**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF STETSON WESTVIEW DIVISION**

UNITED STATES OF AMERICA,

CASE NO.: 1:20-CR-24

v.

WANDA MAXIMOFF,

Defendant.

**DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS**

**/s/ 110**
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## INTRODUCTION

On March 23, 2020, the Government suspended grand juries due to Covid-19. At that time, the statute of limitations for the crimes alleged herein was set to expire on July 24, 2020. Despite knowing that prosecution of Wanda Maximoff would be infeasible after the limitations period expired, the Government did nothing to pursue prosecution for one hundred and twenty days. In that time, the Government ignored viable paths to prosecution and, only in the eleventh hour, attempted to salvage the case by filing and then dismissing a meaningless Information one day before the limitations period expired.

The Defense respectfully requests that this Court grant the Motion to Dismiss because the Information filed by the Government on July 22, 2020 was not instituted and therefore failed to meet the statute of limitations set by 18 U.S.C.A § 3298. Furthermore, it failed to toll the statute of limitations through 18 U.S.C.A. §§ 3288-89. As a result, the statute of limitations for the crimes alleged expired on July 24, 2020. Because no indictment was brought until September 21, 2021, this prosecution cannot proceed. Additionally, the Government was not reasonably diligent nor were the circumstances sufficiently extraordinary to warrant equitable tolling for the fourteen months between the expiration of the limitations period and the filing of the Indictment. For these reasons, the case must be dismissed.

## STATEMENT OF FACTS

Ms. Maximoff came to America in 1992 as part of a resettlement program for Eastern European refugee children and was placed into foster care. Rambeau Decl. 1. Despite the challenges of her youth, she worked hard and eventually earned admission into law school. Rambeau Decl. 3. During her third year of law school, she clerked for local immigration attorney Agatha Harkness. After graduating, she accepted a position with the same firm and worked there for three years. Rambeau Decl. 3. During that time, she assisted over forty clients in preparing and submitting paperwork that would grant them lawful temporary resident status. Woo Aff. 7.

Between May 31, 2007 and July 24, 2010, eight clients of the Agatha Harkness firm were allegedly induced to reside in the United States through the manufacture and selling of fraudulent documents known as OSUPs (Order of Supervision). Woo Aff. 7. The investigation, headed up by Jimmy Woo, began on May 3, 2018. Woo Aff. 2. Through interviews, Woo found out about a person known as "Scarlet" who was reportedly selling these falsified documents. Woo Aff. 3. Woo linked the documents to the Harkness firm and then focused his investigation entirely on Ms. Maximoff even though one interviewee stated it was Ms. Harkness, not Ms. Maximoff, selling the falsified documents. Woo Aff. 7.

The crimes alleged have a statute of limitations of ten years. Trial Tr. 48, 49. As a result, the statute was set to expire on July 24, 2020. Trial Tr. 51, 52. Despite this looming deadline, there is nothing in the record to indicate that Woo did any work on the investigation or sought prosecution for the first six months and twenty days of 2020. During this time, Covid-19 laid siege to the world which resulted in issues across the country and the judiciary was not spared. However, the courts were not closed. Trial Tr. 57-60. Grand Juries were suspended on March 23, 2020, but there is nothing in the record suggesting that there were no paths to prosecution during their closure. Trial Tr. 61, 62.

From January 1, 2020 to July 21, 2020, the Government made no attempt to prosecute Ms. Maximoff. Trial Tr. 57-60. On July 22, 2020, two days before the expiration of the statute of limitations, the Government filed an Information under seal. Trial Tr. 57-60. Critically, the Information was not accompanied by a waiver of prosecution by indictment from the defendant. The very next day, the Government sought dismissal of their own Information without providing any reason. Ct. Order 1, July 23, 2020.

The Court's suspension of grand juries was lifted on March 29, 2021. Trial Tr. 63. It was not until September 21, 2021 that the Government finally brought the indictment against Ms. Maximoff, alleging that she conspired to sell fraudulent documents to aliens in violation of 8 U.S.CA. § 1324(a)(1)(A)(iv), (v). Indictment

September 21, 2021. In the 454 days that passed between the dismissal of the Information and the filing of the Indictment, there is nothing in the record indicating that the Government pursued the investigation or attempted to preserve their right to prosecute.

