No. 08-987

IN THE

Supreme Court of the United States

RUBEN CAMPA, RENE GONZALEZ, ANTONIO GUERRERO, GERARDO HERNANDEZ, AND LUIS MEDINA,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

BRIEF OF THE WILLIAM C. VELSAQUES INSTITUTE AND THE MEXICAN AMERICAN POLITICAL ASSOCIATION AS *AMICI CURIAE* IN SUPPORT OF THE PETITION FOR WRIT OF CERTIORARI

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INTRODUCTION

I. Interest Of *Amici Curiae*[1]

Under Rule 37 of the Supreme Court Rules, the William C. Velasquez Institute, Inc., a Texas Non Profit Corporation (WCVI), respectfully submits the attached brief of amici curiae in support of Petitioners Ruben Campa, Rene Gonzalez, Antonio Guerrero, Gerardo Hernandez and Luis Medina's Petition for Certiorari in this matter.

The William C. Velásquez Institute (WCVI) is a Texas tax-exempt, non-profit, non-partisan public policy analysis organization chartered in 1985. The purpose of WCVI is to conduct research aimed at improving the level of political and economic participation in Latino and other underrepresented communities, provide information to Latino leaders relevant to the needs of their constituents, inform the Latino leadership and public about the impact of public policies on Latinos, inform the Latino leadership and public about political opinions and behavior of Latinos.

The Mexican American Political Association, Inc. (MAPA), is a California Non-profit corporation,

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[1] The parties have consented to the filing of this brief. Counsel of record of all parties received notice at least 10 days prior to the due date of the *amici curiae*'s intention to file this brief. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae*, its members, or its counsel made a monetary contribution to its preparation or submisison.

founded in Fresno, California in 1960. MAPA is dedicated to the constitutional and democratic principle of political freedom and representation for the Mexican and Hispanic people of the United States of America. MAPA works to empower Latinos in the areas of education, immigration, and equal access to justice and political participation.

WCVI and MAPA have a particular interest in ensuring the equal protection of Federal, State and Local Laws, the prevention of discrimination in all aspects of public life, and the prevention of discrimination in the application of justice in the legal system on behalf of all U.S. Citizens, especially Latinos and other underrepresented communities.

WCVI and MAPA file this Amicus Curie brief to support the Petition for Certiorari on the issue of the misapplication of the *Batson* standard by the Eleventh Circuit for the review of allegation of the discriminatory use of peremptory challenges to strike African American venirepersons from sitting on the jury.

II. Procedural History

During the selection of the Jury in the District Court, the prosecution was given 11 regular peremptory challenges plus 2 peremptory challenges of alternates. *U.S. v. Campa*, 529 F.3d 980, 989 (11th Cir., 2008) (*Campa II*). The prosecution exercised nine of its eleven regular challenges and both of its alternative challenges. With these challenges the prosecution struck seven African American members of the venire, five during the selection of the jury and 2 during the selection of the alternative. Id. This represents 77.7% of the prosecution's peremptory

challenges used to eliminate African American jurors. The empaneled jury included three African American jurors and one African American Alternate. Id.

The defendants challenged the prosecution's peremptory challenges of African American venirepersons as racially discriminatory under *Batson v. Kentucky*, 476 U.S. 79, 106 S.Ct. 1712, 90 L.Ed.2d 69 (1986). (*U.S. v. Campa II*, 529 F.3d at 998) For each objection, the District Court did not make a finding as to whether the defense had established a prima facie case, but ordered the prosecution to explain the strike. Id. For the first four challenged strikes (but not the fifth) the District Court gave the defense an opportunity to respond to the prosecution's explanation. Thereupon, the District Court rejected all five *Batson* challenges.

WCVI asserts that the Eleventh Circuit panel failed to follow the *Batson* in that it held that, as a matter of law, the defendants did not establish a prima facie case of discrimination under the first prima facie step of *Batson* because "[t]he government chose not to use two of its peremptory challenges at all, and the jury included three black jurors and an alternate black juror." *Campa II*, 529 F.3d at 998. The panel, therefore, concluded that "[n]o *Batson* violation occurred." Id. In doing so, the Court did not review or consider all relevant circumstances, it discussed no factors other than the fact that African American jurors were empaneled and that the prosecution did not use all of its peremptory challenges. The Eleventh Circuit's "per se rule" is inconsistent with the analysis dictated in *Batson* which requires a consideration of all relevant circumstances in evaluation whether racial

discrimination has occurred in the prosecutor's use of peremptory challenges. *Batson*, 476 U.S. 96-97.

