

No. \_\_\_\_\_

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**In The**  
**SUPREME COURT OF THE UNITED STATES**

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**ALBERTO SOSTRE-CINTRON,**

*Petitioner*

v.

**UNITED STATES OF AMERICA,**

*Respondent*

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ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

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**PETITION FOR WRIT OF CERTIORARI**

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**QUESTION PRESENTED:**

**SUFFICIENCY OF THE EVIDENCE**

Whether there was sufficient evidence to support Alberto Sostre-Cintron's conviction of conspiracy pursuant to 18 U. S. C. §371.

Whether there was sufficient evidence to support the Petitioner's conviction of theft of government property pursuant to 18 U. S. C. §641. *Morissette v United States*, 342 U. S. 246, 269 n. 28, 72 S. Ct. 240, 253, 96 L. Ed. 288 (1952)

## **PARTIES TO THE PROCEEDINGS**

The Parties to the Instant Proceedings Are Contained in the Caption of the Case.

## TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES .....	iv
Opinion Below .....	1
Jurisdiction .....	1
Constitutional and Statutory Provisions Involved .....	1
Statement of the Issue .....	i,2
District Court Proceedings .....	2
Appellate Proceedings .....	3
Reasons for Granting the Petition .....	11
Conclusion and Signature .....	40
Appendix .....	1a

## TABLE OF AUTHORITIES

### Cases

Bryan v. United States, 524 US 184 (1998) .....	17
Carter v. United States, 530 U.S. 255, 269, 120 S. Ct. 2159, (2000).....	30
Cheek v. United States, 498 U.S. 192, 200-01, 111 S. Ct. 604, (1991).....	39
Elonis v. United States, 135 S. Ct. 2001, (2009).....	38
Flores Figueroa, v. United States 556 U. S. 646 (2009)....	30,32
In Re Winship, 397 U. S. 358 (1970) .....	16,22
Morissette v. U. S, 342 U. S. 246, 72 S. Ct. 240, 96 L. Ed. 88(1952).....	<i>passim</i>
Rosemund v. United States, 572 U. S. 65; 135 S.Ct. 1240 (2014).....	32
Russell v United States, 524 U. S. 184 .....	17
Staples v. United States, 511 U.S. 600, 608 n.3, 114 S. Ct. 179, (1994).....	38
Sweet v Parsely AC 132. 53 Cr, App R 221, reversing 2 QB 418 (1970) .....	36
Ref: <a href="https://www.uio.no/studier/emner/jus/jus/ENGSEM/h17/undervisningsmateriale/sweet-v-parsely.pdf">https://www.uio.no/studier/emner/jus/jus/ENGSEM/h17/undervisningsmateriale/sweet-v-parsely.pdf</a>	
United States v. Ballestrea, 101 F. 3d 827 (2 <sup>nd</sup> Cir. 1995) .....	16
United States v. Donato - Morales, 706 F.3d16 (1 <sup>st</sup> Cir. 2013) .....	21
United States v. Lopez-Diaz, 794 F.3d 106 (1 <sup>st</sup> Cir. 2015).....	17
United States v. Paz-Alvarez, 799 F.3d 12, 30 (1 <sup>st</sup> Cir. 2015).....	35

United States v. Russell, 134 S. Ct. 1872 (2014) .....	17
United States v. Sawyer, 85 F.3d 713 (1 <sup>st</sup> Cir. 1996) .....	18, 24
United States v. Venti, 687 F. 3d 501 (1 <sup>st</sup> Cir. 2012) ... ..	20
United States v. Wilner, 795 F. 3d 1297 (11 <sup>th</sup> Cir. 2015).....	17

#### **United State Code**

18 U.S.C. §2 .....	26
18 U.S.C. §371 .....	<i>passim</i>
18 U.S.C. §641 .....	10, 23
18 U.S.C § 1343 .....	10
28 U.S.C. §1291 .....	2
28. U.S.C. §2106 .....	2

#### **Federal Rules**

Fed. R. Crim. P. 29 .....	18
---------------------------	----

#### **OTHER AUTHORITIES:**

OIG, Office of the Inspector General, Social Security Administration, October 6, 2017, Letter to W. H. Pryor, Acting Chair U. S. Sentencing Commission, RE Comments on the Proposed 2017 Holdover Amendments to the Sentencing Guidelines Relating to Social Security Fraud. <a href="https://www.ussc.gov/sites/default/files/pdf/amendment-process-comment/20171010/SSA">https://www.ussc.gov/sites/default/files/pdf/amendment-process-comment/20171010/SSA</a> .....	9
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New York Times, August 22, 2013, p. A18; New York City Final Edition, Headline: <i>'70 Indicted in Puerto Rico in Social Security Fraud linked to an Agency Employee'</i> .....	13
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## OPINION BELOW

The Judgment (App., *infra*, 1a-2a) was entered on December 20, 2018, in U.S. v. *Alberto Sostre-Cintrón* under docket number 17-1778.

## JURISDICTION

After the judgment was entered, no petition for rehearing was filed in this case. The jurisdiction of this Court rests on 28 U.S.C. §1254(1)<sup>1</sup>. The district court had jurisdiction pursuant to 18 U.S.C. §3231, and the court of appeals had jurisdiction pursuant to 28 U.S.C. §1291.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

**The Fifth Amendment to the US Constitution** provides:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury,... nor be deprived of life, liberty, or property, without due process of law....

**The Sixth Amendment to the US Constitution** provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation...

**The Eighth Amendment to the US Constitution** provides:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

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<sup>1</sup> References to record are: p. (page); pp. (pages); No. (Number); U.S.C. (United States Code); U.S.S.G.(United States Sentencing Guidelines); Fed. R. Crim. P. (Federal Rules of Criminal Procedure); App. (Appendix)



## **STATEMENT OF THE ISSUE**

Whether there was sufficient evidence to support Alberto Sostre-Cintrón's conviction of conspiracy pursuant to 18 U. S. C. §371. Whether there was sufficient evidence to support the Petitioner's conviction of theft of government property pursuant to 18 U. S. C. §641. *Morissette v United States*, 342 U. S. 246, 269 n. 28, 72 S. Ct. 240, 253, 96 L. Ed. 288 (1952)

## **DISTRICT COURT PROCEEDINGS**

An indictment was handed down by a Federal Grand Jury sitting in San Juan on January 13, 2015 charging Mr. Sostre-Cintrón and his co-defendant Dr. Luis-Escabi-Perez with violations of Federal criminal statutes involving the application of the petitioner for the receipt of Social Security Disability [SSD] benefits.

The indictment charged Conspiracy to Defraud the United States in violation of 18 USC § 371, Wire Fraud in violation of 18 U.S.C. §1343, Theft of Government Property in violation of 18 U.S.C., § 641, and Concealment or Failure to Disclose an event to SSA under 18 U.S.C., § 408(a)(4). The Petitioner was convicted after a six (6) day jury trial in the Federal District Court for the District of Puerto Rico, and was sentenced on June 30, 2017.

## **APPELLATE PROCEEDINGS**

On May 5, 2018, the Petitioner, and on September 11, 2018, the Appellee filed their corresponding briefs; on October 17, 2018, the Petitioner filed a Reply Brief.

The case was argued on November 6, 2018, in before the Court of Appeals for the First Circuit sitting in Ponce, Puerto Rico. The Petitioner's conviction was affirmed on December 20, 2018.

On December 20, 2018, Judgment entered on the docket affirming the Judgment of the trial court.

## **INTRODUCTION**

### **The District Court Proceedings:**

On January 15, 2013, a Federal Grand Jury in the District of Puerto Rico returned 39 separate indictments charging one doctor, Luis Escabi-Pérez, and 39 other individuals for fraud in the application process for Social Security Administration (SSA) disability insurance benefits in Puerto Rico.

The Petitioner Alberto Sostre-Cintrón was one of the individual patients charged in an indictment alongside his co-defendant Dr. Luis Escabi-Pérez, and the Government claimed that the pair embellished the Petitioner's symptomatology in order to qualify for Social Security benefits to which the Petitioner was not entitled.

Dr. Luis Escabi-Pérez was a physician, a psychiatrist and former Social Security Benefits Administration professional, who had set up a practice focused on securing approval for his patients for Social Security Benefits by way of an island-wide cheating scheme where Escabi-Pérez would micro-manage the data input that he gave to the SSA and that the patient relayed to the SSA in

such a way so that the Social Security Administration would promptly approve his patients' applications for benefits. The doctor took measures to assure that both the information and medical evaluations submitted by himself, the psychiatrist, would meet Social Security Disability Program's criteria. Dr. Escabi-Perez also offered the patients the convenience of back-dating the patients' medical records and reports, to allow applicants to qualify for a lengthy period of retroactive SSD benefits, back to the date of their purported first medical treatment.

The SSA is responsible for the implementation of the Disability Insurance Benefits Program. The SSA provides monetary benefits to workers with severe, long-term disabilities, who have worked in SSA covered employment for a required length of time. Spouses and dependent children of disabled workers may also be eligible to receive benefits.

Pursuant to SSA regulations, a claimant must prove to SSA that he or she is disabled by furnishing medical and other evidence with the application. The application and supporting evidence would then be evaluated by SSA to determine the individual's

medical impairments, and determine the effect of the impairment on the claimant's ability to work on a sustained basis.

Defendant Luis Escabi-Pérez, a psychiatrist, submitted Psychiatric Medical Reports to the SSA in support of applications for disability insurance benefits submitted by his patients. Escabi-Pérez charged a fee for the medical visits in the amount of \$100.00, and Escabi-Perez charged a fee in the amount of \$500.00 for the preparation and submittal of a Psychiatric Medical Report to the SSA. Escabi-Perez would charge additional fees of up to \$5,000 to backdate medical records in order to create the appearance of a longer history of medical treatment.<sup>2</sup> In Petitioner Sostre-Cintron's case, he back dated the medical records to June 9, 2009 to lengthen the period of treatment and disability.

According to trial testimony, The Petitioner initially received \$19,278 as a retroactive benefit payment from the SSA calculated from the date of entitlement through the approval date. Thereafter, the patient received monthly disability insurance benefit payments

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<sup>2</sup> See: The United States Department of Justice, JUSTICE NEWS, press release dated Thursday, January 15, 2015, "Forty Individuals Arrested and Indicted for Social Security Fraud. <https://justice.gov/opa/pr/forty-individuals-arrested-and-indicted-social-security-fraud>

of approximately \$1,071. The total amount of benefits paid to the patient and his dependents from the date of entitlement through the date of the Indictment was approximately \$99,589.

Dr. Escabi-Pérez faced an additional count of wire fraud, in violation of 18 USC §1343, because it was Dr. Escabi-Perez who transmitted the Medical records and reports to the SSA through the use of his fax machine. As part of the manner and means of the conspiracy, the doctor submitted the psychiatric report to the SSA supporting the existence of the alleged psychiatric conditions suffered by the patient in spite of the fact that these psychiatric conditions were allegedly contrived.

Many indictments charged Dr. Escabi-Perez and individual patients, allegedly in cahoots with the doctor, with conspiracy to defraud the United States, wire fraud, and with the theft of government property. These defendants, according to the Government, aiding and abetting each other, knowingly and willfully embezzled, stole, and converted to their own use the Social Security Disability Insurance Benefit payments to which the petitioners knew that they were not entitled.

While the economic loss attributable to the Petitioner was found to be \$99,589. In his individual case, Dr. Escabi-Perez, the mastermind of the SSA scheme pled guilty in five cases, received a sentence of probation, and an economic loss for restitution purposes of restitution of \$230,244. Given that Dr. Escabi-Perez was indicted in 39 cases, and he provided psychiatric medical reports to the SSA in over 1,100 cases, his economic loss calculation would be exponentially higher. In his comments on the Proposed 2017 Holdover amendments to the Sentencing Guidelines Related to Social Security Fraud, the Acting Inspector General noted Dr. Escabi-Perez' case in support of proposed amendments, noting: The dollar loss amount in an individual SSA fraud case does not account for the actual loss created by the fraud scheme because that dollar figure is nearly impossible to ascertain by the time of sentencing. To calculate this amount, SSA must review all cases linked to that person in a position of trust (which could be hundreds or thousands of cases) to identify and establish the loss or overpayments. These reviews are complex, time-consuming, and can be followed by appeals. For example, in the case of Dr. Luis Escabi-Perez (discussed in our March 11, 2016 views letter), Dr. Escabi-Perez pled guilty to Wire Fraud, 18 U.S.C. § 1343, and admitted to submitting fraudulent psychiatric reports to SSA for five co-defendants who also paid him a fee for backdating their medical files. He was sentenced to five years of probation and 500 hours of community service, and was ordered to pay a restitution of \$230,244. However, Dr. Escabi-Perez said he provided medical reports for more than 1,100 applicants for Social Security disability, not just the five co-defendants. If the entire fraud loss was calculated by the time of



sentencing, he may have received an increased penalty.<sup>3</sup>

Several Escabi-Perez co-defendants who filed SSA applications during the year 2011 indicated that they were unable to work due to “back problems, cervical conditions, pain, carpal tunnel, arms numbed, legs numbed, depression”, to mention a few. These defendants were charged with theft of government property because they embezzled, stole and converted to their own use or the use of others, Social Security Disability Insurance Benefit payments to which they allegedly knew they were not entitled. Many of these defendants were also charged with false statement in determining rights for disability because they allegedly lied in the Disability Report (Form SSA-3368). The defendants apparently all stated that they stopped working because of their conditions, although the government claimed they ceased working for numerous other reasons, unrelated to their disabilities.

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<sup>3</sup> OIG, Office of the Inspector General, Social Security Administration, October 6, 2017, Letter to W. H. Pryor, Acting Chair U. S. Sentencing Commission, RE Comments on the Proposed 2017 Holdover Amendments to the Sentencing Guidelines Relating to Social Security Fraud. <https://www.ussc.gov/sites/default/files/pdf/amendment-process-comment/20171010/SSA>



**The course of proceedings and trial in the Court below.**

An indictment was handed down by a Federal Grand Jury sitting in San Juan on January 13, 2015 charging Mr. Sostre-Cintrón and his co-defendant Dr. Luis-Escabi-Pérez with violations of Federal criminal statutes involving the application of the petitioner for the receipt of Social Security Disability [SSD] benefits.

In Count One of the indictment, the petitioner was charged with committing an offense against the United States, namely Conspiracy to Defraud the United States in violation of 18 USC § 371; in Count Two the co-defendant Dr. Escabi was charged under Title 18 U.S.C. § 1343 for Wire Fraud; in Count Three the petitioner and co-defendant Escabi-Pérez were charged under Title 18 U.S.C., § 641 with Theft of Government Property; in Count Four the petitioner was charged under Title 18 U.S.C., § 408(a)(4) with Concealment or Failure to Disclose Event to SSA.

The petitioner was released on his own recognizance at his initial appearance of January 15, 2015. At his arraignment, on January 21, 2015 Mr. Sostre-Cintrón pled not guilty to all charges [DE #13].

In the interim period of time, the Court held periodic status conferences and the Government provided discovery packages to the parties. A various pretrial proceedings irrelevant to the issue on appeal, on February 6, 2017 the Petitioner proceeded to a jury trial.

**The Course of Proceedings:**

The jury trial for the petitioner commenced on February 6, 2017 and the government tendered eight witnesses in support of their case. The first witness was Victor Ocasio, a neighbor and former employer of the Petitioner, followed by Puerto Rico Police Officer Elliott Melendez, a local police officer assigned to the Social Security Task Force, Joel Ferris, a special agent with the Social Security Administration and Julisette Collazo, a claim representative with the SSA who took an application for SSD benefits from the Petitioner. Next, the Government presented Dr. Luis Escabi-Perez, his long-time assistant and secretary Rosalia Ayala; and Felix Vazquez, an analyst with the Social Security Administration. Lastly, the Government summoned the Chapter 13 Trustee Alejandro Oliveras, because the petitioner had attempted a Chapter 13 bankruptcy filing at or near the time of his Social Security Disability application. The Government also displayed the creditor's meeting conducted during the time Petitioner was applying social security benefits.