Following the indictment, an initial hearing was held. Trial Tr., 24. During that hearing, the Defense noted that the ten-year statute of limitations expired on July 24, 2020. Trial Tr., 52. The Government advanced an argument for tolling that limitations period. Trial Tr., 67. As a result, the Court ordered both parties to file a memorandum addressing the questions of (1) whether the indictment was timely returned in view of § 3288 and § 3298 and (2) whether the Government is entitled to equitable tolling of the statute of limitations. Order. ¶ 2-3, September 23, 2020.

## ARGUMENT

### I. The Statute of Limitations has Expired Because the Government's Information was not Effectively Instituted Given their Failure to Obtain a Waiver.

This case must be dismissed because the Government's Information was not instituted prior to the expiration of the statute of limitations. Ms. Maximoff is alleged to have violated § 3298 which states that "no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is *instituted* not later than 10 years after the commission of the offense." 18 U.S.C.A. § 3298 (West) (emphasis added). The specific statute of limitations supersedes the general limitations period for non-capital crimes. 18 U.S.C.A. § 3282(a) (West). Federal Rule of Criminal Procedure 7(b) specifies that prosecution by information can only occur "if the defendant--in open court and after being advised of the nature of the charge and of the defendant's rights--waives prosecution by indictment." Fed. R. Crim. P. 7(b).

The statute of limitations can be extended under specific circumstances. 18 U.S.C.A. §§ 3288-89 (West). Where an information is instituted or an indictment is found before the expiration of the statute of limitations and subsequently dismissed, the limitations period can be tolled for six months from dismissal or, if no Grand Jury is in session, for six months after the Grand Jury is reconvened. §§ 3288-89. The only difference between these two statutes is that § 3288 deals with

dismissal *after* the limitations period has expired and § 3289 deals with dismissal *before* the limitations period has expired. §§ 3288-89. The Court requested a brief on the implications of the language of § 3288, however, the Defense is of the belief that § 3289 is the applicable statute given the fact that the Government's Information was dismissed on July 23, 2020, which is one day prior to the expiration of limitations period. Regardless, the substantive effect of the statutes is identical and, therefore, they will be referenced jointly as "§§ 3288-89."

The issue before the court is what is required for an information to be "instituted" for the purposes of § 3298. Whether the Government's Information was instituted determines if the Information's dismissal tolls the statute of limitations through §§ 3288-89. The meaning of the word "instituted" in § 3298 is ambiguous as evidenced by multiple reasonable judicial interpretations, the absence of any clarifying language in the statute or its wider context, and the existence of statutory language within Title 18 that evidences Congressional intent to require more than mere filing for effective institution. Interpreting the statute using legislative history leads to the conclusion that an information must be accompanied by a waiver to be instituted for the purposes of § 3298. Because the Government failed to obtain a waiver, the Information it filed was never instituted and neither §§ 3288-89 can be used to toll the statute of limitations which subsequently expired on July 24, 2020. Therefore, the case must be dismissed.

### a. The Statutory Language is Subject to Multiple Reasonable Interpretations and is Therefore Ambiguous.

Prosecution for the crimes alleged requires that the Government's "indictment is found or the information instituted not later than ten years after the commission of the offense." § 3298. A statute's plain and unambiguous language requires no further inquiry. *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). Ambiguity exists in a statute that is susceptible to more than one reasonable interpretation. *Med. Transp. Mgmt. Corp. v. Comm'r of I.R.S.*, 506 F.3d 1364, 1368 (11th Cir. 2007). A split in decisions across the judiciary is evidence of a statute's difficult interpretive challenge. *In re Price*, 370 F.3d 362, 368 (3d Cir. 2004).

When determining if ambiguity exists, a legal dictionary may be used to ascertain the ordinary meaning of a word. *Pennsylvania, Dep't of Pub. Welfare v. U.S. Dep't of Health & Hum. Servs.*, 647 F.3d 506, 511 (3d Cir. 2011). A common term may be ambiguous where its precise meaning is not plain through the language of the statute itself, the context in which it is used, and the broader context of the statute. *Robinson,* 519 U.S. at 341 (the word "employee" was deemed ambiguous because it was unclear whether the term excluded former employees for the purposes of the statute it appeared in).

