CASE NO.: 1:20-cr-24

UNITED STATES OF AMERICA,

Plaintiff,

v.

WANDA MAXIMOFF,

Defendant.

_____/

THE UNITED STATES IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS WITH INCORPORATED MEMORANDUM OF LAW

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INTRODUCTION

The United States requests that this Court dismiss the Defendant's Motion. The indictment before this court bore the full brunt of COVID's hardships. Out of caution and safety, the United States District Court for the District of Stetson wisely abided with pandemic protocols and suspended grand juries on March 23, 2020. *See* Administrative Order No. 20-019. On July 22, 2020, the Court signed an order dismissing the information without prejudice due, again, to the COVID-19 pandemic. When the Court lifted the suspension on March 29, 2021, the United States filed an identical information, sought a grand jury indictment and fully complied with 18 U.S.C. § 3288.

The investigation into Maximoff's conspiracy and fraud resurfaced on February 14, 2019, when a Federal Special Agent re-opened the investigation into the fraudulent Orders of Supervision ("OSUP"). *See* Woo Aff. ¶¶ 17-18. As a general matter, an OSUP authorizes the release of an alien to the community under prescribed reporting conditions. An OSUP affords certain benefits, including the ability to apply for and receive a Stetson Driver's License and an Employment Authorization Card, among other things. *See* Indictment, ¶ 4. After conducting a series of knock-and-talks as well as a non-custodial interview, the Special Agent confirmed a consistent narrative: illegal aliens would retain the legal immigration services of Agatha Harkness, work with Defendant on the immigration paperwork and shortly thereafter, find a note telling him to contact "Scarlet" who would request $10,000 in cash for a forged OSUP. *See* Woo Aff. ¶ 19.

Objecting to this indictment, the defense asserts that the indictment is beyond the statutes of limitations and thus, moved to dismiss the charges. When the United States reminds this Court that when it is unable to indict a defendant due to a grand jury suspension, 18 U.S.C. § 3288 permits the United States to reindict a defendant within six months after the grand jury convenes. Here, COVID protocol prevented such a timely reindictment, yet the United States filed the reindictment within six months upon the reopening of the grand jury. Moreover, this case warrants the doctrine of equitable tolling as the United States was diligent in investigating and prosecuting Maximoff's fraud and conspiracy. However, the global COVID-19 pandemic shuttered the American court system, which created an extraordinary circumstance that thwarted the United States' efforts to timely file this indictment against Maximoff.

STATEMENT OF FACTS

On May 3, 2018, Special Agent Woo with the United States Department of Homeland Security ("Woo") received a call concerning a DUI arrest. (Woo Aff. ¶ 5.) The arresting officer informed Woo that the woman in custody, S.P. was a Guatemalan citizen illegally residing in the United States. S.P. was in possession of an expired Stetson Driver's License, issued to her on June 2, 2008. A day later, Woo interviewed S.P. and learned that she was a Guatemalan citizen, who illegally entered the United States in 2008. *Id.* Later on May 4, 2018, Woo attempted to speak with S.P.'s husband, H.P, who refused to answer any questions without consulting his attorney, Agatha Harkness. *Id.* at ¶ 8.

On August 10, 2018, H.P. explained to Woo that he was unable to locate Harkness while further detailing that he and his wife retained Harkness after entering the United States in April 2008 for the purpose of applying for lawful temporary residence status. *Id.* at ¶ 9. Woo learned Harkness introduced H.P. and his wife to Maximoff on May 7, 2008, who spent a total of 50 hours over two weeks on application materials to become lawful temporary residents. *Id.* at ¶ 10. However, on May 23, 2008, S.P. found a note in their paperwork for "Scarlet" who could assist the couple with obtaining immigration paperwork like an "OSUP." *Id.* at ¶ 11. He called the number for "Scarlet." An individual answered and said he could get the couple "what they needed" for $10,000. The following day, H.P. left the cash in their mailbox at 11:40 p.m. *Id.* at ¶ 12.

On May 24, 2008, H.P. opened his mailbox to find the fraudulent OSUP forms, which they used to obtain Stetson Driver's Licenses and Employment Authorization Cards. *Id.* During the August 10, 2018 interview, H.P. told Woo that other aliens in his neighborhood paid "Scarlet" to obtain fraudulent immigration paperwork until 2010. *Id.* at ¶ 13. Following the conversation with H.P., Woo immediately opened an investigation file and unsuccessfully attempted to contact Harkness at her office. *Id.* at ¶ 14. Woo then checked the Stetson Bar website to learn that Harkness retired in 2015 and relocated to Salem, Massachusetts. *Id.* Woo later learned that Harkness no longer resided in Salem. *Id.* at ¶ 15.