WCVI will argue that the Eleventh Circuit "per se rule," (1) ignores existing Supreme Court precedent, (2) conflicts with the rulings in other circuits, and (3) implicates important issues of the discriminatory use of peremptory challenges.

ARGUMENT

I. The Eleventh Circuit Ruling Contradicts Existing Supreme Court Precedent

The United States Supreme Court has held that:

> Although a prosecutor ordinarily is entitled to exercise permitted peremptory challenges "for any reason at all, as long as that reason is related to his view concerning the outcome" of the case to be tried, (citations omitted), the Equal Protection Clause forbids the prosecutor to challenge potential jurors solely on account of their race or on the assumption that black jurors as a group will be unable impartially to consider the State's case against a black defendant.

Batson v. Kentucky, 476 U.S. 79, 89, 106 S.Ct. 1712, 90 L.Ed.2d 69 (1986) (*Batson*).

In evaluating whether the government has engaged in the racially discriminatory use of peremptory challenges, the United States Supreme Court has established a three step analysis. First, a defendant must make a prima facie showing that a peremptory challenge has been exercised on the basis of race. Second, if that showing has been made, the

prosecution must offer a race neutral basis for striking the juror in question. Third, in light of the parties submissions, the trial court must determine whether the defendant has shown purposeful discrimination. *Batson*, 476 U.S. at 93-94; *Snyder v. Louisiana*, 552 U.S. ___, 128 S.Ct. 1203, 1207, 170 L.Ed.2d 175 (2008).

Batson holds that in deciding whether the defendant has made the requisite showing of racial discrimination, the Trial Court should consider all relevant circumstances. *Batson*, 476 U.S. at 96-97 (this includes evidence of the race of defendant, pattern of strikes, prosecutor's questions and statements during *voir dire* examination, and any other "relevant circumstances" which "raise an inference that the prosecutor used that practice to exclude the veniremen from the petit jury on account of their race"). A prima facie case of discrimination can be made by offering a wide variety of evidence, so long as the sum of the proffered facts gives "rise to an inference of discriminatory purpose." *Batson*, 476 U. S., at 94 (emphasis added); *Johnson v. California*, 545 U.S. 162, 170, 125 S.Ct. 2410, 162 L.Ed.2d 129 (2005).

Moreover, the U.S. Supreme Court has consistently held that the prima facie step requires an examination of the totality of circumstances. *Teague v. Lane*, 489 U.S. 288, 295, 109 S.Ct. 1060, 103 L.Ed.2d 334(1989) (prosecutor used all peremptory challenges to remove African Americans from the jury); *Edmonson v. Leesville Concrete Co.*, 500 U.S. 614, 631, 111 S.Ct. 2077, 114 L.Ed.2d 660 (1991) (defendant's use of two of three peremptory strikes in civil litigation to remove two African

Americans while leaving one African American on the jury was sufficient to establish a prima facie case of impermissible racial discrimination requiring the defendant to assert a non discriminatory reason for the use of peremptory challenges), *Johnson v. California*, 545 U.S. at 168-169 (prosecutor used peremptory challenges to remove all African Americans from the jury); *Miller-El v. Dretke*, 545 U.S. 231, 239, 125 S.Ct. 2410, 162 L.Ed.2d 129(2005) (prosecutors used peremptory challenges to remove ten of eleven African Americans from a jury).

Moreover, the first prima facie step was not intended to "be so onerous" that a defendant would have to persuade the judge that the challenge was the product of purposeful discrimination. *Johnson v. California*, 545 U.S. at 170. Rather a defendant satisfies the first step by producing sufficient evidence to permit the trial judge to draw an inference that discrimination has occurred. Id. Where a defendant has raised an inference of a racially discriminatory use of peremptory challenges, the prosecutor must then produce evidence (*i.e.*, an explanation of the reasons for the striking African Americans from the jury) such that the Court can evaluate the totality of circumstances to determine whether purposeful discrimination has taken place. Id.

