

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-CR-20231-DMM

UNITED STATES OF AMERICA,
Miami, Florida
Plaintiff(s),
March 29, 2021
vs.

CARLOS VAZQUEZ,
Defendant(s). Pages 1 - 31

DETENTION HEARING
TRANSCRIBED FROM DIGITAL AUDIO RECORDING
BEFORE THE HONORABLE JONATHAN GOODMAN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 Thereupon,
2 the following proceedings were held via Zoom videoconference:

3 THE COURT: Before we start, let me just make an
4 announcement.

5 As required by Federal Rule of Criminal Procedure
6 5(f), the United States is ordered to produce all exculpatory
7 evidence to the defendant pursuant to Brady v. Maryland and its
8 progeny. The government has a duty to disclose any evidence
9 that goes to negating the defendant's guilt, the credibility of
10 a witness, or that would reduce a potential sentence. The
11 defendant is entitled to this information without a request.
12 Not making these disclosures in a timely manner may result in
13 sanctions, including exclusion of evidence, adverse jury
14 instructions, dismissal of charges, and contempt proceedings.

15 We are on page 1, Carlos Vazquez.

16 Does Mr. Vazquez need an interpreter?

17 THE MARSHAL: He does not, your Honor.

18 THE COURT: Good afternoon, Mr. Vazquez.

19 THE DEFENDANT: Good afternoon, Judge Goodman.

20 THE COURT: Tell me, please, sir, your full name and
21 your date of birth.

22 THE DEFENDANT: Carlos Vazquez, January 18, 1964.

23 THE COURT: All right. Sir, I'm going to be reading
24 your rights in just a minute.

25 Do I have your agreement to have this hearing this

1 afternoon by computer with an audio and video connection
2 instead of in person in the courtroom?

3 THE DEFENDANT: Yes, sir, you do.

4 THE COURT: All right.

5 THE DEFENDANT: Thank you.

6 THE COURT: So I am going to be explaining your rights
7 to you. By the way, let me just ask, is there anybody here at
8 this hearing observing from either Channel 10 or any of the
9 media outlets?

10 A VOICE: Judge, if I may. It's Tony from IT. They
11 were in the waiting room, but they disconnected at some point.
12 I don't see them on here. They may be on, but at least what
13 identified them as Channel 10 I no longer see.

14 THE COURT: All right. I think they were here for a
15 defendant who they expected to see this afternoon and who I
16 expected, in fact, to see this afternoon, but who apparently is
17 not here because he didn't get to the cellblock in time, and so
18 that gentleman, Drew Curtis Sykes, is scheduled for first
19 appearance tomorrow afternoon at 1:30.

20 In any event, Mr. Vazquez, if you cannot afford an
21 attorney and you want the court to appoint one for you free of
22 charge, you will be placed under oath and asked questions about
23 your financial condition to determine if you qualify for the
24 appointment of counsel. You must demonstrate to me that you
25 are indigent to qualify for court-appointed counsel at no

1 charge to you. In other words, you need to establish that you
2 don't have enough money or property to hire an attorney.

3 You have the right to have your attorney present at
4 all court proceedings.

5 You are not required to make any statements, but any
6 statement you choose to make may be used against you. If you
7 start to make a statement but then change your mind, you may
8 stop at any time and say nothing further.

9 You are entitled to a bond hearing or a detention
10 hearing if the government is requesting that you be held
11 without bond. At that time the court will determine if you
12 will be detained or released on bond. If you are released on
13 bond, then you are subject to arrest and revocation of release
14 and to various civil and criminal sanctions and penalties if
15 you violate any of the conditions of the bond.

16 If you have not been indicted, then you are entitled
17 to a preliminary hearing within 14 days of your appearance here
18 in court if you are held in custody or within 21 days if you
19 are released on bond.

20 At this hearing the government will be required to
21 present evidence to show that there is probable cause to
22 believe that a crime was committed and that you are the person
23 that committed that crime.

24 A defendant who is not a United States citizen may
25 request that an attorney for the government or a federal law

1 enforcement official notify a consular officer from the
2 defendant's country of nationality that the defendant has been
3 arrested, but even without that request a treaty or other
4 international agreement may require consular notification.

5 So, Mr. Vazquez, you are here this afternoon because
6 you have been accused by the government of committing wire
7 fraud. Are you going to be hiring your own lawyer or would you
8 like me to see whether you qualify for the appointment of
9 counsel?

10 MR. COHEN: Your Honor, good afternoon. Jacob Cohen
11 on behalf of Mr. Vazquez. I will enter a temporary notice of
12 appearance once the case appears on Pacer.

