

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

David Rivera
David Merced Rivera

2. **Position**: State the position for which you have been nominated.

United States Attorney for the Middle District of Tennessee

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

United States Attorney's Office
Middle District of Tennessee
110 9th Avenue South, Suite A-961
Nashville, TN 37203

4. **Birthplace**: State date and place of birth.

1960; New York, NY

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

Pace University School of Law; 1986-1988; J.D., 1988
University of Tulsa College of Law; 1985-1986; no degree received (transferred to Pace University School of Law)
Tulsa Junior College; summer 1980; no degree
Oral Roberts University; 1978-1982; B.S., 1982

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description

United States Attorney's Office

Middle District of Tennessee

110 9th Avenue South, Suite A-961

Nashville, TN 37203

United States Attorney (interim) – April 2013 to Present

First Assistant United States Attorney – December 2008 to April 2013

Chief, Criminal Division (temporary) – December 2007 to April 2008

Deputy Chief, Criminal Division – April 2007 to December 2008

Assistant United States Attorney – July 2004 to April 2007

United States Attorney's Office

District of Puerto Rico

350 Carlos Chardon Street

San Juan, PR 00918

Deputy Chief, Criminal Division – July 2002 to June 2004

Assistant United States Attorney – May 1999 to June 2002

Office of the State Attorney

17th Judicial Circuit

Broward County

201 Southeast 6th Street

Fort Lauderdale, FL 33301

Supervisor, Felony Division – 1996 to May 1999 (est.)

Assistant State Attorney – March 1994 to May 1999

Legal Services of Greater Miami

3000 Biscayne Boulevard, Suite 500

Miami, FL 33137

Staff Attorney – August 1993 to February 1994 (est.)

Bronx County District Attorney's Office

198 East 161st Street

Bronx, NY 10451

Assistant District Attorney – July 1988 to August 1993 (est.)

Case Aide – July 1986 to May 1988

Oral Roberts University

7777 South Lewis Ave

Tulsa, OK 74171

Assistant Dean of Men – August 1984 to August 1985 (est.)

Marsden Reproduction

(Address not available – Position was in New York, NY)

Distribution Clerk - May 1982 to February 1983 (est.)

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including

dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

United States Air National Guard

138th Fighter Tactical Group
Tulsa, OK 74101

Dates of Service: August 1984 to December 1986

Ranks held: A1C and SRA/Pay grade: E-4 – Honorable Discharge

United States Air Force

Boling Air Force Base
Chappie James Boulevard
Washington, DC 20032

Dates of Service: March 1983 to July 1984

Rank held: A1C/Pay grade: E-4 – Honorable Discharge

I have registered for Selective Service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

United States Marshals Service Award (2010) – For Dedication and Service During Major Protective Investigation

Department of Justice Director's Award (2009) – For Superior Performance as an Assistant United States Attorney in Public Corruption and Financial Fraud Prosecution

Federal Bureau of Investigation Award (2008) – For Demonstrated Excellence for Successful Prosecution of Major Criminal Case

Department of Justice Director's Award (2004) – For Superior Performance as an Assistant United States Attorney in Public Corruption Prosecution

Federal Bureau of Investigation Award (2002) – For Demonstrated Excellence for Successful Prosecution of Major Criminal Case

Council on Legal Education Opportunity Fellowship (1986)

Several U.S. Department of Justice, Office of the United States Attorney Awards from the Middle District of Tennessee and the District of Puerto Rico – For Sustained Superior Performance

9. **Bar Associations:** List all bar associations or legal or judicial-related committees,

selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Hispanic National Bar Association, member, April 2013 to present (est.)
Tennessee Bar Association, member, January 2005 to January 2006 (est.)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Tennessee Bar, admitted January 23, 2005, no lapse in membership
Florida Bar, admitted September 16, 1993, no lapse in membership
New York State Bar, admitted February 6, 1989

From June 7, 1999 to August 5, 1999, there was a two (2) month lapse in my New York State Bar membership. During this period, and for the preceding six years, I was admitted to the Florida Bar and I was practicing law, pursuant to the Florida Bar license, in Florida and in the United States District Court for the District of Puerto Rico. During this period I was no longer practicing in New York, and therefore membership in the New York State Bar was not necessary. The New York State Bar membership lapsed due to nonpayment of registration fees six years after leaving New York. Following payment of the registration fees, my membership in the New York State Bar was immediately reinstated.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Sixth Circuit, 2005
Supreme Court of the State of Tennessee, 2005
United States Court of Appeals for the First Circuit, 1999
United States District Court for the Southern District of Florida, 1994
Supreme Court of the State of Florida, 1993
United States District Court for the Eastern District of New York, 1992
United States District Court for the Southern District of New York, 1992
Supreme Court of the State of New York, 1989 (please see response to 10a regarding a lapse in membership in the New York State Bar Association)

