

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-CR-20231-CR-DMM

UNITED STATES OF AMERICA,

Miami, Florida

Plaintiff(s),

April 26, 2021

vs.

CARLOS VAZQUEZ,

Defendant(s).

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ARRAIGNMENT
TRANSCRIBED FROM DIGITAL AUDIO RECORDING
BEFORE THE HONORABLE JACQUELINE BECERRA
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE PLAINTIFF(S): HAYDEN O'BYRNE, ESQ.
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FOR THE DEFENDANT(S): CARLOS M. FLEITES, ESQ.
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1 Thereupon,
2 the following proceedings were held via Zoom videoconference:

3 THE COURT: Calling United States v. Carlos Vazquez,
4 21 Cr. 20231, Middlebrooks.

5 Government.

6 MR. O'BYRNE: Good morning, your Honor. AUSA Hayden
7 O'Byrne on behalf of the government.

8 THE COURT: All right.

9 On behalf of Mr. Vazquez. Mr. Fleites.

10 MR. FLEITES: Good morning, your Honor. Carlos
11 Fleites on behalf of Carlos Vazquez.

12 THE COURT: OK. Where is Mr. Vazquez?

13 THE DEFENDANT: I'm here, your Honor.

14 MR. O'BYRNE: I see him on the Zoom, your Honor.

15 THE COURT: OK. Mr. Fleites, it looks like you have
16 already entered your permanent appearance. Is that correct?

17 MR. FLEITES: It is, your Honor.

18 THE COURT: OK. Mr. Vazquez.

19 THE DEFENDANT: Yes, ma'am. Good morning.

20 THE COURT: Good morning. I have got to ask you a few
21 questions. We are here today for your arraignment, but before
22 I proceed by video, I have to make sure that you consent to
23 doing that. OK.

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: OK. Mr. Vazquez, if you can lower your

1 screen a little bit because I'm only seeing your eyes. There
2 you go. Now I can see you.

3 THE DEFENDANT: OK.

4 THE COURT: Thank you very much. All right.

5 Mr. Vazquez, how far did you go in school?

6 THE DEFENDANT: College, ma'am.

7 THE COURT: Do you have any kind of either mental
8 illness or physical illness that would prevent you from
9 understanding today's proceedings?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: All right. Have you been on any kind of
12 medication, any kind of intoxicant, in the last 48 hours?

13 THE DEFENDANT: Heart medicine, all prescribed by my
14 doctors for my health.

15 THE COURT: OK. Anything that you think would affect
16 your ability to understand the proceedings?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: All right. Mr. Fleites, do you have any
19 concerns about his competency?

20 MR. FLEITES: None at this time, your Honor.

21 THE COURT: All right. Mr. O'Byrne, anything on
22 behalf of the government with respect to competency?

23 MR. O'BYRNE: None, your Honor.

24 THE COURT: All right. So given the defendant's
25 answers to my questions here today I find the defendant is

1 competent to proceed.

2 Mr. Vazquez, I know you have had other appearances
3 before the court. This too is an appearance which you would
4 typically do in person.

5 Do you understand that you have a right to have the
6 arraignment be conducted in person, sir?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And did you discuss with your counsel
9 whether or not you wish to waive that right and instead consent
10 to appear by video?

11 THE DEFENDANT: No.

12 THE COURT: All right. So did you have any discussion
13 with him about waiving, about going ahead and doing this by
14 video?

15 THE DEFENDANT: No. I was told that I would be on
16 video today and at 10 in the morning. I didn't ask him, to be
17 honest with you.

18 THE COURT: All right. So this is the issue. In
19 order for me to proceed by video I have to make sure that you
20 understand you have the right to appear in person and that you
21 can waive that right certainly, but because it is a waiver of a
22 fundamental right, I have to make sure you have spoken to your
23 lawyer about it.