**REASONS FOR GRANTING THE PETITION:**

The Petitioner submits that the government's evidence of intent is devoid of creditable evidence establishing Sostre-Cintron's knowledge of the overall conspiracy, and in demonstrating his intent to join Dr. Escabi-Perez' scheme to defraud the Social Security Administration. To obtain a conviction for conspiracy

under 18 U. S. C. §371<sup>4</sup>, the Government must prove beyond a reasonable doubt, 1) the existence of an agreement by two or more persons to commit an offense against the United States or defraud the United States; 2) the petitioner's knowing and voluntary participation in the conspiracy; and 3) the commission of an overt act in furtherance of the conspiracy. Because all of these elements were not proven, the district court erroneously denied Sostre-Cintron's motions for judgment of acquittal under Fed. R. Crim. Pro. Rule 29 because the government did not present sufficient insufficient evidence to sustain the convictions on Count One (conspiracy to defraud the United States), and on Count Three (theft of government property.)

Mr. Sostre-Cintron went to Dr. Escabi for legitimate treatment and professional guidance as to his own SSA case. He was not aware of others receiving treatment or guidance, nor did he have any agreement with anyone to further the goals of Dr. Escabi-Perez' fraudulent scheme. Clearly Dr. Escabi was at the hub of a scheme involving hundreds of patients. The level of comprehension of the nature of Dr. Escabi's medical reporting style that embellished the patient's

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<sup>4</sup> Additional record references as follows: U.S.C. (United States Code); Fed.R.Crim.P. (Federal Rules of Criminal Procedure); Fed.R.App.P. (Federal Rules of Appellate Procedure); SSA (Social Security Administration) Disability Insurance Benefits (DIB) Program; Social Security Act ("Act"); p. (page); pp. (pages); No. (Number); U.S.S.G. (United States Sentencing Guidelines); PSR (Presentence Investigative Report); app. (appendix); add. (addendum); SA (sealed appendix); SGA (substantial gainful activity.)

disabilities in order to qualify for Social Security Disability benefits was different for each patient. Each individual patient received specific instructions from, and followed the advice of Dr. Escabi-Perez.

To prevail, the government must demonstrate intent. It is clear from the testimony that the Social Security Administration did not educate the petitioner, applicant Sostre-Cintron, or any of the other Social Security Disability applicants, in the law of social security disability insurance. The bulk of the evidence in this case, and the source of the information that led to the prosecution of Alberto Sostre-Cintron was developed "As part of several investigations involving Dr. Luis Escabi-Perez's ("Dr. Escabi") patients, SSA investigated Sostre's claim." (Government's brief, page 5) Indeed, the United States District Court docket, in Hato Rey reveals that 39 other individuals in addition to Dr. Escabi were indicted on January 15, 2013 for fraud in the application for Social Security Administration (SSA) Disability Insurance Benefits (DIB) payment; in August of the same year, the New York Times reported that another 70 individuals were indicted for having made fraud in the application for SSA benefits. New York Times, August 22, 2013, p. A18; New York City Final Edition, Headline: *'70 Indicted in Puerto Rico in Social Security Fraud linked to an Agency Employee'*. Dr. Escabi was the professional at the hub of the so-called conspiracy that netted Mr. Sostre-Sintron, and many others; and it was Dr. Escabi's fraudulent conduct that brought the case to the attention of the Social

Security Administration and the Office of the Inspector General. Dr Escabi himself was directing the flow of information to the Social Security Administration so that his patients would be approved. Petitioner, and others, relied on his skill, advice and guidance for their Social Security application process.

The Petitioner received his SSA instructions from Dr. Escabi-Perez and he followed the doctor's orders as well as he was able. Petitioner Luis Escabi-Pérez submitted psychiatric medical reports to the SSA in support of applications for disability insurance benefits submitted by his patients. Escabi-Pérez charged a fee for the medical visits, typically in the amount of \$100.00. In addition, Escabi-Perez typically charged a fee in the amount of \$500.00, for the preparation and submission of a psychiatric medical report to the SSA. He would, at times, also charge additional medical fees of up to \$5,000 to back-date medical records in order to create the appearance of a longer history of medical treatment.

**There was insufficient evidence to support Alberto Sostre-Cintron's conviction of conspiracy pursuant to 18 U. S. C. Section §371.**

The government's evidence is devoid of creditable evidence establishing Sostre-Cintron's knowledge of the conspiracy and in establishing his intent to join. To obtain a conviction for conspiracy under 18 U. S. C. §371, the Government must prove beyond a reasonable doubt, 1) the existence of an agreement by two or more persons to commit an offense against the United States or defraud the United

States; 2) the petitioner's knowing and voluntary participation in the conspiracy; and 3) the commission of an overt act in furtherance of the conspiracy.

To prevail, the government must demonstrate intent. It is clear from the testimony that the Social Security Administration did not educate or contact the petitioner or the other patients of Dr. Escabi who were indicted about the do's and don't's of social security disability insurance. Dr. Escabi was the professional the Petitioner relied on for his Social Security advice. Although no earnings were reported, it is perfectly legal for a claimant to work, or receive other income while receiving SSDI. The only condition is that they do not make more than a designated amount of earnings. Alberto never denied that he worked in various functions around his home in the past, and he was not prohibited from socializing with others as a condition of his benefit payments. The Petitioner received his SSA instructions from Dr. Escabi-Perez and he followed the doctor's orders as well as he was able.

Although an individual may become a member of a conspiracy without knowing all the details of the scheme, the so-called conspirator still must have an understanding of the essential nature of the scheme, and then join the scheme. Although Alberto was receiving at SSI, the evidence of him being present at a gardening job scene attempting to assist or being surveilled socializing with others at a food cart does not demonstrate a violation of Social Security Law. It is permissible for a person to socialize outside of the home or to receive money from



outside sources, while receiving SSD, as long as the person complies with Social Security Administration rules.

Evidence that was introduced at trial was constitutionally insufficient to support Sostre-Cintron's conviction. Due process of law as guaranteed by the Fifth Amendment to the United States Constitution protects a petitioner against conviction except upon proof beyond a reasonable doubt of every element necessary to constitute the crime with which he is charged, In re Winship 397 U. S. 358, 364 (1970). To comport with due process, the petitioner's conviction for conspiracy to defraud the United States under 18 U. S. C. §371 must be supported by proof beyond a reasonable doubt that the petitioner and at least one other person one knowingly and willfully executed or attempted to execute a scheme or artifice a to defraud the United States, and an overt act in furtherance of the conspiracy must be proven by one of the conspirators. The plot must be directed against the United States or some federal entity. Such a scheme may be one disguised to deprive the United States of money or property, however a plot calculated to frustrate government function may suffice US V. Ballestrea, 101 F3d 827, 832 (2<sup>nd</sup>. Cir. 1996) Sostre-Cintron's conviction for conspiracy under 18 U.S.C. §371 must be supported by proof beyond a reasonable doubt that (1) an agreement existed to commit the underlying offense (i.e. theft of government property under 18 U.S.C. §641; (2) the petitioner knew of the agreement; and, (3) he voluntarily joined the agreement with the intent to commit

the underlying offense.

In the SSDI fraud context, the petitioner must be proven guilty beyond a reasonable doubt to have acted with specific intent to defraud. Both charges, §371 and §641 require proof of knowledge and specific intent to defraud. It has also invoked the definition of “willfully,” generally applicable in criminal cases, as articulated by the United States Supreme Court in Bryan v. United States, 524 US 184 (1998). Similarly in the case before the Court, the petitioner should be proven beyond a reasonable doubt to have acted with “bad purpose;” that is to say, with knowledge of that his conduct is unlawful. Bryan, 524 U. S. at 191–192, Russell V. United States 134 S. Ct. 1872 (2014) vacating United States V. Russell, 728 F3d at 111-114 remanded for further consideration in light of the solicitor General's confession of error in brief that “willfully” under 18 U.S.C. §§ 1001 and 1035 should have been defined in accordance with Bryan, or absent sufficient proof of the petitioner's culpable state of mind, his conviction cannot stand. See, e.g., Lopez-Diaz, 794 F3d at 111-114 (vacating a conviction where evidence was insufficient to prove beyond a reasonable doubt that the petitioner knew he had no basis for submitting a claim) will among See also United States V. Wilner, 795 F.3d 1297, (11<sup>th</sup> Cir. 2015) (insufficient evidence that petitioner knew of scheme to defraud Medicare and willfully participated in it). As Dr. Escabi testified on direct examination, he had been a Social Security patient evaluator where he examined



patients psychiatrically and would render a report that was sent directly to Social Security. He had become a consultive examiner [see TT 2/8/2017 pp. 9-12]. Prior, Dr. Escabi-Perez had been a professor at the school of medicine. But Dr. Escabi-Perez had suffered a stroke in 2005 and his performance declined, and he testified that he would change dates, allegedly at patient request, to make it appear that the patient had presented himself for treatment six months, a year or fifteen months prior to the date of his first consultation.

In the petitioner's case, while it is clear that his medical treatment outset date has been backdated, it is less clear, and the petitioner submits that is not the case that Sostre-Cintron knew of Dr. Escabi-Perez' methods, or whether his reports were prepared with fraudulent intent. In the case before the court the Government must prove Sostre's intent beyond a reasonable doubt. United States v Sawyer, 85 F 3d 713 (1<sup>st</sup> Cir, 1996).

Escabi -Perez testified that he advised patients to stay homebound during their application period for SSA disability benefits, to remain out of the sun, to allow others to do household chores and to attend to their finances. Dr. Escabi-Perez knowingly exaggerated the patient's symptoms in the Psychiatric report to the SSA. The report was first sent via fax, to the SSA, thereafter Dr. Escabi would give a copy to the patient and he retained a copy for his file. [TT 2/8/2017 pp19-20]. Dr. Escabi provided a sample set of questions and responses that are asked in the telephone

interview with SSA, and he asked his patients to use it as a guide for their responses. He also provided each patient a sample of a complete adult function report as a guide for the patient to fill in his own. Particularly on account of the petitioner's economic struggle, his bankruptcy, as well as his fledging gardening start-up, it is a reasonable hypothesis that Sostre-Cintrón sought legitimate treatment from Dr. Escabi-Perez for depression. Dr. Escabi testified that Sostre-Cintrón was not impaired enough to qualify for SSD benefits, however, there is no evidence of record that Escabi-Perez ever tested Mr. Sostre-Cintrón in any way. There is ample evidence on the record that Dr. Escabi was limited in his functional abilities and that he suffered a disabling brain stroke in 2005. [TT 2/8/2017 p. 11]

The Government's evidence is devoid of creditable evidence to establish Sostre-Cintrón's knowledge of a conspiracy and establishing his intent to join. To obtain a conviction under 18 US §371, the Government must prove beyond a reasonable doubt that the existence of an agreement by two or more persons to commit an offense against the United States or to defraud the United States; the petitioner's knowing and voluntary participation in the conspiracy, and the commission of an overt act in furtherance of the conspiracy. To prevail, the government must establish intent, beyond a reasonable doubt. It is clear from the trial testimony that Sostre-Cintrón was not educated in Social Security rules and procedures. It is clear from the record that Dr. Escabi did indeed understand the rules

and procedures from having experience as a medical school professor, a Social Security claims examiner, and a Social Security Psychiatric evaluator. There is nothing in the record demonstrating that Sostre-Cintrón knew that Dr. Escabi-Perez had a reputation for preparing fraudulent records and reports to submit to SSA in support of disability benefits. Similarly, there is no evidence in the record that Escabi-Perez actually discussed with his patient Sostre-Cintrón why his diagnosis was or was not accurate, or whether he would be eligible for SSD benefits if he was given an honest medical evaluation. While Dr. Escabi knew of the misrepresentations, what Dr. Escabi-Perez knew, and did not share with Mr. Sostre-Cintrón, cannot establish the petitioner Sostre-Cintrón's specific intent.

**There was insufficient evidence to support Alberto Sostre-Cintrón's conviction of theft of government property pursuant to 18 USC §641.**

Similarly to establishing intent to become a member of a conspiracy, evidence establishing the petitioner's intent to steal government property is lacking. Establishing intent is essential to a conviction under 18 USC §641. See, Morisette v. United States, 342 U.S. 246, 269, 72 S. Ct. 240, 253, 96 L. Ed. 288 (1952). 18 USC §641 says, in pertinent part, that it is unlawful for a person to embezzle, steal, purloin, or knowingly convert to his use or for the use of another any record, voucher, money, or anything of value of the United States or any department or agency thereof. The precise value of the property stolen is not a necessary element of 18 USC §641, United States v. Venti, 687 F. 3d 501, 504 (1<sup>st</sup> Cir. 2012), unless

the value of the property in aggregate is less than \$1,000. 18 USC §641.

In Sostre-Cintron's case, count three alleged that between April 30, 2009 and continuing through on or about the date of this indictment, Escabi-Perez and Sostre-Cintron aiding and abetting each other knowingly and willfully embezzled, stole, and converted to the use of Alberto Sostre-Cintron or the use of another, money of the SSA, a department or agency of the United States, namely Social Security Disability Insurance Benefit payments to which they knew Alberto Sostre-Cintron was not entitled, having a value of approximately \$99,589, in violation of Title 18, United States Code, §§ 641 & 2. Like Count one, and detailed above in Section I, in order to secure a conviction, the Government must prove Alberto Sostre-Cintron's specific intent beyond a reasonable doubt, not just the specific intent of Dr. Escabi-Perez. United States v Donato-Morales, 382 F. 3d 42 (1<sup>st</sup> Cir. 2004). There is no evidence that Escabi-Perez ever performed legitimate medical or psychiatric testing of Petitioner Sostre-Cintron. There is evidence in the record that Sostre-Cintron was used as another 'pawn' in Dr. Escabi-Cintron's larger fraudulent scheme to amass thousands in fees filling in fraudulent reports. There is no evidence that Sostre-Cintron knew of Escabi-Perez' reputation as a fraud, or of his fraudulent SSA application scheme.

**There was insufficient evidence that the petitioner knowingly and willingly joined a conspiracy to defraud the United States.**

Conspiracy can be described generally as sort of a partnership in crime. Conspiracy, under 18 U. S. C. 371 exists when two or more people join together and form an agreement to violate the law, and then act on that agreement. There are five elements that must all be proven to complete the crime of conspiracy, namely: 1) two or more persons 2) must intentionally, 3) make an agreement 4) to violate Federal law or defraud the United States, and then 5) commit some overt act in furtherance of the agreement. The crime of conspiracy is a specific intent crime, and the Government must prove that there were two or more persons involved, that they had the requisite criminal intent, and they must commit an overt act in furtherance of the conspiracy after the agreement was reached.

Although a petitioner may become a member of a conspiracy without knowing all the details of the scheme, the petitioner still must have an understanding of the essential nature of the scheme, and then join the scheme. Alberto Sostre-Cintrón was successful in qualifying to receive Social Security Disability benefits. The evidence that was introduced at trial, however, was constitutionally insufficient to support Sostre-Cintrón's conviction. Due process of law as guaranteed by the Fifth Amendment to the United States Constitution protects a petitioner against conviction except upon proof beyond a reasonable doubt of every element necessary to constitute the crime with which he is charged, *In re: Winship* 397 U. S. 358, 364

(1970). To comport with due process, the petitioner's conviction for conspiracy to defraud the United States under 18 U. S. C. §371 must be supported by proof beyond a reasonable doubt that the petitioner and at least one other person one knowingly and willfully executed or attempted to execute a scheme or artifice a to defraud the United States, and an overt act in furtherance of the conspiracy must be proven to have been done by one of the conspirators. The plot must be directed against the United States or some federal entity. Sostre-Cintrón's conviction for conspiracy under 18 U.S.C. §371 must be supported by proof beyond a reasonable doubt that (1) an agreement existed to commit the underlying offense (i.e. theft of government property under 18 U.S.C. §641); (2) the petitioner knew of the agreement; and, (3) he voluntarily joined the agreement with the intent to commit the underlying offense.

