath; isn't that right?

15 A. That's right.

16 Q. Because you want the jury to believe you, right?

17 THE COURT: Sustained.

18 Q. You want the jury --

19 THE COURT: No. No. Sustained. That question was  
20 sustained.

21 MR. MALONE: Yes, sir. I'm moving on.

22 Q. You would like the jury to believe that your testimony that  
23 Tony Hernandez was involved in drug trafficking is true? You  
24 want them to believe that; isn't that right?

25 MS. HOULE: Objection.



1 THE COURT: Sustained.

2 Q. Does an honest man lie to prosecutors, sir?

3 A. As I said, I was afraid.

4 Q. You were here in the U.S., right?

5 A. Yes.

6 Q. You never had any problems exacting punishment on others in  
7 your history, right?

8 A. I don't understand the question.

9 Q. You've told us you killed and tortured people, right?

10 THE COURT: Ask a question.

11 Q. You're saying and telling this jury --

12 MR. MALONE: Let me ask it differently, Judge.

13 Q. Are you suggesting to this jury that with your history that  
14 you were afraid of this gentleman when you went to meet with  
15 the federal prosecutors and began your cooperation and that is  
16 why you didn't mention him?

17 A. I cannot suggest anything to the jury.

18 Q. When you were arrested you had a cellphone, right?

19 A. Yes.

20 Q. That cellphone was turned over to the Drug Enforcement  
21 Administration at some point, correct?

22 A. That's right.

23 Q. And they downloaded the information from that cellphone?

24 A. I don't know.

25 Q. You've had cellphones throughout the years of your drug

1 trafficking, correct?

2 A. That's right.

3 Q. You've sent text messages, correct?

4 A. Yes.

5 Q. Did you use WhatsApp?

6 A. No.

7 Q. Did you use e-mail?

8 A. No.

9 Q. Your only form of communication with anyone regarding your  
10 drug trafficking activities was either a telephone call or a  
11 text message or a meeting in person? Are those the three ways  
12 you communicated?

13 A. Yes.

14 Q. Can you provide the jury with where they might look to see  
15 a text message ever between you and Tony Hernandez?

16 MS. HOULE: Objection.

17 THE COURT: Sustained as to form.

18 Q. Did you text with Tony Hernandez, sir?

19 A. No.

20 Q. Never had a phonecall with him either, right, sir?

21 A. I do not have any memory of that.

22 Q. And the ledgers you testified about earlier, Government  
23 Exhibit 240, composite exhibit 240, those ledgers, we're not  
24 going to find Tony Hernandez's name anywhere in there; isn't  
25 that right?

1 A. That's right.

2 Q. In those ledgers there are a whole bunch of -- well, first  
3 of all, let me backup.

4 Did you write in all of those ledgers? Was that your  
5 handwriting in all of those ledgers, Government composite 240?

6 A. I don't understand the question.

7 Q. Government Exhibit 240, all of these ledgers, did you write  
8 everything that's in these ledgers?

9 A. Yes.

10 Q. The ledgers you had before 2010, did you write in all of  
11 those ledgers?

12 A. Yes.

13 Q. And even as to those ledgers that predate Government's  
14 composite 240, Tony Hernandez's name would not be in those  
15 ledgers either; isn't that right?

16 A. I have no memory of that.

17 Q. So for the jury -- in order for the jury to believe your  
18 testimony the only thing they have to rely on is what you say  
19 from the witness stand?

20 MS. HOULE: Objection.

21 THE COURT: Sustained.

22 Q. Do you have any evidence of communication with Tony  
23 Hernandez, sir?

24 MS. HOULE: Objection.

25 THE COURT: Sustained.

1 Q. When you arrived here in the Southern District of New York  
2 they took you to jail here in New York, correct?

3 A. Yes.

4 Q. That's not a place you really want to be, is it, in the  
5 jail?

6 A. That's right.

7 Q. And you don't want to be there?

8 THE COURT: I think this was covered in your  
9 cross-examination earlier generically about jails. Are you  
10 asking a specific question now about the MCC in particular?

11 MR. MALONE: I was, Judge. And I won't be long.

12 THE COURT: Move on.

13 MR. MALONE: OK.

14 Q. At some point, sir, you decided you were going to enter  
15 into an agreement with the United States Attorney's Office,  
16 correct?