Other than what is noted above, I have had no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other

organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Bluegrass Yacht and Country Club, 550 Johnny Cash Pkwy, Hendersonville, TN 37075, from May 2007 to March 2011

I have made financial contributions to charitable organizations over the years. I have not included in the list above any organizations to which I gave funds and did not otherwise participate in programmatic activities. Such organizations may label me as a member.

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

None to my knowledge.

12. **Published Writings and Public Statements:**

List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

- a. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- b. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

- c. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following:

Annual United States Attorney Law Enforcement Awards for Excellence Ceremonies – Opening and Closing Remarks – February 2009, 2010, 2011, 2012, 2013 – Held at the Nashville Public Library, 615 Church St., Nashville, TN 37219. The United States Attorney’s Office sponsors an annual awards ceremony to honor local, state, and federal law enforcement officers and agents. The audience typically includes law enforcement personnel, regional heads of federal, state, and local law enforcement agencies, community leaders, and family and friends of honorees. My remarks generally included comments of recognition and appreciation directed towards law enforcement officers and agents, followed by a reading of summaries of selected cases being recognized. No notes or transcript available.

Mexico Merida Initiative – Lectures, Training, and Closing Remarks – January 8, 2010 – Held at the Mexican Federal Police (SSP) Training Academy in San Luis Potosi, Merida, Mexico. The Department of Justice’s Office of Overseas Prosecutorial Development, Assistance and Training sponsored a training session. The audience consisted of more than 150 Mexican Federal Police and prosecutors. My remarks regarded the benefits of adversarial judicial proceedings in seeking and obtaining justice, reducing corruption and securing the public’s cooperation. No notes or transcript available.

Tribal Prescription Drug Abuse and Drug Endangered Children Regional DOJ-COPS Training – Opening Remarks – June 19, 2013 – Held at the Hotel Preston, 733 Briley Parkway, Nashville, TN 37217. The Department of Justice Community Oriented Policing Services office sponsored training provided by a private entity. The audience included service providers who work with children in tribal communities. My remarks recognized the drug-related problems faced by Indian Country communities, noted the Department of Justice’s commitment to and work in addressing those problems, and expressed gratitude towards those service providers in the audience committed to providing assistance to Native

American families and drug endangered children. No notes or transcript available.

Federal and State Health Care Fraud Working Group Training – Opening Remarks – December 10, 2013 (morning session) – Held at 127 International Drive, Franklin, TN 37067. The event was sponsored by the United States Attorney’s Office, and attended by members of the Tennessee Attorney General’s Office, TennCare, the Office of the Inspector General of the Department of Health and Human Services, the Federal Bureau of Investigation, the Tennessee Bureau of Investigation, the Drug Enforcement Administration, the Food and Drug Administration, AdvanceMed (a Medicare integrity contractor), and managed care organizations including Blue Cross Blue Shield, Amerigroup and AmeriChoice. The audience included federal and state agency working group partners from the agencies listed above, as well as private sector health care industry compliance program representatives. My remarks included recognition of law enforcement efforts to combat fraud in the health care industry. No notes or transcript available.

Government Enforcement Seminar – Panel Discussion – December 10, 2013 – The event was hosted by Bradley Arant Boult Cummings LLP, 1600 Division Street, Suite 700, Nashville, TN 37203. Invitees included over 80 government contractors and businesses entities that participate in government programs. I spoke on two separate panel discussions on the subjects of the False Claims Act and government investigations. No notes or transcript available.

Lifecycle Conference – Keynote Speaker – March 7, 2014 – Held at St. James Missionary Baptist Church, 600 28th Avenue North, Nashville, TN 37209. This event included state and local criminal justice agencies, non-profits, court administrative agencies, juvenile court officials, and other parties interested in effective prisoner reintegration. The event focused on reentry programs, and opportunities, resources, policies and practices effective for inmate reintegration. No notes or transcripts available.

