

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CASE NO.: 98-721-CR-LENARD

RENE GONZALEZ,

Defendant.

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**DEFENDANT'S MOTION TO TRAVEL**

COMES NOW the Defendant RENE GONZALEZ by and through his undersigned counsel and moves this Court for the entry of an order modifying his probation to allow him to travel to Cuba for two weeks and as grounds therefore would state as follows:

As this court is surely aware, on October 7, 2011, the defendant completed the fifteen (15) year incarcerative portion of his sentence and commenced his three-year term of supervised release. The defendant, a dual citizen of the United States and Cuba, was ordered to remain in the United States and to commence his term of supervised release.

Over the past nearly eighteen (18) months since his release from incarceration, the defendant has faithfully complied with each and every condition of his supervised release.

In mid December 2012 the defendant's 82 year old father, Candido Gonzalez suffered a massive stroke at his home in Cuba. Due to the serious nature of the stroke, the defendant's father was never fully able to fully grasp his surroundings and

recognize those familiar faces that surrounded him. In light of this (as well as the pending motions before this court) the defendant made the conscious decision not to petition this court for authorization to be by his father's side. Doctors in Cuba were not hopeful of a full recovery and described his condition as "life threatening." Candido Gonzalez remained under a doctor's care and began the arduous task of rehabilitation.

However, in the early morning hours of April 1, 2013 the defendant's father, Candido Gonzalez passed away. The family has already cremated his remains and the interment is scheduled for Tuesday, April 2, 2013 in Havana. The family is desirous of having a memorial service for Candido Gonzalez in Havana with the defendant present. As of the date and time of this motion, the undersigned is trying to secure documentation however, as of the date and time of this motion the undersigned has been able to secure an April 2, 2013 article from the digital edition of the Cuban National Newspaper, *Granma*, and a translation is attached as well

As the lone surviving son of the union of his parents, the Gonzalez family is understanding of what is entailed for the Defendant to return to Havana. As this court may recall on February 24, 2012, the defendant filed a motion to visit his terminally ill brother in Havana. (DE #1821) On March 12, 2012 the government filed their response. (DE #1822) Three days later, the defendant filed their reply. (DE #1824) This court acted expeditiously and on March 19, 2012, entered an order granting the defendant permission to travel to Havana for two weeks with the following special conditions:

- 1.) Defendant must obtain all necessary permission, licenses, and/or clearance

from the United States Government, including the Department of State and Department of the Treasury, separate and apart from this Order.

2.) Defendant shall submit to his probation officer a written, detailed itinerary of his travel, including flight numbers, routing, location, and contact information, as well as copies of all necessary clearances and licenses obtained from the United States Government.

3.) During his absence from the district of supervision, Defendant shall report telephonically to his probation officer as directed by his probation officer.

4.) The terms of Defendant's supervised release shall remain otherwise unchanged, and Defendant must return to the United States and to the district of his supervised release within two weeks of departure. (DE #1825)

Due to the defendant's lengthy period of incarceration, his previously issued United States passport had expired and he had to acquire a new passport on an expedited basis for the travel in 2012. The State Department, after much discussion, issued the defendant a new United States passport but the document was only valid for a period of thirty (30) days. The process to acquire the passport took almost ten (10) days even after filing the expedited request.

On or about April 1, 2012 the defendant traveled to Havana to visit his terminally ill brother. He complied with each and every condition set by this court and returned promptly to the United States as ordered.

While the defendant's renewed motion to modify his supervised release (DE

#1826) has been pending since June 22, 2012 and his response (DE #1836, 1838) to this Court's October 1, 2012 (DE #1831) regarding his willingness to renounce his United States citizenship has been pending as well, the defendant's current request for travel permission is once again for purely humanitarian purposes. Though these long pending motions will hopefully allow the defendant to return home on a more permanent basis, they are immaterial to this humanitarian request for permission to travel.