The U.S. Supreme Court has also held that "the Constitution forbids striking even a single prospective juror for a discriminatory purpose"); *Snyder v. Louisiana*, 128 S.Ct. at 1208, *citing United States v. Lane*, 866 F. 2d 103, 105 (4th Cir. 1989); *United States v. Clemons*, 843 F. 2d 741, 747 (3th Cir. 1988); *United States v. Battle*, 836 F. 2d 1084, 1086

(8th Cir. 1987); *United States v. David*, 803 F. 2d 1567, 1571 (11th Cir. 1986). The Supreme Court has consistently required the trial court to fully evaluate the totality of circumstances even where the prosecutor has left African Americans on the jury, or failed to use all peremptory challenges. (*Edmonson v. Leesville Concrete Co.*, 500 U.S. at, 631 (defendant in a civil case removed two African Americans and left one African American on the jury); *Miller-El v. Dretke*, 545 U.S. at 239 (prosecutors used peremptory challenges to remove ten of eleven African Americans from a jury). Thus, the Eleventh Circuits per se rule allows the prosecutor to shield the purposeful racially motivated striking of African American jurors by either not using all peremptory challenges, or allowing a few African Americans on the jury, an outcome permitting actual discrimination by contrivance.

II. The Eleventh Circuit's Per Se Ruling Conflicts With Rulings In Other Circuits

The Eleventh Circuit's per se rule that no prima facie case is stated where the prosecutor has not used all peremptory challenges and has left African Americans on the jury has been considered and rejected by the Third Circuit. *Hardcastle v. Horn*, 368 F.3d 246, 256, 258 (3rd Cir., 2004); *Jones v. Ryan* 987 F.2d 960, 971-73 (3rd Cir., 1993). *Hardcastle* held that "one way to show a prima facie case at step one is to show a pattern of peremptory challenges of a juror of a particular race. (368 F.3d at 256.) The court further held that the defendant made a prima facie case, but that the prosecution failed to offer any non discriminatory reasons for striking twelve

African American venirepersons. Id. Moreover, the fact that the prosecutor had enough unused peremptory challenges to remove two remaining African American jurors, but chose not to do so, cannot demonstrate the absence of discriminatory intent in striking the other twelve African American jurors. Id. Moreover, Seventh Circuit rulings are consistent with the Third Circuit rule in that it also found a prima facie claim and granted *Batson* relief even where African American jurors were empaneled. *Coulter v Gilmore*, 155 F.3d 912, 918-919 (7th Cir., 1998) ; *United States v. Briscoe*, 896 F.2d 1476, 1487, 1489 (7th Cir., 1990).

More importantly, other circuits have used the fact that a prosecutor had unused peremptory challenges and left African Americans on an empaneled jury as two of many factors to be considered during the Court determination of whether there exists racial discrimination in the use of peremptory challenges (step three of the *Batson* analysis). See *Allen v. Lee*, 366 F.3d 319, 329 (4th Cir. 2004) (unused prosecutor's peremptory strikes and empaneled African American jurors are factors along with the racial make up of venire and questions and answers during *voir dire*); *United States v. Walton*, 908 F.2d 1289 (6th Cir., 1990) (two unused prosecution peremptory strikes considered along with percentage of strikes directed at African American venirepersons); *Aspen v. Bissonette*, 480 F.3d 571, 577 (1st Cir., 2007) (considered the use of peremptory challenges to target members of a particular group); *Jordon v. Lefevre*, 293 F.3d 587, 594-95 (2nd Cir. 2002) (placing two African American on the jury considered along with answers given by prospective

juror during *voir dire*, prosecutor's reasons justifying its strikes and comparison with other similarly situated jurors). Unlike the approach of Third, Seventh and other Circuits, the Eleventh Circuit's per se rule differs in that unused prosecution's peremptory challenges and placement of African American juror on the panel are dispositive of the issue of discriminatory practice, and precludes a review of the totality of factors and circumstances required by the third step of the *Batson* analysis.