The meaning of "institution" is subject to multiple reasonable interpretations as evidenced through the lack of clarity found in the plain meaning of the word. Black's Law Dictionary says "institute" means "to begin or start; commence" then

provides an example of using it in a sentence, "institute legal proceedings against the manufacturer." INSTITUTE, Black's Law Dictionary (11th ed. 2019). The limited information gleaned from the dictionary fails to shine a light on the appropriate construction. After all, when do legal proceedings begin? Is it at the investigatory stage, the initial filing, or the moment prosecution becomes possible? The answer to that question depends on your preconceived notions about this case. The definition merely allows for a reading that confirms whichever interpretation you prefer indicating reasonable disagreements are sure to follow.

The ambiguity inhered in the word "institute" is demonstrated by the fact that numerous courts have reached diametrically opposed verdicts on what it means to institute an information. The judicial split evidences the difficult interpretive challenged by the statutory language. A number of courts have determined that the language is clear on its face and ruled that merely filing an information effectively institutes it. *See United States v. Briscoe,* No. CR RDB-20-0139, 2020 WL 5076053, at *2 (D. Md. Aug. 26, 2020), *Rosecan*, No. 20-CR-80052 at *4, *United States v. Burdix-Dana*, 149 F.3d 741, 743 (7th Cir. 1998), *United States v. Stewart,* 425 F. Supp. 2d 727, 735 (E.D. Va. 2006). These judgments assume that "institute" is not synonymous with "prosecute" though, at most, prior confirmatory precedent is cited in support of that assertion. *Rosecan*, No. 20-CR-80052 at *3, *Burdix-Dana*, 149 F.3d at 742. At least one of these courts

expressed reservations about the logic behind this reading. *Stewart*, 425 F. Supp. at 731 (stating that it is only "logical to presume that a[] criminal information could not be 'instituted' for the purposes of the statute of limitations under § 3282 until the waiver of indictment occurred pursuant to the dictates of Rule 7(b)").

Conversely, at least two federal courts have held that effective institution of an information requires a waiver from the defendant and, absent that waiver, the information fails to toll the limitations period. *United States v. B.G.G.,* No. 20-80063-CR *18-19 (S.D. Fla. Jan. 11, 2021) (Scribd); *United States v. Machado*, No. CRIM.A.04-10232-RWZ, 2005 WL 2886213, at *4 (D. Mass. Nov. 3, 2005). This interpretation is founded on legislative history that explicitly states a waiver must accompany an information to toll the limitations period. *B.G.G.*, No. 20-80063-CR at *12-19. The tide has begun to turn based on support from the record rather than reliance on assumptions.

These well-reasoned judicial disagreements evidence the fact that that the statutory language is subject to multiple reasonable interpretations, as does the lack of any clarity present in the plain language. As a result, the statutory language regarding the institution of an information must be recognized as ambiguous and, therefore, further interpretation is warranted.

**b. Legislative History Establishes that an Information Requires a Waiver to be Effective for the Purpose of Tolling the Statute of Limitations.**

Where ambiguity exists, an examination of the statute's legislative history and the act's purpose may be used to interpret the statute. *United States v. Pringle*, 350 F.3d 1172, 1180 (11th Cir. 2003). Prior to interpreting a statute through legislative history, the wider context of the law must be considered to determine if the language can be clarified. *Price*, 370 F.3d at 371 (a statute featuring the phrase "if applicable" was reasonably construed in two conflicting interpretations by a variety of courts and would have been deemed ambiguous, but for a guarantee of substantive rights in a subsection of the same statute which clarified the meaning of the language).

The language § 3298 fails to clarify the meaning or intent of the word "instituted." The statute merely lists the crimes punishable and declares that prosecution must occur through the finding of an indictment or the institution of an information within ten years. Similarly, there is no further clarification present in § 3282 or in § 3288-89 which would explicitly or implicitly resolve the current dispute. Thus, unlike the statute in *Price* which included language that was dispositive on the meaning of the word in question, these statutes contain no language to clarify what is required for an information to be instituted.