17 A. Please repeat the question.

18 Q. At some point, sir, you decided you were going to enter  
19 into a plea agreement with the United States Attorney's Office;  
20 is that right?

21 A. That's right.

22 Q. And prior to making that decision to enter into that plea  
23 agreement you received the evidence that the prosecutors had  
24 against you, correct?

25 A. That's right.

1 Q. And you reviewed that evidence, correct?

2 A. That's right.

3 Q. And amongst -- strike that.

4 Based on your review of that evidence you knew that  
5 unless you entered into a cooperation agreement you're going to  
6 spend the rest of your life in jail, more likely than not,  
7 right?

8 A. That is not correct.

9 Q. So, are you telling the jury that if you had not pled  
10 guilty --

11 MS. HOULE: Objection.

12 THE COURT: Let me hear the question.

13 MR. MALONE: -- you don't believe you would have spent  
14 the rest of your life in jail?

15 THE COURT: Sustained.

16 Q. Tell the jury what your alternative to pleading guilty  
17 would have been in your mind at that time.

18 THE COURT: Is this a plea agreement with a  
19 cooperation provision or without a cooperation provision?

20 MR. MALONE: With it.

21 THE COURT: Why don't you put that in your question so  
22 the witness knows what you're talking about.

23 MR. MALONE: Do you want me to rephrase, Judge?

24 THE COURT: Please.

25 Q. At some point you signed a cooperation agreement; is that

1 right?

2 A. That's right.

3 Q. And as a result of that cooperation agreement you realized  
4 you had a chance to be punished to something less than life  
5 imprisonment; is that right?

6 A. Please repeat the question.

7 THE COURT: Let me see you at sidebar Mr. Malone.

8 (Continued on next page)

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1 (At sidebar)

2 THE COURT: What was the mandatory minimum that you  
3 elicited from this witness in your earlier examination of him?

4 MR. MALONE: I didn't elicit -- I don't think I did  
5 elicit a mandatory.

6 THE COURT: Well what is the mandatory minimum that he  
7 testified that he was facing?

8 MR. MALONE: Forty years.

9 THE COURT: OK.

10 MR. MALONE: I see what you're saying but the  
11 maximum -- yes, sir, Judge.

12 (Continued on next page)

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1 (In open court)

2 MR. MALONE: May I proceed, Judge?

3 THE COURT: You may.

4 BY MR. MALONE:

5 Q. Sir, I was just asking you about potential punishment in  
6 this case. You testified that you are looking at, by your plea  
7 agreement, a minimum of 40 years in prison, is that right?

8 A. Yes.

9 Q. How old are you, sir?

10 A. 47 years old.

11 Q. The plea agreement in your mind -- let me strike that.

12 You know that if you fulfill your obligations under  
13 the plea agreement you are likely to get something a lot less  
14 than a 40-year mandatory minimum sentence, is that right?

15 A. Yes.

16 Q. By your plea agreement, you have the opportunity to see  
17 your children again, correct?

18 A. That's right.

19 Q. By your plea agreement, you have the opportunity to see  
20 your wife again, correct?

21 A. That's right.

22 Q. And that's what you want to do, both of those things,  
23 right?

24 A. Please repeat the question.

25 Q. I'll rephrase it. You would much rather be free and to



1 breathe free air than to be in prison, isn't that right?

2 A. That's right.

3 Q. And the only way that you can get that 40-year sentence  
4 reduced is if the prosecutors file something with the Court  
5 saying Mr. Diaz Morales has been cooperative and helpful to the  
6 United States government, correct?

7 A. And full detail of all my crimes would also be contained.

8 Q. You know you have to please the prosecutors with your  
9 cooperation in order for them to file a sentence reduction,  
10 correct?

11 A. That's not correct.

12 Q. You know that the prosecutor's office, per your agreement,  
13 makes the determination as to whether or not you have been --  
14 or rendered, you have provided substantial assistance, you know  
15 that, right?