III. The Eleventh Circuit Rule Raises Important Issues Of Access To Justice Free From Racial Discrimination

The focus of the Eleventh Circuit's per se rule is on the make up of the empaneled jury, not on the selection process of the jury, nor on the reasons for striking African American jurors. The Eleventh Circuit rule deviates from *Batson*. *Baston* requires that once a defendant presents sufficient evidence to raise an inference that discrimination has occurred, the prosecution is required to present reasons for the use of peremptory strikes. This evidence allows the court to analyze, based on the totality of circumstances, whether the prosecution has improperly rejected potential jurors on the basis of race. The focus in *Baston* is not on the outcome of the selection process, but the process itself. Compare *Thornburg v. Gingles*, 478 U.S. 30, 74-76, 106 S.Ct. 2752, 92 L.Ed.2d 25 (1985) (the success of some black candidates in districts challenged under Section 2 of the Voting Rights Act (42 U.S.C. § 1973) does not foreclose the possibility of vote dilution of the black vote; "[w]here multimember districting generally

works to dilute the minority vote, it cannot be defended on the ground that it sporadically and serendipitously benefits minority voters," 478 U.S. at 76).

Protecting the integrity of the judicial system is undermined by the Eleventh Circuit's per se rule. The U.S. Supreme Court has recognized that not only are defendants harmed, but "but racial minorities are harmed more generally, for prosecutors drawing racial lines in picking juries establish 'state-sponsored group stereotypes rooted in, and reflective of, historical prejudice,'" *Miller-el v. Dretke*, 545 U.S. at 168-169 *citing J. E. B. v. Alabama ex rel. T. B.*, 511 U. S. 127, 128, 114 S.Ct. 1419, 128 L.Ed.2d 89 (1994). This Court has also recognized that even beyond the impact on defendants and racial minorities, there is a greater impact on society as a whole:

> Undoubtedly, the overriding interest in eradicating discrimination from our civic institutions suffers whenever an individual is excluded from making a significant contribution to governance on account of his race. Yet the "harm from discriminatory jury selection extends beyond that inflicted on the defendant and the excluded juror to touch the entire community. Selection procedures that purposefully exclude black persons from juries undermine public confidence in the fairness of our system of justice." *Batson*, 476 U. S., at 87; see also *Smith v. Texas*, 311 U. S. 128, 130, 61 S.Ct. 164, 85 L.Ed. 84 (1940)

Johnson v. California, 545 U.S. at 171-172.

The U.S. Supreme Court has recognized that "there can be no dispute that peremptory challenges constitute a jury selection practice that permits 'those to discriminate who are of a mind to discriminate.'" *Batson*, 476 U.S. 96, quoting *Avery v. Georgia*, 345 U.S. 559, 562, 73 S.Ct. 891, 97 L.Ed. 1244(1953). To allow the Eleventh Circuits per se rule to stand is to allow prosecutors to strike racial minorities from juries and avoiding scrutiny by allowing a single minority to remain on the jury. Thus, this Court should review this case to make a consistent process which ensure that no peremptory strikes are used in a racially discriminatory manner in any Circuit.

CONCLUSION

For the reasons set forth herein above, and those set forth in the Petition, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX A

Chronology of News Accounts Concerning Cuba-Related Violence in Miami Area

Date	Incident
1987-1989	(*Miami Herald*, 6/15/1990, p.1A) On May 2, 1987, two bombs exploded at businesses in Miami that ship packages and goods to Cuba: Almacen Espanol, and Cubanacan. On May 25, 1987, a bomb exploded at Cuba Envios, a Miami business that ships goods to Cuba. On July 30, 1987, a bomb exploded at Machi Viajes a Cuba, a travel agency for travel to Cuba. On August 27, 1987 a bomb exploded outside of Va Cuba, a business that sends packages to Cuba. On January 2, 1988, a bomb exploded in Miami Cuba, a business that sends medical supplies to Cuba. On February 21, 1988 a bomb threat was made against Iberia Airlines to protest Spain's ties with Cuba. On May 3, 1988, a bomb exploded outside the Cuban Museum of Arts and Culture to protest an exhibition of art by Cubans that came to the United States with the 1980 Mariel boatlift. On September 5, 1988 a bomb exploded at Bele Cuba Express, a business that ships packages to Cuba. On February 25, 1989, police removed a bomb from behind Almacen El Espanol, a business