As a reminder, on February 2011, while the defendant was still incarcerated, he sought to modify his supervised release to allow his to return to Cuba where he is a dual citizen. (DE #1808) In their response to that motion (DE #1814) the government asked this court not to allow the defendant to permanently return to Cuba. As their justification for their position, the government stated:

"Moreover, the provisions of Gonzalez's supervised release do not "banish" him from Cuba during its term. He is subject to the standard condition not to leave the judicial district of his supervision "without the permission of the court or probation officer," (DE #1437:3) Nothing will prevent him from seeking leave from his probation officer (or, if denied, from the court) to travel to Cuba to visit his wife, aged parents or others. Such requests can be considered by the probation officer or the court, in the light of their reasonableness and merit. This provides an important leeway to respond to Gonzalez's humanitarian concerns. Several cases that have considered conditions of supervised release that prohibited defendants from visiting or being in certain areas have looked to the prospect of such permission as supporting the propriety of the condition. *See, e.g., United States v. Sicher*, 239 F.3d 289, 292 (3<sup>rd</sup>

Cir. 2000); *United States v. Cothran*, 855 F.2d 749, 752 (11<sup>th</sup> Cir. 1988)(where supervised-release condition requires that defendant not enter certain county, the allowance for seeking court permission is significant; “the defendant is not totally and unequivocally banished from his home county”). *See also United States v. Stanphill*, 146 F.3d 1221, 1223-1224 (10<sup>th</sup> Cir. 1998)(provision that defendant shall not leave the district without permission gives the district court and probation officer “broad discretion in determining whether to allow travel outside the district”).” (DE #1814 at pages 10-11)

This is precisely the humanitarian request that is being presented to the court with supporting documentation to be provided. Due to these recent developments, this request is being made as soon as possible and confirmation will be provided.

WHEREFORE, the Defendant RENE GONZALEZ respectfully requests that this Court enter an order permitting his to travel to Cuba for two (2) weeks as requested.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record this 3<sup>rd</sup> day of April 2013.

Respectfully submitted,

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/s/ Philip R. Horowitz

By: PHILIP R. HOROWITZ, ESQUIRE  
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CUBA

La Habana, 2 de Abril de 2013

## Falleció el compañero Cándido René González Castillo

En horas de la mañana de ayer falleció en esta capital, a la edad de 82 años, el compañero Cándido René González Castillo, a consecuencia de un infarto isquémico cerebral, luego de sufrir una grave y prolongada enfermedad.

Cándido —padre del compañero René González Schwerert, uno de nuestros Cinco Héroes antiterroristas—, emigró a los Estados Unidos en la década de los años 50; en Chicago militó en una célula del Movimiento 26 de Julio y fue miembro del comité "Pro Justo Trato a Cuba".

Regresó a nuestro país en octubre de 1961 y de inmediato se incorporó a las Milicias Nacionales Revolucionarias; se movilizó en unidades de la artillería antiaérea durante la Crisis de Octubre. Fue machetero en diez zafras del pueblo y se desempeñó como dirigente sindical. Fue ejemplo de humildad y de revolucionario y supo ganarse el cariño de sus hijos, nietos y familiares.

El cadáver de Cándido René González Castillo fue cremado en la tarde de ayer y sus cenizas serán depositadas hoy en un panteón familiar en el cementerio de Colón, en ceremonia privada.

IMPRIMIR ESTE MATERIAL

Yesterday morning died, in the capital, at the age of 82 years, fellow Cándido René González Castillo, as a result of a cerebral ischemic event after suffering a severe and prolonged illness.

Cándido - the father of fellow René González Schwerert, one of our counterterrorist Five Heroes - emigrated to the United States in the early 50's, he was a member in a cell of the July 26th Movement in Chicago and was member of the "Fair Treatment Pro to Cuba".

He returned to Cuba in October of 1961 and immediately joined the National Revolutionary Militia, he was mobilized in anti-aircraft artillery units during the October Crisis. He participated as a "machetero" in ten harvests of sugar cane and served as a union leader. He was an example of humility and revolutionary and was able to win the affection of his children, grandchildren and family.

The body of Cándido René González Castillo was cremated yesterday afternoon and today his ashes will be deposited after a private ceremony in a family vault in the cemetery of Columbus.