16 A. I don't know that.

17 Q. Okay. Is it fair to say that you do not want to spend 40  
18 years in federal custody in the United States?

19 A. That's right.

20 THE COURT: Going forth, please avoid repetitive  
21 questions.

22 MR. MALONE: Thank you, Judge.

23 Q. Did you turn over -- other than the ledgers and the one  
24 cell phone, did you turn over any other evidence in connection  
25 with your cooperation, sir?

1 A. Please repeat the question.

2 Q. Have you turned over any other evidence, other than those  
3 ledgers, Government Exhibit 240, and the cell phone that your  
4 lawyer in Guatemala turned over to the DEA when you got  
5 arrested?

6 A. I do not remember that.

7 Q. Okay. When you got arrested did you turn over -- well,  
8 strike that.

9 In connection with your cooperation, have you turned  
10 over any of the millions and millions of dollars that you made?

11 A. No.

12 Q. Where's the money?

13 A. Please repeat the question?

14 MR. MALONE: Judge, could I have the court reporter  
15 repeat that, please?

16 THE COURT: The last question?

17 MR. MALONE: Yes, Judge.

18 THE COURT: All right. If you will read back the last  
19 question, please.

20 (Record read)

21 A. Part of it is in property and part of it is owed to me.

22 Q. You don't have bank accounts, sir?

23 THE INTERPRETER: For the interpreter?

24 Q. Sorry, you did not have bank accounts?

25 A. No.

- 1 Q. As a drug dealer, you wouldn't have a bank account, right?
- 2 A. That's right.
- 3 Q. And in those drug ledgers, you don't use people's real  
4 names, right?
- 5 A. That's right.
- 6 Q. The property you just indicated you bought with your drug  
7 money, what kind of property is that that?
- 8 A. Some houses and some ranches.
- 9 Q. How many houses?
- 10 A. Several.
- 11 Q. Give me a number.
- 12 A. Over five.
- 13 Q. How many fincas?
- 14 A. Over two.
- 15 Q. Where are those houses and where is that finca?
- 16 MS. HOULE: Objection.
- 17 THE COURT: Overruled.
- 18 Q. Do you remember the question, sir?
- 19 A. Yes. Some in Guatemala and some in Honduras.
- 20 Q. Do you have a farm in Honduras right now?
- 21 A. Yes.
- 22 Q. Do you have houses in Honduras right now?
- 23 A. The house that I have in Honduras is my daughter's.
- 24 Q. Okay. Does she live in it?
- 25 A. No.

JA4THER6

Diaz Morales - Cross

1 Q. Does anyone live in it?

2 A. The house is under investigation.

3 Q. What about the finca?

4 A. The ranch is under investigation.

5 Q. By the Honduran authorities?

6 A. Yes.

7 Q. When you would make money on a monthly basis by  
8 distributing 500 or a thousand kilogram of cocaine, what would  
9 you do with the cash? Where did you hold it?

10 A. Please repeat the question.

11 Q. What did you do with your drug money?

12 A. I don't understand the question.

13 Q. When you were selling drugs, you were selling drugs to make  
14 money, is that right?

15 A. That's right.

16 Q. And you told us that you sold 140,000 kilograms of cocaine  
17 in your career, right?

18 A. I already said that.

19 Q. And I'm asking you where is the money you received, the  
20 \$500 per kilogram that you indicated you made during your  
21 career.

22 MS. HOULE: Objection, your Honor, asked and answered.

23 MR. MALONE: We haven't gotten an answer, Judge.

24 THE COURT: Overruled.

25 A. I already said that, I invested it in properties.

JA4THER6

Diaz Morales - Cross

1 Q. Sir, you said you made \$500 per kilogram, right?

2 Isn't that right?

3 A. Yes.

4 Q. If we multiply \$500 -- and this was your money, what you  
5 made, not what you split. If we multiply \$500 times  
6 140,000 kilograms of cocaine, we come up with about \$72  
7 million. Where is that money?

8 A. I already said that. It's invested in houses, in  
9 properties. I do not have any cash.

10 Q. Okay. Those five houses and those two fincas are not  
11 valued at \$72 million, you will agree with that, right?

12 A. Throughout that period of time there were also expenses.

13 Q. Okay. You've told this jury that Tony Hernandez, from 2004  
14 to 2010, provided you with intelligence in connection with your  
15 drug trafficking, isn't that what you told this jury,  
16 information?

