

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	NO. <u>25-CR-1430 MIS</u>
)	
vs.)	
)	
LUIS JESUS ESCOBEDO-MOLINA,)	
)	
Defendant.)	

RESPONSE TO ORDER TO SHOW CAUSE AND UNOPPOSED MOTION TO DISMISS
COUNTS 2 AND 3 OF THE INFORMATION WITHOUT PREJUDICE

The United States of America files this response to the Court's Order to Show Cause filed in this case. In addition, the United States moves this Court, pursuant to Fed. R. Crim. P. 48, to dismiss without prejudice Counts 2 and 3 of the Information filed in this matter. Defendant is unopposed to this motion. As grounds, the United States provides as follows.

1. Response to Order to Show Cause

In its show cause order, the Court ordered the United States to advise the Court of Defendant's current whereabouts and to advise whether Defendant has been removed. The Court further ordered the United States, if Defendant has been removed, to advise the Court of the steps taken to ensure that Defendant may reenter the country to stand trial and to show cause as to why the pending charges should not be dismissed.

The United States responds that Defendant has been deported from the United States and that Defendant's current whereabouts are unknown. No steps have been taken to ensure that Defendant may reenter the country to stand trial.

2. Motion to Dismiss without Prejudice

The United States respectfully requests that the Court dismiss Counts 2 and 3 of the Information filed in this matter without prejudice. The statutory construction of the charges in

Count 2 (50 U.S.C. § 797) and Count 3 (18 U.S.C. § 1382), in particular regarding the required *mens rea*, has been the subject of litigation but has not been decided by an appellate court. The United States intends to continue to advocate for the legal analysis it has previously advanced until such time as the issue is settled. The United States respectfully submits that the decision by the Department of Homeland Security to faithfully execute the laws of the United States by deporting Defendant does not warrant dismissing these charges with prejudice, but rather these charges should be dismissed without prejudice so that Defendant can be re-charged if Defendant reenters, attempts to reenter, or is found in the United States in the future.

3. Conclusion

WHEREFORE, the United States respectfully requests that this Court enter an order dismissing without prejudice Counts 2 and 3 of the Information as to Defendant in the interests of justice.

Respectfully submitted,

RYAN ELLISON
United States Attorney

/s/ Filed Electronically on 6/23/2025
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing document using the Court's CM/ECF filing system which will send electronic notification to opposing counsel of record.

/s/ Filed Electronically on 6/23/2025
ELIZABETH TONKIN
Special Assistant U.S. Attorney