Ceremony Honoring Victims of Crime – April 7, 2014 – Held at the Bicentennial Capitol Mall State Park, 600 James Robertson Parkway, Nashville, TN 37243. This was a tree planting event to commemorate National Crime Victims’ Rights Week. During the event I served as master of ceremonies and provided opening remarks. No notes or transcripts available.

- d. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have done my best to identify all interviews given, including through review of personal files and searches of publicly available electronic databases. Despite my

searches, there may be other materials I have been unable to identify, find or remember. I have located the following:

Title: Texas man pleads guilty to bomb threat at Tenn. mosque
Publication: The Tennessean; Nashville, TN
Date: June 4, 2013

Title: Ex-Fort Campbell official pleads guilty in scheme to defraud soldiers
News Channel: 4HDWSMV.com, MSMV-TV-Nashville
Link: <http://www.wsmv.com/story/25507315/ex-fort-campbell-official-pleads-guilty-in-scheme-to-defraud-soldiers>
Date: May 13, 2014

13. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

None.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

None.

14. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not served as clerk to a judge.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

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Staff Attorney – August 1993 to February 1994 (est.)

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Bronx, NY 10451

Assistant District Attorney – July 1988 to August 1993 (est.)

Case Aide – July 1986 to May 1988

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years

My legal experience commenced in July of 1989 with state prosecutions involving violent crimes and narcotic offenses in the Bronx County District Attorney's Office. In September 1993, I briefly engaged in civil commercial litigation and disaster fraud relief on behalf of indigent clients at the office of Legal Services of Greater Miami. I joined the Office of the State Attorney, 17th Judicial Circuit, Broward County in 1996, and I was subsequently promoted to Felony Supervisor and began overseeing state prosecutors in all phases of felony prosecutions.

In May 1999, I became an Assistant United States Attorney for the District of Puerto Rico. I prosecuted public corruption, financial fraud, narcotics, and violent crimes. Additionally, I briefed and argued federal appeals. In 2002, I was promoted to Deputy Chief of the Criminal Division and assumed supervision of federal prosecutors in all phases of criminal prosecutions. In 2002, after transferring to the United States Attorney's Office for the Middle District of Tennessee, I was promoted to Deputy Chief and Chief of the Criminal Division, and then to First Assistant United States Attorney. In this role, I supervised Assistant United States Attorneys in all phases of civil and criminal litigation. As of 2013, I have served as the United States Attorney (interim). I now oversee the operation of the United States Attorney's Office and set the tone for the direction and quality of federal criminal and civil litigation.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

Bronx County District Attorney's Office - Citizens of the State of New York

Legal Services of Greater Miami - Victim client homeowners defrauded in relation to Hurricane Andrew

Office of the State Attorney, 17th Judicial District, Broward County - Citizens of the State of Florida

Department of Justice, United States Attorney's Offices for the District of Puerto Rico and the Middle District of Tennessee - Citizens of the United States

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of

your appearances in court varied, describe such variance, providing dates.

90% or more of my practice has been in litigation. I appeared in court frequently as a state and federal prosecutor.

- i. Indicate the percentage of your practice in:
 1. federal courts;
 2. state courts of record;
 3. other courts;
 4. administrative agencies

During my career, approximately 70% of my practice has been federal cases, and approximately 30% of my practice has been state cases.

- ii. Indicate the percentage of your practice in:
 1. civil proceedings;
 2. criminal proceedings

Approximately 70% of my practice is in criminal proceedings and 30% of my practice is in civil proceedings.

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried more than 80 cases to verdict. I was sole counsel in over 95% of those cases and chief counsel in all of those cases.

- i. What percentage of these trials were:
 1. jury;
 2. non-jury.

Over 80% of my cases have been jury trials. The other 20% have been non-jury trials.

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of

the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

United States v. John Ford, 639 F.3d 718 (6th Cir. 2011).

Summary: This case involved the investigation, prosecution and conviction of former Tennessee State Senator John Ford. In July 2008, after an extended jury trial, Ford was convicted of multiple counts of wire fraud and concealment of material facts in connection with receiving over \$1.4 million from two different contractors of TennCare, the State of Tennessee's version of Medicaid. During the trial, the United States proved that Ford sought to defraud the public out of its right to honest services in two different schemes while using the influence of his office as a sitting state senator. The United States demonstrated that Ford established and concealed consulting businesses and successfully funneled concealed payments of over \$1.4 million to himself and his associates in exchange for his influence on behalf of certain managed healthcare organizations. Ford also did not disclose his consulting business even though he was required to do so with the Tennessee Senate and the Tennessee Registry of Elections Finance. On September 29, 2008, Ford was sentenced to 168 months of imprisonment on the wire fraud counts, and 60 months of imprisonment on the concealment counts, to run concurrently.

