

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 24-CR-20343-KMW

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROGER ALEJANDRO PIÑATE MARTINEZ,

Defendant.

**DEFENDANT ROGER PIÑATE’S
MOTION TO DISMISS COUNTS 3-6 FOR LACK OF VENUE**

Defendant Roger Piñate respectfully moves to dismiss Counts 3-6 of the Indictment for lack of venue pursuant to Fed. R. Crim. P. 12(b)(3)(A)(i). These counts charge Mr. Piñate and his co-defendants with international laundering of monetary instruments, 18 U.S.C. § 1956(a)(2)(A), and conspiracy to commit money laundering, *id.* § 1956(h), offenses that are subject to a specific statutory venue provision, *id.* § 1956(i). The Indictment is rife with conclusory references to “the Southern District of Florida” but devoid of any relevant factual allegations that actually occurred in this District. Mr. Piñate accordingly respectfully moves to dismiss Counts 3-6. Should the Court conclude that venue raises factual questions here, the defense looks forward to putting the government to its burden of proof at trial.¹

¹ By asserting venue objections in this motion, Mr. Piñate forecloses any future arguments by the government that he has not preserved these objections. *See* Fed. R. Crim. P. 12(3)(A)(i) (providing that “improper venue” may and in some circumstances “must be raised by pretrial motion”); *see also United States v. White*, 590 F.3d 1210, 1213 (11th Cir. 2009) (“Like most rights, a defendant’s venue right is not absolute, and it will be deemed waived unless asserted prior to trial.”).

RELEVANT BACKGROUND

The Indictment charges Mr. Piñate with six counts related to an alleged conspiracy “to offer, promise to pay, and pay bribes to JUAN ANDRES DONATO BAUTISTA, a Philippine government official, in order to obtain and retain contracts with, and receive payment—including releases of value added tax (‘VAT’) payments—from COMELEC,” the Commission on Elections of the Republic of the Philippines, related to 2016 elections in the Philippines. Indictment at 8-9 ¶ 3. Count 3 alleges that Mr. Piñate and the other Defendants conspired to commit money laundering; the Indictment pleads three alternative theories without alleging facts specific to any. *Id.* at 20-21 ¶ 2. Counts 4-6 allege that Mr. Piñate and the other Defendants made three unlawful wire transfers on August 16, 22, and 31, 2016, each in the amount of \$500,000 and from a “Hong Kong Bank Account ... through an intermediary bank account in New York” and ultimately to a “Bank Account ... in Singapore.” *Id.* at 22 ¶ 2. The Indictment vaguely and broadly alleges that all Defendants made these transfers “in Miami-Dade, Broward, and Palm Beach Counties, in the Southern District of Florida, and elsewhere.” *Id.* The Indictment includes numerous similar conclusory references to this District. *See, e.g., id.* at 10 ¶ 8 (alleging “a series of transactions, initiating in the Southern District of Florida and elsewhere”).

The Indictment alleges communications between Mr. Piñate and co-defendant Jorge Miguel Vasquez that the government is seemingly intimating correspond with the alleged wire transfers underlying Counts 4-6. *See id.* at 15-16 ¶¶ 21, 23-24 (alleging that Mr. Piñate and Mr. Vasquez “directed and caused” another unnamed individual “to send and attempt to send a wire transfer in the amount of approximately \$500,000 ... through an intermediary bank in New York, to Baumann Bank Account 2411 in Singapore,” on each of August 16, 22, and 31, 2016). But the Indictment does *not* allege that either Mr. Piñate or Mr. Vasquez was present in this District when

they purportedly “directed and caused” this individual “to send and attempt to send” these wire transfers. To the contrary, the Indictment alleges nothing about either Mr. Piñate or Mr. Vasquez’s whereabouts at the time of these alleged transfers, much less specify what was directed or caused by the defendants from the District—the gravamen of establishing proper venue.

The absence of any allegation that Mr. Piñate (or Mr. Vasquez) was present in this District at the time of the alleged conduct that seems to correspond with the wire transfers is especially striking, given that the Indictment *does* allege Mr. Piñate’s presence in this District at other times. To begin, it alleges that Mr. Piñate “was a resident of Boca Raton, Florida, in the Southern District of Florida.” *Id.* at 3 ¶ 8. The Indictment also alleges that Mr. Piñate, “while in the Southern District of Florida,” sent Mr. Vasquez a single “WhatsApp message” on August 15, 2016, regarding a loan. *Id.* at 14 ¶ 17. The Indictment further alleges that on the same day, Mr. Piñate and Mr. Vasquez, “while both in the Southern District of Florida, engaged in a WhatsApp conversation, in Spanish, about payments to Philippine Metals Company.” *Id.* at 14 ¶ 19. The Indictment does not attempt to link this conversation to any of the three wire transfers, though, which begs the question why the Indictment does not allege where any of the conduct apparently underlying the wire transfers purportedly happened.

