

First Order Denying Motion to Dismiss for Lack of  
Jurisdiction on 02/24/2025

# "APPENDIX" A

# United States Court of Appeals For the First Circuit

---

No. 25-1020

UNITED STATES,

Appellee,

v.

FÉLIX VERDEJO-SÁNCHEZ,

Defendant - Appellant.

---

## ORDER OF COURT

Entered: February 24, 2025

Defendant's counsel seeks to withdraw in this appeal from the denial of defendant's motion for a new trial, noting that new counsel was appointed for defendant in No. 23-1964, his appeal from his convictions, and requesting the appointment of the same counsel for purposes of this appeal. The motion to withdraw is granted and the request for new counsel is also granted. Attorney Ignacio Fernández-De-Lahongrais is appointed to represent defendant in this appeal. Defendant's motion for summary dismissal of the indictment is denied without prejudice to assertion of any relevant argument in defendant's brief; defendant is represented by counsel in this appeal and should proceed through counsel.

By the Court:

Anastasia Dubrovsky, Clerk

cc:

Jason González Delgado, Ignacio Fernández-De-Lahongrais, Gabriela José Cintrón-Colón, Félix Verdejo-Sánchez, Mariana E. Bauzá Almonte, Jeanette M. Collazo-Ortiz, Jonathan L. Gottfried, Gregory Bennett Conner, Edwin Prado-Galarza,

“Appendix A”

Second Order Denying Motion to Dismiss for Lack of  
Jurisdiction on 04/22/2025

# **"APPENDIX" B**

# United States Court of Appeals For the First Circuit

Nos. 23-1964  
25-1020

UNITED STATES,

Appellee,

v.

FÉLIX VERDEJO-SÁNCHEZ,

Defendant - Appellant.

## ORDER OF COURT

Entered: April 22, 2025

Once again, we are called upon to adjudicate multiple motions, several of them filed pro se, in this consolidated direct criminal appeal. First, defendant's counsel's motion to withdraw is granted; new counsel shall be appointed. Second, defendant's pro se motions for removal of defense counsel and to stay the briefing schedule are denied as moot. Third, defendant's other motions to invoke the supervisory power of this court and for summary judgment of indictment -- filed pro se despite being represented by counsel -- are denied without prejudice to assertion of any relevant argument in defendant's brief; defendant is again reminded that he is represented by counsel and should proceed through counsel. Fourth, the government's motions are denied as moot. Finally, the present briefing schedule is vacated and a new briefing schedule shall be entered after appointment of new counsel.

By the Court:

Anastasia Dubrovsky, Clerk

cc:

Ignacio Fernández-De-Lahongrais, Félix Verdejo-Sánchez, Mariana E. Bauzá Almonte, Jeanette M. Collazo-Ortiz, Jonathan L. Gottfried, Gregory Bennett Conner, Ricardo A. Imbert-Fernandez, Edwin Prado-Galarza

First Motion for Summary Judgement for Dismissal  
of indictment 01/27/2025

# "APPENDIX" C

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

NO. 23-1964; 25-1020

UNITED STATES OF AMERICA

Plaintiff/ Appellee,

v.

FELIX VERDEJO-SANCHEZ

Defendant/ Appellant.

---

ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF PUERTO RICO

---

---

MOTION FOR SUMMARY JUDGEMENT FOR DISMISSAL OF  
INDICTMENT PURSUANT TO FED. R. CRIM. P. 12(b)(2)

---

TO THE HONORABLE COURT:

“ Appendix C”

## STATEMENT OF FACTS

On May 2, 2021, the Appellant was indicted by a federal grand jury charging him for violation of 18 U.S.C.S.S2119(3)and(2);Id. 18 U.S.C.S.§1201(a)(1) and (2);Id.18 U.S.C.S.§1841 and 2;Id.18 U.S.C.S. S924(c)(1)(A)(i).

On May 6, 2021, he was arrested.

On May 11, 2021, he had initial appearance.

On June 20, 2023, the trial commenced.

On July 28, 2023, the jury's verdict was

(1)Violation of 18 U.S.C.S.\$2119(2) and (3) NOT GUILTY

(2)Violation of Id.18 U:S.C.S.S924(c)(1)(A)(i) NOT GUILTY

(3)Violation of Id.18 U.S.C.S.§1201(a)(1) and (2)GUILTY

(4)Violation of Id.18 U.S.C.S.§1841 and 2 GUILTY

On November 3, 2023, Appellant was sentenced to two life sentences.

During the prosecution and all the way through sentencing the Appellant did not have knowledge that his case should have been judged by a Commonwealth of Puerto Rico's Court and that his constitutional right to due process had been violated. Now that he has the knowledge, he is claiming his constitutional right to due process, therefore he prays this honorable Court to judge pursuant to the U.S. Constitution. Because; *United States v. Figueroa Rios*, 140 F. Supp.

376(1956) states:

"If only to be consistent,Congress would not have applied a section for the policing of areas with a classical territorial form of government,directly under Congressional government to an area with its own constitution, subject to no supervision, in local matters, by the Federal government."

The Appellant, pro se, moves to dismiss the indictment, Charging him with violating 18 U.S.C.S.S2119(3)and(2);Id,18 U.S,C,S,S924(c)(1)(k)(1);1d, 18 U.S.C.S.§1201(a)(1)and(2);Id,18 U.S.C.S.§1841 and 2, for failure to state facts to constitute an offense under the laws of the United States where the language in the statutes did not include the Commonwealth of Puerto Rico, In support of this motion, the Appellant states the following:

Pursuant to Fed.R.Crim.P.12(b)(2), "may be raised for the first time on appeal". See United States v. Disanto, 86 F.3d 1238, 1244(1st Cir. 1996).

This Court must consider the contents of this motion for summary judgement to determine that there is a genuine issue of material fact rather than one of law. In this case the federal law is inapplicable due to the fact that it is the Commonwealth of Puerto Rico's law that maintains precedence because there is no interstate or foreign commerce nexus. Neither occurred in the special maritime and territorial jurisdiction of the United States as defined in 18 U.s.C.S S7(1).

"(1)The high seas,any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State,Territory,District,or possession thereof,when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State." See exhibit 1

Thus, it is proven that the federal court lacks jurisdiction and support for this. The Appellant states the following reasons:

1. The Commonwealth of Puerto Rico must be considered a sovereign state, therefore the federal law is, in this case, inapplicable being Puerto Rico's law is the only one to apply, "the Commonwealth legislature and governor reign supreme over all matters of local concern," United States v. Figueroa Rios, 140 F. Supp. 376; 1956.

2. The U.S, attorney fails to move that the charges against the Appellant were in violation of federal law because it never found an interstate or foreign commerce ,Neither occurred in special maritime and territorial jurisdiction of the United States, which is essential to establish federal jurisdiction, therefore, the jurisdiction is of the Commonwealth of Puerto Rico, the federal government violated 18 U.S.C.S, 3231 when it took away and impair the Commonwealth of Puerto Rico's jurisdiction being such jurisdiction is the only one that is applicable in this case, Also, the federal government violated the due process clause contained in the Fourteenth Constitutional Amendment showing disregard for the Constitution when it knowingly and intentionally prosecuted the accused, being all facts direct evidence of a local activity in the Commonwealth of Puerto Rico, Because of this, Congress enacted clearly 18 U.S.C.S. & 3231 as follows:

"Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the law thereof."

3. The facts prove that the accused was under the Commonwealth of Puerto Rico's jurisdiction, the crime used to accuse the Appellant was purely local without affecting interstate or foreign commerce , Nor did it occur in the special maritime and territorial jurisdiction of the United States, therefore, the crime charged ast be judged by a State Court not a Federal Court, the federal statute proves federal lack of jurisdiction in this case as follows:

The 18 U.S.C.S. & 2119(2) and (3) (carjacking)states and defines transport in interstate or foreign commerce , for the purposes of the chapter thus: the term interstate or foreign commerce' means commerce between any State. Here there was not, whatsoever, any

transport neither interstate, nor foreign commerce ,See 18 U.S.C.S921(a)(2)、 ("Definitions") and none of the facts occurred within the special maritime and territorial jurisdiction of the United States. The accused, in a trial was found not guilty by a jury. United States v. Figueroa Rios,140 F.Supp.376,381(D.P.R 1956);United States v. Mercado-Flores,312 F.Supp.3d 249(2015).

