

1 Beresford-Redman at the hearing on extradition for the purpose of presenting this explanatory
2 evidence that negates probable cause in this matter.

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4 **II. ARGUMENT**

5 **The Testimony of Camila Beresford-Redman Constitutes Explanatory Evidence Which**
6 **Negates Probable Cause**

7 Bruce Beresford- Redman has challenged the sufficiency of the probable cause presented to
8 the Court in support of extradition. In particular, there is a complete lack of forensic evidence to
9 support probable cause. While the Government continually references blood stains found in the
10 room, on the railing and on the pillowcase, none of this blood evidence has been matched to
11 either Monica Burgos Beresford-Redman or Bruce Beresford-Redman. Indeed, the
12 Government’s repeated reference to blood on the railing is entirely incorrect. A forensic
13 examination of the substance on the railing concluded that it was not blood at all. *See* Exhibit Y
14 at 4 to United States’ Extradition Memorandum (showing that the three light brown stains from
15 the railing outside the hotel room, identified as 23M18090, 23M18091 and 23M8092, were
16 negative for blood using the Kastle Mayer Technique. These stains were also negative to PCR
17 amplification.) In essence there is no forensic evidence tying Mr. Beresford-Redman to the
18 charge against him.

19 The Government is thus left to argue circumstantial evidence consisting in large part of
20 noises heard from the Beresford-Redman hotel room and scratches on Mr. Beresford-Redman’s
21 body. As to this evidence, the defense proffers the testimony of Camila Beresford-Redman.

22 Under the law, Mr. Beresford-Redman may present “explanatory” evidence, if the evidence
23 negates a showing of probable cause. *Extradition of Garcia* 890 F.Supp. 914, 923 (S.D. Ca.
24 1994); *Matter of Sindona*, 450 F. Supp. 672, 685 (S.D.N.Y. 1978), *aff’d*. 619 F.2d 167 (2d Cir.
25 1980). Counsel for Mr. Beresford-Redman is requesting permission to call Camila Beresford-
26 Redman to the stand for the purpose of presenting testimony that explains key pieces of evidence

1 relied on by the Requesting Party. In particular, Camila Beresford-Redman would provide
2 testimony explaining noises heard by the Cook family on the morning of April 5, 2010, and
3 testimony regarding the scratches observed on Bruce Beresford-Redman. *See* Declaration of
4 Vicki I. Podberesky, attached hereto. As noted by the Government in its Reply, a fugitive may
5 offer ““a benign explanation of the evidence presented against him.”” Government’s Reply at 3
6 citing *Extradition of Glantz*, 1995 WL 495644, *13. Mr. Beresford-Redman requests from the
7 Court the opportunity to do just this.

8 Finally, the Government objects to live testimony from Camila Beresford-Redman on the
9 ground that it is “inappropriate” to bring a child witness into federal court.¹ Unfortunately, the
10 circumstances of these allegations are what dictate the importance of this child as a witness.
11 Many a child is put on the witness stand when necessary. Whether a child is competent to testify
12 as a witness is a matter within the discretion of the court. *See Wheeler v. United States*, 159 U.S.
13 523, 16 S. Ct. 93 (holding that the competency of a young child to testify depends on the capacity
14 and intelligence of the child and the child’s ability to tell the difference between what is true and
15 what is false, and upholding a finding that a 5 1/2 year old child was competent to testify .) As set
16 forth in counsel’s declaration, Camila is a bright and articulate child who clearly understands the
17 difference between what is true and what is false. She displays exceptional verbal and reasoning
18 skills, and while not having a complete memory of every detail of the trip to Mexico she clearly
19 recalls certain events that would provide explanatory evidence negating probable cause. In
20 particular, she recalls that her father obtained scratches during a trip they took to an underground
21 river. She recalls putting band aids on her father’s arms and legs. Camila also recalls playing
22 “Mater” and “Japanese guy.” She provides a description of the game that would explain the
23 noises heard by the Cook family.

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26 ¹The Government simultaneously complains that Camila’s therapist, Cathleen Carlson, is
27 biased and that the questions posed to Camila were selected by counsel. This issue can be easily
28 remedied by allowing Camila to take the stand.

DECLARATION OF VICKI I. PODBERESKY

I, VICKI I. PODBERESKY, declare and state as follows:

1. I am an attorney licensed to practice law in the State of California and before the United States District Court in the Central District of California. I am one of the attorneys fo record for Bruce Beresford-Redman in the above-captioned matter.

2. On July 5, 2011 I met and spoke with Camila Beresford-Redman at my offices in Santa Monica, California. Present with me was Camila’s therapist Cathleen Carlson.

3. The purpose of this meeting was for me to have an opportunity to ask questions of Camila regarding the family trip to Mexico last year. Cathleen Carlson was present as the treating therapist for Camila in order to insure that Camila felt comfortable and did not feel overwhelmed or distressed by any questions asked. At no time during my meeting with Camila was it necessary for Cathleen Carlson to intercede or stop the meeting.

4. Camila was 5 years old at the time of the family trip to Mexico in April 2010. Camila is very articulate and mature 6 year old girl. She has an extensive vocabulary and appeared confident and at ease answering my questions. Camila told me that she is reading the *Harry Potter* books and that she is presently on book IV, chapter 12. She is also helping out the teacher in her brother’s kindergarten class.

Camila expressed a clear recollection of certain events during that trip. When she could not recall something she told me that she could not remember. I asked Camila the same questions as previously posed to her by Cathleen Carlson and received the same response as set forth in Cathleen Carlson’s declaration. I also asked her about other events during her trip. During the course of my conversation with Camila she told me, among other things, the following:

a. She recalled that she went with her mother, father and brother to an underground river. She explained that she was in the water on her father’s back and that her brother Alec was on her father’s shoulders. She stated that her mother was swimming, like a dolphin. That her mother loved the water. She recalls that her father had to help her and Alec out of the water and it was

1 rocky. She remembered that her father got scratches on his arms and legs while helping them out
2 of the water and that later at the hotel she put band aids on his scratches.

3 b. Camila also recalled playing a game called “Mater” and “Japanese guy” while at the hotel
4 in Mexico. Camila told me that the games were very noisy. Camila told me that her brother
5 loves Mater and that he screams and yells. She even showed me how loudly her brother
6 screamed while playing the game. IT was clear to me that a person could easily mistake the
7 scream of a young child for a woman. Camila explained to me in detail about Mater and a movie
8 called “Mater and the Ghost Light” which she and her brother watched many times during the
9 trip.

10 c. Camila remembers playing this game with her mother, father and brother. She remembers
11 her mother leaving to go shopping after they played the games. Her mother was wearing a blue
12 dress and hoop earrings.

13 I declare that the foregoing is true and correct to the best of my belief and knowledge.
14 Executed this 6th day of July 2011.

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16 /s/ Vicki I. Podberesky
17 Vicki I. Podberesky
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