On February 19, 2019, Woo interviewed R.B., who admitted that he illegally entered the United States in 2009 but gained lawful temporary residence in 2012. *Id.* at ¶ 19. After

retaining Harkness's immigration services, R.B. shared a similar experience to H.P—he received a note to contact "Scarlet," called Scarlet, was told to pay "Scarlet" $10,000 in cash for a forged OSUP. *Id.* R.B. gave Woo the note, which included a telephone number. *Id.* at ¶ 20. Although disconnected, Woo learned that the number was the "emergency contact" for the Law Office of Agatha Harkness's staff. *Id.* at ¶ 22. A search of court records revealed that Maximoff appeared as counsel of record and a "certified legal intern" on 40 cases at Harkness Law Firm. *Id.* at ¶ 28.

From the gathered evidence, the Special Agent opened an investigation into Maximoff as Scarlet. *Id.* at ¶ 24. On March 18, 2019, Woo subpoenaed Maximoff's available phone records, financial records, and flight records. *Id.* at ¶ 25. Harkness employed Maximoff from 2007 through 2010, at which time she only claimed between $40,000 and $65,000 annually on her tax returns. *Id.* at ¶ 26. However, during this employment, Defendant's bank records reflected 24 substantial cash deposits in a total amount of $220,000. *Id.* at ¶ 26. Further, the Special Agent successfully interviewed 24 of Maximoff's clients and "determined Maximoff conspired with at least eight individuals to provide them a forged OSUP." *Id.* at ¶ 29. Additionally, Maximoff's flight records revealed substantial international travel in the last 20 years. *Id.* at ¶ 27.

Among other facts, the Special Agent presented this information to the United States on July 22, 2020, with reason to believe that Maximoff violated 8 U.S.C. § 1324(a)(1)(A)(iv) and (v), namely by engaging in a conspiracy to encourage and induce aliens to unlawfully reside in the United States. *Id.* at ¶ 35. Unfortunately, on March 23,

2020, the District of Stetson suspended the grand jury due to the COVID-19 pandemic. *See* Administrative Order No. 20-019. Subsequently, the United States filed this Information under seal against the Maximoff on July 22, 2020, which Judge Bradley dismissed the Information without prejudice on July 23, 2020. *See U.S. V. Maximoff,* Case No. 1:20-Cr-24, (D. ST. 2020). When the grand jury suspension was lifted on March 29, 2021, the United States sought an Indictment by the grand jury within six months to comply with U.S.C. § 3288. *See* Administrative Order No. 21-008.

On September 23, 2021, Woo executed an arrest warrant at 2800 Sherwood Drive Westview, Stetson, where Defendant permanently resides. Woo Supp. ¶ 1. After Maximoff confirmed her identity, Woo entered the home and peacefully explained the Maximoff's indictment. *Id.* at ¶ 3-4. A fellow officer conducted a brief sweep of the home and located a single packed "overnight" bag. Maximoff consent to conduct a search of her luggage. *Id.* at ¶ 5. The officer found Maximoff's passport, $2,000 cash, 3.5 grams of marijuana, and an Argentinian National Identity Card. *Id.* Maximoff said she was flying Buenos Aires for a medical appointment and planned to return by Tuesday. *Id.* Maximoff declined to answer questions about the charge and invoked her right to remain silent. *Id.* at ¶ 6. Defendant was arrested and immediately transported to her Marshal's Office at the United States Courthouse in Westview for booking and her initial appearance. *Id.* at ¶ 7.

ARGUMENT

I. The Indictment Was Timely In View Of § 3288

In view of 18 U.S.C § 3288. The United States can file an indictment after the limitations period has run unless the reason for dismissing the information is for failure to institute the information during the applicable statute of limitations.