13 THE COURT: All right. Who is here for the United
14 States?

15 MR. O'BYRNE: Good afternoon. Assistant United States
16 attorney Hayden O'Byrne on behalf of the United States.

17 As a preliminary matter I would move to unseal the
18 complaint in this matter, 21-MJ-02512, McAliley, and also a
19 search warrant, 21-MJ-02531, Torres.

20 THE COURT: Very well. That request is granted and
21 those two documents are unsealed.

22 So what is happening, folks?

23 MR. O'BYRNE: Good afternoon, your Honor. Mr. Vazquez
24 is a risk of flight and a danger to the community, but,
25 nevertheless, we have spoken with Mr. Cohen. We are going to

1 recommend a bond. Some conditions of that are agreed upon and
2 some are not. So if you'd like, let me go through with you the
3 conditions that we have agreed upon and then I will list the
4 additional conditions that the government is seeking and then,
5 if you'd like, we can provide some argument as to why we
6 believe those conditions are necessary to secure Mr. Vazquez's
7 appearance.

8 MR. COHEN: Mr. Vazquez, are you all right?

9 THE DEFENDANT: Yes, sir. Yes.

10 THE COURT: So, first, Mr. O'Byrne, what is the amount
11 of the bond that you and Mr. Cohen have negotiated?

12 MR. O'BYRNE: We have not agreed to an amount, your
13 Honor. The United States is proposing a \$900,000 personal
14 surety bond with a cosigner and a \$50,000 10 percent bond with
15 Nebbia.

16 MR. COHEN: Your Honor, our position with respect to
17 that is, against the financial background of Mr. Vazquez, that
18 would be tantamount to no bond. He doesn't have -- there is no
19 one who will sign for him who could pledge those kinds of
20 assets. I know in the PTD report his girlfriend said she
21 would. She doesn't have the money to do that and is not
22 inclined to do that.

23 Essentially, it is our respectful position that that
24 is not a fair requirement, even though the loss amount in this
25 case is in the same general area of the 900,000. He just

1 doesn't have the money or anyone who will sign for him.

2 I think there are other conditions, other combinations
3 of conditions, that can get us there and assure the safety of
4 the community and --

5 THE COURT: Mr. Cohen, can you keep your voice up.
6 Maybe get closer to your microphone.

7 MR. COHEN: Your Honor, can you hear me now?

8 THE COURT: I mean, I can basically hear you before,
9 but you were trailing off at the end. Sometimes people when
10 they come to the end of their comments, they kind of trail off
11 sort of like that at the end. Do you know what I mean?

12 MR. COHEN: Sorry, Judge. I am going to have my face
13 right into the video here.

14 THE COURT: So the amount of the bond and whether or
15 not there is a cosigner and whether or not there is a Nebbia
16 condition, that is one source of disagreement. Tell me the
17 items that you have agreed on and then we will talk about the
18 other items of disagreement.

19 MR. O'BYRNE: Certainly, Judge. The defendant has
20 agreed to stay with his girlfriend, Ms. Annabelle Lee, at 15479
21 Southwest 35th Terrace, Miami, Florida.

22 The defendant has agreed to the special condition of
23 refraining from possessing a firearm, destructive device, or
24 other dangerous weapon.

25 In connection with that, the defendant shall not go to

1 his apartment at 5249 Northwest 7th Street, apartment 408,
2 Miami, Florida, until the case agents in this case seize a
3 firearm that is there, and we will be submitting a search
4 warrant to you today to recover that firearm. That is agreed.

5 The additional agreed-upon conditions, report to
6 Pretrial Services as directed, surrender all passports and
7 travel documents, if any, to Pretrial Services, and not obtain
8 any travel documents during the pendency of this case. None of
9 the signatories may pledge, sell, mortgage, hypothecate,
10 encumber any real property they own until the bond is
11 discharged or otherwise modified by the court. And the
12 defendant shall participate in mental health and substance
13 abuse assessment and/or treatment as directed by Pretrial
14 Services. The defendant shall have no contact with witnesses,
15 and we will send a list of those witnesses to Mr. Cohen today.

16 Those are the agreed-upon conditions.

17 THE COURT: All right. So I will entertain argument
18 on the amount of the bond and the other matters that you
19 indicated you could not agree on.

20 MR. O'BYRNE: OK.

21 THE COURT: So let me hear first from you and then I
22 will hear from Mr. Cohen in a little greater detail.

23 MR. O'BYRNE: OK. Your Honor, Mr. Vazquez has a
24 lengthy criminal history in the Pretrial Services report.
25 Unfortunately, we are still trying to figure out the exact

1 extent of it due to some confusion with respect to his name.