Given the lack of context supplied through the language of the statute, consideration of legislative history is warranted. The Court in *U.S. v. B.G.G.* faced the same issue as the Court today and the dispute about the institution of a waiver

was resolved through an exhaustive review of the legislative history. This review traced the statute back to its origins and based its conclusion upon the explicit definition of the requirements for the effective institution of an information in order to toll the statute of limitations through §§ 3288-89. While considering changes to the statutes, which were ultimately put into effect, then Attorney General Robert Kennedy stated that "the amendments [to § 3288 and § 3289] would therefore permit reindictment in similar cases where an information was filed after the defendant waived in open court prosecution by indictment." S. REP. NO. 88-1414, at 1 (1964), *as reprinted in* 1964 U.S.C.C.A.N. 3257–58. This language resolves the dispute at hand, clarifying that a waiver is required for an information to be instituted for the purposes of §§ 3288 and 3289.

Consideration of the statute's legislative history establishes that the Government's Information was not instituted because it lacked a waiver and therefore the statute of limitations was not tolled and it subsequently expired on July 24, 2020. Thus, this case must be dismissed.

**c. The Language of Statutes in Title 18 Indicates that Congress Intended for Institution of an Information to Require more than mere Filing.**

What Congress says in a statute is what Congress means. *Connecticut Nat'l Bank v. Germain*, 503 U.S. 249, 254 (1992). The inclusion of a word in one section and omission of the same word in another section is presumed to be intentional and

purposeful. *Alli v. Decker*, 650 F.3d 1007, 1012 (3d Cir. 2011) (in resolving a dispute about statutory language, one party's interpretation of the word "restrain" was ruled out because language existed elsewhere in the statute evidencing Congress' ability to express that exact intent). The existence of language within the same Title that supports or eliminates one interpretation may be dispositive. *See Robinson*, 519 U.S. at 341 (whether the term "employees" excludes former employees was not resolved through reference to other statutes in the same Title because there were no instances of the limiting language such as "current employees" that could clarify the intent of Congress). The intent of Congress must be preserved regardless of the perceived harshness of the outcome. *Price*, 370 F.3d at 378.

Other statutes within Title 18 use language consistent with the Defense's interpretation that the institution of an information requires more than mere filing. While a variety of other statutes include language similar to the statutes in question, they do not all require an information to be "instituted." Instead, the language of § 3294 and § 3300 specifies that an information need only be *filed* within the limitations period to meet the statute of limitations. The explicit acceptability of merely filing indicates that its replacement by the requirement of instituting an information in §§ 3282 and 3298 was intentional, purposeful, and should be dispositive for the question at hand. Furthermore, § 923 dictates that

"[n]o proceedings for the revocation of a license shall be instituted by the Attorney General more than one year after the filing of the indictment or information." Not only does this language support the distinction between a filing and institution, it also demonstrates that institution occurs *after* the filing, specifically when the information is instituted or the indictment is found. This language and the deference given to the intent of Congress closes the door on the Government's preferred reading of the statute at issue.

For the reasons stated, the word "instituted" is ambiguous, but its meaning is resolved by the legislative history and through the intentional word choice of Congress as evidenced by the specific language chosen for the applicable statutes and others in Title 18. These sources provide a firm foundation on which to rest the Court's determination that the effective institution of an information requires a waiver from the defendant, not a mere filing. In prosecuting Ms. Maximoff, the Government failed to obtain a waiver from the defendant prior to filing the Information on July 22, 2020 and therefore failed to institute the Information. Because the Information was never instituted, the statute of limitations was not tolled through §§ 3288-89 and, as a result, the limitations period established by § 3298 expired on July 24, 2020. No indictment was found until September 21, 2021 which is well past the expiration of the limitations period. For the reasons stated, the case must be dismissed as untimely.

## II. The Government is not Entitled to Equitable Tolling of the Statute of Limitations.

Equitable tolling must not be granted to the Government because the Government was not diligent in pursuing their right to prosecute Ms. Maximoff and because no extraordinary circumstance prevented them from timely filing charges. The doctrine of equitable tolling allows courts to extend the statute of limitations beyond their expiration. *Goodman v. Port Auth. of New York & New Jersey,* 850 F. Supp. 2d 363, 381 (S.D.N.Y. 2012). However, the doctrine can only be applied in the extremely rare and exceptional case where a party is barred from pursuing his matter in an extraordinary way. *Zerilli-Edelglass v. N.Y. City Transit Auth.,* 333 F. 3d. 74, 80 (2d Cir. 2003). Equitable tolling is considered by the court on a case-by-case basis. *Holland v. Florida,* 560 U.S. 631, 649 (U.S. 2010).