Subsequent to Ford's sentencing and while on appeal from his conviction, the United States Supreme Court, in *Skilling v. United States*, 130 S. Ct. 2896, 2907 (2010), invalidated certain applications of the honest services statute and held that it covered only bribery and kickback schemes. The United States subsequently conceded during the appeal that Ford's wire fraud counts of conviction should be vacated in light of the Supreme Court's decision in *Skilling*. In addition, on April 14, 2011, the United States Court of Appeals for the Sixth Circuit vacated the remaining concealment counts.

Party Represented:	United States
Nature of Participation:	Chief Counsel
Final Disposition:	Defendant convicted and sentenced; conviction reversed on appeal
Date of Representation:	2005 through 2011
Name of Court and Judge:	United States District Court for the Middle District of Tennessee Chief Judge Todd Campbell
Co-Counsel:	Eli Richardson

Bass, Berry & Sims
150 Third Avenue South
Nashville, TN 37201
(615) 742-7825

Opposing Counsel:

Isaiah Gant
Office of the Federal Public Defender
Middle District of Tennessee
810 Broadway
Nashville, TN 37203
(615) 736-5047

United States v. Reno Martin, et al., Criminal No: 2:05-00016 (M.D. Tenn.).

Summary: An extensive undercover investigation was commenced to uncover crimes being committed by public officials in Cookeville, Tennessee. The investigation led to the indictments of seven defendants, including three police officers. The crimes included money laundering and conspiracy to engage in drug trafficking. It was discovered during the investigation that owners of automobile body shops recruited police officers to prepare false accident reports in return for payment. Additionally, fraudulent body shop estimates were prepared and provided with the aforementioned accident reports to file false insurance claims. During the investigation police officers also transported what they believed to be shipments of cocaine and illegal drug proceeds to and from Chicago, Florida and throughout Tennessee.

Party Represented: United States
Nature of Participation: Sole Counsel
Final Disposition: Defendants convicted and sentenced
Date of Representation: August 2005
Name of Court and Judge: United States District Court for the Middle District of Tennessee
Chief Judge Todd Campbell
Co-Counsel: None
Opposing Counsel: James Bell
The Law Offices of James A.H. Bell, P.C.
10 Emory Place
Knoxville, TN 37917
(865) 637-2900

Peter Strianse
Tune Entrekin & White
315 Deaderick Street
Nashville, TN 37238
(615) 244-2770

Hugh M. Mundy, Jr.
Federal Public Defender's Office
810 Broadway

Nashville, TN 37203
(615) 736-5047

Dwight E. Scott
4024 Colorado Avenue
Nashville, TN 37209
(615) 292-6865

Jeffrey S. Frensley
211 3rd Avenue N.
Nashville, TN 37201
(615) 256-2111

James Dale White (now a General Sessions Court Judge)
101 Green Street
PO Box 333
Celina, TN 38551
(931) 243-3535

Jodie A. Bell
414 Union Street #904
Nashville, TN 37219
(615) 244-1110

United States v. Cuterris Green, Criminal No. 3:04-00153 (M.D. Tenn.).

Summary: On May 7, 2004, the defendant was arrested and subsequently charged with five counts of possession with intent to distribute controlled substances, including marijuana, cocaine and cocaine base, in violation of 21 U.S.C. § 841(a)(1). This case was the result of an arrest of the defendant for the sale of controlled substances to a confidential informant. The defendant was also found to be in possession of a loaded, high magazine capacity .9 mm semi-automatic firearm. During the course of litigation and pursuant to a forensic psychiatric examination, the defendant was discovered to be suffering from a mental disease or defect rendering him mentally incompetent and unable to understand the nature and consequences of the proceedings, or to assist properly in his defense. The district court held hearings on the government's request for involuntary treatment of the defendant to restore him to competence. Over the defendant's opposition, the district court issued an order finding that the government's proposed treatment plan was medically appropriate and authorized involuntary medication of the defendant to restore him to competence. The defendant appealed the district court's order and the United States Court of Appeals for the Sixth Circuit affirmed the court's order.