The petitioner must be proven guilty beyond a reasonable doubt to have acted with specific intent, to defraud. Both the §371 charges, and the §641 charges require proof of knowledge and specific intent to defraud. It has also invoked the definition of "willfully," generally applicable in criminal cases, as articulated by the United States Supreme Court in Bryan v. United States, 524 US 184 (1998). Similarly in the case before the Court, the petitioner should be proven beyond a reasonable doubt to have acted with "bad purpose;" that is to say, with knowledge of that his conduct is unlawful. , 524 U. S. at 191–192, Russell V. United States 134 S. Ct. 1872 (2014) vacating United States V. Russell, 728 F3d at 111-114 remanded for further



consideration in light of the solicitor General's confession of error in brief that "willfully" under 18 U.S.C. §§ 1001 and 1035 should have been defined in accordance with Bryan, or absent sufficient proof of the petitioner's culpable state of mind, his conviction cannot stand. See, e.g., Lopez-Diaz, 794 F3d at 111-114 (vacating a conviction where evidence was insufficient to prove beyond a reasonable doubt that the petitioner knew he had no basis for submitting a claim) will among See also United States V. Wilner, 795 F.3d 1297, (11<sup>th</sup> Cir. 2015) (insufficient evidence that petitioner knew of scheme to defraud Medicare and willfully participated in it).

In the petitioner's case, while it is clear that his medical treatment outset date has been back-dated, it is less clear, and not shown in the record, that the Petitioner knew of Dr. Escabi-Perez' methods, and/or whether he knew that his reports were to be prepared with the intent to defraud. In the case before the court, the Government must prove Sostre-Cintron's intent beyond a reasonable doubt. United States v Sawyer, 85 F 3d 713 (1<sup>st</sup> Cir, 1996). It is unclear, with the rendition presented by co-petitioner cooperator Dr. Escabi that the petitioner Sostre-Cintron acted, or failed to act with the requisite scienter – or mental state – to establish that he joined a conspiracy to defraud, other than being a legitimate patient, referred by another disabled client, to a trusted physician that was skilled in having his application for disability benefits approved because of his knowledge and experience

with the Social Security Administration, Social Security Disability laws garnered from many years working in the Social Security system. This is particularly true for individual patients of Dr. Escabi, who are far less centrally involved in the misconduct of manipulating the Social Security Disability requirements and writing qualifying medical reports for the Social Security Administration. The record of the case does not present a showing at all that Alberto Sostre-Cintrón knew of the SSD requirements for qualification for benefits from anywhere else but from Dr. Escabi-Perez. The record does not show that Mr. Sostre-Cintrón went to Dr. Escabi with the intent to defraud the United States. Without such advance knowledge, it is difficult to show that he schemed or conspired to circumvent the SSD requirements.

Dr. Luis Escabi-Perez was a Social Security Administration patient evaluator for over 30 years, being so employed from 1978-2009. There was little that Mr. Sostre-Cintrón could tell Dr. Escabi-Perez about the qualification to qualify for SSA Disability Insurance Benefits. Dr. Escabi performed the document manipulation himself and he set the dates of first appointment in the medical record. Escabi created the reports according to what Mr. Sostre-Cintrón received for his treatment plan that would lead to his qualification for benefits for which to which Sostre-Cintrón thought he was entitled. As the government states in their brief on appeal, upon a patient's request and agreement, Dr. Escabi would backdate Social Security Disability application documents to include fictitious appointment dates to ensure



that the patient's application for benefits included enough appointments to be approved. The record is bereft of any credible evidence that the patient Sostre-Cintron requested, or knew of the date requirements for the SSA approval requirements, nor that he has requested or agreed on a particular date with Dr. Escabi. Only Dr. Escabi himself can provide the details of the agreement. Dr. Escabi's identical agreement with the mass of hundreds of other patients calls into question whether the backdating of the medical onset dates or the manipulation of medical reports were the agreement between he and Sostre-Cintron, or was the unilateral thinking of Dr. Escabi-Perez himself, who was clearly the most knowledgeable of the scheme to defraud in this case.

It was established at trial that Escabi -Perez testified that he advised patients to stay homebound during their application period for SSA SSD disability benefits, to remain out of the sun, to allow others to do household chores, and to have others attend to finances. Dr. Escabi-Perez knowingly exaggerated the patient's symptoms in the Psychiatric Report to the Social Security Administration. Dr. Escabi himself sent the first report to the Social Security Administration that detailed the specifics of Alberto Sostre-Cintron's disabilities. The report was first sent to the Social Security Administration via fax by Dr. Escabi, and thereafter Dr. Escabi would give a copy to the patient and he retained a copy for his file. [TT 2/8/2017 pp19-20]. Dr. Escabi then provided a sample set of questions and responses for patients to

reference to reply to the questions that are asked in the telephone interview with SSA, and he asked his patients to use it to guide their responses. He also provided each patient a sample of a complete adult function report as a guide for the patient to fill in his own. Particularly on account of the petitioner's economic struggle, his bankruptcy, as well as his fledging gardening start-up, it is the petitioner's position that he sought legitimate psychiatric treatment from Dr. Escabi-Perez for depression. Dr. Escabi testified that Sostre-Cintron was not impaired enough to qualify for SSD benefits, however, there is no evidence of record that Escabi-Perez ever tested Mr. Sostre-Cintron in any substantial way that would determine whether Sostre-Cintron met or did not meet Social Security criteria. There is ample evidence on the record, however, that Dr. Escabi himself was limited in his functional abilities and that he suffered a disabling brain stroke in 2005. [TT 2/8/2017 p. 11], yet he was fully educated and knowledgeable in the requirements to meet the listing criteria to qualify for Social Security Disability.

The Government's evidence is devoid of creditable evidence to establish Sostre-Cintron's knowledge of a conspiracy and establishing his intent to join. To obtain a conviction under 18 US §371, the Government must prove beyond a reasonable doubt that the existence of an agreement by two or more persons to commit an offense against the United States or to defraud the United States; the petitioner's knowing and voluntary participation in the conspiracy, and the

commission of an overt act, in furtherance of the conspiracy. To prevail, the government must establish intent, beyond a reasonable doubt. It is clear from the trial testimony that Sostre-Cintron was not educated in Social Security rules and procedures. It is clear from the record that Dr. Escabi had a life-long medical career focusing on Social Security Disability qualification and he clearly understood the policies and procedures from having extensive experience as a medical school professor, a Social Security claims examiner, and a Social Security Psychiatric evaluator. There is nothing in the record demonstrating that Sostre-Cintron knew that Dr. Escabi-Perez had a reputation for preparing fraudulent records and reports to submit to SSA in support of disability benefits. Similarly, there is no evidence in the record that Escabi-Perez actually discussed with his patient Sostre-Cintron why his diagnosis was or was not accurate, or whether he would be eligible for SSD benefits if he was given an honest medical evaluation. While Dr. Escabi knew of the misrepresentations, what Dr. Escabi-Perez knew, and did not share with Mr. Sostre-Cintron, cannot establish the petitioner Sostre-Cintron's specific intent.

An individual violates 18 U.S.C. § 371, “, and he violates 18 U.S.C. § 641 if he engages in a conduct to execute such schemes. While the government may carry its burden of proof through circumstantial evidence, there must be some presentation of the intent of the actor to find him in violation of the statute. Sostre-Cintron does not dispute that Dr. Escabi-Perez successfully executed a

conspiratorial scheme intended to defraud the SSA. Nor does he dispute that he took actions that directly and crucially furthered that scheme. The petitioner attacks the conviction, however, on the ground that the government in his case failed to present sufficient evidence that he took those actions with the required culpable state of mind.

Before a member of any multi-defendant conspiracy may be found guilty for illegal conduct that is the basis of jointly undertaken criminal activity the District Court is required to make petitioner-specific findings concerning the scope of his agreement, and the foreseeability of his actions to the conduct of his co-conspirators. In this case the specific claim of conspiracy to defraud the United States, and its connection to the conduct of Sostre-Cintrón at the outset is unclear. It appears that the jury found the petitioner guilty without finding that the illegal scheme to qualify for SSA disability was reasonably foreseeable to the conduct of the petitioner.

Just as when Oliver Wendell Holmes, Jr., said that even a dog knows the difference between “being stumbled over and being kicked.” Anglo-American criminal law traditionally has marked a person as a criminal only if he or she committed a morally blameworthy act, known as the *actus reus*, along with an “evil” frame of mind, known as *mens rea* or scienter. A *mens rea* requirement

distinguished individuals who break the law only accidentally or inadvertently from ones who do so wantonly, with only the latter being held criminally responsible for their actions. Requiring the government to prove that an individual acted with criminal intent has always been a hallowed feature of Anglo-American criminal law.

The Supreme Court has recently restated the importance of *mens rea* and has readopted the presumption in favor of construing criminal statutes to require proof of an evil state of mind even when a law is silent or ambiguous on that issue. Since then, it has defended the existence of a *mens rea* requirement as a rule of Anglo-American criminal law. The Court has often done so by clarifying the mental state requirement when a law has an ambiguous element or none at all. The Court has not read every criminal statute to require proof of a scienter element ensuring that only morally blameworthy parties will be convicted but, the Court's rulings has demonstrated a renewed its interest in this subject. In fact, since the turn of the century, scholars have observed that the Court has recently created not merely a presumption in favor of *mens rea*, but in favor of a heightened form of *mens rea* with regard to issues of both fact and law. A heightened form of *mens rea* has been recognized in several recent cases, where active participation at the time the offense is committed is required. For example in the case of Flores-Figueroa v. United States, 556 U. S. 646 (2009) Ignacio Flores-Figueroa, a Mexican citizen,

gained employment under a fictitious name, birth date, and Social Security number and a counterfeit alien registration card. Six years later, he presented his employer with new counterfeit Social Security and alien registration cards bearing his real name but with Social Security numbers assigned to others. Flores's employer reported the discrepancies to the federal government, which charged Flores with aggravated identity theft (among other offenses). The aggravated identity theft statute makes it a crime to "knowingly" transfer, possess, or use "a means of identification of another person" without lawful authority in connection with certain specified felonies. The question before the Supreme Court was whether the statute requires the government to prove that the petitioner knew that the identification he unlawfully possessed in fact belonged to "another person" rather than a fictitious individual. The Court read the statute in accordance with "ordinary English usage." Finding the statute ambiguous on the issue in the case, the Court read the knowledge requirement to apply to elements in the statute relating to blameworthiness: "[W]here a transitive verb has an object, listeners in most contexts assume that an adverb (such as knowingly) that modifies the transitive verb tells the listener how the subject performed the entire action, including the object as set forth in the sentence." Accordingly, the Court concluded that the identity theft statute "requires the Government to show that the defendant knew that the means of identification at issue belonged to another person." In so doing,



the Court explained that its construction of the act was consistent with its practice to “read a phrase in a criminal statute that introduces the elements of a crime with the word ‘knowingly’ as applying that word to each element” of the crime. Flores-Figueroa v. United States, 556 U. S. 646 (2009)

Another *mens rea* case, that demonstrates the requirement of being an active and knowing participant in an offense to be held criminally liable is Rosemond v. United States, 572 U. S. 65, 135 S. Ct.1240 (2014) This case clarified the scienter requirement for an entire category of criminal offenses: accessorial liability or “aiding and abetting.” Justus Rosemond was caught in a “drug deal gone bad.” He and two other men sat in a car in a local park, waiting to exchange drugs for cash. Instead, the buyer punched one of them in the face, snatched the drugs, and ran off. One of the sellers—no one can remember who—left the car and shot at the fleeing thief. The police later arrested Rosemond. Because it could not prove who fired the gun, the federal government charged Rosemond with using a firearm in connection with a drug-trafficking crime or with aiding and abetting that offense in violation of Section 2 of Title 18. Section 2 provides that “[w]hoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission is punishable as a principal.” The Court found it easy to conclude that “Rosemond’s participation in the drug deal here satisfies the affirmative-act requirement” for aiding and abetting a crime but found it more difficult to conclude

that Rosemond had acted with the requisite intent. In *Rosemond*, where the Supreme Court's precedents established that the intent requirement is satisfied "when a person actively participates in a criminal venture with full knowledge of the circumstances constituting the charged offense." Applying that principle, the Court reasoned that "[a]n active participant in a drug transaction" has the necessary intent needed to aid and abet a firearms offense "when he knows that one of his confederates will carry a gun." The Court realized that its requirement logically demands proof of some "advance knowledge" on the part of the defendant that one of his confederates would use a gun in the underlying crime because one cannot aid and abet a crime about which he knows nothing. Accordingly, the government cannot convict an individual for aiding someone else's use of a firearm if the person "first learned of the gun as it was discharged." Said differently, an individual is not liable for aiding and abetting someone else to commit a crime without proof that the individual had a 'realistic opportunity' to become aware of his colleagues' intent and then to abandon the relationship. Just as in the beginning of the relationship between Dr. Escabi and the petitioner, it was the doctor himself who initiated the fraudulent claim to the SSA by submitting the psychiatric medical report to the SSA via fax at the outset of Mr. Sostre-Cintron's treatment, and before the petitioner received Dr. Escabi's advice about his plans to successfully apply to and receive Social Security benefits. Mr. Sostre-Cintron



never had the 'realistic opportunity' to become aware of Dr. Escabi-Perez' intent and then to have the opportunity to abandon the relationship, after Dr. Escabi has faxed his medical reports to the SSA. These cases strengthen the proposition that a guilty mind is "a necessary element in the indictment and proof of every crime."

In Morrisette v. United States, 342 U. S. 246, 72 S. Ct. 240, 96 L. Ed. 88(1952), the Supreme Court memorialized the presumption of *mens rea* in the criminal law after an era of desuetude. Courts reaffirm the importance of proving some *mens rea* element for a criminal conviction, even when the statute at hand does not expressly have one. As in *Morrisette* where evidence that the petitioner was unaware that the property belonged to the Government is relevant and essential to the element of *mens rea* which was an element of conviction in his case. Congress held intent as an inherent element of the statute said to be in violation. Where Congress omits any mentioning of specific intent, specific intent is not to be eliminated as an element. Crimes in violation of plain regulatory law, like conversion, require *mens rea* as to the commission of the crime itself. As in Morrisette, where it was required that the defendant have knowledge that converted property was not abandoned. *Morrisette* was charged and convicted of "knowingly" converting government property to himself. He defended that he honestly believed the property was abandoned, and (on appeal) the Supreme Court held that "an injury can amount to a crime only when inflicted by intention," that

the person must intend to commit a crime. Similarly, Mr. Sostre-Cintrón should not be imputed with advance knowledge that Dr. Escabi-Pérez's treatment plan for him was fraught with misrepresentations and flaunted the legal requirements of the SSA in every respect.

In raising his sufficiency challenge, Mr. Sostre-Cintrón concedes that the evidence established a conspiracy to commit fraud in the application process for Social Security Benefits existed, but he did not participate as a knowing co-conspirator in the scheme. He notes that the government has essentially alleged a hub and spoke conspiracy around Dr. Escabi-Pérez and that because he had so little interaction with Dr. Escabi himself, nor Dr. Escabi's other co-conspirators that there was insufficient evidence to support his conspiracy conviction. There is insufficient evidence to show that he joined the conspiracy or shared the conspirators' goals because he only attended to his own health needs, and consulted Dr. Escabi exclusively about his health and SSA application needs.