2 In here I see that he was sentenced to three years for
3 transport of drugs in 1987. I realize that is old, but it is
4 still a drug trafficking conviction. Then more recently he has
5 a 2004 resisting an officer with violence, fleeing, alluding,
6 tampering with evidence, resisting an officer without violence.
7 My fault. He was convicted of all of those charges. Then more
8 recently there are a couple of cases that were no actioned, but
9 he was still arrested in 2017 for false imprisonment and
10 battery and aggravated battery on the elderly.

11 Additionally, your Honor, Mr. Vazquez is not a U.S.
12 citizen. He is a citizen of Cuba. ICE has tried twice to
13 deport him and been unsuccessful in those efforts. He is
14 classified --

15 THE COURT: Sir, wait just a minute. It says here
16 that he indicated he is a naturalized U.S. citizen. That is
17 what it says in the Pretrial Services report.

18 Whoever has the dog barking, maybe if you could turn
19 your microphone off, unless it is you, Mr. O'Byrne. Is that
20 your dog?

21 MR. O'BYRNE: Yes. I'm sorry, your Honor. Somebody
22 knocked on my front door.

23 THE COURT: Your dog is a good watchdog, so that is a
24 positive thing.

25 My point is, in the Pretrial Services report it says

1 that Mr. Vazquez indicated that he is a naturalized United
2 States citizen. Are you suggesting that that is false, he is
3 not a naturalized U.S. citizen?

4 MR. O'BYRNE: Yes, your Honor. My understanding is
5 that ICE tried to deport him as late as 2017.

6 THE COURT: Mr. Cohen, is it your understanding that
7 your client is a naturalized U.S. citizen?

8 MR. COHEN: Your Honor, I just want the record to
9 reflect that I was not the attorney present during that PTD
10 hearing.

11 The direct answer to your question as to whether or
12 not he is a citizen, I don't know the answer to that question,
13 your Honor. He came here very young from Cuba to Chicago and
14 eventually made it to Miami. I think Mr. Vazquez in good faith
15 is relying on the fact that he is a citizen based on some of
16 the (inaudible) laws.

17 THE COURT: Can't hear you, Mr. Cohen.

18 MR. COHEN: Your Honor, Mr. Vazquez has a good faith
19 belief that he is a United States citizen, but that is an issue
20 that needs to be further explored through the immigration
21 process. It is something we will be doing during the pendency
22 of the case.

23 To answer your question directly, your Honor, I don't
24 know if he is a United States citizen.

25 THE COURT: What did you mean when you said you were

1 not the attorney at the detention hearing?

2 MR. COHEN: Not at the detention hearing, your Honor.
3 It was during the pretrial detention process, I was not the
4 lawyer.

5 THE COURT: I'm having a great deal of difficulty
6 hearing you.

7 MR. COHEN: Your Honor, there was another lawyer who
8 was present for that hearing. It wasn't me.

9 THE COURT: I guess my question is, what kind of
10 hearing are you talking about?

11 MR. COHEN: Your Honor, it wasn't a hearing. When
12 they made statements to the pretrial detention officer.

13 THE COURT: OK. You're talking about the Pretrial
14 Services interview.

15 MR. COHEN: Correct.

16 THE COURT: OK.

17 MR. GARCIA: Your Honor, if I may. Robert Garcia on
18 behalf of U.S. Probation.

19 Your Honor, he did tell us he is a naturalized U.S.
20 citizen, but right after that mention in the report, we did
21 check with Immigration. Immigration says that he has an
22 outstanding warrant of removal pending. So we listed both
23 pieces of information in there, your Honor.

24 THE COURT: Right. Right. You have the defendant
25 saying I think I'm a naturalized U.S. citizen and then you have

1 ICE telling you that there is an outstanding warrant of removal
2 pending.

3 MR. GARCIA: Right, your Honor.

4 THE COURT: All right. I get it. Thank you.

5 MR. COHEN: Your Honor, just one more thing. The
6 decisive point is we turned him into the IRS office this
7 morning. (Inaudible) he's complying with the system. They
8 reflect that he is not a flight risk because he is in custody
9 and he voluntarily went into custody with all of this in the
10 background.

11 THE COURT: So according to the Pretrial Services
12 report there is a reference to Ms. Lee, Annabelle Lee. Does
13 she own any real estate?

14 MR. COHEN: Your Honor, she does, but she indicated to
15 me that she doesn't feel comfortable cosigning for a \$900,000
16 bond because she can't --

17 THE COURT: Well, what amount of money would she be
18 comfortable signing for?

19 MR. COHEN: Your Honor, she would be comfortable with
20 the \$50,000 10 percent bond with the Nebbia requirement. She
21 would write a check for \$5,000, your Honor, in order to secure
22 Mr. Vazquez's release from custody.