Party Represented:	United States
Nature of Participation:	Sole Counsel
Final Disposition:	Defendant convicted and sentenced
Date of Representation:	February 2010

Name of Court and Judge: United States District Court for the Middle District of Tennessee
Chief Judge Todd Campbell
Co-counsel: None
Opposing counsel: Caryll Alpert
Office of the Federal Public Defender
Middle District of Tennessee
810 Broadway
Nashville, TN 37203
(615) 736-5047

United States v. John Morse Anderson, No. 3:04-00126 (M.D. Tenn.).

Summary: The defendant was charged with conspiracy to possess with intent to distribute and distribution of in excess of five kilograms of cocaine, and firearms-related charges. The case was the result of a controlled delivery of cocaine seized by law enforcement officials in Mineral County, Montana. The cocaine was being transported to the defendant when it was seized. Upon the delivery of the cocaine, the defendant was arrested and his residence was searched. A firearm and approximately \$776,927 in United States currency were found during the search.

Party Represented: United States
Nature of Participation: Sole Counsel
Final Disposition: Defendant convicted and sentenced
Date of Representation: July 2004
Name of Court and Judge: United States District Court for the Middle District of Tennessee
Chief Judge Todd Campbell
Co-counsel: None
Opposing counsel: David Raybin
Hollins Raybin and Weissman P.C.
424 Church Street, Suite 2200
Nashville, TN 37219
(615) 254-4254

United States v. Eric Patton, No. 3:04-00213 (M.D. Tenn.).

Summary: On July 14, 2004, the defendant was indicted on one count of distribution of controlled substances. This case was the result of an arrest of the defendant for his participation, on three separate occasions, in the sale of a quantity of cocaine and cocaine base to a confidential informant working for law enforcement authorities. Following the defendant's incarceration, the defendant cooperated with the government and was instrumental in the subsequent investigation and prosecution of several other cases including the prosecution of an individual responsible for, and charged with, a first degree murder.

Party Represented: United States
Nature of Participation: Sole Counsel

Final Disposition: Defendant convicted and sentenced
Date of Representation: November 2004
Name of Court and Judge: United States District Court for the Middle District of Tennessee
Judge William J. Haynes, Jr.
Co-counsel: None
Opposing counsel: David Baker
Office of the Federal Public Defender
Middle District of Tennessee
810 Broadway
Nashville, TN 37203
(615) 736-5047

United States v. Robert Dennis, No. 3:05-00027 (M.D. Tenn.).

Summary: The defendant engaged in a narcotics transaction with an individual working on behalf of law enforcement. During the execution of a search warrant at defendant's home, investigators located approximately \$20,696 in proceeds from previous drug sales. Investigators also found a .357 magnum pistol and assorted drug paraphernalia, closed circuit security cameras and monitors, and prerecorded buy money that had been previously paid to the defendant in exchange for the purchase of cocaine base. On February 2, 2005, the defendant was indicted on five counts. The defendant was subsequently convicted and sentenced. The defendant further cooperated with the government in the investigation, prosecution and conviction of several other individuals engaged in drug trafficking.

Party Represented: United States
Nature of Participation: Sole Counsel
Final Disposition: Defendant convicted and sentenced
Date of Representation: July 2008
Name of Court and Judge: United States District Court for the Middle District of Tennessee
Chief Judge Todd Campbell
Co-counsel: None
Opposing counsel: C. Douglas Thoresen
Office of the Federal Public Defender
Middle District of Tennessee
810 Broadway
Nashville, TN 37203
(615) 736-5047

United States v. Hector Jimenez Torres, 435 F.3d 3 (1st Cir. 2006).

Summary: The defendant was convicted of violating the Hobbs Act and using a firearm in the commission of a violent federal felony that resulted in a death. The conviction stemmed from Jimenez's participation in a home invasion, robbery, and murder of a gas station owner in Puerto Rico. This case tested the limits of federal jurisdiction on robberies where, as in this case, the crime concerned the robbery of a home rather than a business. After a five day trial, the jury convicted Jimenez on both counts. He was

sentenced to 240 months in prison on the Hobbs Act count and a concurrent life sentence on the firearm count.

Jimenez raised five arguments on appeal, the most important of which was whether there was sufficient evidence that the home invasion robbery affected interstate commerce, a prerequisite to conviction under the Hobbs Act. The United States Court of Appeals for the First Circuit found, consistent with Supreme Court precedent, that the evidence met the *de minimis* standard sufficient for federal prosecution and affirmed the conviction.