In considering whether the evidence is sufficient to support a finding of a single conspiracy as opposed to several independent conspiracies courts typically look to "(1) the existence of a common goal, (2) overlap among the activities' participants, and (3) interdependence among the participants" United States v. Paz-Alvarez, 799 F.3d 12, 30 (1st Cir. 2015).

The Court's requirement of *mens rea*, its consistent reliance on statutory text, and its awareness of the problems of overcriminalization suggest that the Supreme Court is committed to this position. The Court should have required, as a prerequisite of Sostre-Cintrón's conviction, that the government provided sufficient evidence a guilty mental state proportional to his charged offense to sustain his conviction.

*Mens rea* is relevant to a fault. The maxim *actus non fit reus nisi sit rea* has been around for centuries. One of the foundational principles of the criminal law says that it is normally not enough to support a conviction that a petitioner perpetrates the *actus reus*. Neither should it be. Causing harm to another person may be unfortunate, but the moral turpitude associated with a criminal conviction requires some element of fault. And to show that, we need *mens rea*. Even the House of Lords recognized this candidly in an English criminal law case Sweet v. Parsley, when holding that *mens rea* is a presumed element of all criminal offences: Sweet v. Parsley [1970] AC 132. 53 Cr [www.lawteacher.net/cases/sweet-v-parsley-1970.php?vref=1](http://www.lawteacher.net/cases/sweet-v-parsley-1970.php?vref=1) > App R 221, [1969] HL, reversing [1968] 2 QB 418. *Sweet* was an English criminal law case where the petitioner landlady of a farmhouse (which was let to students and which she visited infrequently) was charged under a 1965 Act 'of having been concerned in the management of the premises used for smoking cannabis.'

She had neither knowledge nor privity to the offense. While in the first instance she was deemed "liable without fault," the conviction was later quashed by the House of Lords on the grounds that knowledge of the use of the premises was essential to the offense. Since she has no such knowledge, she did not commit the offense. There has for centuries been a presumption that Parliament did not intend to make criminals of persons who were in no way blameworthy in what they did. This means that, whenever a section is silent as to *mens rea* there is a presumption that, in order to give effect to the will of Parliament, we must read in words appropriate to require *mens rea*.

In practice, that presumption is often rebutted, even for some every serious crimes. Yet the very existence of the *mens rea* presumption reflects an underlying idea that, unless the harm is caused advertently, or at least negligently, the attentions of the criminal law are inappropriate.

Petitioner Sostre-Cintron contends that "defraud clause" in 18 U.S.C. § 371 defraud clause which outlaws conspiracies "to defraud the United States, or any agency thereof in any manner or for any purpose" lacks the mens-rea requirement as applied to his actions in this case. He should only have been convicted if the jury found that he knew his actions constituted a crime, which should have resulted in his acquittal, because, as he knew, of no Social Security Administration law that

he was violating at the outset of his treatment. Mens rea (for the uninitiated in a scheme) is the mental state "knowingly" or "willfully," required to convict. The idea behind the mens-rea requirement is that a petitioner must be 'blameworthy in mind' before he can be found guilty, an idea that is as universal and persistent in mature systems of law as belief in freedom of the human will and a consequent ability and duty of the normal individual to choose between good and evil. See Elonis v. United States, 135 S. Ct. 2001, (2009), 192 L. Ed. 2d 1 (2015) (quoting Morissette v. United States, 342 U.S. 246, 250, 252, 72 S. Ct. 240, 96 L. Ed. 288 (1952)). So important is this concept that we will usually read criminal statutes as implicitly requiring proof of mens rea even when they do not have a mens-rea component explicitly written into them, *id.*; though in doing so we read into them "only that mens rea which is necessary to separate wrongful conduct from 'otherwise innocent conduct,'" *id.* at 2010 (quoting Carter v. United States, 530 U.S. 255, 269, 120 S. Ct. 2159, 147 L. Ed. 2d 203 (2000)).

But "[t]his is not to say that a petitioner must know that his conduct is illegal before he may be found guilty." *Id.* Far from it. Instead, he "generally must 'know the facts that make his conduct fit the definition of the offense.'" *Id.* (quoting Staples v. United States, 511 U.S. 600, 608 n.3, 114 S. Ct. 1793, 128 L. Ed. 2d 608 (1994)). We say "generally," however, because in certain situations like statutes presenting a danger of criminalizing apparently innocent acts sometimes require

proof that the petitioner knew his conduct infringed a specific law. See, e.g., Cheek v. United States, 498 U.S. 192, 200-01, 111 S. Ct. 604, 112 L. Ed. 2d 617 (1991). There is nothing in the record to indicate that Alberto Sostre-Cintrón went to Dr. Luis Escabi-Peres intending to join a conspiracy to defraud the United States. No evidence suggests that at the outset he acted willfully, meaning acting voluntarily and intelligently and with the specific intent that the crime of stealing Social Security benefits be accomplished. He was seeking benefits to which he thought he was entitled, and had paid into the Social Security fund during his lifetime of working. He did not willfully intend to interfere with the proper operation of the Social Security Administration when he sought Dr. Escabi-Perez' services. Mr. Sostre did not seek to apply for benefits acting with bad purpose, with the intention of disobeying or disregarding the law. His application and the improper reporting of information to the Social Security Administration were made because of his ignorance of the Social Security process, and his following of his doctor's orders - not that he went to Dr. Escabi willfully, in the sense that he acted voluntarily and intelligently with the specific intent to commit the underlying crime of defrauding the United States or stealing government property.

**CONCLUSION AND SIGNATURE**

For the reasons stated above, it is hereby hence very respectfully requested for this Honorable Court to grant this petition for a Writ of Certiorari.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael R. Hasse", written over a horizontal line.

**Michael R. Hasse, Esquire**  
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**DECLARATION OF FILING OF  
PETITION FOR A WRIT OF CERTIORARI**

Pursuant to Supreme Court Rule 29 (2) and 28 U.S.C. §1746, the undersigned states that the Petition for a Writ of Certiorari in the case of *United States v. Alberto Sostre-Cintrón* was sent to the Clerk of the United States Supreme Court via the United States Postal Service, postage prepaid, on March 12, 2019.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2019.

Signed: 

## APPENDIX

Docket of Case in United States District Court, Puerto Rico.....	1
Judgment of the United States District Court for the District of Puerto Rico, dated, June 30 , 2017.....	19
Notice of Appeal, dated June 30, 2017 .....	26
Judgment of the United States Court of Appeals for the First Circuit, dated December 20, 2018.....	27
Mandate of United States Court of Appeals for the First Circuit, dated January 11, 2019.....	28

**United States District Court  
District of Puerto Rico (San Juan)  
CRIMINAL DOCKET FOR CASE #: 3:15-cr-00046-PG-2**

Case title: USA v. Escabi-Perez et al

Date Filed: 01/13/2015

Date Terminated: 06/30/2017

Assigned to: Judge Juan M. Perez-Gimenez

Appeals court case number: 17-1778

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*TERMINATED: 06/30/2017*

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**Pending Counts**

18-371 CONSPIRACY TO DEFRAUD THE  
UNITED STATES  
(1s)

18-641 and 2 A/A; PUBLIC MONEY,  
PROPERTY OR RECORDS  
(3s)

**Disposition**

Impr of 15 months. SRT of 3 years. SMA of  
\$200.00. Restitution of \$99,589.00.

Impr of 15 months. SRT of 3 years. SMA of  
\$200.00. Restitution of \$99,589.00.

**Highest Offense Level (Opening)**

## Felony

Terminated Counts18:371 CONSPIRACY TO DEFRAUD THE  
UNITED STATES

(1)

Disposition

Superseded

18:641 and 18:2 AIDING AND ABETTING  
THEFT OF GOVERNMENT PROPERTY

(3)

Superseded

42:408(a)(4) CONCEALMENT OR  
FAILURE TO DISCLOSE EVENT TO SSA

(4)

Superseded

42:408(a)(2) MISUSE OF SOCIAL  
SECURITY NUMBER

(4s)

Dismissed on 2/6/2017

Highest Offense Level (Terminated)

Felony

Complaints

None

DispositionInterested Party

US Probation Office

Plaintiff

USA

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**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
01/13/2015	<u>1</u>	MOTION to Seal Case by USA as to Luis Escabi-Perez (1), Alberto Sostre-Cintron (2). (su) (Entered: 01/16/2015)
01/13/2015	<u>2</u>	ORDER granting <u>1</u> Motion to Seal Case as to Luis Escabi-Perez (1), Alberto Sostre-Cintron (2). Signed by US Magistrate Judge Bruce J. McGiverin on 1/13/15. (su) (Entered: 01/16/2015)
01/13/2015	<u>3</u>	INDICTMENT as to Luis Escabi-Perez (1) count(s) 1, 2, 3, Alberto Sostre-Cintron (2) count(s) 1, 3, 4. (su) Modified on 1/20/2015 date filed (su). (Entered: 01/16/2015)
01/13/2015	<u>4</u>	Minute Entry for proceedings held before US Magistrate Judge Bruce J. McGiverin: Return of Indictment by Grand Jury as to Luis Escabi-Perez (1), Alberto Sostre-Cintron (2) held on 1/13/2015. Warrant of Arrest is to be issued. (Court Reporter ftr.)Hearing set for 09:00.Hearing held at 09:00.Hearing ended at 09:01. (su) (Entered: 01/16/2015)
01/13/2015	<u>5</u>	<b>*RESTRICTED*</b> Warrant Issued by US Magistrate Judge Bruce J. McGiverin in case as to Luis Escabi-Perez (1), Alberto Sostre-Cintron (2). (su) (Entered: 01/16/2015)
01/15/2015		Arrest of Luis Escabi-Perez (1) and Alberto Sostre-Cintron (2) (br) (Entered: 01/16/2015)
01/15/2015	<u>6</u>	<b>*RESTRICTED*</b> CJA 23 Financial Affidavit by Alberto Sostre-Cintron (2) (br) (Entered: 01/16/2015)
01/15/2015	<u>8</u>	Minute entry for proceedings held before US Magistrate Judge Bruce J. McGiverin: Initial Appearance as to Alberto Sostre-Cintron (2) held on 1/15/2015. PRESENT: SAUSA Vanessa Bonano and USPO Emanuel Bravo & Shirley Pabon. Defendant was provided with copy of the Indictment and advised as to his rights. After reviewing the CJA-23 form filled by defendant, the Court deemed it appropriate to appoint counsel. Defendant will be represented by CJA counsel. Defendant ordered released on own recognizance. <b>Arraignment set for 1/21/2015 11:00 AM in Courtroom 9 before US Magistrate Judge Bruce J. McGiverin.</b> (Court Interpreter Janis Palma/ Mary Jo Smith.) (mac) (Entered: 01/19/2015)
01/15/2015	<u>9</u>	ORDER Setting Conditions of Release as to Alberto Sostre-Cintron (2): Own Recognizance. Signed by US Magistrate Judge Bruce J. McGiverin on 1/15/14.(su) (Entered: 01/20/2015)
01/15/2015		CJA 20 as to Alberto Sostre-Cintron (2): Appointment of Attorney Francisco J. Ortiz-Garcia for Alberto Sostre-Cintron. Signed by US Magistrate Judge Bruce J. McGiverin on 1/15/15. (mac) (Entered: 01/22/2015)
01/21/2015	<u>13</u>	Minute entry for proceedings held before US Magistrate Judge Bruce J. McGiverin: Arraignment as to Alberto Sostre-Cintron (2) on Counts 1,3 & 4 held on 1/21/2015. Present: SAUSA Vanessa Bonano and Defense Counsel Francisco Ortiz-Garcia. Defendant is present and on bond. Defendant was found competent to understand the proceedings. He waived the reading of the Indictment and entered a plea of not guilty as to all counts. The Government has seven (7) days to produce discovery and the defense has fourteen (14) days thereafter to file any motions. Case is assigned to Judge Juan Perez-Gimenez for trial and further

		proceedings (Court Reporter FTR.) (Court Interpreter Thomas Kavelin.) Hearing set for 11:00. Hearing held at 11:18. Hearing ended at 11:19. (msc) (Entered: 01/28/2015)
01/26/2015	<u>12</u>	MOTION Requesting Order that All cases (15-39(FAB), 15-40(PG), 15-41(JAF), 15-45(CCC), 15-46(PG), 15-47(PG)) filed against deft Escabi-Perez(1) be referred to Judge Besora since he is presiding primary case Cr 15-39(FAB) by USA as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 2/12/2015 (Bonano-Rodriguez, Vanessa) Modified on 1/27/2015 to add text (su). (Entered: 01/26/2015)
01/28/2015	<u>14</u>	ORDER denying <u>12</u> Motion Requesting Order as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2). Signed by Judge Juan M. Perez-Gimenez on 1/26/2015. (om) (Entered: 01/28/2015)
02/06/2015	<u>15</u>	ORDER as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2): <b>Status Conference set for 2/11/2015 10:00 AM in Old San Juan Courtroom before Judge Juan M. Perez-Gimenez.</b> Signed by Judge Juan M. Perez-Gimenez on 2/6/2015.(om) (Entered: 02/06/2015)
02/09/2015	<u>18</u>	MOTION to Withdraw as Attorney by Maria A. Dominguez. by USA as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 2/26/2015 (Dominguez-Victoriano, Maria) (Entered: 02/09/2015)
02/11/2015	<u>22</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Status Conference as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2) held on 2/11/2015. Present were AUSA Vanessa D. Bonano-Rodriguez, Laura Maldonado, and Francisco J. Ortiz. Motion filed at docket no. 19 was withdrawn by counsel Maldonado. Discovery was provided to both counsel. Curriculum vitae of Governments' experts will be provided to the defense within one week. Plea offer to be tendered to the defendant as instructed by the Court. Counsel for the defendants were granted thirty (30) days as requested for reviewing and discussing the evidence with his client. <b>Further Status Conference set for March 19, 2015 at 10:00 a.m</b> (Court Reporter Amy Walker.)Hearing set for 10:00.Hearing held at 10:34.Hearing ended at 10:38. (om) (Entered: 02/13/2015)
02/19/2015	<u>23</u>	Arrest Warrant Returned Executed on 1/15/15 in case as to Alberto Sostre-Cintrón (2). (su) (Entered: 02/24/2015)
02/19/2015	<u>24</u>	Arrest Warrant Returned Executed on 1/15/15 in case as to Alberto Sostre-Cintrón (2). (su) (Entered: 02/24/2015)
03/10/2015	<u>25</u>	ORDER as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2): <b>Further Status Conference set for March 19, 2015 is advanced for March 17, 2015 at 10:00 a.m.</b> Signed by Judge Juan M. Perez-Gimenez on 3/10/2015.(om) (Entered: 03/10/2015)
03/17/2015	<u>26</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Further Status Conference as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2) held on 3/17/2015: Present were AUSA Vanessa D. Bonano-Rodriguez, Laura Maldonado, and Francisco J. Ortiz. Additional discovery to be provided. Counsel for the defendants are reviewing the evidence. Thirty (30) days were granted as requested. <b>Further Status Conference set for April 17, 2015 at 10:00 a.m.</b> (Court Reporter Diane Breaz.)Hearing set for 10:00.Hearing held at 10:47.Hearing ended at 10:57. (om) (Entered: 03/19/2015)
04/16/2015	<u>27</u>	MOTION for Protective Order by USA as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 5/4/2015 (Attachments: # <u>1</u> Exhibit proposed order)(Bonano-Rodriguez, Vanessa) (Entered: 04/16/2015)
04/17/2015	<u>28</u>	ORDER granting <u>27</u> Motion for Protective Order as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2). Order to be entered. Signed by Judge Juan M. Perez-Gimenez on 4/17/2015. (om) (Entered: 04/20/2015)
04/17/2015	<u>29</u>	PROTECTIVE ORDER as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2) re <u>27</u> Motion for Protective Order filed by USA. Signed by Judge Juan M. Perez-Gimenez on 4/17/2015. (om) (Entered: 04/20/2015)



