

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,)	CRIMINAL ACTION NO.
)	
Plaintiff,)	1:21-CR-00119-CJN
)	
v.)	
)	
GARRET MILLER,)	
)	
Defendant.)	
_____)	

**NOTICE REGARDING POSSIBLE VENUE DEFENSE AS TO COUNTS
5 AND 6**

In the Third Superseding Indictment, the government alleges that Counts 5 and 6 occurred “within the District of Columbia.” In other words, the government has alleged proper venue for those counts on the face of the indictment. Nevertheless, Defendant Garret Miller remains uncertain as to how the government will satisfy its burden of proving venue at trial with respect to those two counts.

In *United States v. Sitzmann*, 893 F.3d 811, 824-25 (D.C. Cir. 2018), *cert. denied*, 140 S.Ct. 155(2020), the Court of Appeals made clear that “ ‘[a] defendant may object to venue by raising its absence in a pre-trial motion, challenging during the Government’s case its evidence as to venue, or making a motion for acquittal at the close of the Government’s case that specifically deals with’ whether venue in the

District Court was proper.”¹ Nevertheless, out of an abundance of caution, Mr. Miller puts the government on notice, prior to trial, that, in the event that the government is unable to prove venue for the respective counts,² he will request the Court acquit him of those charges based upon lack of venue in addition to any other failures in the government’s proof.

Respectfully submitted,

/s/ F. Clinton Broden
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¹*Citing United States v. Perez*, 280 F.3d 318, 327 (3d Cir. 2002)

²In other words, prove that the alleged threat contained within the respective count was transmitted from or transmitted to the District of Columbia.

CERTIFICATE OF SERVICE

I, F. Clinton Broden, certify that on November 14, 2022, I caused the foregoing document to be served by the electronic case filing system (ECF) on all counsel of record.

/s/ F. Clinton Broden
F. Clinton Broden