Party Represented: United States
Nature of Participation: Sole Counsel
Final Disposition: Defendant convicted and sentenced
Date of Representation: August 2002
Name of Court and Judge: United States District Court for the District of Puerto Rico
Chief Judge Juan Perez-Jimenez
Co-Counsel: None
Opposing Counsel: John Ward-Llambias
P.O. Box 6221
Loiza Station
San Juan, PR 00914
(787) 246-5229

United States v. Annette Santiago Borrero, et al., Crim. No. 3:02-cr-00032-JAF (D.P.R.).

Summary: These cases involved one of the largest simultaneous police arrests in the history of the FBI. In the fall of 2000, the investigation, code named "Blue Shame," revealed a practice of systematic and pervasive police corruption by veteran police officers. From 2000 through 2003, twenty-three police officers were charged with Hobbs Act corruption and drug trafficking crimes. Police officers were also charged with giving false sworn testimony in court proceedings in order to assure dismissal of pending criminal cases, intentionally failing to appear at court proceedings in order to have cases dismissed, and giving false sworn statements during intake of criminal cases of certain drug traffickers. Most defendants were charged separately and were convicted and sentenced to prison.

Party Represented: United States
Nature of Participation: Sole Counsel
Final Disposition: Defendants convicted and sentenced
Date of Representation: 2001 (est.) to January 2002
Name of Court and Judge: United States District Court for the District of Puerto Rico
Judge Jose Fuste
Co-Counsel: None
Opposing Counsel: Jorge M. Carmona
P.O. Box 702
Mercedita, PR 00715
(787) 259-3552

(Represented multiple defendants)

Fernando J. Carlo-Gordea
Fernando J. Carlo-Gorbea Law Office
PO Box 195689
San Juan, PR 00919-5689
(787) 642-6485

Ramon M. Gonzalez-Santiago
Ramon M. Gonzalez Law Office
PO Box 195493
San Juan, PR 000919-549
(787) 722-6930

Enrique G. Julia-Ramos
Calle Arecibo #6
Hato Rey, PR 00917
(787) 736-1309

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**United States v. Wilfredo Andujar Guzman, et al., Criminal No: 01-379-JAF
(D.P.R.).**

Summary: This was a 21 defendant international drug trafficking, drug importation and money laundering case. Between August 2000 and May 2001, Wilfredo Andujar-Guzman and 20 members of his drug smuggling organization conspired to import and distribute approximately 2,776 kilograms of cocaine and conspired to launder drug trafficking proceeds. Multi-kilogram quantities of cocaine were shipped from Colombia to the Dominican Republic and then smuggled into Puerto Rico as an entry into the United States. The investigation utilized foreign evidence, including wiretap recordings collected by law enforcement officials in the Dominican Republic and other evidence collected by the use of foreign search warrants. Evidence revealed a well-coordinated drug smuggling organization dedicated to the transport of thousands of kilograms of cocaine on the high seas through the use of specially equipped vessels capable of avoiding law enforcement detection.

Defendant Guzman and members of his organization were extradited to Puerto Rico where they were prosecuted, convicted, and sentenced. Property derived from drug proceeds, including a lavish high rise building in the Dominican Republic built with drug proceeds, was seized and forfeited. This case was one of the first uses of foreign wiretap evidence in the prosecution of extradited foreign defendants in a United States federal court.

Party Represented: United States
Nature of Participation: Sole Counsel
Final Disposition: Defendants convicted and sentenced
Date of Representation: May 30, 2001
Name of Court and Judge: United States District Court for the District of Puerto Rico
Chief Judge Jose Fuste
Co-Counsel: None
Opposing Counsel: Juan R. Acevedo-Cruz
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State of Florida v. Matthew Metzger (17th Judicial Circuit Court of Florida).

Summary: The defendant was charged in the deaths of 32-year-old Shay Harmon and 23-year-old Anthony Danilko after a May 20, 1995 multi-vehicle car crash in Fort Lauderdale, Florida. Several other vehicle occupants and drivers were severely injured. Defendant was charged with two counts of DUI manslaughter, two counts of vehicular

homicide, and multiple related charges for the death of two individuals and the serious injury to others as a result of a multi-vehicle collision caused by the defendant. The defendant contested the allegation that he was driving, as well as his blood alcohol level and the true cause of the crash. After a two week jury trial, the defendant was convicted and sentenced to 25 years in prison.

