

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-CR-20231-MIDDLEBROOKS

UNITED STATES OF AMERICA

vs.

CARLOS VAZQUEZ,

Defendant.

**THE UNITED STATES OF AMERICA’S OBJECTIONS TO
PRESENTENCE INVESTIGATION REPORT**

The United States of America files this Objection to the Presentence Investigation Report, DE 49 (“PSI”). Following the circulation of the PSI on October 18, 2021 which stated that Defendant Carlos Vazquez sold his residence at 5249 N.W. 7th Street, Apt. 408, Miami, FL (the “Apartment”) to Jose Estevez (“Estevez”) on March 17, 2019, investigation has revealed that Defendant Carlos Vazquez, procured and recorded a backdated quit claim deed (the “Deed”) for his Apartment in 2021 **not** 2019, purporting to gift the Apartment to Estevez. A copy of the Deed is attached as **Exhibit 1**. This transfer was in violation the terms Defendant’s pre-trial release bonds DE 12 & 13, and dissipated assets which could otherwise be used to provide restitution to victims. Because of this false backdated Deed, the following changes should be made to the PSI:

Paragraph 4

This paragraph should be amended to fully state the terms of the pre-trial release bonds violated by Defendant. Currently, this paragraph summarizes, but does not fully state the material terms of the Defendant’s pre-trial release bonds, DE 12 & 13. Special Condition L of Defendant’s pre-trial release bonds, specify that “None of the signatories may sell, pledge, mortgage, hypothecate, encumber, etc., any real property they own until the bond is discharged, or otherwise

modified by the Court.” DE 12:2 & 13:2.

Accordingly, Paragraph 4 of the PSI should be amended to read as follows:

On March 31, 2021, the defendant was released on a \$500,000 personal surety bond and a \$50,000 ten percent bond, with a cosigner. The court ordered the following special conditions: surrender all passports and travel documents and do not obtain any during the pendency of this case; report to pretrial services as directed; submit to substance abuse testing and/or treatment; participate in mental health assessment and treatment; no contact with victims/witnesses except through counsel; refrain from possessing a firearm, destructive device, or dangerous weapon and must remove within 24 hours; may not sell, pledge, mortgage, hypothecate, encumber, etc. any real property; may not return to apartment until firearm is seized by agents; and must reside with Annabel Lee at 15479 S.W. 35th Terrace, in Miami, Florida. On May 18, 2021, the Court modified the conditions of pretrial release ordering the defendant to reside at 5249 N.W. 7th Street, in Miami.

Paragraph 65

The statement in the PSI that “on March 17, 2019 he [Vazquez] sold the residence to Jose Estevez for \$50,000” is false and should be stricken. On July 12, 2021, the same day as Vazquez’s first change of plea hearing, a backdated Quitclaim Deed (“Deed”) was recorded in the Miami-Dade Official records (CFN 2021R0493913, Book 32612 / Page 1489) purporting to transfer ownership of his Apartment to Oscar Jose Estevez. The Deed is purportedly dated and notarized March 17, 2019. *See Exhibit 1.*

On October 28, 2021, Law enforcement spoke with Estevez, the grantee listed in the Deed. According to Estevez, he has known Defendant since he was 10 years old. Defendant has asked Estevez multiple times to let him transfer the Apartment to Estevez. Estevez has turned the Defendant down multiple times. One day Defendant explained the situation he was in with the IRS-CI and the US government and how he might be going to jail, and his fear of jail. Estevez agreed to let Defendant transfer the Apartment to him. Estevez was not present when the document was notarized, and he did not pay Defendant anything for the Apartment. Estevez confirmed that

it was Defendant's idea to transfer the Apartment to Estevez and that the Deed was discussed and signed in 2021 not 2019.

On October 28, 2021, Law enforcement spoke with Barbara Boada ("Boada"), who notarized the Deed, and her father Estevan Valderrama ("Valderama"), who signed the Deed as a witness. Valderama has known Defendant for a long time. Defendant told Valderama that he was selling the Apartment and needed a notary. Valderama asked Boada to notarize the Deed for a friend. Boada did not ask any questions about the Deed she was notarizing. Both Boada and Valderrama reported that they signed the documents 4 or 5 months ago in 2021. They did not sign the document in 2019.

Further, the dates on the Deed are belied by Defendant's own statements to probation and the Court. USPO Charisse Garcia confirmed Defendant's ownership of the apartment during a May 26, 2021 home assessment. The March 29, 2021 Pre-Trial Service Report lists the Apartment as an unencumbered asset of Defendant worth \$100,000 and explains that Defendant inherited the Apartment from his mother when she died in 2015.

The Transfer is a Separate Basis for Obstruction of Justice

Defendant's recording of the backdated document in the official records of Miami-Dade County caused the probation office to rely upon such falsehoods and present them to the Court in PSI. Such conduct is a separate basis for a two-point enhancement under U.S.S.G. § 3C1.1 for obstruction. Indeed, Comment note 4 (C) explains that one of the non-exhaustive factors justifying an enhancement is "producing or attempting to produce a false, altered, or counterfeit document or record during an official investigation or judicial proceeding." S.S.G. § 3C1.1 cmt. n.4(C). The false representations in the Deed, made their way into the PSI, and if believed would reduce the assets available for restitution.

Alternatively, if Defendant had actually executed the deed and transferred the Apartment to

Oscar Jose Estevez in 2019, an obstruction of justice enhancement would be appropriate for providing false information to a probation investigation. “The preparation of a pretrial services report falls within the plain language of U.S.S.G. § 3C1.1 cmt. n.4(H), which states that the enhancement applies when the offender “provid[es] materially false information to a probation officer in respect to a presentence or other investigation for the court.” *United States v. Doe*, 661 F.3d 550, 566 (11th Cir. 2011). Representations about the Defendant’s ownership of real estate is material to the Magistrate’s bond determination.

For the foregoing reasons, the above referenced changes should be incorporated into the PSI and Defendant deserves a two point enhancement for obstruction of justice pursuant to U.S.S.G. § 3C1.1.

Respectfully submitted,

JUAN ANTONIO GONZALEZ
UNITED STATES ATTORNEY

By: /s/ Hayden P. O’Byrne
Hayden P. O’Byrne
Assistant United States Attorney
Florida Bar No. 60024
United States Attorney’s Office SDFL
99 Northeast 4th Street
Miami, FL. 33132-2111
Tel: (305) 961-9447
Hayden.obyrne@usdoj.gov