The Indictment alleges that, between March 31, 2007, and July 24, 2010, Maximoff induced aliens to continue residing in the United States for the purpose of financial gain in violation of 8 U.S.C. 1325(a)(1)(A)(iv) and (v). Due to the Indictment's severity, the case necessitated a grand jury. As a result of the COVID-19 pandemic, the grand juries were suspended as of March 23, 2020. Following this suspension, the United States' motion to dismiss the Information was granted due to the inability to properly move forward with a grand jury. When the Court lifted the grand jury suspension on March 29, 2021, the United States diligently filed a new indictment within six months to comply with 18 U.S.C. § 3288. The United States requests that this court denies the Defendant's motion to dismiss.

A. The Government Is Entitled To A Presumption Of Good Faith

In dismissals and subsequent indictments, the government is entitled to a presumption of good faith. *United States v. Matta*, 937 F.2d 567, 568 (11th Cir. 1991). In *Matta*, the appellant motioned to dismiss his indictment and argued that the government's successful motion to dismiss the first indictment barred prosecution for the same charge on a subsequent indictment. *Id.* at 567-68. The court explained that the defendant must show that the initial dismissal was in bad faith to overcome the presumption of bad faith. *Id.*

There, the United States dismissed a 1975 information when the appellant was a young man with no criminal record. *Id.* at 569. However, in 1986, the appellant had been charged with serious offenses in four indictments, warranting the United States to prioritize his extradition. *Id.* The court affirmed the denial of the appellant's motion to dismiss his indictment because it was not brought to harass the defendant. *Id.* at 568-569.

The United States is entitled to a presumption of good faith when it filed the indictment against Maximoff. *See id.* at 567-568. In *Matta,* the Government's successful motion to dismiss the defendant's first indictment did not bar a new indictment for the same charge. *Id.* at 567-569. Here, the original information was dismissed without prejudice because it was impossible to move forward the case without a grand jury. The United States never sought to harass Maximoff. Instead, the United States was acted in good faith in seeking justice for Maximoff's fraud and conspiracy, but the COVID-19 pandemic prevented the grand jury process, which thwarted the United States' efforts. Under the rule in *Matta*, the United States' successful motion to dismiss Maximoff's original information does not bar prosecution for the same charge on subsequent indictment. *Id.* at 569.

B. Grand Juries Were Suspended When The Case Was Dismissed

When a grand jury is suspended at the time a case is dismissed, a new indictment may be returned within six calendar months from when grand juries resume. 18 U.S.C. § 3288; *United States v. Palacio,* No. 21-20301-CR, 2021 WL 3516662 (S.D. Fla. Aug. 9, 2021). In *Palacio,* the defendant was indicted for conspiracy to commit wire fraud and

making a false statement. *Id.* at 1. The United States filed an information for this indictment within the period of statute of limitations on August 31, 2020. *Id.* From March 26, 2020, until November 17, 2020, the Southern District of Florida suspended grand juries in response to the COVID-19 pandemic. *Id.* The United States argued that once the original indictment was dismissed, the government then had six months from the date in which grand juries resumed in the Southern District of Florida. *Id.* at 3. The defendant's motion to dismiss the indictment was denied. *Id.* at 6.

Under Administrative Order No. 20-019, the District of Stetson suspended grand juries due to COVID-19. In *Palacio*, the defendant's motion to dismiss her indictment was denied because she could not show that the Government's allegations were untimely. *Id*. Here, the District of Stetson similarly suspended grand juries from March 23, 2020 to March 29, 2021. Due to the grand jury suspension in the District of Stetson, the United States was left with no choice but to dismiss the Information. Under *Palacio*, the United States timely filed the indictment within the six-month period after the grand jury suspension was lifted. *Id*. at 6.

C. The Information Filed Was Never Null And Void

The absence of a waiver of indictment does not forbid filing an information without a waiver. *U.S. v. Burdix-Dana*, 149 F.3d 741, 742 (7th Cir. 1998). In *Burdix-Dana*, the United States filed an information with the district court charging the appellant with filing false, fictitious, or fraudulent claims upon the United States Treasury Department in violation of 18 U.S.C. § 287. *Id.* The appellant claimed the indictment was untimely and

filed a motion to dismiss. The appellant claimed that the information was not "instituted" because she did not waive her right to an indictment. The court explained that 18 U.S.C. § 3282 holds that an information, not prosecution, must be instituted within the statute of limitations. *See id.* at 743. Accordingly, the court affirmed the decision to deny the appellant's motion to dismiss. *Id.*

Maximoff was not required to waive her right to an indictment before the United States filed an information. In *Burdix-Dana*, the Court rejected the appellant's argument that information is not "instituted" until the defendant has waived her right to an indictment and prosecution may proceed on the information. *Id.* at 742. Rather, the court held that the absence of waiver to indictment does *not* nullifies the filing of an information. *Id.* Following *Burdix-Dana*, Maximoff was never required to waive her right to an indictment for the information to be properly instituted within the statute of limitations. *Id.* at 742-743.