The 18 U.S.C.S.§1201(a)(1)and(2)(Kidnapping)states and defines:

"Transported across a State boundary,or the offender travels in inter- state or foreign commerce in committing or in furtherance of the commission of the offense;(2)Any such act against the person is done within the special maritime and territorial jurisdiction of the United States."

The Commonwealth of Puerto Rico CEASED to be a U.S.territory since 1952. Therefore, in this case, the one and only applicable law is the local one which is (Spanish version): title 33,section 5223 de las leyes estatales delito de secuestro esta regulado en este titulo y cómo parte de esta añadieron la( Ley Num. 146-2012) y esta relacionado con los delitos contra la persona, específicamente el secuestro agrabado. United States v. Maldonado-Burgos, 844 F.3d 339(1st Cir.,December 21,2016).

The 18 U.S.C.S. §1841 and 2(Protection of Unborn Children):

"Provides that if the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child,that person shall instead of being punished under§1841(a)(2)(A),be punished as provided under 18 U.S.C.S. SS 1111,1112, and 1113 of this title for intentionally killing or attempting to kill a human being. 1841(a)(2)(C). This provision plainly punishes the killing of an unborn child the same as the killing of a human being under §1111."

Once more as in all other statutes that were applied to the Appellant this one is also inapplicable in the Commonwealth of Puerto Rico as it is provided by 18 U.S.C.S.§1111(b), because the facts occurred were not in the special maritime and territorial jurisdiction of the United States. Because in this case being a public notice in the whole Commonwealth of Puerto Rico clearly in trial all evidence and testimony shows plural local activity within the

Commonwealth of the puerto rico and the federal government purposely acted with bad faith against the Appellant, and creating great prejudice against him, trying to accuse him with inapplicable statutes which in their own language were never in agreement with the case facts.

(Spanish version) Aquí el artículo 93 de las leyes de estatales de Puerto Rico establece el delito de protección a un no nacido y está regulado en este título 146-2012. (English version) of the law states crime of protection of unborn children is regulated in this title 146-2012. Both of these sections apply and are state law covered in Puerto Rico.

The 18 U.S.C.S. 924(c)(1)(A) violation was also charged and the jury found the accused not guilty.

The Judge Cancio, D.J. in the case, Liquilux Gas Services of Ponce, Inc., v. Tropical Gas Co., Inc., 303 F. Supp. 414; 1969., agrees with Judge Ruiz-Nazario as follows:

"In. United States v. Figueroa Rios, 140 F.Supp.376(D.P.R.1956), Judge Ruiz-Nazario handed down a landmark decision relating to the [1969 U.S. Dist. LEXIS 13]interpretation of Section 9 of the Federal Relations Act and applicability of pre-Commonwealth statutes in Puerto Rico. He held that Section 9 has acquired such a vitality after the establishment of the Commonwealth that it may be safely accorded, as regards the applicability to the Commonwealth of the statutory laws of the United States, a function which is substantially similar to the Interstate Commerce Clause of the Constitution, as regards the relations between the Federal Government and the governments of the different states of the Union. 140 F.Supp.376 at 381.

Although the Figueroa Rios case deals with the Federal Firearms Act, it has direct applicability to the present case. The Firearms Act made it a federal crime for a convict or a fugitive to transport a firearm 'in interstate or foreign commerce,' which was defined to include commerce.'within any Territory or possession'under the Robinson-Patman Act. In *Cases v. United States*, 131 F.2d 916(1st Cir. 1942), it had been held that the Firearms Act applied to the transportation of firearms solely within [1969 U.S. Dist. LEXIS 14]Puerto Rico. In Figueroa Rios, however, the question was raised whether that Act continued to apply to transportation wholly within Puerto Rico after Commonwealth status.

After an exhaustive and careful consideration of Puerto Rico's status, the Court held the Firearms Act inapplicable to commerce within Puerto Rico. It stated that if Congress had foreseen the Commonwealth of Puerto Rico, it would have so varied the [Firearms Act definition of 'interstate and foreign commerce']as to exclude it from the intra-territorial operation of the

Firearms Act....If only to be consistent, Congress would not have applied a section for the policing of areas with a classical territorial form of government, directly under Congressional government,to an area with its own constitution, subject to no supervision, in local matters,by the Federal government. Thus, I must conclude that so much of [the Firearms Act]as defines 'interstate or foreign commerce'as commerce 'within any Territory or possession'is now locally inapplicable in Puerto Rico.140 F.Supp.at 381.

This Court has had several recent occasions in antitrust cases to make clear that activity solely within [1969 U.S.Dist.LEXIS 15]Puerto Rico does not ipso facto satisfy the commerce'requirements of the Sherman Act.In David Cabrera v.Union de Choferes y Duenos,256 F.Supp.839 (D.P.R.1966), this Court pointed out that the Sherman Act applied in Puerto Rico with the same force and effect as in the United States,noting that the Act applied to any restrictive activities having a substantial effect upon interstate commerce.However,because the plaintiff in that case failed to show that the defendant's activity substantially affected interstate commerce, the Court dismissed the case for lack of jurisdiction.Implicit in this disposition was a holding that commerce solely within Puerto Rico is not automatically Commerce' within the meaning of the Sherman Act, for if it were there would have been no need to consider whether the defendant's activities affected commerce." See United States v.Bass,404 U.S.336,339,92 S.Ct.515,(1971).

"It is the.duty of the United States Supreme Court to make its own independent examination of the record when federal constitutional deprivations are alleged, the duty resting on the court's responsibility for maintaining the Constitution inviolate." See to Napue v. Illinois, 360 U.S. 246.

Moreover, the U.S. Supreme Court held in U.S. v. Morrison, 529 U.S.598, that the U.S. should only, "regulate non-economic, violent criminal conduct based solely on that conduct's aggregate effect on interstate commerce."

The U.S. cannot intervene in local affairs that are not related to interstate or foreign commerce.

The Congress had explicitly identified as the sources of federal authority for 18

U.S.C.§2119;Id.§1201;Id.§1841 and Id.§924(c), which can be sustained under

Congress'commerce power as a regulation of activity that substantially affects interstate commerce. But in this case, clearly all facts used to accuse the Appellant are intrastate, what is truly local and not national. See Bond v.United States,572 U.S.844(June 2,2014)opinion by: Roberts.

Moreover, under United States v. Mercado-Flores, 312 F.Supp.3d 249, by opinion of District Court Judge Gustavo A. Gelpi (2015), states as follows:

"The Court flatly disagrees with the Government's contention that it is not well-settled law that Puerto Rico is no longer a mere unincorporated territory of the United States for purposes of statutory interpretation. Without repeating the thorough discussion in its Opinion and Order, the court reiterates that following 1952, the Supreme Court and the First Circuit have consistently recognized the significant change in the degree of autonomy exercised by Puerto Rico in light of the many Congressional actions that transformed the island from a mere territory to that of the unique status of a commonwealth. (See Docket No. 46 at 4-11.) In response to this legislative history an in line with the established principle that the question of '[w]hether and how a: federal statute applies to Puerto Rico is a question of Congressional intent,' Antilles Cement Corp. v. Fortuno, 670 F.3d 310, 320 (1st Cir. 2012), the Supreme Court and courts within [2015 U.S. Dist. LEXIS 6] the First Circuit have repeatedly held that Puerto Rico is a State for purposes of statutory interpretation and that statutes governing actions wholly within any territory of the United States do not apply to Puerto Rico. See, e.g. Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 670-76, 94 S.Ct. 2080, 40 L.Ed.2d 452 (1974) (holding Puerto Rico is considered a state for purposes of the three-judge court statute and noting that before 1952, the statute did not apply to the island); Cordova & Simonpietri Ins. Agency Inc. v. Chase Manhattan Bank N.A., 649 F.2d 36, 41 (1st Cir. 1981) (holding that intra-territory application of section three of the Sherman Act does not apply to Puerto Rico); Trigo Bros. Packing Corp. v. Davis, 159 F.Supp. 841, 842-43 (D.P.R. 1958), vacated on other grounds sub nom., Davis v. Trigo Bros. Packing Corp., 266 F.2d 174 (1st Cir. 1959) (holding that Puerto Rico's commonwealth status rendered the language 'or commerce within any Territory or the District of Columbia' contained in the Federal Alcohol Administration Act, 27 U.S.C. § 201, inapplicable to intra-commonwealth acts in Puerto Rico); United States v. Figueroa Rios, 140 F.Supp. 376 (D.P.R. 1956) (holding that Puerto Rico's commonwealth status rendered the language 'or within any Territory or possession or the District of Columbia' referring to the transportation of a firearm in 15 U.S.C. § 901(2) inapplicable to the transportation within the Commonwealth of Puerto Rico of any firearm or ammunition under that Act.)..