17 A. That's right.

18 Q. And you've told this jury that that started in 2004 and  
19 continued until around 2010, isn't that right?

20 A. That's right.

21 Q. And you've suggested to this jury that in 2004 and in 2005,  
22 in those years you've discussed, that Tony Hernandez had some  
23 political clout to be able to provide you with the information  
24 you needed to do your drug trafficking. Isn't that what you  
25 have said?

1 A. That's right.

2 Q. Even though through those years, 2004 let's say to 2009, he  
3 wasn't in any political position, was he?

4 A. That's right.

5 Q. And during those early years in 2004, 2005, 2006, the  
6 political party in power was a different party than he and his  
7 family were members of. You know that, right?

8 A. Yes.

9 Q. And you know during that period of time, 2004, 2005, 2006,  
10 and really the time period you have discussed here in front of  
11 this jury, Mr. Tony Hernandez didn't hold any political clout  
12 to be able to do what you suggested he did, right?

13 A. That is not right.

14 Q. Can you provide the jury with a receipt, some check stubs,  
15 anything that would suggest you paid Mr. Hernandez to do  
16 anything for you?

17 MS. HOULE: Objection.

18 THE COURT: Sustained.

19 Q. Now you said you met Mr. Hernandez through a gentleman by  
20 the name of Carlos Toledo, right?

21 A. Yes.

22 Q. And Mr. Toledo was someone Mr. Hernandez knew from his  
23 hometown, right?

24 A. Yes.

25 Q. And according to you, Mr. Toledo introduced you to Tony

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Diaz Morales - Cross

1 Hernandez in his hometown of Garcia, Lempira, is that right?

2 A. He introduced him to me in San Pedro, Sula.

3 Q. Where is Carlos Toledo?

4 A. He's dead.

5 Q. Why?

6 A. I had him killed.

7 Q. One of his best friends you had killed, is that right?

8 A. Yes.

9 Q. And you're scared of the Hernandezs?

10 A. Yes.

11 Q. You talked about at some points going to some area on the  
12 border of Honduras and Guatemala and seeing some kilograms of  
13 cocaine with the initials TH on them. Do you remember that  
14 testimony?

15 A. Yes.

16 Q. You didn't tell the prosecutors about any of that when you  
17 initially met with -- the first couple of times you met with  
18 them, did you?

19 A. I do not remember.

20 Q. What happened to those kilograms you said you saw on the  
21 border of Honduras and Guatemala? Where did they go?

22 A. Please repeat the question.

23 Q. What happened to the kilograms you said you saw on the  
24 border of Honduras and Guatemala with the initials TH on them?

25 A. They were headed to the United States.

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Diaz Morales - Cross

1 Q. Did they make it?

2 A. I don't know.

3 Q. The kilograms that you shipped that you bought, that you  
4 distributed, what did they -- what kind of insignia did they  
5 have on?

6 A. I don't understand the question.

7 Q. Did you have a special marking for your cocaine, sir?

8 A. No.

9 Q. No smart drug trafficker would put their initials on a  
10 kilogram of cocaine, you would agree with me, right?

11 A. Some do it.

12 Q. You basically suggested to this jury that you paid Tony  
13 Hernandez always through some third party, isn't that right?

14 A. That's right.

15 Q. When do you expect to get out of jail, Mr. Diaz Morales?

16 A. I don't know.

17 Q. You have other commitments to make?

18 MS. HOULE: Objection.

19 THE COURT: Sustained.

20 MR. MALONE: May I have a moment, Judge?

21 THE COURT: You may.

22 (Pause)

23 MR. MALONE: Judge, I think I'm done. I thank you.

24 THE COURT: Thank you. Redirect?

25 MS. HOULE: Yes, thank you, your Honor.



1 REDIRECT EXAMINATION

2 BY MS. HOULE:

3 Q. Sir, you testified on cross-examination about the millions  
4 of dollars that you made in drug trafficking, correct?