23 THE COURT: So let me ask you this, Mr. Cohen. What
24 message should I draw or what inference should I draw that the
25 person you are suggesting as a cosigner says I'm really not

1 comfortable cosigning a bond of more than \$50,000? Doesn't
2 that sort of suggest that somebody who is close to him and
3 somebody who knows him well is not willing to sign on a bond --

4 MR. COHEN: Your Honor --

5 THE COURT: Gosh, if I could just finish, that would
6 be a wonderful thing.

7 And if a person who knows him well is unwilling to
8 sign on a bond, why should I grant his request and lower the
9 bond from \$900,000 to \$50,000?

10 MR. COHEN: Your Honor, I think we are being unclear.
11 There are two conditions. The prosecutor wants a \$900,000
12 personal surety bond with a cosigner. His girlfriend is
13 uncomfortable signing that. She doesn't have the assets to
14 back that up. However, in terms of the \$50,000 10 percent
15 bond, she has no problem with that. She could do that. She
16 just doesn't have the assets to back the \$900,000.

17 THE COURT: I'm not confused. I understand.

18 What kind of real estate does she own and how much is
19 it worth?

20 MR. COHEN: Your Honor, she has a house that is worth
21 \$500,000, and that address was given to the prosecutor.

22 THE COURT: Now when you say that it is worth
23 \$500,000, does she have \$500,000 of equity in the home or is
24 the house just one with a fair market value of \$500,000?

25 MR. COHEN: Your Honor, she maintains that she has

1 \$500,000 equity in that home.

2 THE COURT: Right. So in terms of her potential
3 financial exposure, you say to me, well, she's willing to sign
4 a \$50,000 10 percent bond. So she would be putting up \$5,000
5 and she would be at risk for \$50,000. But then when it comes
6 to a \$900,000 bond, she is not comfortable signing, whether she
7 has a house worth that much money or not or other assets worth
8 that much money or not. So I'm just saying from my
9 perspective, Mr. Cohen, do you think that is a favorable thing
10 or a source of concern?

11 A VOICE: Excuse me, Judge. I apologize to interrupt.
12 It's Tony from IT. I see the person from Channel 10 is back in
13 the waiting room. Maybe I could admit him and you could
14 address him as soon as they come in.

15 THE COURT: Sure.

16 A VOICE: All right. They're coming in.

17 THE COURT: Folks, bear with me just one minute.

18 (Pause)

19 THE COURT: Mr. Cohen, my point is, I understand that
20 your client's friend, Ms. Lee, is willing to sign a \$50,000
21 bond. So that is somewhat impressive, I guess. But when it
22 comes to signing a more -- the fact that Ms. Lee doesn't want
23 to sign a bond in a greater amount, and that is the person
24 you're putting up as a cosigner, you think that is a positive
25 or a negative development?

1 MR. COHEN: Your Honor, I think it is a negative
2 development.

3 THE COURT: Right. I mean, this is the person who is
4 being listed as a cosigner and the fact that she is nervous and
5 concerned about being exposed to anything more than \$50,000,
6 while not dispositive, is certainly a significant factor that I
7 am going to consider.

8 MR. COHEN: Your Honor, respectfully, I want you to
9 take into account that Mr. Vazquez turned himself in today
10 voluntarily.

11 THE COURT: I understand. Has Mr. Vazquez, through
12 you, been in negotiations with the United States for a while or
13 he just heard that they were looking for him and then decided
14 it would be easiest to turn himself in?

15 MR. COHEN: Your Honor --

16 THE COURT: Can't hear you again, Mr. Cohen.

17 MR. COHEN: -- through his previous lawyer it was
18 communicated to him that he needed to turn himself in Monday
19 morning, and that's what we did. I became involved in the case
20 Friday night and formally retained yesterday and have worked
21 very hard preparing for the case in understanding all the
22 factual assertions underlying the allegations in the case.

23 THE DEFENDANT: Could I ask this honorable court to
24 respectfully say something at this second, please?

25 THE COURT: Well, Mr. Vazquez, just bear with me for a

1 minute. I am not going to prevent you from saying something,
2 but usually defense lawyers do not want their clients to just
3 be blurting something out to a judge in the middle of a hearing
4 because what you say, you may not realize it, but it may hurt
5 your case in some way. Normally defense lawyers advise their
6 clients to not speak.

7 Mr. Cohen, I will give you an opportunity. Do you
8 want to pass on that comment to Mr. Vazquez?

9 MR. COHEN: Your Honor, I agree 100 percent with what
10 you said.

11 Mr. Vazquez, I'm handling the situation for you.

12 THE DEFENDANT: I want to respectfully bring something
13 up to this court that Mr. O'Byrne said. In 2017 I was arrested
14 on a case and tried to be framed by the City of Miami police,
15 and you've been provided with the two affidavits of the
16 supposed victims who have sworn under oath that they were
17 trying to be coached by the Miami police into saying something
18 that would put me in a bad situation. I want to bring this
19 out. You have both affidavits of Rosa Hernandez and the other
20 lady who with was a tenant of hers. Both of them signed under
21 oath to dismiss the case because it was totally false what the
22 police was trying to get them to say. That is number one.