Although the Government argues that the First Circuit's holding in Cordova can only be applied [2015 U.S. Dist. LEXIS 7] narrowly to cover section three of The Sherman Act, the court finds the analysis and reasoning to be directly applicable to the statute at bar. After recognizing that 'Puerto Rico's status changed from that of a mere territory to a unique status Commonwealth,' the court explained that ' [t]he significance of this change from the point of view of the Sherman Act arises out of the fact that, as a general matter, the Sherman Act ceases to apply to purely local affairs once territories become states ....' Cordova, 649 F.2d at 41-42. Therefore, the court stated that there is no discernible reason why the Sherman Act should apply to Puerto Rico differently, given the Congressional intent to grant the island state-like autonomy. Id. at 41. Accordingly, the court held that it is fair to assume that the framers of the Sherman Act would have intended that Puerto Rico be treated as a State under the Act had

they known about the commonwealth status of the island.Id.[312 F.Supp.3d 253]Similar to how the Sherman Act does not apply to purely local affairs of the States, the federal government does not generally impede upon the core police powers of the States that grants them authority to define criminal law and to protect the health,safety,[2015 U.S.Dist.LEXIS 8] and welfare of their citizens.See McDonald v.City of Chicago,Ill.,561 U.S.742, 901,130 S.Ct.3020.177/L.Ed.2d 894(2010).Therefore,as a general matter, there is an 'assumption that the historic police powers of the States were not to be superseded by [a federal act]unless that was the clear and manifest purpose of Congress,'Jones v.Rath Packing Co.,430 U.S.519,525,97 S.Ct.1305,51 L.Ed. 2d 604(1977).For mere unincorporated territories of the United States,Congress exercises the full extent of its police powers to implement 'its usual policy of extending legislation based on the commerce power to the same substantive acts taking place wholly within the [territory].'*United States v.Beach*,324 U.S.193,195;65 s.Ct.602,89 L.Ed.865(1945).Although the limits of the Tenth Amendment do not apply to Puerto Rico,see *Franklin California Tax-Free v.Commonwealth of Puerto Rico*,F.3d,No.15-1218,805 F.3d 322,2015 U.S.App.LEXIS 11594 at \*80(1st Cir.June 6,2015),it logically follows that because Congress granted to Puerto Rico under its constitution significant power to govern its internal affairs, Congress thus limited the extent of the exercise of its powers over areas of local autonomy. See *Cordova*, 649 F.2d at 41 ('[T]he federal government's relations with Puerto Rico changed from being bounded merely by the territorial clause ....to being bounded by the United States and Puerto Rico Constitutions, [Public Law 600, the Puerto Rican Federal Relations Act and the rights of the people of Puerto Rico]as United States citizens."

### CLOSING OF ARGUMENT AND FACTS

For the foregoing reason the Government of the United States violated 18 U.S.C. § 3231 taking away the jurisdiction of the courts of the Commonwealth of Puerto Rico where the Defendant should be prosecuted in Centra Judicial de PR Court, (Puerto Rico State Court), Because it is the government's burden of proof to establish its jurisdiction, and in that, in this case, it did not prove that the crime was committed in federal territory or that it was a product of interstate or foreign commerce in violation of federal law, The Federal courts lack jurisdiction on criminal cases where the local criminal law is applicable unless the crime is affecting substantially the interstate or foreign commerce or it is committed within special maritime and territorial jurisdiction as defined in 18 U.S.C. § 7. Also, by opinion of Scalia, J., concurring, stated in *Fowler v. United States*, 563 U.S.668,684,131 S.Ct,2045,179 L.Bd,2d 1099(2011)that," cautioning

against construing a federal statute's mens rea requirement in a way that would 'federalize crimes' that lack a federal nexus," Definition of 'nexus'; (Connection or link.) See Black's Law Dictionary(pg,1255),

In this case, it was not proven Federal jurisdiction, on the contrary, it is proven Commonwealth of Puerto Rico's jurisdiction, Therefore, the Defendant proves lack of Federal jurisdiction as follows:

1. According to the facts the offense that the Defendant is accused occurred in the city San Juan, on the bridge Teodoro Moscoso and in the lagoon San Jose, all located within the Commonwealth of Puerto Rico's territory, Therefore, the subject matter is its jurisdiction and it is not a Federal one.

Furthermore, this Court held in *Warner v.Dunlap*,532 F.2d 767(March 29,1976) as follows:

"The term 'bay' appearing in §211 is not defined by that statute. However, the term has been subject to judicial definition. It is clear that bays are among those 'bodies of water which join the open sea' and are to be distinguished from 'interior water such as lakes and rivers.' *United States v.California*, 381 U.S.139,162,14 L.Ed.2d 296,85 S.Ct.1401(1956)"

Which clearly means that in this case it has to be distinguished between what is meant by "special maritime and territorial jurisdiction of the United States" as it is defined in 18 U.S.C.S.7 and a lagoon that is completely inside of the Commonwealth of Puerto Rico's territorial jurisdiction, as all other interior waters. Therefore, this Court should judge to determine as in *Warner v. Dunlap* between 'bodies of water which join the open sea' and are to be distinguished from 'interior waters such as lakes and rivers". Just as San Jose Lagoon in Puerto Rico.

2. The Government failed to prove any interstate or foreign commerce nexus, thus there is not Federal Personal Jurisdiction over the Defendant.

"For nearly two centuries it has been clear that, lacking a police power, Congress cannot punish felonies generally. A criminal act committed wholly within a state cannot be made an offense against the United States, unless it have some relation to the execution of a power of Congress, or to some matter within the jurisdiction of the United States. (Roberts, Ch. J., joined by Kennedy, Ginsburg, (Breyer, Sotomayor, and Kagan, J.J.) " See Bond v. United States, 572 U.S. 844 June 2, 2014. Moreover, in this case, U.S.A. v. Cotton, the Supreme Court holds as follows: "3. Because the current concept of a Federal District Court's subject-matter jurisdiction involves the Court's power to hear a case, such jurisdiction can never be forfeited or waived. Consequently, defects in subject-matter jurisdiction requires correction, regardless of whether the error was raised in the District Court." See U.S. v. Cotton, 535 U.S. 625.

## CONCLUSION

It has been proven the federal court lacks jurisdiction in this case. Therefore, the Appellant Respectfully prays this honorable Court grants this Motion to Dismiss the two counts for lack of jurisdicción pursuant to Fed.R.Crim.P.12(b)(2) and refer the case to Commonwealth of Puerto Rico's authorities. See opinion by Judge Cancio, D.J. as follows:

"In dismissing the two counts for lack of jurisdiction, the court held that Puerto Rico should deal with purely local transactions under its own constitution and laws. Furthermore, the court noted that to hold otherwise would frustrate the very purpose for which the Commonwealth was created."

See case: Liquilux Gas Services of Ponce, Inc., et al. Plaintiffs v. Tropical Gas Co., Inc. et.al Defendants, 303 F. Supp. 414; 1969.

Respectfully submitted,

Felix Verdejo Sanchez

Felix Verdejo-Sanchez. #51145-069

#### CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the foregoing Motion for.

Summary Judgement for Dismissal of Indictment Pursuant to Fed. R. Crim. P. 12(b)(2), on  
this 24 day of 01, 2025.

United States Attorneys Office

District of Puerto Rico

Torre Chardon Suite 1201

350 Chardon Avenue

San Juan, Puerto Rico 00918

Respectfully submitted,

Felix Verdejo Sanchez

Felix Verdejo-Sanchez

#51145-069

PRO SE DECLARATION

The Petitioner declares under penalty of perjury that he is a layman in the law and the complex issues involved in this case and should be held to a less stringent standard than an attorney under Haines v.Kerner ,404,U.S.519, 30 L.Ed 2a 652,92 S.Ct.(1972),and its progeny cases.

DECLARATION UNDER THE MAILBOX RULE

I declare under the penalty of perjury that this filing was placed in the hands of the prison authorities during the legal mail call during afternoon at USP POLLOCK, pursuant to Houston v. Lack, this 24 of 01,2025.

