UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-CR-20343-KMW

UNITED STATES OF AMERICA

vs.

ROGER ALEJANDRO PIÑATE MARTINEZ,

Defendant.
_____/

RESPONSE IN OPPOSITION TO DEFENDANT PIÑATE'S MOTION TO DISMISS COUNTS 3-6 FOR LACK OF VENUE

The United States of America, by and through undersigned counsel, files the following response in opposition to the motion to dismiss alleging lack of venue filed by defendant Roger Alejandro Piñate Martinez ("Piñate") on April 28, 2025. DE 150.

The law in the Eleventh Circuit "is clear: in ruling on a motion to dismiss, a district court is limited to reviewing the face of the indictment and, more specifically, the language used to charge the crimes." *United States v. Williams*, No. 10-CR-150, 2010 WL 3488131, at *3 (N.D. Ga. Aug. 2, 2010) (citing *United States v. Sharpe*, 438 F.3d 1257, 1263 (11th Cir. 2006)) (Magistrate Judge's Final R&R denying motion to dismiss for lack of venue), report and recommendation adopted, *United States v. Williams*, No. 10-CR-150, 2010 WL 3488130 (N.D. Ga. Aug. 30, 2010). "If a grand jury returns a facially valid indictment containing a proper statement of venue, pretrial determination of venue on the merits is improper because the issue is reserved for a jury's determination." *United States v. Ruiz-Murillo*, 736 F. App'x 812, 818 (11th Cir. 2018). "An indictment need not specify the exact location of the offense, but rather must be sufficiently specific to allege that the crime was committed within the jurisdiction of the court." *United States v. Crews*, 605 F. Supp. 730, 735 (S.D. Fla. 1985) (holding indictment sufficiently pled that "crime was committed within the jurisdiction of

the court"). For money laundering conspiracy and attempt offenses under 18 U.S.C. § 1956, venue is in any "district where an act in furtherance of the attempt or conspiracy took place." 18 U.S.C. § 1956(i)(B)(2). For substantive offenses, venue is appropriate in "any district in which the financial or monetary transaction is conducted." 18 U.S.C. § 1956(i)(A). The statute defines "conduct[ed]" as having "initate[ed], conclude[ed], or participat[ed] in initiating, or concluding a transaction." § 1956(c)(2). Where an indictment is "facially sufficient . . . with a clear statement of venue," "a jury must decide whether the venue was proper." *United States v. Snipes*, 611 F.3d 855, 866 (11th Cir. 2010) (holding no abuse of discretion in refusing to grant pretrial challenge to venue and stating that "it would not have been proper for the district court" to usurp the jury's role in determining venue).

Because the instant indictment alleges that each of the offenses occurred within the Southern District of Florida, the indictment is properly pleaded.[1] *See, e.g.*, *United States v. McMillan*, No. 23-CR-309, 2024 WL 3564854, at *3 (N.D. Ga. Jul. 3, 2024) (Magistrate Judge's Order and Final R&R denying motion to dismiss for lack of venue), *report and recommendation adopted*, No. 23-CR-00309, 2024 WL 3557449 (N.D. Ga. Jul. 26, 2024). Defendant Piñate's motion to dismiss cites no case requiring more, nor does he cite a single case that was dismissed for lack of venue. Appearing to recognize that the indictment comports with notice pleading requirements, defendant Piñate attempts to characterize the indictment as "devoid of any relevant factual allegations that actually occurred in this District." DE 150 at 1. However, though not required to, the indictment explicitly alleges corrupt payments "initiat[ed] in the Southern District of Florida and elsewhere" (DE 12 at 10) as well as various WhatsApp communications between co-conspirators that coordinated, directed, initiated, and effectuated the corrupt payments (including the transfers underlying Counts

[1] *See* DE 12 at 7, ¶2 (Count I); at 19, ¶2 (Count II); at 20, ¶2 (Count III); and at 22, ¶2 (Counts IV through VI).

III through Counts VI), which were sent and received "while in the Southern District of Florida." *Id.* at 14-15.

The government will establish these facts and others at trial in support of venue by a preponderance of the evidence, which is the applicable standard for establishing venue. *See United States v. Smith*, 918 F.2d 1551, 1557 (11th Cir. 1990) ("The government must support its choice of venue only by a preponderance of the evidence.") (internal quotation omitted); *United States v. Crane*, 653 F. App'x 661, 662 (11th Cir. Dec. 7, 2015). As such, venue is proper in this District.

CONCLUSION

Based on the foregoing, the United States respectfully asks the Court to dpeny defendant Piñate's Motion to Dismiss Counts 3-6 For Lack of Venue.

Respectfully submitted,

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/s/ Jil Simon

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed via CM/ECF on May 6, 2025, and therefore on counsel of record.

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