24 So it probably won't take very long, Mr. Fleites, but
25 I am going to go ahead and put you and your client in a video

1 room for a second so you can chat with him about it.

2 MR. FLEITES: Your Honor, I apologize for
3 interrupting. I don't think he is understanding. I did speak
4 with him and he understands that we are going forward by video.
5 He has no problem with going forward by video as opposed to in
6 person.

7 Carlos, you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Hold on. Hold on. We don't counsel
10 clients on the video. It is a public forum.

11 So, Mr. Fleites, I have no problem putting you on the
12 video chat. The question is whether or not you have informed
13 him that he has a right to appear in person and that he is
14 comfortable waiving or he agrees to waive it. If it is two
15 minutes, that is fine, no problem. I will just put you in a
16 chat room for a minute so you can explain that to Mr. Vazquez.
17 OK.

18 MR. FLEITES: Sure.

19 THE COURT: If you can just put them in a chat room
20 for a minute. Thanks.

21 (Recess)

22 THE COURT: Mr. Vazquez.

23 THE DEFENDANT: Yes, ma'am, your Honor.

24 THE COURT: Did you have an opportunity to speak to
25 your lawyer about waiving your right to appear in person?

1 THE DEFENDANT: Yes, ma'am, and I choose to go ahead
2 and waive my right and proceed at this moment.

3 THE COURT: OK. Mr. Fleites, are you satisfied that
4 his waiver and consent is in his best interest?

5 MR. FLEITES: I am.

6 THE COURT: Do you have any objection to appearing by
7 video?

8 MR. FLEITES: I do not.

9 THE COURT: Mr. O'Byrne, does the United States?

10 MR. O'BYRNE: No objection to proceeding by video,
11 your Honor.

12 THE COURT: All right. So I find that given the
13 COVID-19 pandemic and the administrative orders of this court
14 we should proceed by video, given the pandemic and the orders
15 of this court. It is in the best interest of justice that the
16 matter not be further delayed. I find that the defendant's
17 waiver to his right to appear in person and his consent to
18 appear by video is knowing and voluntary.

19 Mr. Fleites, how do you want to proceed on the
20 arraignment?

21 MR. FLEITES: We are ready at this time, your Honor.

22 THE COURT: I'm having trouble hearing you. Can you
23 repeat that?

24 MR. FLEITES: Yes. Your Honor, we are ready to move
25 forward with the arraignment.

1 THE COURT: You are going to waive the formal reading?

2 MR. FLEITES: Yes. We have received the indictment,
3 we waive its formal reading, we enter a plea of not guilty,
4 demand trial by jury and we ask for the standing discovery
5 order.

6 THE COURT: OK. So I will accept the waiver of the
7 formal reading of the indictment. I will enter your plea of
8 not guilty, sir. I will note your demand for a jury trial and
9 will enter the standing discovery order today.

10 As required by Federal Rule of Civil Procedure 5(f),
11 the United States is ordered to produce all exculpatory
12 evidence pursuant to Brady and its progeny. Not doing so in a
13 timely manner may result in sanctions, including the exclusion
14 of evidence, adverse jury instructions, dismissal of charges,
15 and contempt proceedings.

16 Anything else, Mr. O'Byrne, on behalf of the United
17 States?

18 MR. O'BYRNE: I think that is it, your Honor. Thank
19 you.

20 THE COURT: Mr. Fleites, anything else on behalf of
21 your client Mr. Vazquez?

22 MR. FLEITES: Nothing that I can think of.

23 THE COURT: All right. Thank you very much. You all
24 have a good day and stay safe.

25 THE DEFENDANT: Thank you, Mr. O'Byrne, and thank you

1 Carlos Fleites.

2 Thank you. God bless you all.

3 THE COURT: Thank you, sir.

4 (Adjourned)

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C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription to the best of my ability of the digital audio recording in the above-entitled matter.

February 9, 2022

s/ Joanne Mancari
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Court Reporter
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