5 A. Yes.

6 Q. And you have said that that money --

7 MR. MALONE: Objection, leading.

8 THE COURT: It's redirect.

9 Q. You said that that money went toward properties and  
10 expenses?

11 A. Yes.

12 Q. Did some of those expenses include bribes that you paid to  
13 police?

14 A. Yes.

15 Q. Did some of those expenses include bribes that you paid to  
16 political campaigns?

17 A. I've already said that the payments that I was making to  
18 political campaigns and to defendant Tony Hernandez originated  
19 from the profits from my cocaine trafficking.

20 Q. So some of those expenses included the money that you paid  
21 to the defendant?

22 A. Yes.

23 Q. Did that also include the money that you paid to Juan  
24 Orlando's campaign?

25 A. That's right.

1 Q. You testified on cross-examination about whether the  
2 defendant was a congressman in the time period 2009 and  
3 earlier, and you said that he was not, correct?

4 A. That's right.

5 Q. Was his brother in congress during any of that time?

6 A. Yes.

7 Q. And during that time was the defendant able to provide  
8 information about checkpoints?

9 A. Yes.

10 Q. Was he able to provide information about narcotics  
11 investigations?

12 A. Yes.

13 Q. Was he able to assist you in the placement of police  
14 officers for your drug trafficking?

15 A. Yes.

16 Q. You also testified on cross-examination that the payments  
17 that you made to the defendant were through third parties,  
18 correct?

19 A. That's right.

20 Q. Did you confirm those payments by speaking directly with  
21 the defendant?

22 A. Yes.

23 Q. You also were asked some questions on cross-examination  
24 about certain businesses that you had, correct?

25 A. That's right.

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Diaz Morales - Redirect

1 Q. And you said that that included a coffee business, correct?

2 A. That's right.

3 Q. Did that coffee business go out of business at some point?

4 A. Yes.

5 Q. Approximately when was that?

6 A. In approximately 2000 or 2001.

7 Q. You also testified about a Cablevision business, correct?

8 A. That's right.

9 Q. And you said that you sold that business, correct?

10 A. Yes.

11 Q. In what year, approximately, did you sell that business?

12 A. In approximately 2004.

13 Q. And you said that you sold that business to the Calix  
14 family, correct?

15 A. Yes.

16 Q. That's the same Calix family --

17 MR. MALONE: Objection to the leading, Judge.

18 THE COURT: Redirect. Leading on direct examination  
19 is expressly prohibited with certain exceptions, on cross it's  
20 expressly permitted, and on redirect the rule leaves it to the  
21 discretion of the Court. And, of course, you can still object  
22 and I will take it on a question-by-question basis. The  
23 objection is overruled.

24 MR. MALONE: Thank you, sir.

25 BY MS. HOULE:

1 Q. Is that the same Calix family of which Jose Calix was a  
2 part?

3 A. Yes.

4 Q. Is that the same Mario Jose Calix who you testified was a  
5 partner of the defendant's in drug trafficking?

6 A. Yes.

7 Q. Is that the same Mario Jose Calix who attended meetings  
8 with you and the defendant where drug trafficking was  
9 discussed?

10 A. That's right.

11 Q. You testified, sir, on direct and cross-examination that  
12 when you first met with the government you did not tell the  
13 whole truth, correct?

14 A. That's right.

15 Q. Did you eventually tell the truth?

16 A. That's right.

17 Q. And after that time did you enter into a cooperation  
18 agreement with the government?

19 A. Yes.

20 Q. What does that cooperation agreement require you to do here  
21 today?

22 A. Tell the truth.

23 Q. You were asked about certain murders during  
24 cross-examination, including the murder of Marlon Recinos,  
25 correct?

1 A. Yes.

2 Q. You were also asked about the murder of Carlos Toledo,  
3 correct?

4 A. Yes.

5 Q. After you had Carlos Toledo murdered, did the defendant  
6 continue to work with you in drug trafficking?

7 A. That's right.

8 Q. Did you tell the government about those murders?

9 A. Yes.

10 Q. Were you charged with those murders before you got to the  
11 United States?

12 A. No.

13 Q. I'm showing you what's been marked for identification as  
14 Government Exhibit 701.

15 MS. HOULE: Ms. Hurst, if you could pull out for the  
16 Court and counsel.

17 THE INTERPRETER: Could you repeat the last part of  
18 the question, or statement?

19 MS. HOULE: I asked Ms. Hurst to pull up the exhibit  
20 for the Court and parties.

21 Q. Do you recognize this document, sir?

22 A. Yes.

23 Q. Turning to the last page -- or I'm sorry, page 6, is that  
24 your signature?

25 A. Yes.

1 Q. Is this the cooperation agreement that you entered into  
2 with the United States?

3 A. Yes.

4 MS. HOULE: The government offers 701.

5 MR. MALONE: No objection, Judge.

6 THE COURT: Received.

7 (Government's Exhibit 701 received in evidence)

