

COLLEGE OF LIBERAL ARTS

Department of English

June 6, 2015

Mr. Alberto de la Cruz Managing Editor Babalu Blog

Mr. de la Cruz:

I am writing in response to your libelous article of June 5 entitled "Publisher of Purdue University professor's book on José Martí cuts check for plagiarized images." The text of the article includes scans of a check issued by the University of Texas at Austin, publishers of my most recent book, to one Antonio de la Cova, instructor at the University of South Carolina. In the email from Dr. de la Cova that you include in your article, he cites said check as proof of my "theft", of having "plagiarized" his work. Dr. de la Cova further crows about his (no doubt for him substantial) payday in a commenter to your article.

I will contact Dr. de la Cova separately. This letter is for you, both in your capacity as Managing Editor of Babalu Blog and as author of the above-referenced article. Had you titled said article slightly differently—had you, say, included the qualifier "alleged" or "accused," rather than describing the images in question outright as "plagiarized"—you would of course not be liable in this matter, since the rest of your article consists of a one-sentence introduction to Dr. de la Cova's scanned check and email. Had you done that, you would be guilty only of bad judgment in allowing someone else to post libelous statements on your blog without knowing the full story.

But you did not include any such qualifier in your title. And so you too are now compromised by Mr. de la Cova's reckless defamation of my professional reputation as a writer and scholar.

Because I want to give you the benefit of the doubt, I am writing under the assumption that Dr. de la Cova has misled you about the true nature of his interaction with University of Texas Press. I think that may be the case, given that Dr. de la Cova did not also post the letter from the Press that accompanied the check. In that letter, the Press states in no uncertain terms that they do not agree with Dr. de la Cova's charge of "violation of intellectual property rights," and that their payment does not constitute any such admission.

I think that Dr. de la Cova must have withheld this information from you, because I believe—I would hope—that had you also seen the letter to Dr. de la Cova from the Press you would not have published your article. In other words, I want to believe that you would not deliberately publish a defamatory article that you suspect may be false. I cannot believe that any responsible Managing Editor would knowingly place himself and his organization in legal jeopardy by doing so.



And so, on the assumption that you have acted without full knowledge regarding this matter, my purpose in writing you is twofold. In what remains of this letter I will: (1) explain to you why my use of the documents in question does not, and could never, constitute plagiarism; and (2) offer a way to reasonably resolve this matter in order to avoid further action on my part, as well as by the University of Texas Press and Purdue University, whom you also libel by including them in the title of your article.

Every college and university publishes a statement defining plagiarism, which they universally consider a serious act of academic misconduct. At Purdue it is the individual colleges (and some departments) that issue their own discipline-specific guidelines, which the Office of the Dean of Students neatly summarizes in the following statement:

Plagiarism is a special kind of academic dishonesty in which one person steals another person's ideas or words and falsely presents them as the plagiarist's own product. This is most likely to occur in the following ways:

- using the exact language of someone else without the use of quotation marks and without giving proper credit to the author
- presenting the sequence of ideas or arranging the material of someone else even though such is expressed in one's own words, without giving appropriate acknowledgment
 - submitting a document written by someone else but representing it as one's own

Purdue's University Copyright Office further clarifies:

Copyright infringement and plagiarism are two different issues. Copyright is a federal law that protects original works from being copied and distributed without the author's permission unless one of the exceptions applies. Plagiarism is passing off someone else's work as one's own or lack of attribution. There is no federal or state plagiarism law but there can certainly be severe repercussions for plagiarizing.

Copyright infringement example: Incorporating an entire poem by Maya Angelou into a published work without her permission. The poem is property attributed to Ms. Angelou.

Plagiarism example: Using a line or even an entire poem by Maya Angelou in a paper and not attributing the poem to the author or citing the source. It would appear that the poem is the creation of the person writing the paper and not Maya Angelou.

We might neatly summarize these texts this way: Plagiarism is the theft of another's intellectual work as one's own, while copyright infringement is the copying or distribution of works owned by someone else.

Dr. de la Cova cannot plausibly claim that I have committed either plagiarism or copyright infringement, since he is neither the author nor owner of the documents in question. I have not used his written work, published or unpublished, in my own book without attribution. In fact, the only work of his that I have ever read is his 2003 article "Fernandina Filibuster Fiasco," which—as he is fond of pointing out—I made extensive use of in my book *and cited accordingly*. You will find Dr. de la Cova's name and the title of his article in my Works Cited, on p. 387.

