

Nos. 25-390 & 25-396

In the Supreme Court of the United States

FULL PLAY GROUP, S.A., PETITIONER

v.

UNITED STATES OF AMERICA

HERNAN LOPEZ, PETITIONER

v.

UNITED STATES OF AMERICA

*ON PETITIONS FOR WRITS OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT*

BRIEF FOR THE UNITED STATES

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QUESTIONS PRESENTED

1. Whether the crime of depriving a victim of honest services through wire fraud based on bribery, in violation of 18 U.S.C. 1343 and 1346, is limited to circumstances where the bribery was prohibited by a separate positive law.
2. Whether sufficient evidence supported petitioners' convictions for honest-services wire fraud based on breaches of fiduciary duties owed to international-confederation employers.
3. Whether the honest-services statute, 18 U.S.C. 1346, is void for vagueness.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-33a) is reported at 143 F.4th 99.* An earlier opinion of the court of appeals (Pet. App. 144a-195a) is reported at 963 F.3d 163. The order of the district court granting petitioners' motions for judgments of acquittal (Pet. App. 34a-103a) is reported at 690 F. Supp. 3d 5. The order of

* All references to the "Pet. App." are to the petition appendix in *Full Play Group*, No. 25-390.

the district court denying petitioners' motions to dismiss the indictment (Pet. App. 104a-143a) is available at 2021 WL 5038765.

JURISDICTION

The judgment of the court of appeals was entered on July 2, 2025. The petitions for writs of certiorari were filed on September 30, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Eastern District of New York, petitioner Hernán Lopez was convicted on one count of conspiring to commit honest-services wire fraud, in violation of 18 U.S.C. 1343, 1346, and 1349, and one count of conspiring to commit money laundering, in violation of 18 U.S.C. 1956(h). Verdict Sheet 1-3; Pet. App. 11a. Petitioner Full Play Group was convicted on three counts of each offense. *Ibid.* The district court granted petitioners' posttrial motions for judgments of acquittal. Pet. App. 11a. The court of appeals vacated the judgments of acquittal and remanded for further proceedings. *Id.* at 33a.

1. A federal grand jury charged petitioners with conspiring to commit honest-services wire fraud, in violation of 18 U.S.C. 1343, 1346, and 1349, and conspiring to commit money laundering, in violation of 18 U.S.C. 1956(h). Third Superseding Indictment 42, 46. The charges rested on allegations that petitioners—a sports marketing company and an executive at a media conglomerate—engaged in a scheme to bribe members of the Fédération Internationale de Football Association for the media rights to soccer matches. Pet. App. 7a-9a.

The jury returned guilty verdicts on the charged honest-services wire fraud conspiracy and money-laundering

conspiracy counts. Pet. App. 67a-68a. The district court, however, granted petitioners’ motions for acquittal under Federal Rule of Criminal Procedure 29. Pet. App. 34a-103a. The court took the view that this Court’s decisions in *Percoco v. United States*, 598 U.S. 319 (2023), and *Ciminelli v. United States*, 598 U.S. 306 (2023), “compel[led] [it] to find that § 1346” (the honest-services statute) “does not apply to foreign commercial bribery.” Pet. App. 95a.

2. The court of appeals vacated the judgments of acquittal and remanded for further proceedings. Pet. App. 1a-33a. The court rejected petitioners’ contention that their conduct fell outside the scope of the honest-services statute. *Id.* at 14a-33a.

DISCUSSION

The government has determined in its prosecutorial discretion that dismissal of this criminal case is in the interests of justice. The government has accordingly filed a motion in the district court under Federal Rule of Criminal Procedure 48(a) to vacate the judgment and dismiss the indictment with prejudice. The government therefore requests that the Court grant the petition, vacate, and remand the case to allow the district court to grant the Rule 48(a) motion.

Rule 48(a) provides that “[t]he government may, with leave of court, dismiss an indictment.” Fed. R. Crim. P. 48(a). It allows the government to seek dismissal even after a jury finds the defendant guilty and the district court enters judgment. See *Thompson v. United States*, 444 U.S. 248, 250 (1980) (per curiam); *Rinaldi v. United States*, 434 U.S. 22, 28-32 (1977) (per curiam).

In several previous cases, the Court has granted the Solicitor General’s request to grant a petition for a writ of certiorari, vacate the court of appeals’ judgment, and

remand the case so that the government can pursue dismissal under Rule 48(a). See, *e.g.*, *Bronsozian v. United States*, 140 S. Ct. 2663 (2020); *Thompson*, 444 U.S. at 250 (collecting cases). The same course is appropriate here.

CONCLUSION

This Court should grant the petitions for writs of certiorari, vacate the judgment of the court of appeals, and remand the case to the district court for further consideration in light of the government's pending motion to dismiss the indictment.

Respectfully submitted.

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