	that ships packages to Cuba. On March 26, 1989, two bombs exploded at Marazul Charters, a travel agency for trips to Cuba.
Jun. 14, 1990	(*Miami Herald*, 6/15/1990, p.1A) A bomb exploded at the Cuban Museum of Arts and Culture, which exhibits works of art by Cubans living in exile and in Cuba. Federal investigators labeled the bombing "a terrorist act." The bomb "blew out the front door, destroyed a section of the roof and damaged at least three pieces of art inside, including a statue that was beheaded by flying debris."
Feb. 1992	*(Dallas Morning News,* 11/28/1992, p.lA) Three assailants barged into Miami radio station one of whose programs openly advocates dialogue with Cuba. The assailants "beat and tied up an employee and vandalized equipment." Businesses pulled their ads off of the show, stating that "they were sorry, but there were threats that their business would die or worse if they kept advertising." The show's director "had lost count of the number of death threats" made against him.
Feb. 11, 1992	*(Columbia Journalism Review,* May/June 1992, p.42) After being criticized for the *Miami*

	Herald's editorial positions on United States-Cuba matters, *Herald* publisher David Lawrence and two other editors received death threats. In addition, the paper received telephoned bomb threats and its vending machines were defaced with feces.
1992-1993	*(Florida Trend,* Aug/1993 p.22) InterConsul, a Little Havana business that sent care packages to Cuba, was forced to close down following arson-related fires.
Jan.-Feb. 1993	*(El Nuevo Herald,* 1/24/1993 p.1B & 2/14/1993 p.lB) Alliance of Cuban Youth staged protests in front of Benetton shops in Miami's Dadeland and International Mall to protest the opening of five Benetton shops in Cuba. Employees of the Miami shops were the object of threats and insults by Cuban exile protesters.
Nov. 4, 1993	(*Orlando Sentinel*, 11/5/1993 p.D5 & 11/8/1993 p.AI; *New York Times*, 11/6/1993, section 1 p.9) Miami-based exile organization Alpha-66 announced a campaign of attacking tourist facilities, foreign tourists and Cuban exiles in Cuba. At a new conference, Alpha 66 showed a video tape of Commander Homero, an Alpha member who warned that "all

	foreigners or people lodged in Cuban hotels are considered enemies of the Cuban people." Romero added, "We will use force... including the possibility of kidnapping tourists for ransom." Alpha-66 also sent letters to all foreign embassies in the United States advising of them of the threat against tourists.
Mar. 11, 1994	(*Chicago Tribune*, 6/24/1994 p.8) Alpha-66 took credit for a March 11, 1994 gunfire attack on a hotel in the beach resort of Varadero, Cuba. Alpha-66 reported that its commandos fired on the hotel from a boat off shore to deter tourists from traveling to the island. Three months later, Alpha 66 again announced additional raids on Cuba from bases in the Caribbean as part of a campaign to target Cuba's tourism industry.
May-Nov. 1994	(*Human Rights Watch Free Expression Project*, 11/1994 pp.2-7) In April, Cuban exiles living in Miami attended a conference on emigration held in Havana. Upon their return to Miami, many of them were "besieged by death threats, bomb threats, verbal assault, acts of violence, and economic retaliation." Some were physically assaulted; houses were pelted with eggs. Radio broadcasts identified participants by name and encouraged the anti-Castro community to assemble

	in mobs around their homes to "repudiate" them. No arrests were made. Human Rights Watch reported that in Miami "only a narrow range of speech is acceptable, and views that go beyond these boundaries may be dangerous to the speaker. Government officials and civic leaders have taken no steps to correct this state of affairs."
Sep. 6, 1994	(*Human Rights Watch Free Expression Project*, 11/1994 p.5) The offices of *Replica* magazine were bombed with two molotov cocktails. The magazine's editor, Max Lesnick, had attended the Havana conference.
May 20, 1995	(*San Diego Union*, 6/12/1995 p.B3) Exile group Alpha 66 took credit for the strafing of a hotel in Varadero as part of its campaign to intimidate tourists from vacationing in Cuba.
Jan. 12, 1996	(*CubaINFO Johns Hopkins University*, 2/8/1996 p.8; *Miami Herald*, 1/24/1996 p. 3B; *Associated Press*, 1/23/1996; *Reuters*, 1/23/1996; *Miami Herald*, 1/19/1996; *Reuters*, 1/18/1996) Five members of the United Liberation Commandos, an anti-Castro group, sailed "apparently ... for Cuba" as far as Marathon Key before their boat was intercepted by U.S. Customs. Agents found bomb-making plans and materials on the boat.