Respectfully submitted,

Felix Verdejo Sanchez

Felix Verdejo-Sanchez #51145-069

Second Motion for Dismissal of indictment 03/24/2025

# **"APPENDIX" D**

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

NO. 23-1964; 25-1020

UNITED STATES OF AMERICA

Plaintiff/ Appellee,

v.

FELIX VERDEJO-SANCHEZ

Defendant/ Appellant.

---

ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF PUERTO RICO

---

---

MOTION FOR SUMMARY JUDGEMENT FOR DISMISSAL OF  
INDICTMENT PURSUANT TO FED. R. CRIM. P. 12(b)(2)

---

TO THE HONORABLE COURT:

“ Appendix D”

Once again, the Appellant, Felix Verdejo Sánchez, is moving, this time pro se, to present the following issue:

### STATEMENT OF FACTS

On May 2, 2021, the Appellant was indicted by a federal grand jury charging him for violation of 18 U.S.C.S.2119(3)and(2);Id. 18 U.S.C.S.§1201(a)(1) and (2);Id.18 U.S.C.S.§1841 and 2;Id.18 U.S.C.S. S924(c)(1)(A)(i).

On May 6, 2021, he was arrested.

On May 11, 2021, he had initial appearance.

On June 20, 2023, the trial commenced.

On July 28, 2023, the jury's verdict was

(1)Violation of 18 U.S.C.S.2119(2) and (3) NOT GUILTY

(2)Violation of Id.18 U:S.C.S.S924(c)(1)(A)(i) NOT GUILTY

(3)Violation of Id.18 U.S.C.S.§1201(a)(1) and (2)GUILTY

(4)Violation of Id.18 U.S.C.S.§1841 and 2 GUILTY

On November 3, 2023, Appellant was sentenced to two life sentences.

During the prosecution and all the way through sentencing the Appellant did not have knowledge that his case should have been judged by the Commonwealth of Puerto Rico's Court and that his constitutional right to due process had been violated. Now that he has the knowledge, he is claiming his constitutional right to due process, therefore he prays this honorable Court to judge pursuant to the U.S. Constitution. Because, United States v. Figueroa Rios, 140 F. Supp. 376(1956) states:

"If only to be consistent,Congress would not have applied a section for the policing of areas with a classical territorial form of government,directly under Congressional government to an area with its own constitution, subject to no supervision, in local matters, by the Federal government."

The Appellant moves to dismiss the indictment, Charging him with violating 18 U.S.C.S.S2119(3)and(2);Id,18 U.S.C.S.S924(c)(1)(k)(1);1d, 18 U.S.C.S.§1201(a)(1)and(2);Id,18 U.S.C.S.§1841 and 2, for failure to state facts to constitute an offense under the laws of the United States where the language in the statutes did not include the Commonwealth of Puerto Rico, In support of this motion, the Appellant states the following:

Pursuant to Fed.R.Crim.P.12(b)(2), "may be raised for the first time on appeal". See United States v. Disanto, 86 F.3d 1238, 1244(1st Cir. 1996). On the other hand this court may rise the issue *sua sponte* in order to keep the Constitution and Laws inviolate.

This Court must consider the contents of this motion for summary judgement to determine that there is a genuine issue of material fact rather than one of law. In this case the federal law is inapplicable due to the fact that it is the Commonwealth of Puerto Rico's law that maintains precedence because there is no interstate or foreign commerce nexus. Neither occurred in the special maritime and territorial jurisdiction of the United States as defined in 18 U.S.C.S S7(1).

"(1)The high seas,any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof,or to any corporation created by or under the laws of the United States, or of any State,Territory,District,or possession thereof,when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State." See exhibit 1

Thus, it is proven that the federal court lacks jurisdiction and support for this. The Appellant states the following reasons:

1. The Commonwealth of Puerto Rico must be considered a sovereign state, therefore the federal law is, in this case, inapplicable being Puerto Rico's law is the only one to apply, "the

Commonwealth legislature and governor reign supreme over all matters of local concern,"

United States v. Figueroa Rios, 140 F. Supp. 376; 1956.

2. The U.S. attorney fails to move that the charges against the Appellant were in violation of federal law because it never found an interstate or foreign commerce ,Neither did it occur in special maritime and territorial jurisdiction of the United States, which is essential to establish federal jurisdiction, therefore, the jurisdiction is of the Commonwealth of Puerto Rico, which the federal government violated in 18 U.S.C.S, 3231 when it took away and impaired the Commonwealth of Puerto Rico's jurisdiction being such jurisdiction is the only one that is applicable in this case, Also, the federal government violated the due process clause contained in the Fourteenth Constitutional Amendment showing disregard for the Constitution when it knowingly and intentionally prosecuted the accused, being all facts direct evidence of a local activity in the Commonwealth of Puerto Rico, Because of this, Congress enacted clearly 18 U.S.C.S. & 3231 as follows:

"Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the law thereof."

3. The facts prove that the accused was under the Commonwealth of Puerto Rico's jurisdiction, the crime used to accuse the Appellant was purely local without affecting interstate or foreign commerce , Nor did it occur in the special maritime and territorial jurisdicción of the United States, therefore, the crime charged must be judged by a State Court not a Federal Court, the federal statute proves federal lack of jurisdiction in this case as follows:

The 18 U.S.C.S. &2119(2) and (3) (carjacking)states and defines transport in interstate or foreign commerce , for the purposes of the chapter thus: the term interstate or foreign

commerce' means commerce between any State. Here there was not, whatsoever, any transport neither interstate, nor foreign commerce ,See 18 U.S.C.S.921(a)(2)、 ("Definitions") and none of the facts occurred within the special maritime and territorial jurisdiction of the United States. The accused, in a trial was found not guilty by a jury. United States v. Figueroa Rios,140 F.Supp.376,381(D.P.R 1956);United States v. Mercado-Flores,312 F.Supp.3d 249(2015).

The 18 U.S.C.S. § 1201(a)(1) and (2) (Kidnapping) states and defines:

"Transported across a State boundary, or the offender travels in inter- state or foreign commerce in committing or in furtherance of the commission of the offense; or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense; (2)Any such act against the person is done within the special maritime and territorial jurisdiction of the United States."

The Commonwealth of Puerto Rico CEASED to be a U.S.territory since 1952. Therefore, in this case, the one and only applicable law is the local one which is (Spanish version): title 33,section 5223 de las leyes estatales delito de secuestro esta regulado en este titulo y cómo parte de esta añadieron la( Ley Num. 146-2012) y esta relacionado con los delitos contra la persona, específicamente el secuestro agrabado. United States v. Maldonado-Burgos, 844 F.3d 339(1st Cir.,December 21, 2016). Moreover the Appellant, knowing that Title 18 U.S.C.S. Sec. 1201 also considers use of mail or any means, facility or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense. Here none of the foregoing items were proven, because, according to the government's witness's testimony, Luis Cádiz, the "instrumentality", a cell phone, supposedly used to call the victim on the day of the facts was from a prepaid phone that was never proven to be Appellant's property, nor that the call had occurred, or that the government proved that the local call had crossed the border line in interstate or foreign commerce. Because, that call, according to Luis Cádiz's testimony, was

made from the prepaid phone as a regular call without using any application whatsoever, or the internet that could by any means be considered a call in interstate or foreign commerce nexus. See 18 U.S.C.S 875 (c) "whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, .

Also, this court in it's opinion in this case United States v. Fisher, 494 F. 3d. 5, 2007 U.S. App. LEXIS 16755 (1st Cir. 2007) states:

"There was evidence that when Defendant was in Maine, he called individual at home and on his cell phone in attempt to learn witness's name and there was testimony by government agent that individual was Canadian national and that he was charged in Canada and Vermont with related drug trafficking conspiracy; that evidence strongly supported reasonable inference that individual lived in Canada and was in Canada when he spoke to Defendant, and that Defendant therefore made cross border calls to contact him; evidence was more than sufficient to sustain Defendant's conviction under 18 U.S.C.S Sec. 1958 (a), and district court therefore properly denied Defendant's motion for acquittal. United States v. Fisher, 494 F. 3d. 5, 2007 U.S. App. LEXIS 16755 (1st Cir. 2007)"

In this case, According to the government witness Luis Cádiz in his testimony testifies that there was a call using a prepaid phone, but it was not proven that it was the Appellant's phone. Furthermore, the government did not prove that said call contained in the testimony had been a cross border call, therefore, it is not interstate or foreign commerce."