Dr. de la Cova's claim of plagiarism stems from my use of two documents: Manuel Mantilla's 1885 death certificate (p. 199 of my book) and Maria Mantilla's 1880 birth certificate (p. 200). I found these two documents at www.latinamericanstudies.org, a website created in 1997 and still apparently operated by him. In the book I attribute each of those documents to their respective sources: the City of New York and the City of Brooklyn. Both are public documents, available to anyone who wishes to ask for them. Dr. de la Cova does not, could not possibly, own those documents, any more than I could own your birth certificate by acquiring a copy from your place of birth, or on Ancestry.com. Let me make this as plain as I can for you: Neither Manuel Mantilla's death certificate nor Maria Mantilla's birth certificate belong to Dr. de la Cova.

Thus, according to the definitions of plagiarism and copyright infringement I have cited in this letter—really, by any definition of these—I am guilty of nothing more than a bit of expedience, because using the scans from Dr. de la Cova's website saved me an additional trip to New York City. I want you to understand this with complete clarity: By any reasonable definition of the terms, I am not guilty of either plagiarism or copyright infringement. And again, this is for one simple reason: Dr. de la Cova can make no legal claim to ownership of documents in the public domain simply by posting them on a website. Even if he was the first to publish them.

But for at least one of those documents Dr. de la Cova cannot make that claim either. You see, a far more accomplished scholar than either myself or Dr. de la Cova, the late and eminent Dr. Carlos Ripoll, first published Manuel Mantilla's Certificate of Death in "Martí: La esposa y la amante," published in Diario las Américas on Sunday, May 15, 1988. That particular article, as well as the reproduction of the Certificate of Death, also appeared in Ripoll's book *La vida íntima y secreta de José Martí* (1995), which you will find at:

 $\underline{\text{http://web.archive.org/web/20020819094826/http://www.eddosrios.org/marti/Vida_Intima/Intimala_esposa.htm}$

But you don't have to take my word for it. On p. 12, footnote 3 of the *Anuario del Centro de Estudios Martianos* 12 (1989), we find this (emphasis mine):

Carlos Ripoll, de quien se ha dicho, con razón, que su habilidad para encontrar datos significativos de la vida de Martí es superada por su tenaz vocación de

traicionar el legado del héroe de nuestra América, **publicó el 15 de mayo de 1988**— y en periódico afín a su condición de contrarevolucionario: **Diario de las Américas, editado en Miami** — **el facsímil del certificado de defunción de Manuel Mantilla.**"

So you see, even Dr. Ripoll's enemies in Cuba agree that he was the first to reproduce Mantilla's death certificate. Dr. de la Cova either does not know this, or he found them in Ripoll's writings himself and scanned them to his own website.

I have not yet been able to locate Maria Mantilla's birth certificate among Ripoll's publications, but I am nearly certain that he published that document first as well. But of course that is a side issue, since publishing the documents first would give Dr. Ripoll no more claim to ownership than it does Dr. de la Cova.

I could continue, but I trust that by now you take my point: No plagiarism, no infringement, no "theft" of any kind has occurred, because I have stolen neither Dr. de la Cova's words or ideas—or anything else to which he can honestly claim ownership.

I have no reason to doubt that you published your libelous June 5 article in the full belief that Dr. de la Cova's claims were true. I also genuinely believe, now that you have read my lengthy and detailed reply to his accusations, that you will realize it is you who have wronged me.

I am not an attorney, but in my professional opinion as a scholar, in your June 5 article you committed libel against me and, without grounds or provocation, defamed my character and threatened my professional reputation. Although having to deal with your libel has caused me a great deal of mental and emotional anguish, and wasted much time that I could have spent more productively, I bear you no ill will. Now that I have shown you that Dr. de la Cova's claims are in fact false, I will extend to you in good faith the opportunity to withdraw this libelous article and publish a clear and unambiguous retraction. Do that, and I will consider the matter between myself and you, and Babalu Blog, closed.

You need to understand, however, that I cannot permit your defamatory article to remain, its presence every day spreading its false claims about my professionalism, my honesty, and my character to more and more people. If you choose to stand by your June 5 article after receipt of this letter, and allow it to remain on your website, I am prepared to take any and all actions available to me to protect myself, my character, my reputation, and my career from this defamatory assault.

You have my permission to publish this letter on your blog if you so desire, but only in its entirety.

Sincerely yours,

Alfred J. López

Professor of English and Comparative Literature

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Department of English

Purdue University

Cc: David Hamrick, Director, University of Texas Press

John McLeod, Assistant Director and Rights & Permissions Manager, University of Texas Press

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