Party Represented: Citizens of the State of Florida
Nature of Participation: Sole Counsel
Final Disposition: Defendant convicted and sentenced
Date of Representation: 1996 to November 1997
Name of Court and Judge: 17th Judicial Circuit Court of Florida
Judge Carol Taylor
Co-Counsel: None
Opposing Counsel: Bruce Lincoln
PO Box 2374
Fort Lauderdale, FL 33303
(954) 882-5070

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

1. As United States Attorney (interim) and previously as First Assistant United States Attorney, I manage and operate the United States Attorney's Office for the Middle District of Tennessee, which includes the office's Criminal, Civil and Administrative Divisions. I set the tone for excellence and integrity in investigations, prosecutions and protection of United States' interests. I review and approve all indictments, civil complaints and settlements, significant case pleadings and significant appellate briefs, as well as all press releases and press conference considerations. I develop and implement district policies and strategic plans in order to appropriately utilize the resources of the United States Attorney's Office. I oversee the district's budget responsibilities for litigation, procurement, payroll travel and training. I am responsible for staffing decisions including hiring, promotions, performance appraisals, and adverse employment actions. As the district's current chief law enforcement official I convene federal, state and local law enforcement leadership and provide direction for maintaining and advancing public safety in all areas, including anti-terrorism, public corruption, violent crime and illegal narcotics.
2. As Deputy Chief of the Criminal Division in the United States

Attorney's Office for the District of Puerto Rico, I supervised operations, investigations, extraditions and prosecutions involving individuals and organizations engaged in drug trafficking, drug smuggling on the high seas and money laundering crimes affecting the United States. I coordinated investigations with prosecutors and law enforcement officials in South American and the Caribbean countries in order to bring large drug trafficking and drug smuggling organizations to justice in the United States.

17. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

Law Enforcement Interdiction Training – Middle Tennessee locations – 2004, 2005, and 2006. Taught search and seizure law and best practices related to traffic stops, including current 4th Amendment jurisprudence and guidance. The classes included federal prosecutors, law enforcement agents, police officers and state troopers. Syllabus not available.

Brady/Giglio, Professional Responsibility, Trial Preparations and Best Practices, Media Relations and Department Policies and Procedure – United States Attorney's Office for the Middle District of Tennessee – 2007 through 2012. Taught course intended for attorneys who litigate in federal court. The classes included federal prosecutors from the Middle District of Tennessee. Syllabus not available.

Trial Preparation – National Advocacy Center, Columbia, S.C. – 2009 and 2010. Provided instruction on how to prepare for a federal court trial, including relevant applicable law and procedure. The classes included federal prosecutors from United States Attorneys' offices throughout the country. Syllabus not available.

Discovery Course – National Advocacy Center, Columbia, S.C. – 2011. Moderated class sessions regarding application of criminal discovery rules for federal cases. The classes included federal prosecutors from United States Attorneys' offices throughout the country. Syllabus not available.

18. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None, except that as a U.S. Government employee, I participate in the Thrift Savings Program and Law Enforcement Officers/Fire Fighters (LEO/FF) retirement plan.

19. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

None.

20. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

I earn a salary as a federal employee. For other information, see my SF-278 as provided by the Office of Government Ethics.

21. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached net worth statement.

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

In the event of a potential conflict of interest, I will consult with ethics officials in the Department of Justice.

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities,

listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I have devoted my career to public service. As a public servant working in a federal prosecutor's office, I advocate on behalf of victims who are very often disadvantaged. In addition, while working at Legal Services of Greater Miami, I served the disadvantaged exclusively. In order to qualify for the cost-free legal services our organization provided, all of my clients were required to be financially disadvantaged.

AFFIDAVIT

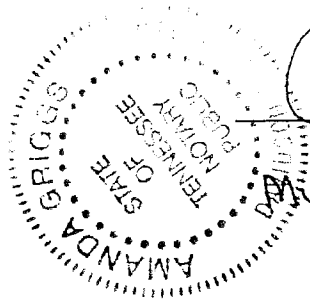
I, David Rivera,
do swear that the information provided in this statement is, to
the best of my knowledge, true and accurate.

July 28, 2013

(DATE)

David Rivera

(NAME)



Amanda Griggs

(NOTARY)

My Commission Expires: 06/21/2016