2. Once again the Appellee failed in the jury trial to prove that the charges, which the Appellant continues declaring himself innocent of, would affect minimally or substantially interstate or foreign commerce, as it is proven in the record during the trial. In light of the facts in this case the Appellant never should have been prosecuted by the federal government, but by the Commonwealth of Puerto Rico. One; because the trial jury never found a nexus between

any instrumentality or evidence which affected minimally or substantially interstate or foreign commerce at the very moment of use of any instrumentality to perform the alleged crime.

Also, the Supreme Court held in *Bond v. United States*, 572 U.S. 844 (June 2, 2014) opinion by Roberts:

"In *Bass*, we interpreted a statute that prohibited any convicted felon from 'receiving, possessing, or transporting in commerce or affecting commerce... any firearm.' If., at 337, 92 S. CT. 515, 30 L. Ed. 2d. 488. ("The government argued that the statute barred felons from possessing all firearms and that it was not necessary to demonstrate a connection to interstate commerce"). We rejected that reading, which would 'render traditionally local criminal conduct a matter for federal enforcement and would also involve a substantial extension of federal police resources. I'd., at 350, 92 S. CT. 515, 30 L. Ed. 2d. 488. We instead read the statute more narrowly to require proof of a connection to interstate commerce ("in every case"), thereby 'preserving as an element of all the offenses a requirement suited to federal criminal jurisdiction alone. I'd., 351, 92 S. CT. 515, 30 L. Ed. 2d. 488."

Where the federal government, in each case, has to prove a nexus that makes the case prosecutable under federal jurisdiction.

This Court has shown two cases in *United States v. Djokich*, 693 F.3d 37 August 29, 2012 (First circuit) with a manufactured federal jurisdiction establishing as follows:

"Djokich relies largely on *United States v. Archer*, 486 F. 2d. 670 (2d Cir. 1973), in which the Second Circuit reversed convictions under the Travel Act, 18 U.S.C. sec. 1952, because evidence showed that a federal agent had (2012 U.S. App. LEXIS 17) crossed state lines to place a telephone call to one of the Defendants "for the precise purpose of transforming a local bribery offense into a federal crime." Id. at 681; see also *United States v. Coates*, 949 F. 2d. 104, 105-06 (4th Cir. 1991) (dismissing an indictment where jurisdiction was founded solely on one interstate phone call placed by a federal agent with no affirmative link between the federal element and the Defendant's action)."

But, in the present case, the Appellant suffered a bad faith action perpetrated by the federal government because all facts and testimonies reflected clearly that the federal statutes used are inapplicable, because, in any moment, according to the facts, it was never found that the offense occurred across state lines by a local phone call that was mentioned in trial by the

governments witness, Luis Cádiz. See Perez v. United States 91 SCT 1357, 28 LED2D 686, 402 US 146 that state as follows:

"[2] The Commerce Clause reaches, in the main, three categories of problems. First, the use of channels of interstate or foreign commerce which Congress deems are being misused, as, for example, the shipment of stolen goods ( 18 USC § 2312-2315 ) or of persons who have been kidnaped ( 18 USC § 1201 ). Second, protection of the instrumentalities of the interstate commerce, as, for example the destruction of an aircraft ( 18 USC § 32 ), or persons or things in commerce, as, for example, thefts from interstate shipments ( 18 USC § 659 ). Third, those activities affecting commerce. It is with this last category that we are here concerned.

Chief Justice Marshall in Gibbons v Ogden, 9 Wheat 1 , 195 , 6 L Ed 23, 70, said:

"The genius and character of the whole government seem to be, that its action is to be applied to all the external concerns of the nation, and to

[402 US 151]

those internal concerns which affect the State generally; but no to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere, for the purpose of executing some of the general power of the government. The completely internal commerce of a State, then, may be considered as reserved for the State itself."

Moreover, the Appellant Respectfully addresses this honorable Court about the importance and seriousness of taking action, because the Commonwealth of Puerto Rico's jurisdiction was taken away in violation of 18 U.S.C. sec. 3231. In accordance with the facts and Luis Cádiz's testimony there is not a single piece whatsoever of evidence of interstate or foreign commerce, but just evidence of a purely local crime. The government failed to establish an interstate or foreign commerce nexus as the record shows. Finally, what the Appellant has affirmed is that Puerto Rico, being considered a State sovereign of the United States, is a separate sovereign from the federal government and from others thus, as the Supreme Court affirms:

"Under that approach, the state are separated sovereigns from federal government and from one another. Because state rely on "authority originally belonging to them before admission to the Union and preserved to them by the Tenth Amendment," state prosecutions have their roots in an "inherent sovereignty" unconnected to the U.S. Congress." See Sánchez-Valle, 579 U.S. 59, June 9, 2016.

Therefore, the federal government violated its statute 18 U.S.C.S. 3231 that provides:

"Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the law thereof."

All this is because in this case there is no criminal offense against the law's of the United States committed in Puerto Rico. Therefore, the federal statutes, in this case, is not applicable.

The 18 U.S.C.S. §1841 and 2(Protection of Unborn Children):

"Provides that if the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under §1841(a)(2)(A), be punished as provided under 18 U.S.C.S. §§ 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being. 1841(a)(2)(C). This provision plainly punishes the killing of an unborn child the same as the killing of a human being under §1111."

Once more as in all other statutes that were applied to the Appellant this one is also inapplicable in the Commonwealth of Puerto Rico as it is provided by 18 U.S.C.S. §1111(b), because the facts occurred were not in the special maritime and territorial jurisdiction of the United States. Because in this case being a public notice in the whole Commonwealth of Puerto Rico clearly in trial all evidence and testimony shows plural local activity within the Commonwealth of the Puerto Rico and the federal government purposely acted with bad faith against the Appellant, and creating great prejudice against him, trying to accuse him with inapplicable statutes which in their own language were never in agreement with the case facts. (Spanish version) Aquí el artículo 93 de las leyes de estatales de Puerto Rico esta el delito de protección a un no nacido y esta regulado en este título 146-2012. (English version) of the law

states crime of protection of unborn children is regulated in this title 146-2012. Both of these sections apply and are state law covered in Puerto Rico.

The 18 U.S.C.S. 924(c)(1)(A)violation was also charged and the jury found the accused not guilty.

The Judge Cancio, D.J. in the case, Liquilux Gas Services of Ponce,Inc., v. Tropical Gas Co.,Inc.,303 F. Supp. 414; 1969., agrees with Judge Ruiz-Nazario as follows:

"In. United States v. Figueroa Rios, 140 F.Supp.376(D.P.R.1956), Judge Ruiz-Nazario handed down a landmark decision relating to the [1969 U.S.Dist. LEXIS 13]interpretation of Section 9 of the Federal Relations Act and applicability of pre-Commonwealth statutes in Puerto Rico.he held that Section 9 has acquired such a vitality after the establishment of the Commonwealth that it may be safely accorded, as regards the applicability to the Commonwealth of the statutory laws of the United States, a function which is substantially similar to the Interstate Commerce Clause of the Constitution, as regards the relations between the Federal Government and the governments of the different states of the Union.140 F.Supp.376 at 381.

Although the Figueroa Rios case deals with the Federal Firearms Act, it has direct applicability to the present case.The Firearms act made it a federal crime for a convict or a fugitive to transport a firearm 'in interstate or foreign commerce,' which was defined to include commerce.'within any Territory or possession'under the Robinson-Patman Act.In Cases v. United States,131 F.2d 916(1st Cir.1942),it had been held that the Firearms Act applied to the transportation of firearms solely within [1969 U.S.Dist. LEXIS 14]Puerto Rico.In Figueroa Rios,however,the question was raised whether that Act continued to apply to transportation wholly within Puerto Rico after Commonwealth status.

After an exhaustive and careful consideration of Puerto Rico's status, the Court held the Firearms Act inapplicable to commerce within Puerto Rico. It stated that if Congress had foreseen the Commonwealth of Puerto Rico,it would have so varied the [Firearms Act definition of 'interstate and foreign commerce']as to exclude it from the intra-territorial operation of the Firearms Act....If only to be consistent, Congress would not have applied a section for the policing of areas with a classical territorial form of government, directly under Congressional government,to an area with its own constitution, subject to no supervision, in local matters,by the Federal government. Thus, I must conclude that so much of [the Firearms Act]as defines 'interstate or foreign commerce'as commerce 'within any Territory or possession'is now locally inapplicable in Puerto Rico.140 F.Supp.at 381.