A superseding indictment brought after the statute of limitations has expired is valid when valid information is filed timely. *United States v. Rosecan*, No. 20-CR-80052, 2021 WL 1026070, at *4 (S.D. Fla. Mar. 17, 2021). In *Rosecan*, the United States filed an information charging the defendant with fourteen counts of healthcare fraud and eight counts of making false statements relating to a health care matter. *Id*. The earliest offense date alleged is April 13, 2015 while the latest offense date is August 24, 2015. The statute of limitations for the latest offense expired on August 24, 2020. *Id*. The defendant motioned to dismiss the information because it was not accompanied by a waiver of indictment and therefore was insufficient to begin the prosecution within the limitations period. *Id.* at 2.

The court denied the defendant's motion to dismiss the information with prejudice because 18 U.S.C. § 3282 only requires that the "information" be instituted to satisfy the statute of limitations, not prosecution. *Id.* at 3. Given that the information was timely filed, the indictment superseding indictment was filed timely. *Id*. at 4.

The indictment is valid under 18 U.S.C. § 3288 because the information was filed timely. *See id.* at 4. In *Rosecan,* the superseding indictment was timely filed because the information was timely filed. *Id*. at 4. The court held that the defendant was not required to waive his right to an indictment for the information to be properly instituted. *Id* at 2-3. The information filed under seal against Maximoff was filed timely regardless of whether she waived her right to an indictment. Under *Rosecan,* the indictment is timely because the original information was filed within the statute of limitations. *Id.* at 4.

II. Due to the COVID-19 Pandemic, The Doctrine of Equitable Tolling Is Both Applicable And Necessary To Prevent the Miscarriage of Justice

The world stopped on March 11, 2020. Officially, COVID-19 ("COVID") had rung its bell and issued in a pandemic. *See* "Archived: WHO Timeline - COVID-19," *World Health Organization,* April 27, 2020. Schools and restaurants closed while hospitals were filled. Americans transitioned from nine to five in the office to Zoom conferences at their kitchen tables. Nightly curfews were instituted, and hysteria plundered local grocery stores. American life halted, which forced the American Justice System to follow suit: courthouses closed, trials were postponed, and hearings transitioned zoom.

Now, Maximoff asserts that this court should dismiss the charges against her. The Defense, however, fails to acknowledge that America and its Courts were closed for an

entire year. Not only was Maximoff's grand jury halted, but trials across the country were similarly suspended. Despite the United States' diligence in pursuing the prosecution of Maximoff, a global pandemic prevented business as usual and paused the grand jury. Plainly, the Defense's intention is for the Court to dismiss the tireless efforts of our nation's law enforcement to uncover Maximoff's fraudulent enterprise on a technicality amidst a global pandemic. This dismissal would serve as a miscarriage of Justice, and the United States asks this Court to apply the doctrine of equitable tolling to ensure the Defendant is brought to justice.

A. Equitable Tolling Is The Appropriate Remedy Given The Pandemic

The doctrine of equitable tolling allows a court to pause the statute of limitations until a time that the court determines would have been fair for the statute of limitations to begin running on the plaintiff's claims. *Justice v. United States*, 6 F.3d 1474, 1475 (11th Cir.1993) ("The doctrine of equitable tolling abates the harsh operation of the statute of limitations under certain circumstances in which barring a plaintiff's potentially meritorious action would be unjust."). Accordingly, equitable tolling serves as a remedy for a court to permit an action to proceed as justice requires, despite the expiration of the statutory period. *Arce v. Garcia*, 434 F.3d 1254, 1261 (11th Cir. 2006).