23 Number two, I have zero substance abuse. I've never
24 had a problem of substance abuse. I've never had a DUI. I've
25 never been anything having to do with drugs. So I respectfully

1 and from the bottom of my heart, I mean, I feel bad sitting
2 here saying that they have to send me to substance abuse
3 because this case has nothing to do with that and I've never in
4 my life had a problem with that. And the 2017 arrest, if you
5 have two affidavits proving that I had absolutely nothing to do
6 with that -- as a matter of fact, I was taking care of these
7 individuals under my own recognizance because of the hurricane,
8 and they were supposed to be there in my house because there
9 was no power and light anywhere else.

10 So I do take offense to the fact that those charges
11 being brought up without my attorney refreshing this court.
12 Those cases were dismissed, and not only dismissed by the
13 government, they were dismissed on the basis that both
14 witnesses claimed that they were being coached into saying this
15 by the Miami police department.

16 I chose not to take any action. I don't like to go
17 against the government or law enforcement agency. I let it be.
18 But that is totally false. And as far as substance abuse, your
19 Honor is concerned, you can check my record. Since I was a
20 little kid, I've been playing professional sports and amateur
21 sports since the age of 10, and I've never in my life had a
22 problem with drugs or substance abuse or alcohol. I don't even
23 drink. So I don't know where that came from, and I would like
24 to respectfully request that my attorney defend me in that
25 manner and the court as well.

1 MR. COHEN: Your Honor, in terms of defending my
2 client on that matter, the record is clear that in 2017 there
3 was no action on that case and it was dropped. The last
4 contact with the system in terms of a conviction was 2012, and
5 that's in the record and that is why it was not brought up.

6 The prosecutor also mentioned that it was no actioned.
7 So that is where we are in terms of that, your Honor.

8 THE COURT: All right, folks. Thank you for all of
9 your information and your arguments. The bond will be as
10 follows. It will be a two-part bond.

11 The first one will be a \$500,000 bond to be cosigned
12 by the defendant's long-time friend Annabelle Lee. There will
13 also be a second bond. It will be a \$50,000 10 percent bond
14 with a Nebbia condition.

15 Mr. Cohen, I typically use a Nebbia form. I don't
16 have a need to review bank records or real estate records or
17 other financial documents. Instead, you will present those to
18 the prosecutor and then, assuming that he agrees, you simply
19 submit this form, the Nebbia form, which you sign and the
20 prosecutor signs and there is a spot for about a two- or
21 three-sentence succinct estimation of the nature of the money
22 or property used to satisfy the Nebbia requirements. If you
23 need a copy of the Nebbia form that I use -- if we were in the
24 courtroom, I would just say it is on the bench in front of me
25 and you could just walk up and get one, but we are not in that

1 situation. So if you'd like that Nebbia form, I can have my
2 courtroom deputy email the form over to you. Would you like
3 that?

4 MR. COHEN: Yes, your Honor.

5 THE COURT: If you don't mind giving us your e-mail
6 address and say it slowly, please.

7 MR. COHEN: Jacob@jacobcohenlaw.com.

8 THE COURT: Let's make sure that my courtroom deputy
9 got that.

10 Trina, do you have it or would you like it repeated
11 one more time?

12 THE DEPUTY CLERK: I have it, Judge. I have it.

13 THE COURT: You have it?

14 THE DEPUTY CLERK: I have it, Judge. Yes.

15 THE COURT: All right. So Trina will send that to
16 you.

17 So here are the other conditions. Mr. Vazquez will
18 need to surrender his passport and travel documents and may not
19 seek or apply for any additional passports or travel documents.
20 He will need to report to Pretrial Services as directed. He
21 will have no contact with victims or witnesses except through
22 counsel or counsel's legal team, such as paralegals or private
23 investigators, but only pursuant to a written list of witnesses
24 that the prosecutor will send to defense counsel, and that no
25 contact prohibition will activate only upon receipt of that

1 list.

2 In addition, the defendant may not possess firearms,
3 ammunition, or other dangerous devices. In the meantime, the
4 defendant shall not go to his apartment until the case agents
5 execute a search warrant and seize a firearm.

