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6 Attorney for Defendant
7 SANDRA CARMONA SAMANE

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 SANDRA CARMONA SAMANE

14 Defendant.

15 Case No. 2:25-cr-00780-SVW-3

16 REPLY IN SUPPORT OF MOTION
17 TO DISMISS COUNT ONE OF THE
18 INDICTMENT

19 Hearing Date: January 26, 2026

20 Hearing Time: 11:00 a.m.

21 Court: Hon. Stephen V. Wilson

22 **I. INTRODUCTION**

23 This case now presents a single, dispositive question: **may the government**
24 **proceed on a conspiracy charge after conceding that the alleged underlying**
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1 **crime never occurred and could not have occurred as charged?** The answer is
2 no.

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4 The government originally charged Defendant Sandra Samane with
5 conspiring to violate 18 U.S.C. § 119 by publicly disclosing a federal agent’s home
6 address. That theory has collapsed. The government has moved to dismiss the
7 substantive § 119 count after conceding that defendants did not disclose the agent’s
8 home address, an element the statute expressly requires. Having lost the alleged
9 object offense, the government now seeks to proceed by reframing protected
10 political speech, presence, and association as a criminal conspiracy.
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12
13 Conspiracy law does not permit this maneuver. Nor does the First
14 Amendment. Because Count One alleges no unlawful object and rests entirely on
15 expressive conduct that is constitutionally protected, it must be dismissed.
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18 **II. AFTER DISMISSING THE UNDERLYING § 119 OFFENSE, THE**
19 **GOVERNMENT HAS NO LAWFUL THEORY OF THE CASE**
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21 The government’s current posture reveals the absence of a coherent and
22 lawful theory. Count One alleges a conspiracy whose sole unlawful object is a
23 violation of § 119. The government now concedes that the alleged conduct does
24 not satisfy § 119’s elements because no home address was publicly disclosed.
25

26 As a result, the government’s theory has shifted. It no longer contends that
27 Ms. Samane conspired to commit a completed § 119 offense. It does not contend
28

1 that she threatened violence. It disclaims proceeding on a crime-of-violence or
2 facilitation theory. What remains is an effort to criminalize speech, presence, and
3 association by labeling them “intimidation.”
4

5 That is not a permissible theory of criminal liability.

6 **III. CONSPIRACY LAW DOES NOT ALLOW CONVICTION**

7 **WHERE THE OBJECT OFFENSE IS NOT A CRIME**

8 A conspiracy under 18 U.S.C. § 371 requires an agreement to commit an
9 “offense against the United States.” While completion of the offense is not
10 required, the object of the agreement must be criminal if carried out as alleged.
11

12 Here, even accepting the indictment’s allegations as true, the conduct
13 described does not violate § 119. A neighbor’s address is not the covered person’s
14 home address, and the government has formally conceded that point. Because the
15 alleged conduct would not constitute a crime under § 119, Count One alleges no
16 unlawful object.
17

18 This is not a case of factual impossibility or failed execution. It is legal
19 impossibility. The government cannot use conspiracy doctrine to punish an
20 agreement to do something that is not illegal as charged.
21

22 **IV. THE GOVERNMENT CANNOT SALVAGE COUNT ONE BY**
23 **RECASTING PROTECTED SPEECH AS “INTIMIDATION”**
24

1 Having lost the statutory offense, the government seeks to substitute rhetoric
2 for elements. It characterizes protest speech, filming, chanting, and live-streaming
3 as “intimidation” in the hope that this label alone will sustain Count One.
4

5 But the First Amendment draws clear lines. Speech may be punished only if
6 it falls within a recognized exception, such as true threats or incitement of
7 imminent lawless action. The indictment alleges neither.
8

9 Ms. Samane is not alleged to have made a true threat, expressed intent to
10 commit violence, or incited imminent unlawful action. The government expressly
11 disclaims a crime-of-violence theory. Absent those elements, political
12 expression—even if provocative or unwelcome—is protected speech. Criminal
13 liability cannot be imposed by relabeling such speech as “intimidation.”
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16 **V. PRESENCE AND ASSOCIATION CANNOT SUPPLY THE**
17 **MISSING ELEMENTS OF AGREEMENT AND INTENT**
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19 The government’s theory as to Ms. Samane depends heavily on her presence
20 with others and her proximity to expressive activity. But presence at a protest,
21 association with co-defendants, or participation in expressive conduct does not
22 establish agreement to commit a crime, particularly where the alleged crime is not
23 a crime at all.
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26 Conspiracy law requires proof of a knowing agreement to pursue an
27 unlawful objective. It does not permit conviction based on guilt by association or
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1 after-the-fact attribution of others’ conduct. Because the government has no viable
2 unlawful object, it cannot infer agreement from presence alone.
3

4 **VI. ONCE THE § 119 COUNT IS DISMISSED, THE REMAINING**
5 **THEORY CRIMINALIZES PROTECTED POLITICAL**
6 **EXPRESSION**
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8 With the dismissal of Count Two, this case rests entirely on expressive
9 conduct. That reality heightens, not diminishes, the Court’s obligation to scrutinize
10 the government’s theory carefully.
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12 Allowing this case to proceed would establish a dangerous precedent: that
13 the government may charge a speech-targeting statute, concede its elements cannot
14 be met, and then rely on conspiracy doctrine to punish political expression anyway.
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16 The First Amendment does not permit such an end run.
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18 **VII. BECAUSE THE GOVERNMENT HAS NO LAWFUL THEORY**
19 **OF THE CASE, COUNT ONE MUST BE DISMISSED**
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21 At bottom, the government’s case against Ms. Samane asks the Court to
22 approve a novel and impermissible theory: that one may be convicted of
23 conspiracy even where the alleged object offense is not criminal and the conduct
24 consists of protected speech and presence.
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1 The Constitution and conspiracy law foreclose that result. Because Count
2 One alleges no unlawful object and no unprotected speech, it fails as a matter of
3 law.
4

5 **VIII. CONCLUSION**
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7 After conceding that no § 119 offense occurred, the government seeks to
8 proceed on Count One by criminalizing speech, presence, and association alone.
9 That is not a lawful theory of conspiracy. The Court should dismiss Count One as
10 to Defendant Sandra Samane.
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15 Date: January 18, 2026

Respectfully Submitted,

16 Robert M. Bernstein
17 Robert M. Bernstein
18 Counsel For Defendant
19 Sandra Carmona Samane
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