

No. 25-396

In the
Supreme Court of the United States

HERNAN LOPEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for Writ of Certiorari to the
United States Court of Appeals for the
Second Circuit**

REPLY BRIEF FOR PETITIONER

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REPLY BRIEF

As the petition makes clear, the decision below vastly expands the concept of honest-services fraud to criminalize foreign commercial bribery, a step that Congress has pointedly decided not to take in statutes that address bribery directly. While the Second Circuit acknowledged tension between its reasoning and prior decisions of this Court attempting to rein in the honest-services statute, the Second Circuit essentially vowed to continue pursuing business as usual unless and until told otherwise (once again) by this Court. After reviewing the petition, the United States has concluded that “the interests of justice” require “dismissal of this criminal case.” U.S.Br.3. Petitioner wholeheartedly agrees. To effectuate that dismissal, the government has filed a motion in the district court pursuant to Federal Rule of Criminal Procedure 48(a) seeking dismissal of the operative indictment with prejudice. *See* Dkt.2070, *United States v. Hernan Lopez*, No. 1:15-cr-252 (E.D.N.Y. Dec. 9, 2025). To enable the district court to grant that pending motion as expeditiously as possible, this Court should grant the petition, vacate the judgment below, and remand to the district court forthwith. *See, e.g., Rinaldi v. United States*, 434 U.S. 22, 32 (1977) (“The judgment is vacated, and the case is remanded to the District Court for the purpose of dismissing the indictment.”). Petitioner is simultaneously waiving the remainder of the 14-day waiting period for distributing the petition. *See* S. Ct. R. 15.5.

Under these circumstances, the only other appropriate course would be to grant the petition and reverse on the merits. The government’s decision to

abandon an ill-conceived prosecution even at this late stage follows the best of our traditions. But it also underscores that the inherent vagueness of the term “honest services” continues to threaten the liberty of individuals and to embolden prosecutors within the Second Circuit.

CONCLUSION

The Court should grant the petition, vacate the Second Circuit’s judgment, and remand to the district court for the purpose of granting the government’s motion to dismiss.

Respectfully submitted,

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