Feb. 28, 1996	(*Miami Herald*, 2/28/1996 p.lA) In aftermath of downing of planes by Cuba Air Force, the organization Cuban Youth "asked motorists 'opposed to injustice' to drive to Miami International Airport at noon Friday and repeatedly crawl past the terminals, clogging the airport."
Mar. 1, 1996	(*CubaINFO Johns Hopkins University*, 5/23/1996 p.10) Violence broke out between pro- and anti-Castro demonstrators during a demonstration in the aftermath of the downing of two planes by the Cuban Air Force.
Mar. 17, 1996	(*Miami Herald*, 3/17/1996 p.2B) Four people were taken into custody in Bicentennial Park when anti-Castro protesters tried to break through a police barricade to confront demonstrators protesting the Cuban embargo.
Apr. 12, 1996	(*Miami Herald*, 4/12/1996 p.16A & 4/13/1996 p.1B) Exile radio stations called for protest of concert to be given by Cuban pianist Gonzalo Rubalcaba. During concert, "bomb-sniffing dogs [were] walking the aisles of the Gusman [Center for the Performing Arts] while, outside ... 200 noisy demonstrators [were] spitting on,

	punching and shouting epithets and profanities at people going into the theater."
Jul. 13, 1996	(*CubaINFO Johns Hopkins University*, 8/1/1996 p.11; *Orlando Sentinel*, 7/13/1996 p.D1) Concert to be given at Centro Vasco club in Miami by Cuban singer Rosita Fornes was canceled after firebomb was thrown through window of club.
Aug. 1996	(*CubaINFO Johns Hopkins University*, 8/29/1996 p.10; *Ft. Lauderdale Sun Sentinel*, 8/2/1996 p.3B; *Bergen Record, 10/20/1996)* On August 1, Miami travel agency Marazul Charters, which sells tickets for flights for Cuba, was hit by a firebomb. The agency suffered a similar attack in 1989. On August 21, $200,000 in damages was caused by the bombing of another similar agency, Maira and Family Services.
Sep. 5, 1996	(*CubaINFO Johns Hopkins University*, 9/19/1996 p.10; *Miami New Times*, 9/5/1996) Producers of canceled Rosita Fornes concert received anonymous bomb threats. The producers had to pay "exorbitant fees for extra security and theater fire insurance ... imposed by the City of Miami."
Feb. 6,	(*CubaINFO Johns Hopkins University*,

1997	2/6/1997 p.8; *Ft. Lauderdale Sun Sentinel*, 1/26/1997 p.4B) Article on visit to Miami of Cuban dissident Elizardo Sanchez Santa Cruz states: "There have been numerous incidents in this South Florida city of bombings, death threats, and other harassment of alleged communist sympathizers and performers who have not declared their opposition to the government of Fidel Castro."
Feb. 13, 1997	(*CubaINFO Johns Hopkins University*, 2/27/1997 p.12) The Miami New Times reported that a group of Cuban exiles were regularly broadcasting a half-hour radio program on sabotage. The program, which was beamed into Cuba from an undisclosed location south of the United States, featured "explicit instructions on techniques in preparing small explosive devices such as Molotov cocktails and suggest[ed] specific targets, such as government vehicles ... for burning or other forms of destruction."
Mar. 25, 1997	(*CubaINFO Johns Hopkins University*, 4/10/1997 p.10; *Miami Herald*, 3/26/1997 p.Bl; *Reuters*, 3/26/1997; *New York Times*, 3/26/1997 p.B9; *Ft. Lauderdale Sun Sentinel*, 3/25/1997 p.B1) Soon after WRTO began broadcasting