04/17/2015	30	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Further Status Conference as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2) held on 4/17/2015. Present were AUSA Vanessa D. Bonano-Rodriguez, Laura Maldonado, and Francisco J. Ortiz. Parties informed as to the status of the plea negotiations. Both defendants were granted until on or before May 18, 2015 to inform the Court if defendants will be pleading guilty or go to jury trial. If counsel for the defendants fail to file the motion by not later than May 18, 2015, the Court will set the case for jury trial. (Court Reporter Donna Prather.)Hearing set for 10:00.Hearing held at 11:23.Hearing ended at 11:30. (om) (Entered: 04/20/2015)
05/18/2015	31	MOTION for Extension of Time until June 1, 2015 to file COP motion by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 6/4/2015 (Ortiz-Garcia, Francisco) (Entered: 05/18/2015)
06/01/2015	32	ORDER granting <u>31</u> Urgent Motion for Extension of Time as to Alberto Sostre-Cintrón (2). <b>Motion due today, June 1, 2015.</b> Signed by Judge Juan M. Perez-Gimenez on 6/1/2015. (om) (Entered: 06/01/2015)
06/15/2015	33	MOTION for change of plea by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 7/2/2015 (Ortiz-Garcia, Francisco) (Entered: 06/15/2015)
06/18/2015	36	ORDER granting <u>33</u> Motion for Change of Plea as to Alberto Sostre-Cintrón (2). <b>Change of Plea Hearing set for June 24, 2015 at 10:00 a.m.</b> Signed by Judge Juan M. Perez-Gimenez on 6/18/2015. (om) (Entered: 06/18/2015)
06/23/2015	38	Emergency MOTION to Continue <i>Change of Plea Hearing</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 7/10/2015 (Ortiz-Garcia, Francisco) (Entered: 06/23/2015)
06/23/2015	39	ORDER granting <u>38</u> Motion to Continue as to Alberto Sostre-Cintrón (2). <b>Instead, Status Conference will be held on June 24, 2015 at 10:00 a.m.</b> Signed by Judge Juan M. Perez-Gimenez on 6/23/2015. (om) (Entered: 06/23/2015)
06/24/2015		NOTICE of Docket Text Modification by Deputy Clerk re: 37 ***VACATED AND SET ASIDE AS PER ORDER #40*** ORDER on Motion to Consolidate Cases (np) (Entered: 06/24/2015)
06/24/2015	41	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Status Conference as to Alberto Sostre-Cintrón (2) held on 6/24/2015. Present were AUSA Vanessa D. Bonano, and court appointed counsel Francisco J. Ortiz. Case originally set for change of plea. Counsel for the defendant filed an Urgent motion for a brief continuance at docket no. 38. Motion was discussed at side bar. Additional discovery provided to the defense. After the side bar held, the defense was granted ten (10) days to inform the status of the case. (Court Reporter Zulma Ruiz.)Hearing set for 10:00.Hearing held at 11:07.Hearing ended at 11:14. (om) (Entered: 06/30/2015)
07/13/2015	44	ORDER as to Alberto Sostre-Cintrón (2): <b>Status Conference set for July 16, 2015 at 10:00 a.m. in Old San Juan Courthouse.</b> Signed by Judge Juan M. Perez-Gimenez on 7/13/2015. (om) (Entered: 07/13/2015)
07/14/2015	47	ORDER as to Alberto Sostre-Cintrón (2): <b>Status Conference set for July 16, 2015 at 10:00 a.m. is reset for July 17, 2015 at 10:00 a.m. in Old San Juan Courthouse.</b> Signed by Judge Juan M. Perez-Gimenez on 7/14/2015.(om) (Entered: 07/14/2015)
07/16/2015	48	MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 8/3/2015 (Ortiz-Garcia, Francisco) (Entered: 07/16/2015)
07/16/2015	49	***SELECTED PARTIES***Emergency MOTION Requesting Order re <u>48</u> MOTION to Restrict Document by Alberto Sostre-Cintrón (2), USA as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 8/3/2015 (Ortiz-Garcia, Francisco) (Entered: 07/16/2015)



07/17/2015	53	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Status Conference as to Alberto Sostre-Cintrón (2) held on 7/17/2015: Present were Vanessa Bonano and Francisco Ortiz. Parties had a bench conference. Emergency Motion filed by the defense at dkt 49 requesting a psychiatric evaluation was discussed. Defense counsel shall contact a specialist on that field and notify the Court by motion of the dates available to evaluate the defendant as to that effect, depending on the dates chosen the Court will enter an order. (Court Reporter Evelyns Carrion.)Hearing set for 10:00.Hearing held at 10:31.Hearing ended at 10:37. (al) (Entered: 07/17/2015)
07/24/2015	54	ORDER as to Alberto Sostre-Cintrón (2) granting <u>48</u> Motion to Restrict; noted <u>49</u> Motion Requesting Order. As soon the motion is filed as ordered at the last status conference, order will be entered. Signed by Judge Juan M. Perez-Gimenez on 7/24/2015. (om) (Entered: 07/24/2015)
08/05/2015	55	MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 8/24/2015 (Ortiz-Garcia, Francisco) (Entered: 08/05/2015)
08/05/2015	56	***SELECTED PARTIES*** MOTION Requesting Order re <u>55</u> MOTION to Restrict Document by Alberto Sostre-Cintrón (2), USA as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 8/24/2015 (Ortiz-Garcia, Francisco) (Entered: 08/05/2015)
08/11/2015	57	ORDER as to Alberto Sostre-Cintrón (2) granting <u>55</u> Motion to Restrict ; granting <u>56</u> Motion Requesting Order as to Alberto Sostre-Cintrón (2). Limited to a maximum of \$1500 to be paid pursuant to the Criminal Justice Act, and the evaluation shall be conducted as suggested at paragraph 3 of docket no. 56. Signed by Judge Juan M. Perez-Gimenez on 8/7/2015. (om) (Entered: 08/11/2015)
08/13/2015	58	MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 8/31/2015 (Ortiz-Garcia, Francisco) (Entered: 08/13/2015)
08/13/2015	59	***SELECTED PARTIES*** INFORMATIVE Motion by Alberto Sostre-Cintrón (2), USA as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 8/31/2015 (Ortiz-Garcia, Francisco) (Entered: 08/13/2015)
09/29/2015	60	ORDER as to Alberto Sostre-Cintrón (2): Status Conference set for October 7, 2015 at 10:00 a.m. in Old San Juan Courthouse. Signed by Judge Juan M. Perez-Gimenez on 9/29/2015.(om) (Entered: 09/29/2015)
10/06/2015	61	ORDER as to Alberto Sostre-Cintrón (2) granting <u>58</u> Motion to Restrict; noted <u>59</u> Informative Motion. Signed by Judge Juan M. Perez-Gimenez on 10/6/2015. (om) (Entered: 10/06/2015)
10/07/2015	62	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Further Status Conference as to Alberto Sostre-Cintrón (2) held on 10/7/2015. Present were AUSA G. Andrew Massucco-La Taif for AUSA Vanessa D. Bonano, and court appointed counsel Francisco J. Ortiz. Parties advised the Court as to the status of the case. In regards what is pending in the instant case, counsel for the defendant will be getting contact Dr. Haydee Costas in order that an appointment be set. The Court instructed counsel for the defendant to file a motion as soon arrangements with Dr. Costas are made. (Court Reporter Diane Breaz.)Hearing set for 10:00.Hearing held at 10:20.Hearing ended at 10:22. (om) (Entered: 10/13/2015)
10/14/2015	63	MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/2/2015 (Ortiz-Garcia, Francisco) (Entered: 10/14/2015)
10/14/2015	64	***SELECTED PARTIES*** MOTION Requesting Order (and informative) by Alberto Sostre-Cintrón (2), USA, US Probation Office as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/2/2015 (Ortiz-Garcia, Francisco) (Entered: 10/14/2015)
11/05/2015	69	ORDER as to Alberto Sostre-Cintrón (2) granting <u>63</u> Motion to Restrict; noted and denying <u>64</u> Motion Requesting Order. Expert shall be paid for services rendered pursuant to the limits. Signed by Judge Juan M. Perez-Gimenez on 11/5/2015. (om) (Entered: 11/05/2015)

12/23/2015	<u>71</u>	MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 1/11/2016 (Ortiz-Garcia, Francisco) (Entered: 12/23/2015)
12/23/2015	<u>72</u>	***SELECTED PARTIES*** INFORMATIVE Motion by Alberto Sostre-Cintrón (2), USA as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 1/11/2016 (Ortiz-Garcia, Francisco) (Entered: 12/23/2015)
01/19/2016	<u>73</u>	ORDER as to Alberto Sostre-Cintrón (2) granting <u>71</u> Motion to Restrict; noted <u>72</u> Informative Motion. Status Conference set for February 19, 2016 at 10:00 a.m. in Old San Juan Courthouse. Signed by Judge Juan M. Perez-Gimenez on 1/21/2016. (om) (Entered: 01/21/2016)
02/10/2016	<u>74</u>	***SELECTED PARTIES*** INFORMATIVE Motion regarding evaluation, MOTION to Withdraw as Attorney by Francisco Javier Ortiz Garcia. by Alberto Sostre-Cintrón (2), USA as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 2/29/2016 (Ortiz-Garcia, Francisco) (Entered: 02/10/2016)
02/10/2016	<u>75</u>	MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 2/29/2016 (Ortiz-Garcia, Francisco) (Entered: 02/10/2016)
02/18/2016	<u>78</u>	***SELECTED PARTIES*** INFORMATIVE Motion submitting expert report regarding evaluation by Alberto Sostre-Cintrón (2), USA as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 3/7/2016 (Attachments: # <u>1</u> Exhibit One)(Ortiz-Garcia, Francisco) (Entered: 02/18/2016)
02/18/2016	<u>79</u>	MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 3/7/2016 (Ortiz-Garcia, Francisco) (Entered: 02/18/2016)
02/19/2016	<u>80</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Status Conference as to Alberto Sostre-Cintrón (2) held on 2/19/2016. Present were AUSA Vanessa D. Bonano, and court appointed counsel Francisco J. Ortiz. Side bar held, and arguments were not transcribed. Counsel for the defendant filed a motion at docket no. 74 requesting to withdraw as the legal representation for this defendant. Due to the fact that the defendant is not answering counsel Ortiz' phone calls, and he is on Own Recognizance, the Court instructed the Courtroom Deputy Clerk to call the defendant at the phone number provided by counsel Ortiz ordering the defendant to be present for the next hearing. Failure to appear will result that a warrant for arrest be issued. Motion Hearing set for February 26, 2016 at 10:00 a.m. in Old San Juan Courthouse. (Court Reporter Diane Breaz.)Hearing set for 10:00.Hearing held at 10:40.Hearing ended at 10:47. (om) (Entered: 02/24/2016)
02/22/2016	<u>81</u>	Minute Entry by the Clerk as to Alberto Sostre-Cintrón (2). On Monday, February 22, 2016 at 3:00 p.m., Case Manager/Courtroom Deputy Clerk called defendant Sostre-Cintrón (2) as instructed by Judge Perez-Gimenez during the conference held on February 19, 2016. The defendant answered, and was properly instructed to appear before Judge Perez-Gimenez on Friday, February 26, 2016 at 10:00 a.m. Moreover, the defendant was instructed that failure to appear to the proceedings will result that the Court will issue an order for his arrest. Telephone conversation between the Deputy Clerk and the defendant was conducted in the Spanish language. . (om) (Entered: 02/24/2016)
02/26/2016	<u>83</u>	ORDER as to Alberto Sostre-Cintrón (2) granting <u>75</u> Motion to Restrict; noted <u>78</u> Informative Motion; granting <u>79</u> Motion to Restrict. Signed by Judge Juan M. Perez-Gimenez on 2/26/2016. (om) (Entered: 03/08/2016)
02/26/2016	<u>84</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Motion Hearing as to Alberto Sostre-Cintrón (2) held on 2/26/2016 re <u>74</u> INFORMATIVE Motion, and for leave to withdraw legal representation. Present were SAUSA Vanessa D. Bonano-Rodriguez, and court appointed counsel Francisco J. Ortiz-Garcia. The defendant was present in court, assisted by the official court interpreter. The Court inquired the defendant as to the reasons on why he does not want attorney Ortiz to be his legal representation in this case. The Court found no basis to allow counsel to withdraw in this case, and recommended the defendant to

		fully cooperate with his attorney. After a short recess, counsel for the defendant requested 20 days in order to inform the Court as to whether the defendant will be pleading guilty or will exercise his right to jury trial. The request was granted. Finally, Hearing as to the report filed at docket no. 78 set for March 18, 2016 at 10:00 a.m. <b>Status Conference/Hearing on Motion set for March 18, 2016 at 10:00 AM in Old San Juan Courthouse.</b> (Court Reporter Evilya Carrion.)Hearing set for 10:00.Hearing held at 10:57.Hearing ended at 11:17.Interpreter Sonia Crescioni. (om) (Entered: 03/08/2016)
03/18/2016	85	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Hearing on Motion/Status Conference as to Alberto Sostre-Cintrón (2) held on 3/18/2016. Present were SAUSA Vanessa D. Bonano-Rodriguez, and court appointed counsel Francisco J. Ortiz-Garcia. The defendant was not present in court. Parties informed the Court that hearing as to the expert report submitted at docket no. 78 is not necessary. Stipulation reached by the parties as to the report that the defendant is competent to stand trial. Official Court interpreter present for today's proceedings was excused. The Court accepted the report filed by Dr. Jose A. Francheschini. Counsel for the defendant informed that his client will exercise his right to jury trial. <b>Jury Trial set for May 2, 2016 at 9:30 a.m. in Old San Juan Courthouse.</b> (Court Reporter Amy Walker.)Hearing set for 10:00.Hearing held at 10:48.Hearing ended at 10:57.Interpreter Sonia Crescioni. (om) (Entered: 03/22/2016)
04/06/2016	<del>86</del>	SUPERSEDING INDICTMENT as to Luis Escabi-Perez (1) count(s) 1s, 2s, 3s, Alberto Sostre-Cintrón (2) count(s) 1s, 3s, 4s. (ni) (Additional attachment(s) added on 8/24/2016: # 1 NPV Indictment) (cm). (Entered: 04/07/2016)
04/06/2016	<del>87</del>	Minute Entry for proceedings held before US Magistrate Judge Bruce J. McGiverin as to Luis Escabi-Perez (1), Alberto Sostre-Cintrón (2): Return of Superseding Indictment by Grand Jury held on 4/6/2016. <b>Arraignment set for 4/18/2016 09:00 AM in Courtroom 9 before US Magistrate Judge Bruce J. McGiverin.</b> (Court Reporter DCR.) (gav) (Entered: 04/07/2016)
04/13/2016	<del>89</del>	NOTICE for Designation of Evidence by Alberto Sostre-Cintrón (2) (Bonano-Rodriguez, Vanessa) (Entered: 04/13/2016)
04/13/2016	<del>90</del>	MOTION Requesting Order for Judicial Notice by USA as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 5/2/2016 (Bonano-Rodriguez, Vanessa) (Entered: 04/13/2016)
04/13/2016	<del>91</del>	MOTION in Limine by USA as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 5/2/2016 (Bonano-Rodriguez, Vanessa) (Entered: 04/13/2016)
04/13/2016	<del>92</del>	Emergency MOTION to Continue the Trial by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 5/2/2016 (Ortiz-Garcia, Francisco) (Entered: 04/13/2016)
04/18/2016	94	Minute Entry for proceedings held before US Magistrate Judge Bruce J. McGiverin: Arraignment as to Alberto Sostre-Cintrón (2) Count 1s,3s,4s held on 4/18/2016. Present: AUSA Vanessa Bonano and Atty. Francisco Ortiz. Defendant is on bond, present in court, and assisted by the court interpreter. Defendant requested the reading of the Indictment. The Court granted the request. The Indictment was read in open court. Defendant entered a plea of not guilty as to all counts. The Government has 7 days to produce discovery and the defense has 14 days thereafter to file motions. Case is referred to Judge Juan M. Perez-Gimenez for further proceedings. (Court Reporter DCR.) Hearing set for 09:00. Hearing held at 09:40. Hearing recessed at 09:42. Hearing continued at 10:06. Hearing ended at 10:29. Interpreter Heidi Cazes. (ari) (Entered: 04/19/2016)
04/19/2016	95	ORDER holding in abeyance <del>92</del> Motion to Continue as to Alberto Sostre-Cintrón (2) <b>Status Conference set for April 21, 2016 at 10:00 AM in Old San Juan Courthouse.</b> Signed by Judge Juan M. Perez-Gimenez on 4/19/2016. (om) (Entered: 04/19/2016)
04/21/2016	97	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Status Conference as to Alberto Sostre-Cintrón (2) held on 4/21/2016. Present were AUSA Vanessa D. Bonano, and court appointed counsel Francisco J. Ortiz-Garcia. Jury trial in this case set for May 2,