6 Now, I know there was some mention that the government
7 was going to be submitting to me an application for a search
8 warrant, but I have no idea what is going to be in that
9 affidavit. I don't always grant search warrant requests simply
10 because the government asks for it. So this is in a way
11 dependent on me issuing a search warrant, Mr. O'Byrne. If it
12 turns out that I turn you down for some reason, then we will
13 need to make other arrangements to have this firearm removed
14 from the home.

15 So I guess what I should say is that the defendant may
16 not go to his home -- I'm sorry, may not go to his apartment
17 until the case agents seize a firearm or if no warrant is
18 issued until other people have made necessary arrangements to
19 remove firearms, ammunition, and dangerous devices.

20 In addition, neither the defendant nor the cosigner,
21 Ms. Lee, may encumber any real estate. So since Ms. Lee is
22 going to be a required cosigner on a \$500,000 bond, she will
23 not be able to do anything to affect the title to her real
24 estate.

25 In addition, I am going to require the defendant to

1 stay with Ms. Lee, and I am going to require mental health
2 assessment and, if necessary, treatment. Pretrial Services has
3 not suggested substance abuse testing and/or treatment, and I
4 don't see anything in the Pretrial Services report that would
5 justify such a request. So that will not be part of the bond.

6 Are there any --

7 MR. O'BYRNE: Your Honor. I apologize, your Honor.
8 If I may, with respect to the drug abuse, there was a prior
9 search warrant served at the premises last week and marijuana
10 was discovered at this apartment belonging to Mr. Vazquez, but
11 it also appeared that nobody had been in the apartment in some
12 time. So that is the basis of the --

13 MR. COHEN: Your Honor, our counterargument to that is
14 that there is no direct evidence connecting Mr. Vazquez to that
15 marijuana. The presumption of innocence should inure to the
16 benefit of Mr. Vazquez regarding that issue.

17 THE COURT: Let me ask the government, where was this
18 marijuana found? In an apartment where Mr. Vazquez was
19 residing?

20 MR. O'BYRNE: Yes, your Honor. The case agent,
21 Giovanni Donies, who executed that warrant, is on the line. So
22 please correct me if I'm incorrect, but my understanding is
23 that the marijuana was found in the master bedroom, by the bed,
24 out in the open, and it appeared that Mr. Vazquez had been
25 living there but nobody had been in the apartment for some

1 time.

2 AGENT DONIES: That's correct.

3 MR. COHEN: Your Honor, the --

4 THE COURT: Wait just a minute, Mr. Cohen.

5 Let me ask the agent. Agent Donies, how much
6 marijuana are we talking about?

7 AGENT DONIES: There was a bag, kind of hefty-size
8 bag, that was halfway filled. It was turned over to the local
9 police officer. We did not weigh the bag so I don't know
10 specifically how much was in it.

11 THE COURT: You're saying a hefty garbage bag size?

12 AGENT DONIES: Not hefty. It was about this much of
13 marijuana that was found in a plastic bag, and then there was
14 another small container with marijuana also found inside that
15 also had cigarettes and rolling paper for the marijuana.

16 THE COURT: Right. So I am going to also include
17 substance abuse testing and/or treatment.

18 MR. COHEN: That will be over defense's objection,
19 your Honor, based on the arguments.

20 THE COURT: Of course. I understand that.

21 Listen, if you want to later, Mr. Cohen, file a motion
22 to modify the bond to remove that requirement and you want to
23 have an evidentiary hearing to explain how that marijuana got
24 into your client's apartment and maybe some other
25 circumstances, I will be happy to entertain the motion. But

1 for right now that will be a part of the bond.

2 Any other special conditions suggested by the U.S.
3 Attorney's Office?

4 MR. O'BYRNE: Yes, your Honor. We'd also recommend
5 GPS monitoring or at least a restriction that the defendant
6 stay within the Southern District of Florida. Last week when
7 the search warrant was executed and an attorney reached out, he
8 advised that Mr. Vazquez was out of state and he wouldn't be
9 able to get back until today. We don't know where he was, but
10 we know he was traveling somewhere around the country.

11 THE COURT: Mr. O'Byrne, are you a relatively new AUSA
12 in the office?

13 MR. O'BYRNE: I've been here about a year and a half,
14 your Honor.

15 THE COURT: All right. So, Mr. Garcia, correct me if
16 I'm wrong, but doesn't the bond conditions, the standard bond
17 conditions, include a provision that the defendant cannot leave
18 the Southern District of Florida?

19 MR. GARCIA: That's correct, your Honor. It's a
20 standard condition of the bond, yes.

21 THE COURT: All right. So, Mr. O'Byrne, you're
22 basically asking me to include as a special condition something
23 that is already part of the standard conditions.