Equitable tolling may only be considered if the petitioner has diligently pursued his rights and an extraordinary circumstance prevented the petitioner from timely filing. *Id*. The petitioner always carries the burden to demonstrate his entitlement to equitable tolling. *Connolly v. Howes,* 304 Fed. Appx. 412, 417 (6th Cir. 2008). The Government brought this indictment well after the expiration of the statute of limitations and, because they were neither diligent in the pursuit of their right to charge nor did any extraordinary circumstance prevent them from timely charging Ms. Maximoff, equitable tolling is not appropriate. Therefore, the case must be dismissed.

### a. The Government was not Reasonably or Otherwise Diligent in Pursuing their Right to Prosecute Ms. Maximoff.

To be entitled to equitable tolling of the statute of limitations, the petitioner is required to proceed with reasonable diligence in pursuit of their rights, throughout the time that they wish to have tolled. *See Johnson v. Nyack Hosp.,* 86 F. 3d. 8, 12 (2d Cir. 1996) (delaying a filing for fifteen months and then waiting another twenty-nine months to take action on that filing was insufficient to establish reasonable diligence for the purposes of equitable tolling). Reasonable diligence requires taking more than one action towards pursuing your rights before the statute of limitations expires. *See Torres-Santiago v. United States,* 865 F. Supp. 2d 168, 177 (D.P.R. 2012) (the petitioner only made one attempt to pursue his rights before the statute of limitations ran which was insufficient to show reasonable diligence).

The Government is not entitled to equitable tolling because they did not use reasonable diligence in pursuing their right to prosecute Ms. Maximoff throughout the time they are seeking to have equitably tolled. The only action taken by the Government meant to preserve the right to prosecution was the filing of the waiverless Information. That Information was almost immediately dismissed and then the Government did nothing until this indictment was brought over a year later. For the fourteen long months after the Information was dismissed, the Government did not take any steps toward prosecution, nor is there any record that

they continued the investigation into Ms. Maximoff. No additional information was uncovered as evidenced by the fact that the indictment is identical to the Information that they originally filed.

The Government's complete inaction cannot be reasonably construed as diligence. They merely filed an Information, then sat on their rights. While they will argue that they were waiting for a global pandemic, which had no end in sight, to conclude, there was nothing preventing them from pursuing prosecution at any time prior to September 21, 2021. As in *Torres*, the Government pursuing their claim in only one solitary manner does not equate reasonable diligence to justify the granting of the extremely rare remedy of equitable tolling. Similar to the petitioner in *Johnson*, the Government had other routes to pursue their right to prosecute, and as in *Johnson*, the Government failed to do so. Instead, the Government waited for their preferred method of prosecution to become available. This was not reasonable diligence in *Johnson*, and it is not reasonable diligence on behalf of the Government in the instant case either. Thus, the Government cannot meet their burden of showing reasonable diligence. As a result, equitable tolling must be denied.

**b. The Covid-19 Pandemic did not Rise to the Level of an Extraordinary Circumstance and Therefore Equitable Tolling is Unavailable.**

The granting of equitable tolling requires extraordinary circumstances. *Jones v. Kirchenbauer,* Fed. Appx. 1, 2 (3d Cir. 2021). Difficulty in bringing a timely filing is not sufficient to justify a granting of equitable tolling. *Id.* (neither the act of negotiating with the opposing party nor the responsibilities of home life, including caring for an ill sister or writing a paper on Covid-19, prevented the party from making a timely filing and therefore the circumstances were not extraordinary). For circumstances to be extraordinary enough to justify a grant of equitable tolling, "there must be a causal connection, or nexus, between the extraordinary circumstances [] faced and the petitioner's failure to file a timely federal petition." *Id.*; *see also Valverde v. Stinson,* 224 F.3d 129,134 (2d Cir. 2000) (explaining that not having access to the paperwork needed to timely file due to the fact that it was wrongfully confiscated met the need for a causal relationship between the extraordinary circumstances and the lateness of the filing).

The term "extraordinary" does not refer to the uniqueness or novelty of a party's circumstances, but rather to the severity of the obstacle impeding compliance with a limitations period. *See Harper v. Ercole,* 648 F.3d 132, 139 (2d Cir. 2011) (ruling that although being in the hospital for 288 days prevented the petitioner from filing during that time, it was still possible for him to file during the 78 days after he was released from the hospital therefore his hospitalization was

not a severe enough impediment to his timely filing and therefore not an exceptional circumstance entitling him to equitable tolling).