		2016. Superseding Indictment filed at docket no. 86, hence additional discovery provided to the defense. Counsel for the defendant filed a motion requesting continuance of jury trial at docket no. 92. Counsel was granted time to review the evidence recently provided, and to discuss its contents with his client. Request that jury trial be reset was granted, but not until August 2016. The Court granted the defense thirty (30) to review the evidence, and to inform the Court if the defendant will be pleading guilty or will be exercising his right for jury trial. Jury trial to be set at the next status conference, and will be in June 2016. <b>Further Status Conference set for May 25, 2016 at 10:00 a.m. Parties shall promptly notify the Court if an agreement is reached prior to this conference.</b> (Court Reporter Evilya Carrion.)Hearing set for 10:00.Hearing held at 10:37.Hearing ended at 10:40. (om) (Entered: 04/21/2016)
05/25/2016	99	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Further Status Conference as to Alberto Sostre-Cintrón (2) held on 5/25/2016. Present were AUSA Vanessa D. Bonano, and court appointed counsel Francisco J. Ortiz. Counsel Ortiz once again brought to the Court's attention his severed relationship with his client. Nevertheless, jury trial was set. <b>Jury Trial set for July 5, 2016 at 9:30 a.m. in Old San Juan Courthouse.</b> (Court Reporter Lisa O'Brian.)Hearing set for 10:00.Hearing held at 10:31.Hearing ended at 10:34. (om) (Entered: 05/27/2016)
06/22/2016	100	MOTION Submitting <i>Proposed Special Jury Instructions</i> by USA as to Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 7/11/2016 (Bonano-Rodriguez, Vanessa) (Entered: 06/22/2016)
06/28/2016	101	ORDER as to Alberto Sostre-Cintrón (2): <b>Jury trial set for July 5, 2016 is reset for July 6, 2016 at 9:30 a.m.</b> Signed by Judge Juan M. Perez-Gimenez on 6/28/2016.(om) (Entered: 06/28/2016)
06/30/2016	102	Proposed Jury Instructions by Alberto Sostre-Cintrón (2) (Ortiz-Garcia, Francisco) (Entered: 06/30/2016)
06/30/2016	103	ORDER as to Alberto Sostre-Cintrón (2). <b>Jury trial set for July 6, 2016 at 9:30 a.m. will be held at the Hato Rey Courthouse, Courtroom No. 5.</b> Signed by Judge Juan M. Perez-Gimenez on 6/30/2016.(om) (Entered: 06/30/2016)
07/05/2016	104	NOTICE OF ATTORNEY APPEARANCE: Seth Erbe appearing for USA. (Erbe, Seth) (Entered: 07/05/2016)
07/06/2016	106	***FILED IN ERROR/NO PDF ATTACHED*** Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez:Hearing as to Alberto Sostre-Cintrón (2) held on 7/6/2016. Jury trial vacated. New counsel to be appointed. (Court Reporter Lisa O'Brien.)Hearing set for 09:30.Hearing held at 10:25.Hearing ended at 11:25.Interpreter Mary Jo Smith. (om) Modified on 7/14/2016 (mr). (Entered: 07/13/2016)
07/06/2016	107	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Hearing as to Alberto Sostre-Cintrón (2) held on 7/6/2016. Jury trial vacated. New counsel to be appointed. (Court Reporter Lisa O'Brien.)Hearing set for 09:30.Hearing held at 10:25.Hearing ended at 11:25.Interpreter Mary Jo Smith. (om) (Entered: 07/13/2016)
07/06/2016		CJA 20 appointment of Mariangela Tirado-Vales. Signed by Judge Juan M. Perez-Gimenez on 7/6/2016.(om) (Entered: 07/13/2016)
07/12/2016	105	MOTION Requesting Order <i>authorizing submitting voucher</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 7/29/2016 (Ortiz-Garcia, Francisco) (Entered: 07/12/2016)
07/13/2016	108	ORDER granting <u>105</u> Motion Requesting Order as to Alberto Sostre-Cintrón (2). Order authorizing to submit voucher was given to counsel during the hearing held on July 6, 2016. Signed by Judge Juan M. Perez-Gimenez on 7/13/2016. (om) (Entered: 07/13/2016)
07/14/2016		NOTICE of Docket Text Modification by Deputy Clerk re: 106 Minute. ***FILED IN ERROR/NO PDF ATTACHED. See DE 107.*** (mr) (Entered: 07/14/2016)

07/14/2016	109	ORDER as to Alberto Sostre-Cintrón (2): <b>Status Conference set for August 11, 2016 at 10:00 a.m. in Old San Juan Courthouse.</b> Signed by Judge Juan M. Perez-Gimenez on 7/14/2016.(om) (Entered: 07/14/2016)
08/11/2016	110	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Status Conference as to Alberto Sostre-Cintrón (2) held on 8/11/2016. Present were SAUSA Vanessa D. Bonano, and court appointed counsel Mariangela Tirado-Vales. The defendant was present in court, and during the status conference was provided with the services of certified court interpreter. Counsel Tirado was recently appointed to represent this defendant, and she is in the process of reviewing the discovery, and discuss its contents with her client. Counsel requested 30 days to review the discovery, and the setting of a further status conference. The request was granted. Moreover, counsel Tirado will be meeting with the United States next week. <b>Further Status Conference set for September 8, 2016 at 10:00 AM in Old San Juan Courthouse.</b> (Court Reporter Lisa O'Brien.)Hearing set for 10:00.Hearing held at 10:35.Hearing ended at 10:47.Interpreter Marie Hernandez. (om) (Entered: 08/22/2016)
09/02/2016	111	MOTION to Continue Status Conference set for September 8, 2016 Due to Conflict with CLE Courses and Notice of Absence of Jurisdiction by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 9/19/2016 (Tirado-Vales, Mariangela) (Entered: 09/02/2016)
09/06/2016	112	ORDER granting <u>111</u> Motion to Continue as to Alberto Sostre-Cintrón (2) <b>Status Conference re-set for 9/12/2016 02:30 PM in Old San Juan Courtroom before Judge Juan M. Perez-Gimenez.</b> Signed by Judge Juan M. Perez-Gimenez on 09/06/2016. (NNR) (Entered: 09/06/2016)
09/07/2016	113	ORDER as to Alberto Sostre-Cintrón (2): <b>Status Conference set for 9/12/2016 at 02:30 PM will be held in Courtroom 5 in Hato Rey before Judge Juan M. Perez-Gimenez.</b> Signed by Judge Juan M. Perez-Gimenez on 9/7/2016.(sc) (Entered: 09/07/2016)
09/12/2016	114	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Further Status Conference as to Alberto Sostre-Cintrón (2) held on 9/12/2016. Present were AUSA Seth Erbe and defense counsel Angela Tirado. Defense counsel stated that, after reviewing the evidence and conferring with the defendant, her client will exercise his right to a jury trial but that he would consider the possibility of a plea agreement. Therefore, <b>Jury Trial is set for 10/24/2016 at 9:30 AM in Old San Juan Courtroom before Judge Juan M. Perez-Gimenez.</b> (Court Reporter Lisa O'Brien.) Hearing set for 2:30 pm. Hearing held at 2:26 pm. Hearing ended at 2:32 pm. Interpreter Felix Toledo. (cmd) Modified on 10/12/2016 to correct filing/hold date (mr). (Entered: 09/13/2016)
10/14/2016	115	***FILED IN ERROR-DUPLICATE FILING of D.E. 117*** MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 10/31/2016 (Tirado-Vales, Mariangela) Modified on 10/17/2016 to remove restriction (mr). Modified on 10/17/2016 (mr). (Entered: 10/14/2016)
10/14/2016	116	***FILED IN ERROR-INCOMPLETE PDF***EX-PARTE*** MOTION to Appoint Expert by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 10/31/2016 (Tirado-Vales, Mariangela) Modified on 10/17/2016 (mr). (Entered: 10/14/2016)
10/14/2016	117	MOTION to Restrict Document <i>Appointment of Expert</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 10/31/2016 (Tirado-Vales, Mariangela) (Entered: 10/14/2016)
10/14/2016	118	***EX-PARTE*** MOTION requesting issuance of order by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 10/31/2016 (Attachments: # <u>1</u> Exhibit)(Tirado-Vales, Mariangela) (Entered: 10/14/2016)
10/14/2016	119	MOTION to Restrict Document <i>re: issuance of order</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 10/31/2016 (Tirado-Vales, Mariangela) (Entered: 10/14/2016)

10/14/2016	<u>120</u>	***EX-PARTE*** MOTION to Appoint Expert by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 10/31/2016 (Attachments: # <u>1</u> Exhibit)(Tirado-Vales, Mariangela) (Entered: 10/14/2016)
10/14/2016	<u>121</u>	MOTION for removal from ECF System Dockets No. 115 & 116 re <u>116</u> MOTION to Appoint Expert , <u>115</u> MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 10/31/2016 (Tirado-Vales, Mariangela) (Entered: 10/14/2016)
10/15/2016	<u>122</u>	MOTION to Restrict Document re: <i>issuance of order</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/3/2016 (Tirado-Vales, Mariangela) (Entered: 10/15/2016)
10/15/2016	<u>123</u>	***EX-PARTE*** MOTION Requesting Order by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/3/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Tirado-Vales, Mariangela) (Entered: 10/15/2016)
10/15/2016	<u>124</u>	MOTION Requesting Order for <i>Production of Original and Complete Records</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/3/2016 (Tirado-Vales, Mariangela) (Entered: 10/15/2016)
10/16/2016	<u>125</u>	MOTION in <i>Limine of Testimony of Luis Escabi</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/3/2016 (Tirado-Vales, Mariangela) (Entered: 10/16/2016)
10/17/2016		NOTICE of Docket Text Modification by Deputy Clerk re: <u>116</u> MOTION to Appoint Expert ***FILED IN ERROR-INCOMPLETE PDF/ NO ATTACHMENTS; <u>115</u> MOTION to Restrict Document. ***FILED IN ERROR-DUPLICATE FILING of D.E. 117.*** (mr) (Entered: 10/17/2016)
10/17/2016	<u>126</u>	MOTION to Restrict Document by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/3/2016 (Tirado-Vales, Mariangela) (Entered: 10/17/2016)
10/17/2016	<u>127</u>	***EX-PARTE*** MOTION Requesting Order for <i>documents</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/3/2016 (Attachments: # <u>1</u> Exhibit)(Tirado-Vales, Mariangela) (Entered: 10/17/2016)
10/17/2016	<u>128</u>	MOTION to Clarify <i>Request made in Docket 124</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/3/2016 (Tirado-Vales, Mariangela) (Entered: 10/17/2016)
10/17/2016	<u>129</u>	MOTION Requesting Order <i>addressed to government to provide un-redacted interviews of witnesses</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/3/2016 (Tirado-Vales, Mariangela) (Entered: 10/17/2016)
10/18/2016	<u>130</u>	MOTION to Continue <i>Trial set for October 24, 2016 and request for setting of Pre-trial Conference</i> by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/4/2016 (Tirado-Vales, Mariangela) (Entered: 10/18/2016)
10/18/2016	131	ORDER granting <u>130</u> Motion requesting continuance of trial set for October 24, 2016, and setting of Pretrial Conference as to Alberto Sostre-Cintrón (2). <b>Jury trial set for October 24, 2016 is vacated. Pretrial Conference set for October 24, 2016 at 11:45 AM in Old San Juan Courthouse.</b> Signed by Judge Juan M. Perez-Gimenez on 10/18/2016. (om) (Entered: 10/18/2016)
10/24/2016	132	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez as to Alberto Sostre-Cintrón (2). Case set for Pretrial Conference on October 24, 2016 at 11:45 a.m. Present were AUSA Seth Erbe, SAUSA Vanessa D. Bonano, and court appointed counsel Mariangela Tirado-Vales. Since the Court was attending a charge conference in Cv. 14-1620 PG, Gonzalez v. Abbott, et al., pretrial conference set for today not held. The United States and counsel for defendant were excused at 12:38p.m. <b>Pretrial Conference reset for October 26, 2016 at 10:00 AM in Old San Juan Courthouse.</b> (Court Reporter Lisa O'Brien not used) (om) (Entered: 10/24/2016)
10/25/2016	133	ORDER as to Alberto Sostre-Cintrón (2): <b>Pretrial Conference set for 10/26/2016 at 10:00</b>