24 MR. O'BYRNE: OK. Thank you, your Honor.

25 THE COURT: Any other special condition suggested by

1 Pretrial Services?

2 MR. GARCIA: Your Honor, I believe we do not have
3 Annabelle Lee's address and I believe the court ordered that he
4 reside with Ms. Lee. If Mr. Cohen can provide Ms. Lee's
5 address so we can properly supervise Mr. Vazquez.

6 THE COURT: Mr. Cohen, do you have that information
7 handy?

8 MR. COHEN: Your Honor, I have that information. I
9 sent that to the prosecutor.

10 MR. GARCIA: Yes, your Honor. I received it. I
11 believe I read it into the record, but let me read that in
12 again. Just a second.

13 THE COURT: All right. Slowly, please.

14 MR. GARCIA: Ms. Annabelle Lee, 15479 Southwest 35th
15 Terrace, Miami, Florida 33185-4745.

16 THE COURT: I'm sorry. Somebody was making a noise
17 while you were speaking. Did you say 34th or 35th Terrace?

18 MR. GARCIA: 35th Terrace.

19 THE COURT: OK.

20 MR. GARCIA: Three five.

21 THE COURT: All right. Thank you.

22 So I am also going to schedule a preliminary hearing
23 for arraignment for April 12th, and I will also schedule that
24 for a report re counsel.

25 Hopefully, Mr. Cohen, by then you will know whether or

1 not you're in the case permanently.

2 MR. COHEN: Correct, your Honor.

3 THE COURT: All right. Anything further this
4 afternoon from either side?

5 MR. COHEN: Your Honor, can we readdress some issues
6 at the end of the docket? I just got a text from Ms. Lee and
7 she wanted to discuss some issues that the court may have to
8 know about. Is that OK?

9 THE COURT: Is there any reason why we can't do it
10 right now?

11 MR. COHEN: Your Honor, I need to know whether or not
12 she will cosign with respect to the \$500,000 because if she is
13 saying no, then we are not going to be able to achieve that
14 condition. I need about five minutes to talk to her, your
15 Honor.

16 THE COURT: All right. Well, there are other matters
17 on the docket.

18 MR. COHEN: We will wait until the end.

19 THE COURT: I know, but let me just finish what I was
20 going to say. In the meantime, I have Mr. Vazquez sitting on a
21 bench there in the cellblock. Normally at the end of the bond
22 hearing the deputy marshals would probably make arrangements to
23 remove that defendant from that bench and continuing whatever
24 processing or other arrangements they were going to be making
25 with Mr. Vazquez. But as a result of your request, he is going

1 to have to be basically sitting there in limbo until the end of
2 the calendar. It is not that long of a calendar today. We
3 just have two other defendants.

4 Candido, is there a problem with your operation if
5 Mr. Vazquez stays there for another 15 or 20 minutes?

6 THE MARSHAL: No, Judge. It is not a problem.

7 THE COURT: All right. So, Mr. Cohen, we will keep
8 this matter in sort of a procedural purgatory, if you will,
9 until the end of the hearing, and then we will come back.

10 MR. GARCIA: Your Honor, can I interject for one
11 moment. I would like to instruct Mr. Vazquez, he needs to
12 report to the U.S. Probation Office on the ninth floor of the
13 building where he is right now.

14 THE COURT: Wait, Mr. Garcia. That is unlikely to be
15 a practical comment today because, number one, Mr. Cohen is
16 suggesting to me that the cosigner may not sign the bond and,
17 number two is, they still have to post the cash money into the
18 court registry and get the Nebbia requirement fulfilled. So it
19 is highly unlikely, even under the best of circumstances, that
20 he will be getting actually out today.

21 MR. GARCIA: Very well.

22 THE COURT: But thank you for that reminder.

23 Mr. Cohen, you will remember that when Mr. Vazquez
24 gets released, he needs to hustle on over to the Pretrial
25 Services office. In the meantime, we will put Mr. Vazquez sort

1 of on the back burner.

2 (Recess)

3 THE COURT: Mr. Cohen, do you need additional time or
4 can we call back Mr. Vazquez on page 1?

5 Mr. Cohen, can you hear me? Maybe he is speaking to
6 Ms. Lee on the phone. We will wait until we get connected to
7 the visitor's room.

8 OK. Very good.

9 Mr. Cohen, are we ready to go back to page 1, sir?
10 Mr. Cohen. See, this is what I feared would happen. He is not
11 finished speaking with his client.

12 Trina, do you have a phone number for Mr. Cohen, maybe
13 on a notice of appearance? Or, Mr. O'Byrne, do you have an
14 email address for him?