This Court has had several recent occasions in antitrust cases to make clear that activity solely within [1969 U.S.Dist.LEXIS 15]Puerto Rico does not ipso facto satisfy the commerce'requirements of the Sherman Act.In David Cabrera v.Union de Choferes y Duenos,256 F.Supp.839 (D.P.R.1966), this Court pointed out that the Sherman Act applied in

Puerto Rico with the same force and effect as in the United States, noting that the Act applied to any restrictive activities having a substantial effect upon interstate commerce. However, because the plaintiff in that case failed to show that the defendant's activity substantially affected interstate commerce, the Court dismissed the case for lack of jurisdiction. Implicit in this disposition was a holding that commerce solely within Puerto Rico is not automatically 'commerce' within the meaning of the Sherman Act, for if it were there would have been no need to consider whether the defendant's activities affected commerce." See *United States v. Bass*, 404 U.S. 336, 339, 92 S.Ct. 515, (1971).

"It is the duty of the United States Supreme Court to make its own independent examination of the record when federal constitutional deprivations are alleged, the duty resting on the court's responsibility for maintaining the Constitution inviolate." See *to Napue v. Illinois*, 360 U.S. 246.

Moreover, the U.S. Supreme Court held in *U.S. v. Morrison*, 529 U.S. 598, that the U.S. should only, "regulate non-economic, violent criminal conduct based solely on that conduct's aggregate effect on interstate commerce."

The U.S. cannot intervene in local affairs that are not related to interstate or foreign commerce.

The Congress had explicitly identified as the sources of federal authority for 18 U.S.C. § 2119; *Id.* § 1201; *Id.* § 1841 and *Id.* § 924(c), which can be sustained under Congress' commerce power as a regulation of activity that substantially affects interstate commerce. But in this case, clearly all facts used to accuse the Appellant are intrastate, what is truly local and not national. See *Bond v. United States*, 572 U.S. 844 (June 2, 2014) opinion by Roberts.

Moreover, under *United States v. Mercado-Flores*, 312 F.Supp.3d 249, by opinion of District Court Judge Gustavo A. Gelpi (2015), states as follows:

"The Court flatly disagrees with the Government's contention that it is not well-settled law that Puerto Rico is no longer a mere unincorporated territory of the United States for purposes of statutory interpretation. Without repeating the thorough discussion in its Opinion and Order, the court reiterates that following 1952, the Supreme Court and the First Circuit have consistently recognized the significant change in the degree of autonomy exercised by Puerto Rico in light of the many Congressional actions that transformed the island from a mere territory to that of the unique status of a commonwealth. (See Docket No. 46 at 4-11.) In response to this legislative history an in line with the established principle that the question of

'[w]hether and how a federal statute applies to Puerto Rico is a question of Congressional intent,' *Antilles Cement Corp. v. Fortuno*, 670 F.3d 310, 320 (1st Cir. 2012), the Supreme Court and courts within [2015 U.S. Dist. LEXIS 6] the First Circuit have repeatedly held that Puerto Rico is a state for purposes of statutory interpretation and that statutes governing actions wholly within any territory of the United States do not apply to Puerto Rico. See, e.g. *Calero-Toledo v. Pearson Yacht Leasing Co.*, 416 U.S. 663, 670-76, 94 S.Ct. 2080, 40 L.Ed.2d 452 (1974) (holding Puerto Rico is considered a state for purposes of the three-judge court statute and noting that before 1952, the statute did not apply to the island); *Cordova & Simon Pietri Ins. Agency Inc. v. Chase Manhattan Bank N.A.*, 649 F.2d 36, 41 (1st Cir. 1981) (holding that intra-territory application of section three of the Sherman Act does not apply to Puerto Rico); *Trigo Bros. Packing Corp. v. Davis*, 159 F.Supp. 841, 842-43 (D.P.R. 1958), vacated on other grounds sub nom., *Davis v. Trigo Bros. Packing Corp.*, 266 F.2d 174 (1st Cir. 1959) (holding that Puerto Rico's commonwealth status rendered the language 'or commerce within any Territory or the District of Columbia' contained in the Federal Alcohol Administration Act, 27 U.S.C. § 201, inapplicable to intra-commonwealth acts in Puerto Rico); *United States v. Figueroa Rios*, 140 F.Supp. 376 (D.P.R. 1956) (holding that Puerto Rico's commonwealth status rendered the language 'or within any Territory or possession or the District of Columbia' referring to the transportation of a firearm in 15 U.S.C. § 901(2) inapplicable to the transportation within the Commonwealth of Puerto Rico of any firearm or ammunition under that Act)..

Although the Government argues that the First Circuit's holding in *Cordova* can only be applied [2015 U.S. Dist. LEXIS 7] narrowly to cover section three of The Sherman Act, the court finds the analysis and reasoning to be directly applicable to the statute at bar. After recognizing that 'Puerto Rico's status changed from that of a mere territory to a unique status Commonwealth,' the court explained that 'the significance of this change from the point of view of the Sherman Act arises out of the fact that, as a general matter, the Sherman Act ceases to apply to purely local affairs once territories become states ....' *Cordova*, 649 F.2d at 41-42. Therefore, the court stated that there is no discernible reason why the Sherman Act should apply to Puerto Rico differently, given the Congressional intent to grant the island state-like autonomy. *Id.* at 41. Accordingly, the court held that it is fair to assume that the framers of the Sherman Act would have intended that Puerto Rico be treated as a State under the Act had they known about the commonwealth status of the island. *Id.* [312 F.Supp. 3d 253] Similar to how the Sherman Act does not apply to purely local affairs of the States, the federal government does not generally impede upon the core police powers of the States that grants them authority to define criminal law and to protect the health, safety, [2015 U.S. Dist. LEXIS 8] and welfare of their citizens. See *McDonald v. City of Chicago*, Ill., 561 U.S. 742, 901, 130 S.Ct. 3020, 177 L.Ed.2d 894 (2010). Therefore, as a general matter, there is an 'assumption that the historic police powers of the States were not to be superseded by [a federal act] unless that was the clear and manifest purpose of Congress,' *Jones v. Rath Packing Co.*, 430 U.S. 519, 525, 97 S.Ct. 1305, 51 L.Ed. 2d 604 (1977). For mere unincorporated territories of the United States, Congress exercises the full extent of its police powers to implement 'its usual policy of extending legislation based on the commerce power to the same substantive acts taking place wholly within the [territory].' *United States v. Beach*, 324 U.S. 193, 195, 65 S.Ct. 602, 89 L.Ed. 865 (1945). Although the limits of the Tenth Amendment do not apply to Puerto Rico, see

Franklin California Tax-Free v. Commonwealth of Puerto Rico, F.3d, No. 15-1218, 805 F.3d 322, 2015 U.S. App. LEXIS 11594 at \*80 (1st Cir. June 6, 2015), it logically follows that because Congress granted to Puerto Rico under its constitution significant power to govern its internal affairs, Congress thus limited the extent of the exercise of its powers over areas of local autonomy. See *Cordova*, 649 F.2d at 41 ('[T]he federal government's relations with Puerto Rico changed from being bounded merely by the territorial clause ....to being bounded by the United States and Puerto Rico Constitutions, [Public Law 600, the Puerto Rican Federal Relations Act and the rights of the people of Puerto Rico as United States citizens.]')

### CLOSING ARGUMENT AND FACTS

For the foregoing reason the Government of the United States violated 18 U.S.C. § 3231 taking away the jurisdiction of the courts of the Commonwealth of Puerto Rico where the Defendant should be prosecuted in Central Judicial de PR Court, (Puerto Rico State Court), Because it is the government's burden of proof to establish its jurisdiction, and in that, in this case, it did not prove that the crime was committed in federal territory or that it was a product of interstate or foreign commerce in violation of federal law, The Federal courts lack jurisdiction on criminal cases where the local criminal law is applicable unless the crime is affecting substantially the interstate or foreign commerce or it is committed within special maritime and territorial jurisdiction as defined in 18 U.S.C. § 7. Also, by opinion of Scalia, J., concurring, stated in *Fowler v. United States*, 563 U.S. 668, 684, 131 S.Ct. 2045, 179 L.Bd. 2d 1099 (2011) that:

"cautioning against construing a federal statute's mens rea requirement in a way that would 'federalize crimes' that lack a federal nexus,"

Definition of 'nexus'; (Connection or link.) See Black's Law Dictionary (pg. 1255),

In this case, it was not proven Federal jurisdiction, on the contrary, it is proven Commonwealth of Puerto Rico's jurisdiction, Therefore, the Defendant proves lack of Federal jurisdiction as follows:

1. According to the facts the offense that the Defendant is accused occurred in the city San Juan, on the bridge Teodoro Moscoso and in the lagoon San Jose, all located within the Commonwealth of Puerto Rico's territory, Therefore, the subject matter is its jurisdiction and it is not a Federal one.