		<b>a.m. is moved for 2:00 PM. Proceedings to be held at the Old San Juan Courthouse, Courtroom located at the Fifth floor. Signed by Judge Juan M. Perez-Gimenez on 10/25/2016.(om) (Entered: 10/25/2016)</b>
10/25/2016	<u>134</u>	Emergency MOTION to Continue Pretrial Conference set for October 26, 2016 at 2:00 PM due to calendar conflict with setting by Alberto Sostre-Cintrón (2). Suggestions in opposition/response due by 11/14/2016 (Tirado-Vales, Mariangela) (Entered: 10/25/2016)
10/25/2016	135	ORDER granting <u>134</u> Motion to Continue as to Alberto Sostre-Cintrón (2). Pretrial Conference set for October 26, 2016 at 2:00 p.m. is reset for October 27, 2016 at 10:00 AM in Old San Juan Courthouse, Courtroom located at the Fifth floor. Signed by Judge Juan M. Perez-Gimenez on 10/25/2016. (om) (Entered: 10/25/2016)
10/25/2016	136	ORDER as to Alberto Sostre-Cintrón (2) granting <u>119</u> Motion to Restrict; granting <u>120</u> Motion to Appoint Expert, not to exceed \$1,500.00. Signed by Judge Juan M. Perez-Gimenez on 10/24/2016. (om) (Entered: 10/25/2016)
10/26/2016	137	ORDER as to Alberto Sostre-Cintrón (2) re <u>125</u> Motion in Limine filed by Alberto Sostre-Cintrón: <b>The United States shall reply by not later than November 3, 2016.</b> Signed by Judge Juan M. Perez-Gimenez on 10/25/2016.(om) (Entered: 10/26/2016)
10/26/2016	138	ORDER as to Alberto Sostre-Cintrón (2) re <u>124</u> Motion Requesting Order filed by Alberto Sostre-Cintrón. <b>The United States shall reply by not later than 11/4/2016.</b> Signed by Judge Juan M. Perez-Gimenez on 10/25/2016.(om) (Entered: 10/26/2016)
10/26/2016	139	ORDER as to Alberto Sostre-Cintrón (2) granting <u>117</u> Motion to Restrict; granting in part and denying in part <u>118</u> Motion as to Alberto Sostre-Cintrón (2). Granting only as to Alberto Sostre-Cintrón. Signed by Judge Juan M. Perez-Gimenez on 10/25/2016. (om) (Entered: 10/26/2016)
10/26/2016	<u>140</u>	<b>***SELECTED PARTIES***</b> Sealed ORDER as to Alberto Sostre-Cintrón (2) re <u>118</u> Motion for Miscellaneous Relief filed by Alberto Sostre-Cintrón. Signed by Judge Juan M. Perez-Gimenez on 10/26/2016.(om) (Entered: 10/26/2016)
10/26/2016	141	ORDER as to Alberto Sostre-Cintrón (2) granting <u>122</u> Motion to Restrict; denying <u>123</u> Motion Requesting Order. Counsel Tirado shall obtain said records from previous counsel. Signed by Judge Juan M. Perez-Gimenez on 10/25/2016. (om) (Entered: 10/26/2016)
10/26/2016	143	ORDER granting <u>126</u> Motion to Restrict as to Alberto Sostre-Cintrón (2); granting <u>127</u> Motion Requesting Order as to Alberto Sostre-Cintrón (2). Signed by Judge Juan M. Perez-Gimenez on 10/26/2016. (om) (Entered: 10/27/2016)
10/26/2016	<u>144</u>	<b>***SELECTED PARTIES***</b> Sealed Ex Parte ORDER as to Alberto Sostre-Cintrón (2) re <u>127</u> Motion Requesting Order. Signed by Judge Juan M. Perez-Gimenez on 10/26/2016.(om) (Entered: 10/27/2016)
10/27/2016	142	ORDER finding as moot <u>121</u> Motion as to Alberto Sostre-Cintrón (2). Signed by Judge Juan M. Perez-Gimenez on 10/26/2016. (om) (Entered: 10/27/2016)
10/27/2016	145	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Pretrial Conference as to Alberto Sostre-Cintrón (2) held on 10/27/2016 Present were AUSA Vanessa D. Bonano, and court appointed counsel Mariangela Tirado-Vales. Notwithstanding the Court set deadlines for the United States to answer several motions filed by the defense, motions were discussed during today's proceedings. Supplemental motions as to the reviewing of files in relation to the motion in limine to be filed by the defense. Deadlines set for the United States to reply defendants' motions extended until defendants' supplemental motions are filed. Jury trial set as requested by the United States. <b>Jury Trial set for February 6, 2017 at 9:30 a.m. in Old San Juan Courthouse.</b> (Court Reporter Lisa O'Brien.)Hearing set for 10:00.Hearing held at 10:45.Hearing ended at 10:55. (om) (Entered: 11/04/2016)
11/03/2016	<u>146</u>	<b>*RESTRICTED*</b> USM Return of Court Order Executed as to SSA and Treasury Department



		of Puerto Rico 11/2/2016. (mr) (Entered: 12/07/2016)
01/17/2017	<u>147</u>	***EX-PARTE*** MOTION Submitting <i>Unredacted Reports for In Camera Inspection</i> by USA as to Alberto Sostre-Cintrón. Responses due by 1/31/2017. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Attachments: # 1 Exhibit Redacted Reports, # 2 Exhibit Unredacted Reports)(Bonano-Rodriguez, Vanessa) (Entered: 01/17/2017)
01/17/2017	<u>148</u>	MOTION to Restrict Document by USA as to Alberto Sostre-Cintrón. Responses due by 1/31/2017. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Bonano-Rodriguez, Vanessa) (Entered: 01/17/2017)
02/05/2017	<u>149</u>	MOTION to Restrict Document by Alberto Sostre-Cintrón. Responses due by 2/21/2017. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Tirado-Vales, Mariangela) (Entered: 02/05/2017)
02/05/2017	<u>150</u>	***EX-PARTE*** INFORMATIVE Motion regarding defense matters by Alberto Sostre-Cintrón. Responses due by 2/21/2017. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Tirado-Vales, Mariangela) (Entered: 02/05/2017)
02/06/2017	<u>151</u>	***SELECTED PARTIES***RESTRICTED* Jury List as to Alberto Sostre-Cintrón (2) (om) (Entered: 02/06/2017)
02/06/2017	<u>152</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: First day of Jury Trial as to Alberto Sostre-Cintrón (2) held on 2/6/2017. Testimony of Victor Ocasio, and Elliot Melendez on behalf of government heard. <b>Further Jury trial set for February 7, 2017 at 9:30 a.m.</b> Evidence Admitted: Governments' Exhibits 1, 2, 3, 3A, 4, 4A, and 5. Court 4s dismissed as per Government's request. (Court Reporter Lisa O'Brien.)Hearing set for 09:30.Hearing held at 09:45.Hearing ended at 04:00.Interpreter Marie Hernandez & Sonia Crescioni. (om) (Entered: 02/06/2017)
02/06/2017	<u>153</u>	ORDER noted <u>150</u> Motion Submitting as to Alberto Sostre-Cintrón (2). Signed by Judge Juan M. Perez-Gimenez on 2/6/2017. (om) (Entered: 02/07/2017)
02/06/2017	<u>154</u>	ORDER as to Alberto Sostre-Cintrón (2) noted <u>147</u> Motion Submitting; granting <u>148</u> Motion to Restrict. Signed by Judge Juan M. Perez-Gimenez on 2/6/2017. (om) (Entered: 02/07/2017)
02/06/2017	<u>155</u>	ORDER as to Alberto Sostre-Cintrón (2) granting <u>149</u> Motion to Restrict; noted <u>150</u> Informative Motion. Signed by Judge Juan M. Perez-Gimenez on 2/6/2017. (om) (Entered: 02/07/2017)
02/07/2017	<u>156</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Second day of Jury Trial as to Alberto Sostre-Cintrón (2) held on February 7, 2017. Testimony of Elliot Melendez, Joel Ferris, Orlando Benitez, and Julizette Collazo. <b>Further Jury trial set for February 8, 2017 at 9:30 a.m.</b> Evidence Admitted: Governments' Exhibits 4b, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17. (Court Reporter Lisa O'Brien.)Hearing set for 09:30.Hearing held at 10:05.Hearing ended at 04:00.Interpreter Marie Hernandez & Sonia Crescioni. (om) (Entered: 02/07/2017)
02/07/2017	<u>157</u>	Proposed Jury Instructions by USA as to Alberto Sostre-Cintrón (Bonano-Rodriguez, Vanessa) (Entered: 02/07/2017)
02/08/2017	<u>158</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Third day of Further Jury Trial as to Alberto Sostre-Cintrón (2) held on February 8, 2017. Testimony of Dr. Luis Escabi, and Rosalia Ayala. <b>Further Jury trial set for February 9, 2017 at 9:30 a.m.</b> Evidence Admitted: Governments' Exhibits 18, 19, 20, 21, 22, and 23. Defendant's Exhibit A (previously marked as Governments Id 24), and B (pending translation). (Court Reporter Lisa O'Brien.)Hearing set for 09:30.Hearing held at 09:41.Hearing ended at 04:00.Interpreter Marie Hernandez & Sonia Crescioni. (om) (Entered: 02/08/2017)

02/09/2017	<u>159</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Fourth day of Further Jury Trial as to Alberto Sostre-Cintrón (2) held on February 9, 2017. Testimony of Rosalia Ayala, and Felix Vazquez. <b>Further Jury trial set for February 10, 2017 at 9:30 a.m.</b> (Court Reporter Lisa O'Brien.)Hearing set for 09:30.Hearing held at 10:00.Hearing ended at 04:00.Interpreter Marie Hernandez & Sonia Crescioni. (om) (Entered: 02/09/2017)
02/10/2017	<u>160</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Fifth day of Jury Trial as to Alberto Sostre-Cintrón (2) held on February 10, 2017. Testimony of Alejandro Oliveras. <b>Further Jury trial set for February 13, 2017 at 9:30 a.m.</b> Evidence Admitted:Governments' Exhibits 24, 25, 26, 27, 28, 29, 29A.Defendant's Exhibit C. (Court Reporter Lisa O'Brien.)Hearing set for 09:30.Hearing held at 09:40.Hearing ended at 11:40.Interpreter Sonia Crescioni. (om) (Entered: 02/10/2017)
02/10/2017	<u>161</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez:Charge Conference as to Alberto Sostre-Cintrón (2) held on February 10, 2017. Present were AUSA Seth Erbe, SAUSA Vanessa D. Bonano, and court appointed counsel Mariangela Tirado. Proceedings held in chambers and for the record. (Court Reporter Lisa O'Brien.)Hearing set for 02:00.Hearing held at 02:38.Hearing ended at 03:48. (om) (Entered: 02/13/2017)
02/13/2017	<u>162</u>	Order and Jury Instructions as to Alberto Sostre-Cintrón (2). (om) (Entered: 02/13/2017)
02/13/2017	<u>163</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Sixth of Further Jury Trial as to Alberto Sostre-Cintrón (2) held on 2/13/2017. Defendant found guilty to count 1s, and 3s. <b>Sentencing Hearing set for June 30, 2017 at 10:00 a.m. in Old San Juan Courthouse.</b> (Court Reporter Lisa O'Brien.)Hearing set for 09:30.Hearing held at 10:15.Hearing ended at 03:15.Interpreter Sonia Crescioni. (om) (Entered: 02/13/2017)
02/13/2017	<u>164</u>	JURY VERDICT as to Alberto Sostre-Cintrón (2) Guilty on Count 1s, 3s. (om) (Additional attachment(s) added on 2/27/2017: # <u>1</u> NPV Jury Verdict) (mr). (Entered: 02/13/2017)
02/13/2017	<u>165</u>	EXHIBIT LIST in the case of by Alberto Sostre-Cintrón (2). (For Government and defendant) (om) (Entered: 02/13/2017)
02/13/2017	<u>166</u>	Jury Notes as to Alberto Sostre-Cintrón (2). (om) (Additional attachment(s) added on 2/27/2017: # <u>1</u> NPV Jury Notes) (mr). (Entered: 02/15/2017)
02/16/2017	<u>167</u>	MOTION for Release from Custody until Sentence by Alberto Sostre-Cintrón. Responses due by 3/2/2017. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Tirado-Vales, Mariangela) (Entered: 02/16/2017)
02/17/2017	<u>168</u>	RESPONSE in Opposition to Defendant's Motion Requesting Post Trial Release re: <u>167</u> MOTION for Release from Custody until Sentence by USA as to Alberto Sostre-Cintrón (Bonano-Rodriguez, Vanessa) Modified on 2/21/2017 to create relationship to DE 167 (mr). (Entered: 02/17/2017)
03/31/2017	<u>169</u>	TRANSCRIPT REQUEST by USA as to Alberto Sostre-Cintrón for proceedings held on February 7, 2017 before Judge Juan M. Perez-Gimenez. (Soto-Ortega, Amanda) (Entered: 03/31/2017)
04/07/2017	<u>170</u>	Transcript of an Excerpt of Proceedings (Day 2 of Jury Trial - Testimony of Orlando Benitez) as to Alberto Sostre-Cintrón held on 2/7/17, before Judge Juan M. Perez-Gimenez. Court Reporter/Transcriber Lisa O'Brien, Telephone number 708-284-0021. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/28/2017. Redacted Transcript Deadline set for 5/8/2017. Release of

		Transcript Restriction set for 7/6/2017. (lo) Modified on 4/10/2017 to delete co-defendant 1 not applicable (mr). (Entered: 04/07/2017)
05/25/2017	<u>173</u>	***SELECTED PARTIES*** NOTICE of Disclosure of PSR Pursuant to Local Rule 132, the U.S. Probation Officer makes disclosure of the presentence report for the defendant of record. According to said rule, any inaccuracies or discrepancies should be reported to the Probation Officer within 14 days from disclosure of the document. Since the presentence report is a Court Document, its contents must not be recorded or otherwise disseminated to third parties in any manner, by US Probation Office as to Alberto Sostre-Cintrón. (U.S. Probation Officer, Andres Narvaez) Modified on 5/26/2017 as to filer (gav). (Entered: 05/25/2017)
05/25/2017	<u>175</u>	ORDER as to Alberto Sostre-Cintrón (2) denying <u>167</u> Motion requesting Post Trial Release; granting <u>168</u> Response in Opposition. Signed by Judge Juan M. Perez-Gimenez on 5/25/2017. (om) (Entered: 05/30/2017)
05/29/2017	<u>174</u>	MOTION requesting Transfer of Defendant to Puerto Rico by Alberto Sostre-Cintrón. Responses due by 6/12/2017. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Tirado-Vales, Mariangela) (Entered: 05/29/2017)
05/30/2017	<u>176</u>	ORDER as to Alberto Sostre-Cintrón (2) granting <u>174</u> Motion requesting transfer of defendant to Puerto Rico. Signed by Judge Juan M. Perez-Gimenez on 5/30/2017. (om) (Entered: 05/30/2017)
06/22/2017	<u>177</u>	***SELECTED PARTIES*** NOTICE of Filing of Addendum to the PSR. The addendum to the presentence investigation report has been filed in compliance with Rule 32 of the Federal Rules of Criminal Procedure by US Probation Office as to Alberto Sostre-Cintrón (U.S. Probation Office Staff, Rebecca Perez) Modified on 6/23/2017 as to filer (gav). (Entered: 06/22/2017)
06/29/2017	<u>180</u>	MOTION to Restrict Document by Alberto Sostre-Cintrón. Responses due by 7/13/2017. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Tirado-Vales, Mariangela) (Entered: 06/29/2017)
06/29/2017	<u>181</u>	***SELECTED PARTIES***SENTENCING MEMORANDUM by Alberto Sostre-Cintrón. (Tirado-Vales, Mariangela) Modified on 6/30/2017 edit text (gav). (Entered: 06/29/2017)
06/30/2017	<u>185</u>	Minute Entry for proceedings held before Judge Juan M. Perez-Gimenez: Sentencing held on June 30, 2017 for Alberto Sostre-Cintrón (2). The defendant was present in court, under the custody of the U.S. Marshals, and was assisted by certified court interpreter. On February 13, 2017, the defendant, Alberto Sostre-Cintrón was found guilty by jury trial to Counts One (1s) and Three (3s) of the Superseding Indictment. Counts One (1s) and Three (3s) were grouped for guideline calculation purposes, pursuant to the provisions of USSC §3D1.2(d). The defense requested a term of time served. The United States requested higher end of the guideline. Imprisonment as to Counts One (1s), and Three (3s) of Fifteen (15) months. Supervised Release term of Three (3) years. SMA of \$200.00. Restitution ordered in the amount of \$99,589.00. Count Four (4s) was dismissed as requested by the United States during a status conference held prior to jury selection on February 6, 2017. All terms and conditions are specified in the judgment form. Since defendant was found guilty by a jury after a plea of not guilty, warnings of appeal were given. (Court Reporter Lisa O'Brien.)Hearing set for 10:00.Hearing held at 11:20.Hearing ended at 11:52.Interpreter Felix Toledo. USPO Andres E. Narvaez. (om) (Entered: 07/06/2017)
06/30/2017	<u>186</u>	JUDGMENT as to Alberto Sostre-Cintrón (2). Counts 1s, 3s, Impr of 15 months. SRT of 3 years. SMA of \$200.00. Restitution of \$99,589.00. Count 4s, Dismissed on 2/6/2017 Signed by Judge Juan M. Perez-Gimenez on 6/30/2017.(om) (Entered: 07/06/2017)
06/30/2017	<u>187</u>	***SELECTED PARTIES*** Statement of Reasons as to Alberto Sostre-Cintrón (2). Signed by Judge Juan M. Perez-Gimenez on 6/30/2017.(om) (Entered: 07/07/2017)
07/09/2017	<u>188</u>	NOTICE OF APPEAL by Alberto Sostre-Cintrón as to <u>186</u> Judgment,



