UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.   CASE NO. 6:17-cr-18-Orl-40KRS

NOOR ZAHI SALMAN

**GOVERNMENT'S ADDITIONAL PROPOSED
JURY INSTRUCTION**

The United States of America, by Maria Chapa Lopez, United States

Attorney for the Middle District of Florida, through the undersigned

attorneys, hereby submits the below proposed instruction regarding venue for

the obstruction of justice charge in this case. Annotations explaining the

requested instruction follow.

Respectfully submitted,

MARIA CHAPA LOPEZ
United States Attorney

By:

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U.S. v. NOOR ZAHI SALMAN   **Case No. 6:17-cr-18-Orl-40KRS**

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2018, I electronically filed the

foregoing with the Clerk of the Court by using the CM/ECF system which

will send a notice of electronic filing to the following:

Charles D. Swift, Esquire (counsel for Defendant)

Linda Moreno, Esquire (counsel for Defendant)

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GOVERNMENT'S PROPOSED JURY INSTRUCTION
REGARDING VENUE FOR OBSTRUCTION

The government must prove by a preponderance of the evidence that there is venue in the Middle District of Florida for the obstruction of justice charge against Ms. Salman. To show venue, the government must prove by a preponderance of the evidence either: (1) that Defendant intended to affect an official proceeding in the Middle District of Florida (whether or not pending or about to be instituted) or (2) that Ms. Salman's conduct occurred in whole or in part in the Middle District of Florida.

Venue is appropriate in any district in which obstruction of justice was begun, continued, or completed.

Unlike all the other elements that I have described, this is a fact that the government only has to prove by a preponderance of the evidence. This means the government has to convince you that it is more likely than not that venue is established.

Remember that all the other elements I have described must be proved beyond a reasonable doubt.

As used here, an "official proceeding" means a proceeding before a judge or court of the United States or a Federal grand jury.

GOVERNMENT'S ANNOTATIONS AND COMMENTS
Venue in this district is proper under both prongs of 18 U.S.C. § 1512(i), and the jury must be instructed on both prongs. As to the first prong, the

government presented sufficient facts to show that the defendant intended to adversely impact a proceeding before a judge or court of the United States or a Federal grand jury. The government concedes for purposes of this litigation that a FBI investigation is not an official proceeding as defined in 18 U.S.C. § 1515(a)(1).

As to the second prong, there is sufficient evidence to show that the offense began in the Southern District of Florida and was intended to adversely impact the investigation of a criminal offense in this district. Thus, the offense is continuing in nature, making it proper for the jury to find venue by a preponderance of the evidence in the Middle District of Florida. *See* Doc. 65 at 12 (Court's Order on Defendant's Motion to Dismiss Count Two for Lack of Venue); *see also United States v. Barnham*, 666 F.2d 521, 524 (11th Cir. 1982) ("It is the impact of the acts, not their location, that controls.") (quoting *United States v. Tedesco*, 635 F.2d 902, 906 (1st Cir. 1980)).