Furthermore, this Court held in *Warner v. Dunlap*, 532 F.2d 767 (March 29, 1976) as follows:

"The term 'bay' appearing in §211 is not defined by that statute. However, the term has been subject to judicial definition. It is clear that bays are among those 'bodies of water which join the open sea' and are to be distinguished from 'interior water such as lakes and rivers.' *United States v. California*, 381 U.S. 139, 162, 14 L.Ed.2d 296, 85 S.Ct. 1401 (1956)"

Which clearly means that in this case it has to be distinguished between what is meant by "special maritime and territorial jurisdiction of the United States" as it is defined in 18 U.S.C.S.7 and a lagoon that is completely inside of the Commonwealth of Puerto Rico's territorial jurisdiction, as all other interior waters. Therefore, this Court should judge to determine as in *Warner v. Dunlap* between 'bodies of water which join the open sea' and are to be distinguished from 'interior waters such as lakes and rivers'. Just as San Jose Lagoon in Puerto Rico.

2. The Government failed to prove any interstate or foreign commerce nexus, thus there is not Federal Personal Jurisdiction over the Defendant.

"For nearly two centuries it has been clear that, lacking a police power, Congress cannot punish felonies generally. A criminal act committed wholly within a state cannot be made an offense against the United States, unless it have some relation to the execution of a power of Congress, or to some matter within the jurisdiction of the United States. (Roberts, Ch. J., joined by Kennedy, Ginsburg, (Breyer, Sotomayor, and Kagan, JJ.) " See *Bond v. United States*, 572 U.S. 844 June 2, 2014. Moreover, in this case, U.S.A. v. Cotton, the Supreme Court holds as follows: "3. Because the current concept of a Federal District Court's subject-matter jurisdiction involves the Court's power to hear a case, such jurisdiction can never be forfeited or waived.

Consequently, defects in subject-matter jurisdiction requires correction, regardless of whether the error was raised in the District Court." See U.S. v. Cotton, 535 U.S.625.

## CONCLUSION

It has been proven the federal court lacks jurisdiction in this case. Therefore, the Appellant Respectfully prays this honorable Court grants this Motion to Dismiss the two counts for lack of jurisdiction pursuant to Fed.R.Crim.P.12(b)(2) and refer the case to the Commonwealth of Puerto Rico's authorities. See opinion by Judge Cancio, D.J. as follows:

"In dismissing the two counts for lack of jurisdiction, the court held that Puerto Rico should deal with purely local transactions under its own constitution and laws. Furthermore, the court noted that to hold otherwise would frustrate the very purpose for which the Commonwealth was created."

See case: Liquilux Gas Services of Ponce, Inc., et al. Plaintiffs v. Tropical Gas Co., Inc. et.al Defendants, 303 F. Supp. 414; 1969.

## CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the foregoing MOTION FOR SUMMARY  
JUDGEMENT FOR DISMISSAL OF  
INDICTMENT PURSUANT TO FED. R. CRIM. P. 12(b)(2) is here in included on this 21 day  
of March, 2025.

United States Attorneys Office  
District of Puerto Rico  
Torre Chardon Suite 1201  
350 Chardon Avenue  
San Juan, Puerto Rico 00918

Respectfully submitted,

Felix Verdejo Sanchez

Felix Verdejo-Sanchez

#51145-069

#### PRO SE DECLARATION

The Petitioner declares under penalty of perjury that he is a layman in the law and the complex issues involved in this case and should be held to a less stringent standard than an attorney under Haines v. Kerner, 404 U.S. 519, 30 L.Ed 2d 652, 92 S.Ct. (1972), and its progeny cases.

#### DECLARATION UNDER THE MAILBOX RULE

I declare under the penalty of perjury that this filing was placed in the hands of the prison authorities during the legal mail call during afternoon at USP POLLOCK, pursuant to Houston v.Lack, this 21 of March, 2025.

Respectfully submitted,

Felix Verdejo Sanchez

Felix Verdejo-Sanchez #51145-069

Motion to invoke Court's Supervisory Power 03/24/2025

# "APPENDIX" E

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

NO. 23-1964; 25-1020

UNITED STATES OF AMERICA

Plaintiff/ Appellee,

v.

FELIX VERDEJO-SANCHEZ

Defendant/ Appellant.

---

ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF PUERTO RICO

---

---

MOTION TO INVOKE THIS COURT'S SUPERVISORY POWER

---

TO THE HONORABLE COURT:

“ Appendix E”

Appellant, Félix Verdejo Sánchez, pro-se, Respectfully Requests that this Honorable Court Grant this Motion for the following reasons:

**Reason #1**

On 01/27/2025, The Appellant gave notice to this Honorable Court that the only real reason that caused the Appellant to move for pro se filling a motion pursuant to Fed. R. Crim. P. 12(b)(2) was due to the fact that the counsel, Ignacio Fernández, did not take into account his right, which, subsequently, caused Appellant to proceed forward pro-se. Afterward this Court on 02/24/2025 decided to Deny without prejudice the pro-se motion with the only reason being that the Appellant is currently assisted by a counsel and such motion should have been made by the counsel Ignacio Fernández. Once the Appellant was made aware of this denial, he contacted his counsel demanding him to file such a motion as it was Ordered by this Honorable Court. But, he answered that he was just going to be focused on the Direct Appeal, which the Appellant was not in accord with, because if the Federal Court Lacks Jurisdiction no other issue has to be reviewed. In this case the federal jurisdiction has not been proven. Therefore the only issue to solve is jurisdicción, nothing else. The Supreme Court under United States v. Cotton, 535 U.S.625. Held:

"Consequently, defects in Subject-matter jurisdiction require correction regardless of whether the error was reased in District Court. See, e.g., Louisville & Nashville R. CO. V Mottley, 211 US 149, 53 L Ed 126, 29 S Ct42 (1908)."

## Reason #2

Moreover, this Honorable Court may be exercising it's supervisory power is able to determine if the district court acted with Lack of jurisdiction.

"The court's authority to entertain a particular controversy is commonly referred to as subject matter jurisdiction. "In the absence of jurisdiction, a court is powerless to act." Am. Fiber & Finishing, Inc. v. Tyco Healthcare Group. LP, 362 F.3d 136, 138 (1st Cir. 2004).

"Federal courts are courts of limited jurisdiction and hence, have the duty to examine their own authority to preside over the cases assigned. "It is black-letter law that a federal court has an obligation to inquire *sua sponte* into its own subject matter jurisdiction." McCulloch v. Velez, 364 F.3d 1, 5 (1st Cir. 2004). See also, Bonas v. Town of North Smithfield, 265 F.3d 69, 73 (1st Cir 2001)(*"Federal 2009 U.S. Dist. LEXIS 3 courts of limited jurisdiction, have an affirmative obligation to examine jurisdictional concerns on their own initiative."*) "The objection that a federal court lacks subject-matter jurisdiction... may be raised by a party, or by a court on its own initiative, at any stage in the litigation, even after trial and the entry of judgment." Arbaugh v. Y&H Corp., 546 U.S. 500, 506, 126 S. Ct. 1235, 163 L. Ed. 2d 1097 (2006). Also, "The requirement that a federal courts jurisdiction be established as a threshold matter (1) springs from the nature and limits of the judicial power of the United States, and (2) is inflexible and without exception." and "Every federal Appellate court has a special obligation to satisfy itself not only of its own jurisdiction, but also that of the lower court in a cause under review, even though the parties are prepared to concede the issue." See; Steel Co. V. Citizens for Better Env, 523 U.S. 83 (March 4, 1998). Moreover, "Courts, including the United States Supreme Court, have an independent obligation to determine whether subject-matter jurisdiction exists, event in the absence of a challenge from any party." See; Arbaugh v. Y&H Corp, 546 U.S. 500 (February 22, 2006).

## CONCLUSION

For the foregoing reasons, the Appellant, respectfully, requests this motion be granted exercising court's supervisory power to examine the original district court's evident lack of subject-matter jurisdiction pursuant to Fed. R. Crim. P. 12(b)(2).

## CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the foregoing MOTION TO INVOKE THIS COURT'S SUPERVISORY POWER is here in included on this 21 day of March, 2025.

United States Attorneys Office  
District of Puerto Rico  
Torre Chardon Suite 1201  
350 Chardon Avenue  
San Juan, Puerto Rico 00918

Respectfully submitted,

Felix Verdejo Sanchez

Felix Verdejo-Sanchez

#51145-069

#### PRO SE DECLARATION

The Petitioner declares under penalty of perjury that he is a layman in the law and the complex issues involved in this case and should be held to a less stringent standard than an attorney under Haines v. Kerner, 404 U.S. 519, 30 L.Ed 2a 652, 92 S.Ct. (1972), and its progeny cases.

### DECLARATION UNDER THE MAILBOX RULE

I declare under the penalty of perjury that this filing was placed in the hands of the prison authorities during the legal mail call during afternoon at USP POLLOCK, pursuant to Houston v.Lack, this 21 of March, 2025.

Respectfully submitted,

Felix Verdejo-Sanchez

Felix Verdejo-Sanchez #51145-069

Appellee U.S. Motion to strike pleading  
04/10/2025

**"APPENDIX" F1**

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

APPEALS NO. 23-1964, 25-1020

UNITED STATES,  
Appellee,

v.

FÉLIX VERDEJO-SÁNCHEZ,  
Defendant-Appellant.

---

UNITED STATES' MOTION TO STRIKE THE APPELLANT'S  
MOTIONS CHALLENGING JURISDICTION

---

TO THE HONORABLE COURT:

In a quartet of *pro se* filings, Félix Verdejo-Sánchez moved this Court to (i) remove Attorney Ignacio Fernández de Lahongrais as his counsel on appeal, (ii) stay the briefing schedule, (iii) "invoke" its "supervisory power," and (iv) dismiss his indictment. *See* Motions, *United States v. Verdejo-Sánchez*, No. 23-1964, 25-1020 (1st Cir. Mar. 24, 2025). The United States now moves to strike Verdejo's latter two requests.

Verdejo's attempts to dismiss the indictment underlying his convictions – by challenging federal jurisdiction – contravene an Order of this Court. Earlier this year, Verdejo, proceeding *pro se*, moved this Court to dismiss

his indictment on the same grounds. *See Motion, United States v. Verdejo-Sánchez*, No. 23-1964, 25-1020 (1st Cir. Jan. 27, 2025). This Court denied that motion “without prejudice to assertion of any relevant argument *in defendant’s brief.*” Order, *United States v. Verdejo-Sánchez*, No. 23-1964, 25-1020 (1st Cir. Feb. 24, 2025) (emphasis added). So, this Court expressly instructed Verdejo to assert his jurisdictional arguments via an opening brief rather than via pre-briefing motions. Because Verdejo’s renewed motions flout that Order, this Court should strike them.<sup>1</sup>

If more were needed, this Court in February also admonished Verdejo that he was “represented by counsel in this appeal and should proceed through counsel.” Order, *United States v. Verdejo-Sánchez*, No. 23-1964, 25-1020 (1st Cir. Feb. 24, 2025). Verdejo as of now remains represented by Attorney Fernández and should be held to comply with this Court’s directive to proceed through him when raising substantive arguments attacking his convictions.<sup>2</sup>

---

<sup>1</sup> In the alternative, Verdejo can cure his noncompliance if he asks that the Court construe these filings as his opening brief.

<sup>2</sup> This holds true even though Verdejo moved to remove Attorney Fernández as his counsel and the latter subsequently moved for leave to withdraw as counsel too. *See Motion, United States v. Verdejo-Sánchez*, No. 23-1964, 25-1020 (1st Cir. Mar. 23, 2025); Motion, *United States v. Verdejo-Sánchez*, No. 23-1964, 25-1020 (1st Cir. Mar. 25, 2025). Attorney Fernández is Verdejo’s counsel of record until this Court orders otherwise.

Verdejo's jurisdictional challenge to the indictment underlying his convictions is thus not rightly before this Court. His motions to that effect should accordingly be stricken from the record.

Nevertheless, Verdejo's arguments are without merit.<sup>3</sup> Federal courts have jurisdiction to adjudicate a criminal charge so long as "the indictment alleges an offense under U.S. criminal statutes." *United States v. Prado*, 933 F.3d 121, 134 (2d Cir. 2019). See 18 U.S.C. § 3231 ("The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States."). "[T]he standard for the sufficiency of an indictment is not demanding," *United States v. Balde*, 943 F.3d 73, 89 (2d Cir. 2019), and requires little more than that the indictment "track the language of the statute charged and state the time and place (in approximate terms) of the alleged crime," *United States v. Stringer*, 730 F.3d 120, 124 (2d Cir. 2013). See *United States v. Vega-Martinez*, 949 F.3d 43, 49 (1st Cir. 2020) (stating that an indictment must provide enough to inform a defendant of the charges against them). The superseding indictment here, which tracks the language of

---

<sup>3</sup> The United States reserves the right to contest Verdejo's arguments in detail when he properly raises them or at any time that this Court orders it to. To that effect, the United States will file a separate motion to stay the deadline for responding, or extend the time to respond, to Verdejo's jurisdictional challenge motions pending resolution of this Motion to Strike.

the charged offenses and lays out the pertinent facts, plainly meets that standard.

**WHEREFORE**, it is respectfully requested that this Honorable Court of Appeals strike Verdejo's renewed motions seeking to dismiss his indictment on jurisdictional grounds.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 3<sup>rd</sup> day of April 2025.

W. Stephen Muldrow  
United States Attorney

Mariana E. Bauzá-Almonte  
Assistant United States Attorney  
Chief, Appellate Division

/s/ Ricardo A. Imbert-Fernández  
Assistant United States Attorney  
United States Attorney's Office  
Torre Chardón, Suite 1201  
350 Carlos Chardón Avenue  
San Juan, Puerto Rico 00918  
Tel. (787) 766-5656  
Fax (787) 771-4050

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 3, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to counsel for the appellant.

/s/ Ricardo A. Imbert-Fernández  
Assistant United States Attorney

Appellee U.S. Motion to stay response schedule and  
to extend time to file a response 04/10/2025

**"APPENDIX" F2**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT**

**APPEALS NO. 23-1964, 25-1020**

**UNITED STATES,  
Appellee,**

**v.**

**FÉLIX VERDEJO-SÁNCHEZ,  
Defendant-Appellant.**

---

**UNITED STATES' MOTION TO STAY  
AND FOR AN EXTENSION OF TIME**

---

**TO THE HONORABLE COURT:**

The United States respectfully moves this Court to stay the deadline for responding to Félix Verdejo-Sánchez's jurisdictional challenge motions pending its decision on the United States' Motion to Strike. *See Motion, United States v. Verdejo-Sánchez, No. 23-1964, 25-1020 (1st Cir. Apr. 3, 2025).* Pending resolution of this stay motion, the United States requests a 30-day extension. In support of this motion, the United States states as follows:

1. The United States has moved to strike Verdejo's jurisdictional challenge motions. If the Court strikes those motions, responding to them will be unnecessary.

2. If the Court finds that striking the motions is inappropriate, however, the United States wishes to respond to Verdejo's arguments. The deadline to respond to Verdejo's motions is today (April 3, 2025). The United States does not want to be in default of the motion response schedule. Therefore, pending resolution of the stay motion, the United States requests a 30-day extension.

3. For these reasons, the United States respectfully requests that the Court allow this motion.

**WHEREFORE**, the United States respectfully asks the Court to stay the deadline for responding to Verdejo's jurisdictional challenge motions pending its decision on the United States' Motion to Strike and grant the government's requested extension of time until May 5, 2025, pending resolution of the stay.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 3<sup>rd</sup> day of April, 2025.

W. Stephen Muldrow  
United States Attorney

Mariana E. Bauzá-Almonte  
Assistant United States Attorney  
Chief, Appellate Division

/s/ Ricardo A. Imbert-Fernández  
Assistant United States Attorney  
Appellate Division  
United States Attorney's Office  
Torre Chardón, Suite 1201  
350 Carlos Chardón Avenue  
San Juan, Puerto Rico 00918  
Tel. (787) 766-5656  
Fax (787) 771-4050.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 3, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to the appellant.

/s/ Ricardo A. Imbert-Fernández  
Assistant United States Attorney