As an initial matter, "it is hornbook law that limitations periods are 'customarily subject to equitable tolling.'" *Young v. United States*, 535 U.S. 43, 49 (2002)(quoting *Irwin v. Dept. of Veterans Affairs*, 498 U.S. 89, 95 (1990)). In applying the doctrine, the Supreme Court held that a plaintiff is "entitled to equitable tolling" if it shows "(1) that [it] has been

pursuing [its] rights diligently, and (2) that some extraordinary circumstance stood in [its] way" and prevented timely filing. *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005). Here, the COVID-19 pandemic's ensuing lockdowns and requisite suspension of legal proceedings impeded the grand jury, thus hampering the United States' diligent efforts to bring the Defendant to justice. As such, the case at bar warrants such a remedy.

i. Congress Did Not Preclude Equitable Tolling within 18 U.S.C. § 3298

The preliminary question in determining whether a statute of limitation warrants a tolling is "'of legislative intent whether the right shall be enforceable ... after the prescribed time.'" *Arce v. Garcia*, 434 F.3d 1254 (11th Cir. 2006) (quoting *Burnett v. New York Cent. R. Co.*, 380 U.S. 424, 426 (1965) (citation omitted)). On this issue, the Supreme Court recognizes that Congress legislates against the backdrop of the equitable powers of courts and knows of the rebuttable presumption in favor of equitable tolling for statutes of limitations. *See Irwin*, 498 U.S. at 95–96.

In 2020, the Ninth Circuit took up a California State Prisoner's petition that he was entitled to an equitable tolling of the limitation period reflecting the 66 days between the date of his conviction in the state appellate court and the date when his attorney informed him of that unsuccessful appeal. *See id.* at 586-88. There, the Ninth Circuit ruled that, "petitioners are able to file habeas petitions after the limitations period has expired and still have their claims evaluated on the merits—provided *they were reasonably diligent in using their available time* and showed that an extraordinary circumstance prevented them from filing within the . . . limitations period." *Id.* at 592. Specifically, the Ninth Circuit interpreted the Antiterrorism and Effective Death Penalty Act of 1996 and held "where

Congress has not acted to preclude equitable tolling, it intended for equitable tolling to apply and to be employed consistent with standard equitable concepts and governing precedent." *Smith v. Davis*, 953 F.3d 582, 592 (9th Cir. 2020). Similarly, Congress did not expressly preclude equitable tolling in 18 USC § 3298. Given the Supreme Court's "presumption in favor of equitable tolling for statutes of limitations," the Court's equitable power to extend this remedy is warranted in our case when considering the precipitous effects of the COVID-19 Pandemic. *See Irwin,* 498 U.S. at 95–96.

ii. The United States Diligently Pursued This Indictment

A petitioner claiming entitlement to equitable tolling must show that he pursued his rights diligently. *Holland v. Florida,* 560 U.S. 631, 649 (2010). Specifically, the Supreme Court held that diligence for equitable tolling purposes is "reasonable diligence," not "maximum feasible diligence." *Id.* at 653 (citations omitted).

In *Holland*, the Supreme Court held that a state prisoner was entitled to an equitable tolling of a one-year statute of limitations on habeas petition, partly, because "he has been pursuing his rights diligently." *Id.* at 653-54. There, the Court held that the petitioner's numerous letters to his attorney "seeking crucial information and providing direction," his repeated contact to "the state courts, their clerks, and the Florida State Bar Association" to have his attorney removed from the case, and his *pro se* habeas petition demonstrated reasonable diligence. *Id.* The Fifth Circuit held that a petitioner was diligent in pursuing his rights, as required to equitably toll a limitations period when: (i) state appellate court delayed providing notice to the prisoner that it had denied state habeas relief by 18 months; (ii) prisoner filed pro se state habeas application less than two months after conviction

became final; (iii) prisoner twice inquired during that delay about the status of his application; and (iv) prisoner mailed federal petition 17 days after learning state court had denied his application. *Jackson v. Davis*, 933 F.3d 408, 411–13 (5th Cir. 2019).

The United States' efforts to bring Defendant to justice certainly meets the "reasonable diligence" prong as prescribed in *Holland.* Since February 2019, federal authorities have tirelessly investigated, actively interviewed, and successfully uncovered Defendant's criminal enterprise despite the Defendant's best attempts to conceal her identity and shore up her asserts. *See* Woo Aff., ¶¶¶ 5, 9-14, 19-30; *see also Prelich v. Medical Resources, Inc.*, 813 F. Supp. 2d 654 (D. Md. 2011) ("Equitable tolling" of a period of limitations applies where a defendant, by active deception, conceals a cause of action from plaintiff.") Upon information and belief, the United States, following the proper procedure, presented the Special Agent's evidence of the Defendant's conspiracy to encourage and induce aliens to unlawfully reside in the United States to the grand jury. The grand jury was underway until March 23, 2020, when the court suspended the grand jury due to COVID-19. *See* Administrative Order No. 20-019. Immediately after the Court lifted that suspension on March 29, 2021, pursuant to Administrative Order No. 21-008, the United States sought a grand jury indictment within six months to comply with 18 U.S.C. § 3288. The Supreme Court contemplated such similar situations in holding that the diligence requirement "covers those affairs within the litigant's control; the extraordinary-circumstances prong, by contrast, is meant to cover matters outside its control." *Menominee Indian Tribe of Wisconsin v. U.S.*, 577 U.S. 250, 257 (2016). Here, the United States was