		<b>NOTICE TO COUNSEL:</b> Counsel should register for a First Circuit CM/ECF Appellate Filer Account at <a href="http://pacer.psc.uscourts.gov/cmecf/">http://pacer.psc.uscourts.gov/cmecf/</a> . Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at <a href="http://www.ca1.uscourts.gov/efiling.htm">http://www.ca1.uscourts.gov/efiling.htm</a> (Tirado-Vales, Mariangela) (Entered: 07/09/2017)
08/01/2017	<u>193</u>	Certified and Transmitted Record on Appeal as to Alberto Sostre-Cintrón (2) to US Court of Appeals re <u>188</u> Notice of Appeal - Final Judgment. [Docket entries 185, 186 & 188]. (mr) (Entered: 08/01/2017)
08/02/2017	194	USCA Case Number 17-1778 for <u>188</u> Notice of Appeal - Final Judgment, filed by Alberto Sostre-Cintrón (2). (mr) (Entered: 08/02/2017)
12/18/2017	<u>197</u>	Transcript of Proceedings (Sentencing Hearing) as to Alberto Sostre-Cintrón held on 6/30/17, before Judge Juan M. Perez-Gimenez. Court Reporter/Transcriber Lisa O'Brien, Telephone number 708-284-0021. COA Number: 17-1778. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/8/2018. Redacted Transcript Deadline set for 1/18/2018. Release of Transcript Restriction set for 3/19/2018. (lo) (Entered: 12/18/2017)
12/19/2017	<u>198</u>	Transcript of Proceedings (Jury Charge Conference) as to Alberto Sostre-Cintrón held on 2/10/17, before Judge Juan M. Perez-Gimenez. Court Reporter/Transcriber Lisa O'Brien, Telephone number 708-284-0021. COA Number: 17-1778. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/9/2018. Redacted Transcript Deadline set for 1/19/2018. Release of Transcript Restriction set for 3/19/2018. (lo) (Entered: 12/19/2017)
02/04/2018	<u>199</u>	Transcript of Day 2 of Jury Trial as to Alberto Sostre-Cintrón held on 2/7/17, before Judge Juan M. Perez-Gimenez. Court Reporter/Transcriber Lisa O'Brien, Telephone number 708-284-0021. COA Number: 17-1778. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 2/26/2018. Redacted Transcript Deadline set for 3/7/2018. Release of Transcript Restriction set for 5/7/2018. (lo) (Entered: 02/04/2018)
02/05/2018	<u>200</u>	Transcript of Day 3 of Jury Trial as to Alberto Sostre-Cintrón held on 2/8/17, before Judge Juan M. Perez-Gimenez. Court Reporter/Transcriber Lisa O'Brien, Telephone number 708-284-0021. COA Number: 17-1778. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due

		2/26/2018. Redacted Transcript Deadline set for 3/8/2018. Release of Transcript Restriction set for 5/7/2018. (lo) (Entered: 02/05/2018)
02/06/2018	<u>201</u>	Transcript of Day 5 of Jury Trial as to Alberto Sostre-Cintrón held on 2/10/17, before Judge Juan M. Perez-Gimenez. Court Reporter/Transcriber Lisa O'Brien, Telephone number 708-284-0021. COA Number: 17-1778. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 2/27/2018. Redacted Transcript Deadline set for 3/9/2018. Release of Transcript Restriction set for 5/7/2018. (lo) (Entered: 02/06/2018)
02/07/2018	<u>202</u>	Transcript of Day 4 of Jury Trial as to Alberto Sostre-Cintrón held on 2/9/17, before Judge Juan M. Perez-Gimenez. Court Reporter/Transcriber Lisa O'Brien, Telephone number 708-284-0021. COA Number: 17-1778. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 2/28/2018. Redacted Transcript Deadline set for 3/12/2018. Release of Transcript Restriction set for 5/8/2018. (lo) (Entered: 02/07/2018)
02/07/2018	<u>203</u>	Transcript of Day 1 of Jury Trial as to Alberto Sostre-Cintrón held on 2/6/17, before Judge Juan M. Perez-Gimenez. Court Reporter/Transcriber Lisa O'Brien, Telephone number 708-284-0021. COA Number: 17-1778. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 2/28/2018. Redacted Transcript Deadline set for 3/12/2018. Release of Transcript Restriction set for 5/8/2018. (lo) (Entered: 02/07/2018)
02/08/2018	<u>204</u>	Transcript of Day 6 of Jury Trial as to Alberto Sostre-Cintrón held on 2/13/17, before Judge Juan M. Perez-Gimenez. Court Reporter/Transcriber Lisa O'Brien, Telephone number 708-284-0021. COA Number: 17-1778. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/1/2018. Redacted Transcript Deadline set for 3/12/2018. Release of Transcript Restriction set for 5/9/2018. (lo) (Entered: 02/08/2018)
03/30/2018	<u>205</u>	NOTICE OF ATTORNEY APPEARANCE: <i>for the defendant/appellant [COA #17-1778]</i> Michael Raymond Hasse appearing for Alberto Sostre-Cintrón (Hasse, Michael) (Entered: 03/30/2018)
04/15/2018	<u>206</u>	MOTION by Counsel, Appointed on Appeal Requesting Access To Restricted Docket Entries by Alberto Sostre-Cintrón. Responses due by 4/30/2018. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Attachments: # <u>1</u> Exhibit

		ORDER of 1st Circuit Appointing Counsel, On Appeal)(Hasse, Michael) (Entered: 04/15/2018)
04/18/2018	207	ORDER granting as requested <u>206</u> Motion Re: Access to District Court record as to Alberto Sostre-Cintrón (2). Signed by Judge Daniel R. Domínguez on 4/18/2018. (om) (Entered: 04/18/2018)
12/21/2018	<u>208</u>	Printed Opinion from USCA as to Alberto Sostre-Cintrón (2) entered on 12/20/18 Re: <u>188</u> Notice of Appeal - Final Judgment, filed by Alberto Sostre-Cintrón. (xi) (Entered: 12/21/2018)
12/21/2018	<u>209</u>	JUDGMENT of USCA as to Alberto Sostre-Cintrón (2) re <u>188</u> Notice of Appeal - Final Judgment; AFFIRMED. (xi) (Entered: 12/21/2018)
01/14/2019	<u>210</u>	MANDATE of USCA as to Alberto Sostre-Cintrón (2) re <u>188</u> Notice of Appeal - Final Judgment; AFFIRMED. RE: <u>209</u> JUDGMENT of USCA (xi) (Entered: 01/14/2019)
01/14/2019		Appeal Record Returned as to Alberto Sostre-Cintrón (2): <u>188</u> Notice of Appeal RE: <u>209</u> USCA Judgment, <u>210</u> USCA Mandate, <u>208</u> USCA Opinion, <u>193</u> Appeal Record Sent to USCA. (xi) (Entered: 01/14/2019)

PACER Service Center			
Transaction Receipt			
03/12/2019 15:55:48			
PACER Login:	hanselaw-2559062-0	Client Code:	
Description:	Docket Report	Search Criteria:	3:15-cr-00046-PC
Billable Pages:	18	Cost:	1.80

## UNITED STATES DISTRICT COURT

District of Puerto Rico

UNITED STATES OF AMERICA

v.

Alberto SOSTRE-CINTRON

## JUDGMENT IN A CRIMINAL CASE

Case Number: 3:15-cr-0046-02 (PG)

USM Number: 45118-069

Mariangela Tirado-Vales, Esq.

Defendant's Attorney

## THE DEFENDANT:

☐ pleaded guilty to count(s) \_\_\_\_\_☐ pleaded *nolo contendere* to count(s) \_\_\_\_\_  
which was accepted by the court.☒ was found guilty on count(s) One (1s), and Three (3s) on February 13, 2017.  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Dated	Count
18 USC § 371	Conspiracy to defraud the United States.	03/23/2011	One (1s)
18 USC § 641	Theft of Government Property.	1/13/2015	Three (3s)

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) \_\_\_\_\_☒ Count(s) Four (4s) ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

6/30/2017

Date of Imposition of Judgment

s/ Juan M. Perez-Gimenez

Signature of Judge

Juan M. Perez-Gimenez

Name and Title of Judge

Senior, U.S. District Judge

6/30/2017

Date



DEFENDANT: Alberto SOSTRE-CINTRON  
CASE NUMBER: 3:15-cr-0046-02 (PG)

### IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

Fifteen (15) months. The defendant shall be given credit for any days spent in federal custody in connection with the offenses for which sentence has been imposed.

☒ The court makes the following recommendations to the Bureau of Prisons:

It is recommended that this defendant be allowed to serve the remainder of the sentence at the MDC-Guaynabo, or in the alternative be designated to a Federal Prison Camp located in Orlando, FL.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_  
☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_  
☐ as notified by the United States Marshal.  
☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Alberto SOSTRE-CINTRON  
CASE NUMBER: 3:15-cr-0046-02 (PG)**SUPERVISED RELEASE**Upon release from imprisonment, you will be on supervised release for a term of: Three (3) years.

UNDER THE FOLLOWING TERMS AND CONDITIONS.

**MANDATORY CONDITIONS**

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.  
☒ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: Alberto SOSTRE-CINTRON  
CASE NUMBER: 3:15-cr-0046-02 (PG)

### STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as machetes or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

### U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: Alberto SOSTRE-CINTRON  
CASE NUMBER: 3:15-cr-0046-02 (PG)

### SPECIAL CONDITIONS OF SUPERVISION

1. The defendant must be employed and complete community service for a combination of 40 hours per week. The probation officer will supervise the participation in the community service program by approving the program (agency, location, frequency of participation, etc.). The defendant must provide written verification of completed community service hours to the probation officer.
2. The defendant shall provide the U.S. Probation Officer access to any financial information upon request.
3. Pursuant to the provisions of Title 18, U.S.C. Section 2259, restitution ordered for any offense of conviction in accordance with section 3663(A) following procedures and enforcement as mandated pursuant to section 3664. Restitution ordered to be paid to the Social Security Administration in the amount of \$99,589.00. Restitution payments are to be made directly to the U.S. Clerk of Court, District of Puerto Rico for transfer to the victim. If the defendant believes that he is unable to make restitution, he must submit a detailed financial affidavit to the court within thirty (30) days for further consideration on the restitution order imposed.
4. The defendant shall participate in an approved mental health program for evaluation and/or treatment services determination. If deemed necessary, the treatment will be arranged by the officer in consultation with the treatment provider; the modality, duration, and intensity of treatment will be based on the risks and needs identified. The defendant will contribute to the costs of services rendered by means of co-payment, based on his ability to pay or the availability of third party payment.
5. The defendant shall cooperate in the collection of a DNA sample as directed by the Probation Officer, pursuant to the Revised DNA Collection Requirements, and Title 18, U.S. Code Section 3563(a)(9).
6. The defendant shall submit to a search of his person, property, house, residence, vehicles, papers, computer, other electronic communication or data storage devices or media, and effects (as defined in Title 18, U.S.C., Section 1030(e)(1)), to search at any time, with or without a warrant, by the probation officer, and if necessary, with the assistance of any other law enforcement officer (in the lawful discharge of the supervision functions of the probation officer) with reasonable suspicion concerning unlawful conduct or a violation of a condition of probation or supervised release. The probation officer may seize any electronic device which will be subject to further forensic investigation/analyses. Failure to submit to such a search and seizure, may be grounds for revocation. The defendant shall warn any other residents or occupants that their premises may be subject to search pursuant to this condition. In consideration of the Supreme Court's ruling in *Riley v. California*, the court will order that any search of the defendant's phone by probation, while the defendant is on supervised release, be performed only if there is reasonable articulable suspicion that a specific phone owned or used by the defendant contains evidence of a crime or violation of release conditions, was used in furtherance of a crime, or was specifically used during the actual commission of a crime.

DEFENDANT: Alberto SOSTRE-CINTRON  
 CASE NUMBER: 3:15-cr-0046-02 (PG)

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 200.00	\$ 0.00	\$ 0.00	\$ 99,589.00

☐ The determination of restitution is deferred until \_\_\_\_\_. An Amended Judgment in a Criminal Case (AO 145C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage
Social Security Administration		\$99,589.00	

TOTALS	\$ _____	\$ _____	\$ 99,589.00
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☐ Restitution amount ordered pursuant to plea agreement: \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Alberto SOSTRE-CINTRON  
CASE NUMBER: 3:15-cr-0046-02 (PG)

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 200.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or
- ☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

<b>UNITED STATES OF AMERICA</b> Plaintiff  v.  <b>ALBERTO SOSTRE CINTRON (2)</b> Defendant	          <b>CRIMINAL NO. 16-195 (GAG)</b>
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NOTICE OF APPEAL

TO THE HONORABLE COURT:

COMES NOW defendant Alberto Sostre Cintron (2), through the undersigned court appointed attorney and informs:

Notice is hereby given of the appeal of defendant's conviction and sentence issued by U.S. District Judge Juan M. Perez-Gimenez on June 30, 2017. The judgment was entered on July 6, 2017. [Docket 186].

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 9<sup>th</sup> day of July, 2017

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record. I further certify that on this date, I have send by mail the foregoing document, to the following non CM/ECF participants: **N/A**

*s/ Mariángela Tirado-Vales*  
**MARIÁNGELA TIRADO-VALES**  
USDC No. 203214  
[mtvales@gmail.com](mailto:mtvales@gmail.com)  
P.O. Box 194786  
San Juan, P.R. 00919-4786  
Tel. (787) 767-2844

**United States Court of Appeals  
For the First Circuit**

No. 17-1778

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UNITED STATES OF AMERICA,

Appellee,

v.

ALBERTO SOSTRE-CINTRÓN,

Defendant, Appellant.

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**JUDGMENT**

Entered: December 20, 2018

This cause came on to be heard on appeal from the United States District Court for the District of Puerto Rico and was argued by counsel.

Upon consideration whereof, it is now here ordered, adjudged and decreed as follows: Alberto Sostre-Cintrón's convictions and sentence are affirmed.

By the Court:

Maria R. Hamilton, Clerk

cc:

Michael Raymond Hasse

Alberto Sostre-Cintrón

Seth Allen Erbe

Mariana E. Bauza Almonte

Vanessa Bonano-Rodriguez

Billie Kathryn Debrason

**United States Court of Appeals  
For the First Circuit**

No. 17-1778

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UNITED STATES

Appellee

v.

ALBERTO SOSTRE-CINTRON

Defendant - Appellant

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**MANDATE**

Entered: January 11, 2019

In accordance with the judgment of December 20, 2018, and pursuant to Federal Rule of Appellate Procedure 41(a), this constitutes the formal mandate of this Court.

By the Court:

Maria R. Hamilton, Clerk

cc:

Mariana E. Bauza Almonte  
Vanessa Bonano-Rodriguez  
Billie Kathryn Debrason  
Seth Allen Erbe  
Michael Raymond Hasse  
Alberto Sostre-Cintron

No. \_\_\_\_\_

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In The

SUPREME COURT OF THE UNITED STATES

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ALBERTO SOSTRE-CINTRON,

*Petitioner*

v.

UNITED STATES OF AMERICA,

*Respondent*

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**PROOF OF SERVICE**

I, Michael R. Hasse, declare on this date, March 12, 2019, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid. The petitioner has been served via email because that is the manner in which he communicates with his counsel.

The names and addresses of those served are as follows:

Solicitor General of the United States  
Room 5614, Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001

Billie Kathryn Debrason, Esquire  
Assistant United States Attorney  
United States Attorney's Office  
350 Carlos Chardon St., Suite 1201  
San Juan, PR 00918

Defendant-Appellant  
Alberto Sostre-Cintrón  
Via email: [chinosostre01@gmail.com](mailto:chinosostre01@gmail.com)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 12, 2019

  
Michael R. Hasse