

United States Court of Appeals For the First Circuit

Nos. 06-1182, 06-1183

UNITED STATES OF AMERICA,

Appellee,

v.

LORENZO CATALÁN-ROMAN

and HERNALDO MEDINA-VILLEGAS,

Defendants-Appellants.

ERRATA SHEET

The opinion of this court, issued on October 23, 2009 is hereby amended as follows:

On page 19, insert a new footnote - which will be note 10 - after the sentence beginning "The 302 of their interview . . . premeditation and death penalty." The text of new footnote 10 should read: "This 302, which is central to Catalán's arguments about the improper restrictions on impeachment, has a curious history in this case. The document, in its original Spanish, was clearly in the possession of the parties in the courtroom, and was discussed extensively by them in English. Thus, much of its content is apparent from the record. Nevertheless, a properly and fully translated version of the report was never placed in the record. That was a serious oversight. In the usual situation, it would not be overlooked. See First Circuit L.R. 30(e) ("The court will not receive documents . . . not in the English Language unless translations are furnished."). However, the government has not objected to Catalán's arguments on the basis that a translated version of the 302 is not in the record and, in fact, it has not disputed any of Catalán's account of what the document said. Therefore, given this somewhat unusual situation, we will address in this case the merits of Catalán's arguments despite the serious procedural error in the handling of the 302."

On page 19, footnote 10 (which will be footnote 11 after the new footnote is added) should be edited. The two sentences from "As far as can be discerned . . ." to ". . . had ever discussed the March 6 attempt with Torres." should be replaced with the following text: "Yet, at no time during the extensive discussions and arguments over this matter during trial -- not even when the defendants made a proffer about Agent Cruz's testimony -- was it suggested that Marrero or Cruz had ever discussed the March 6 attempt with Torres. Without some evidence in the record to support his claim, we cannot assess its merits."