	the latest popular music from Cuba, "station employees received death threats and a bomb scare that forced the evacuation of their building." The station's general manager resigned after announcing that the music would no longer be broadcast.
Oct. 1, 1997	(*CubaINFO Johns Hopkins University*, 11/13/1997 p.1; *Ft. Lauderdale Sun Sentinel*, 11/4/1997 p.1; *Miami Herald*, 1011/1997 p.1 & 10/31/1997 p.l) Six Cuban Americans were arrested in Puerto Rico on suspicion of plotting to assassinate Fidel Castro. A search of their boat revealed "two 5-caliber sniper rifles, ammunition, fatigue uniforms, field rations and communications equipment."
Aug. 3, 1998	(*CubaINFO Johns Hopkins University*, 8/20/1998 p.1; *Miami Herald*, 8/9/1998 p.1; *Reuters* 8/8/1998; *Associated Press*, 8/3/1998; *Ft. Lauderdale Sun Sentinel*, 8/3/1998 p.1; *New York Times*, 8/16/1998 p.A2) The FBI discovered that Cuban exiles based in Miami were planning to assassinate Fidel Castro during his visit to the Dominican Republic. Guns and explosives to be used in carrying out the plot were found in a Guatemalan hotel.
Aug. 25, 1998	(*CubaINFO Johns Hopkins University*, 9/10/1998 p.10; *Ft. Lauderdale Sun*

	Sentinel, 8/26/1998 p.A1; *Reuters*, 8/271998; *Miami Herald*, 8/26/1998 p.A1 & 8/25/1998 p. A1; *Associated Press*, 8/26/1998, *Los Angeles Tiems*, 8/28/1998) Miami music festival performance by 90-year-old Cuban singer Compay Segundo was interrupted by a bomb threat; "concert-goers were assaulted by protesters camped outside the convention center."
Sep. 26, 1999	(*CubaINFO Johns Hopkins University*, 10/5/1999 p.7; *Miami Herald*, 9/28/1999; *Reuters*, 9/26/1999; *Miami Herald*, 9/26/1999 p. A1) Concert to be given by Los Van Van at James L. Knight Center was canceled; radio stations had been "clogged with outraged calls."
Oct. 9, 1999	(*CubaINFO Johns Hopkins University*, 10/27/1999 pp. 9-10; *Miami Herald*, 10/13/1999, p.Bl & 10/12/1999, p.Bl, & 10/11/1999, p.B1) Audience seeking to attend concert given by popular Cuban dance band ("Los Van Van") was "forced to run a gauntlet of [4,000] demonstrators who hurled cans, eggs, rocks and insults. Police pepper-sprayed unruly protesters who tried to break past barricades erected to protect concert-goers. Eleven people were arrested."

Oct. 15, 1999	(*Miami Herald*, 10/15/1999 p.B1) Vigilia Mambisa announced it would stage demonstration to oppose show given by Cuban pop stars. The group's president said the group would "protest against anyone who comes here from Cuba."
Oct. 20, 1999	(*Miami Herald*, 10/20/1999 p.B1) A performance by Cuban singer Rosita Fornes at the Seville Beach Hotel was canceled after a bomb threat was phoned in. Her promoters moved the show to the Cristal Night Club, where a group of exiles protested outside.
Nov. 7, 1999	(*Miami Herald*, 11/7/1999 p. 7NW) Unruly demonstrators smashed windshields of vehicles after the United States Coast Guard used pepper spray and hoses to prevent six Cuban rafters from reaching shore.
Jan. 26, 2000	(*National Public Radio*, 1/27/2000, Bob Edwards "Morning Edition") During the meeting of Elian Gonzalez's grandmothers at the home of a Dominican nun, Sister Jeanne O'Laughlin A man, Matt Heidenfield, was physically assaulted by a Cuban exile crowd before police come to rescue because he called for Gonzalez's return to Cuba.

Apr. 11, 2000	(*Miami New Times*, 4/20/2000) Outside the home of Elian Gonzalez's Miami relatives, radio talk show host Scott Piasant of Portland, Oregon, wore a t-shirt reading, "Send the boy home" and "A father's rights." Piasant was then physically assaulted by a crowd before police come to rescue.