ARGUMENT

“The Constitution twice safeguards” a criminal defendant’s right to trial in the proper venue. *United States v. Cabrales*, 524 U.S. 1, 6 (1998) (citing U.S. Const. art. III, § 2, cl. 3; *id.* amend. VI). A court should grant a motion to dismiss when improper venue is apparent from the face of the indictment. Fed. R. Crim. P. 12(b)(3)(A)(i) (allowing the motion to dismiss); *see United*

States v. Snipes, 611 F.3d 855, 866 (11th Cir. 2010) (holding that ultimate factual proof of venue is a jury question, but not the facial sufficiency of the indictment). That is the case here.²

The money laundering statute's offense-specific venue provision reads in relevant part:

(i) Venue.—(1) Except as provided in paragraph (2), a prosecution for an offense under this section or section 1957 may be brought in—

(A) any district in which the financial or monetary transaction is conducted;
or

(B) any district where a prosecution for the underlying specified unlawful activity could be brought, if the defendant participated in the transfer of the proceeds of the specified unlawful activity from that district to the district where the financial or monetary transaction is conducted.

(2) A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district where venue would lie for the completed offense under paragraph (1), or in any other district where an act in furtherance of the attempt or conspiracy took place.

18 U.S.C. § 1956(i).³

Counts 4-6. The government's basis for its theory of venue for the substantive money laundering charges is unclear. As a threshold matter, the Indictment as drafted charges both a completed offense and an attempt (for the same transfers) and thus leaves ambiguous whether the government's theory of venue rests on section (i)(1) or (i)(2). *See* Indictment at 22 ¶ 2 (reciting the statutory language, including both “did knowingly transport, transmit, and transfer” and “attempt to transport, transmit, and transfer”). The Court should require the government to make

² Should the Court conclude that Mr. Piñate's venue objections raise any factual questions that are irresolvable at this stage of the proceedings, the government will be required to carry its burden on venue before the jury.

³ The venue provision also includes a third subsection not relevant here. *See* 18 U.S.C. § 1956(i)(3) (“For purposes of this section, a transfer of funds from 1 place to another, by wire or any other means, shall constitute a single, continuing transaction. Any person who conducts (as that term is defined in subsection (c)(2)) any portion of the transaction may be charged in any district in which the transaction takes place.”). There is no allegation that any of the money in this matter ever touched the Southern District of Florida.

clear under what theory—attempt or a completed crime—it is proceeding, given the varied standards and differing analysis as to each.

Under either section (i)(1) or (i)(2), however, the Indictment’s allegations make it difficult to fathom how venue for the substantive money laundering charges would be proper here. The government presumably does not base its theory of venue on section (i)(1)(B), given the Indictment’s clear statement that proceeds originated not in this District, but rather in the Philippines, and ended up elsewhere in Asia. Moreover, as to sections (i)(1)(A) and (i)(2), the Indictment does not explain how its only specific allegations of conduct by Mr. Piñate in this District—regarding his alleged communications with Mr. Vasquez on August 15, 2016, *id.* at 14 ¶¶ 17, 19—relate to the alleged wire transfers. It is thus unclear from the face of the Indictment how venue would be proper in this District under a theory of either completed or attempted money laundering, and these counts should be dismissed.

Count 3. The conspiracy charge is clearly governed by section (i)(2), but it is again unclear from the face of the Indictment how venue would be proper in this District. For the reasons just discussed, it is hard to imagine how “venue would lie” in this District “for the completed offense.” The Indictment also does not allege that any “act in furtherance of the ... [alleged] conspiracy took place” in this District. Count 3 does not allege any facts unique to this charge; instead, Count 3 incorporates by reference “[t]he General Allegations section [(pp. 1-7 ¶¶ 1-23)] and Paragraphs 4 through 10 of the Manner and Means section of Count 1 [(pp. 9-11 ¶¶ 4-10)].” *Id.* at 20 ¶ 1. (Count 3 does not incorporate the “overt acts” section of Count 1’s conspiracy charge.) Those incorporated allegations include Mr. Piñate’s residence in this District, but not allegations of any particular conduct in this District—much less any acts in furtherance of the alleged conspiracy. Because Count 3 similarly rests on allegations of conduct that conspicuously is not alleged to have

happened in any particular location, the face of the Indictment also does not support venue for the conspiracy charge.

CONCLUSION

For the foregoing reasons, Mr. Piñate respectfully requests that the Court dismiss Counts 3-6 of the Indictment for improper venue.

Respectfully submitted,

COLSON HICKS EIDSON, P.A.
255 Alhambra Circle, Penthouse
Coral Gables, Florida 33134
Tel: (305) 476-7400

By: /s/ Curtis B. Miner
Curtis B. Miner, Esq.
(Florida Bar No. 885681)
E-mail: curt@colson.com
Thomas A. Kroeger, Esq.
(Florida Bar No. 19303)
E-mail: tom@colson.com

and

MORGAN, LEWIS & BOCKIUS, LLP
1111 Pennsylvania Avenue NW
Washington, DC 20004-2541
Tel: 202-739-5932
Sandra L. Moser, Esq. (*pro hac vice*)
E-mail: Sandra.moser@morganlewis.com
Justin D. Weitz, Esq. (*pro hac vice*)
E-mail: Justin.weitz@morganlewis.com

*Counsel for Defendant Roger Alejandro Piñate
Martinez*

CERTIFICATE OF CONFERRAL

Pursuant to Local Rule 88.9(a), counsel have conferred with the government by telephone in a good faith effort to resolve the issues raised in the motion and have been advised by the government that it will oppose the motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing, including attachments, was filed conventionally with the Clerk of the Court on this 28th day of April, 2025, and that service will made on counsel of record pursuant to Local Rule 5.4(b)(1).

By: /s/ Curtis B. Miner
Curtis B. Miner, Esq.