15 MR. O'BYRNE: Yes, your Honor. Let me email him.
16 Just a second.

17 THE COURT: The email should say the judge is ready
18 for you.

19 (Pause)

20 THE COURT: Mr. Cohen is now back in the hearing.

21 MR. COHEN: Your Honor, thank you very much.
22 Everything is going to go through the way you ordered.

23 THE COURT: All right. Very well.

24 MR. COHEN: The only issue, we object to the GPS
25 monitoring.

1 THE COURT: I don't know if I necessarily included
2 that. It may have been requested.

3 MR. COHEN: I think the prosecutor brought it up.

4 THE COURT: Well, listen, prosecutors bring up a lot
5 of things.

6 Trina, did you have that as one of the special
7 conditions for Mr. Vazquez?

8 THE DEPUTY CLERK: No.

9 THE COURT: Right. I didn't include that.

10 MR. COHEN: Thank you, your Honor.

11 Mr. Vazquez, I am working on everything with Ms. Lee
12 and we are going to get you out as soon as we can.

13 THE DEFENDANT: OK. Thank you, and thank this
14 honorable court. I appreciate everybody taking an interest in
15 helping me in this situation. Thank you. God bless you.

16 THE COURT: That is it for our needs in the marshal's
17 cellblock there. Thank you for your help.

18 THE MARSHAL: Judge, is he going to post that bond
19 today, sir?

20 THE COURT: I doubt it, but let's find out.

21 MR. COHEN: We are going to try to do it.

22 Mr. Garcia, can we access the court registry during
23 COVID?

24 MR. GARCIA: That would be a question for the court or
25 for Trina.

1 THE COURT: What do you mean by accessing the court
2 registry?

3 MR. COHEN: Your Honor, in terms of delivering a
4 check.

5 THE DEPUTY CLERK: You can send over your bond
6 information to me. I can review it with the judge. They have
7 special times. I believe they have an hour in the morning, an
8 hour in the afternoon to pay your bond.

9 MR. COHEN: So I will email you, and thank you, Trina.

10 THE DEPUTY CLERK: No problem.

11 THE COURT: So, Trina, what you are saying is there is
12 some method which Mr. Cohen can use to actually post the money
13 into the court registry sometime this afternoon, but does that
14 require an in-person visit to the courthouse or is that done
15 through some sort of an internet connection?

16 THE DEPUTY CLERK: In person. One hour opening in the
17 afternoon.

18 THE COURT: Right. Well, it is 3:08 now. I don't
19 know whether that one hour opening, whether that window has
20 already shut.

21 So, Mr. Cohen, you will do your best. Maybe it is
22 feasible. Maybe not. I don't know what the ins and outs are
23 of the clerk's office procedure for that one-hour window.

24 MR. COHEN: Your Honor, I will email Trina and we will
25 figure it out.

1 THE COURT: Don't forget, you also have the Nebbia
2 requirement.

3 MR. COHEN: Yes.

4 THE COURT: OK.

5 MR. COHEN: Thank you, your Honor.

6 THE MARSHAL: Judge, this is Candido again. Just to
7 let all parties be aware, we only hold defendants here until
8 about 5 p.m., which is about the time that the clerk's office
9 routinely closes. So if we don't hear anything by say 5:00, we
10 are going to roll him over to FDC.

11 THE COURT: Thank you, Candido.

12 MR. GARCIA: Your Honor, from Probation's perspective,
13 once Mr. Vazquez posts the bond he has to report to the U.S.
14 Probation Office on the ninth floor of the Ferguson U.S.
15 courthouse. If Mr. Cohen can make a note of that as well and
16 remind his client of that requirement. Thank you.

17 THE COURT: Well, Mr. Garcia, just so there is no
18 confusion, let's say for the sake of discussion Mr. Vazquez is
19 released at ten minutes after 5 today and so by the time he
20 gets over to the Ferguson building it is 5:30. Is your office
21 going to be open for him to visit with somebody there?

22 MR. GARCIA: No, your Honor. We will require him to
23 report within 24 hours. He could come in to report tomorrow.

24 THE COURT: There you go.

25 MR. GARCIA: Absolutely.

1 THE COURT: I just want to make it clear so people
2 don't get unduly agitated and jazzed up.

3 MR. GARCIA: Right.

4 THE COURT: OK, folks. Very well. Does anybody else
5 have any business with the court this afternoon?

6 MR. COHEN: Thank you, your Honor.

7 THE COURT: All right.

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

10 THE COURT: We will be in recess. Take care. Bye
11 now.

12 (Adjourned)

13
14 C E R T I F I C A T E

15
16 I hereby certify that the foregoing is an accurate
17 transcription to the best of my ability of the digital audio
18 recording in the above-entitled matter.

19
20 November 1, 2021 s/ Joanne Mancari
21 Joanne Mancari, RPR, CRR, CSR
22 Court Reporter
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23
24
25