actively pursuing a grand jury indictment against the Defendant, based on a thorough and careful investigation, *until* COVID-19 halted the very means to do so. Plainly, the United States diligently pursued its legal rights against Defendant until a global pandemic, an external circumstance out of its control, frustrated its efforts.

iii. A Highly Fact-Dependent Doctrine, Equitable Tolling Is Applicable Here Because COVID-19 Is An Extraordinary Circumstance

Equitable tolling allows a plaintiff to initiate an action beyond the statute of limitations deadline if the plaintiff was prevented in some "extraordinary circumstances" from exercising his or her rights. *Holland*, 560 U.S. at 649. "In evaluating whether an 'extraordinary circumstance stood in [a petitioner's] way and prevented timely filing,' a court is not bound by 'mechanical rules' and must decide the issue based on all the circumstances of the case before it." *Smith v. Davis*, 953 F.3d at 600 (citations omitted). Specifically, equitable tolling is not the arena of bright-lines and dates certain, rather it is a "highly fact-dependent area" in which courts are expected to employ "flexible standards on a case-by-case basis." *Socha v. Boughton*, 763 F.3d 674, 684 (7th Cir. 2014) (citation omitted); See *Doe v. Busby*, 661 F.3d 1001 (9th Cir. 2011). Thus, the extraordinary circumstances prong requires the petitioner seeking tolling to show facts, beyond its control, that created an "external obstacle" to timely filing. *Menominee Indian Tribe of Wisconsin*, 577 U.S. at 257. Here, the COVID-19 pandemic prevented the timely filing of the Defendant's indictment.

In *Socha,* the Seventh Circuit asserted the proper framing of equitable tolling is not "whether equitable tolling is a theoretical possibility," but "whether, *on these facts*," did the petitioner fail to "diligently pursue his rights and that extraordinary circumstances did not prevent his timely filing." *Socha,* 763 F.3d at 684 (emphasis added). Similarly, the question before this court is narrow: Did the United States fail to diligently pursue its rights against Defendant and did extraordinary circumstance prevent its timely filing? The United States indictment against Maximoff represents the diligent efforts of America's law enforcement. Numerous knock-and-talks, a non-custodial interview, and financial records confirmed a consistent narrative: illegal aliens would retain the legal immigration services of Agatha Harkness, work specifically with Maximoff on the immigration paperwork and shortly thereafter, find a note telling him to contact "Scarlet" who would request $10,000 in cash for a forged OSUP. *See* Woo Aff., ¶ 19. Further, the facts are not in dispute, as the extraordinary circumstances of the COVID-19 pandemic halted the United States' diligent grand jury, making the timely filing of the charges against the Defendant an impossibility.

The Supreme Court holds that a plaintiff is "*entitled to equitable tolling*" if its successfully meets the Court's echoed two prong test. *Holland v. Florida,* 560 U.S. at 649 (emphasis added). The United States had been (1) pursuing [its] rights diligently against the defendant in investigating and pursuing a grand jury indictment until (2) extraordinary circumstance of the COVID-19 pandemic "stood in [its] way" and suspended the grand jury, which prevented timely filing. *Id.* Having met its burden, the United States is

respectfully entitled to equitable tolling in the prosecution of Defendant's conspiracy to conspiracy to encourage and induce aliens to unlawfully reside in the United States.

CONCLUSION

Based on the foregoing, the United States respectfully requests that this Court enter an Order dismissing, with prejudice, Defendant's Motion to Dismiss in its entirety. Such an order will prevent a miscarriage of justice.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Dismiss was served on counsel for Plaintiff via electronic mail on this 30th day of August, 2021.

DATED this 30th day of August, 2021.

Respectfully Submitted,

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