The Covid-19 pandemic was not an extraordinary circumstance because it did not prevent the Government from timely filing within the statute of limitations period. The Court suspended the Grand Jury on March 23, 2020. While the Grand Jury was not available through the expiration of the limitations period, the Government still could have pursued their right to prosecute Ms. Maximoff. Indeed, four months later the Government filed an Information on July 22, 2020, but then had it dismissed on July 23. Covid-19 was raging when they filed the Information, and therefore the pandemic did not prevent the Government from pursuing a viable path to prosecution. Additionally, that path had been available to them since the grand juries were suspended. Covid-19 may have prevented the Government from pursuing their preferred path to prosecution, but it did not prevent them from pursuing prosecution in a timely manner and, thus, the pandemic does not rise to the level of an extraordinary circumstances for the purpose of equitable tolling.

Although the Covid-19 pandemic was novel and unique, the Court explained in *Ercole*, that the term "extraordinary" refers to the severity it causes in timely filing. If an indictment from the grand jury was the only way to prosecute Ms. Maximoff, the pandemic truly would have been an "extraordinary" circumstance.

Fortunately, prosecutors had other ways to get to a prosecution. One route was the pursuit of prosecution through the filing of an information, which was available as demonstrated by the Government's filing on July 22. Just as in *Jones*, the circumstance that the Government faced did not cause them to miss timely filing their case. As the 3rd Circuit Court of appeals explained, a court "… has never applied equitable tolling to rescue a government indictment filed after the statute of limitations has lapsed." *United States v. Atiyeh,* 402 F. 3d 354, 367 (3rd Cir. 2005). The Government has given no reason for the Court to do so in the instant case. Therefore, the circumstances were not extraordinary and equitable tolling must be denied.

**c. Dismissal is Warranted Because the Waiverless Information Amounts to Prosecutorial Harassment.**

The Government's filing of the Information in the eleventh hour amounts to prosecutorial harassment and further supports the case's dismissal. "[P]rosecutorial harassment involves charging, dismissing, and subsequently commencing another prosecution at a different time or place deemed more favorable to the prosecution." *United States v. Salinas*, 693 F.2d 348, 351 (5th Cir. 1982). The Government cannot use a dismissal "to gain a position of advantage or to escape from a position of less advantage in which the Government found itself as the result of its own election." *Salinas*, 693 F.2d at 353 (internal quotation marks and citation omitted). The purpose of the statute of limitations is "to limit exposure to criminal

prosecution to a certain fixed period of time following the occurrence of those acts the legislature has decided to punish by criminal sanctions." Toussie v. United States, 397 U.S. 112, 115 (1970). "The Government cannot "willy-nilly" file an Information at the end of the limitations period as a means of extending it." *United States v. Sharma*, No. 4:14-CR-61, 2016 WL 2926365 (S.D. Tex. May 19, 2016).

The Government's filing and subsequent dismissing of a waiverless Information two days before the expiration of the statute of limitations indicates that the filing was meant for no other reason than to extend the statute of limitations. This is the exact type of filing that was been expressly forbidden in *Sharma*. It was forbidden by that Court because such filings are only intended to provide the Government with a path to prosecution at a more favorable time. In this case the Government had reasonable alternatives but failed to take them. Furthermore, general policy considerations counsel the rejection of such end-around maneuvers which undermine the purpose of the statute of limitations. As a result, the filing amounts to prosecutorial harassment and the case should be dismissed with prejudice.

## CONCLUSION

The Defense respectfully requests for the Motion to Dismiss to be granted. For the reasons stated above, the effective institution of an information requires a waiver from the defendant to toll the statute of limitations. Thus, the Government's

Information filed on July 22, 2020 failed to toll the statute of limitations under §§ 3288-89 because it was not accompanied by a waiver from Ms. Maximoff. The statute of limitations expired on July 24, 2020 making the ensuing indictment impermissible because it well exceeds the ten year limitations period. Furthermore, the Government should be denied equitable tolling given their inability to establish the requisite elements of reasonable diligence and extraordinary circumstances. Therefore, the indictment against Ms. Maximoff must be dismissed as untimely.

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