8 BY MS. HOULE:

9 Q. Sir, attached to your cooperation agreement with the  
10 government is there a list of the murders you admitted to?

11 A. Yes.

12 Q. Will your sentencing judge know about those murders?

13 A. Yes.

14 Q. Do you have any idea what sentence you will get?

15 A. No.

16 Q. Has anyone made any promise to you about what sentence you  
17 will get?

18 A. No.

19 Q. Could the judge still sentence you to life in prison?

20 A. Yes.

21 Q. Sir, you were shown a photograph during your  
22 cross-examination of you being arrested, correct?

23 A. That's right.

24 Q. This is the photograph, correct?

25 A. That's right.

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1 Q. When you were arrested you were in Guatemala, correct?

2 A. That's right.

3 Q. Those are Guatemalan officers arresting you, correct?

4 A. That's right.

5 Q. And you were extradited from Guatemala, correct?

6 A. Yes.

7 MS. HOULE: One moment, your Honor.

8 (Pause)

9 MS. HOULE: Nothing further.

10 THE COURT: All right. Ladies and gentlemen, I'm just  
11 going to --

12 You can escort the witness out.

13 Ladies and gentlemen, this brings our workweek  
14 together to an end. I realize it doesn't mean that you will be  
15 luxuriating all weekend long. Yankee fans will be watching  
16 games, but everybody else will have laundry, dry cleaning,  
17 groceries, parents, children, brothers, sisters, birthdays,  
18 anniversaries, and other things to tend to. I realize that.

19 You have worked hard for three days. I want you to  
20 put the case out of your mind. I want you to remember that if  
21 you or a family member were involved in a trial, you would want  
22 jurors who obeyed the judge's instructions not to talk about  
23 the case with anyone: No emailing, texting, posting on social  
24 media, nothing. No research. Be proud of your service by  
25 resisting the temptation and complying with my order in that

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1 regard. Don't do it. Let the evidence come out in the  
2 courtroom and give both sides an opportunity to address the  
3 evidence if they choose to do so, not your own secret, private  
4 research. It's unlawful and a violation of your duties as  
5 jurors.

6 I do want you to relax. I hope we have some good  
7 weather. I hope you have some fun over the weekend and that  
8 you safely return here on Monday morning. Mondays are usually  
9 a busy day downstairs, so if you could get here a little early  
10 so we could keep up with what we're doing, staying on schedule  
11 and getting a good start in the morning.

12 Ladies and gentlemen, have a wonderful weekend. Thank  
13 you.

14 (Jury not present)

15 THE COURT: Who do you have up on Monday morning?

16 MR. BOVE: Judge, we'll start with our Honduras  
17 expert, Professor Dario Euraque, then Alex Ardon followed by  
18 Special Agent Sandalio Gonzalez.

19 THE COURT: Thank you very much. I will have marked  
20 as Court Exhibit 2 a draft set of the jury instructions and ask  
21 my law clerk to hand a set to each side. And if you could hand  
22 one to the deputy to be marked as Court Exhibit 2. And what  
23 I'm going to ask you to do is by the end of the day on Monday  
24 get me any written comments you have, any comments you have on  
25 the draft jury instructions in writing to me by the end of the



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1 day Monday.

2 MR. BOVE: Yes, Judge.

3 MR. MALONE: Yes, sir.

4 THE COURT: Okay. Other than that, I hope the lawyers  
5 who are working very hard on this case get some free time,  
6 maybe family time, some distraction. Thank you all very much  
7 and I will see you on Monday morning.

8 MR. MALONE: Thank you, sir.

9 (Adjourned to Monday, October 7, 2019 at 10:00 a.m.)

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