UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	)	
	)	**Crim No. 2:15-cr-00155**
v.	)	**Hon. William H. Walls**
	)	
ROBERT MENENDEZ and SALOMON MELGEN,	)	**Hearing Date: June 16, 2015, 11:00 a.m.**
	)	
Defendants.	)	
	)	

DEFENDANTS' REPLY IN SUPPORT OF MOTION TO TRANSFER VENUE

Pursuant to Fed. R. Crim. P. 21(b), Defendants Senator Robert Menendez and Dr. Salomon Melgen ("Defendants") moved this Honorable Court for an Order transferring this proceeding to the District of Columbia. *See* Dkt. 18. On March 26, 2015, the government filed its brief in opposition. *See* Dkt. 25. In support of their motion, Defendants reply as follows:

INTRODUCTION

Only by misapplying the factors the Supreme Court and this Court have spelled out for motions to transfer venue, making up from whole cloth factors no court has ever applied, oddly disparaging Defendants' motives and defense counsel, ignoring that this is a joint motion by two separate defendants, and contradicting arguments that they have made to other courts on the same subject, can the prosecutors here oppose what is a clear case for transferring venue.

In 2008, the Public Integrity Section ("PIS") of the Department of Justice filed corruption charges against then-Senator Ted Stevens. Although Senator Stevens was from Alaska, PIS filed charges in Washington, D.C. When Senator Stevens filed a motion to transfer venue to his home state of Alaska, PIS opposed the motion. *See* Exhibit 1 (PIS Opposition to Transfer in *Stevens*). In opposing transfer away from D.C., PIS claimed that, as a sitting United States Senator, "there

can be no legitimate dispute that for all practical purposes, defendant Stevens lives and works in the District of Columbia." Ex. 1 at 4. PIS further argued that the case belonged in D.C. because Senator Stevens received "multiple solicitations for official acts" that were "sent to addresses and computer servers located in the District of Columbia," and because a trial in the District would allow the Senator "to maintain close contact with his Senate office." *Id.* at 4, 8. Based on PIS's arguments, Senator Stevens was eventually tried in Washington, D.C., although the charges against him were ultimately dismissed due to egregious misconduct by the prosecutors.

Seven years later, PIS has indicted another sitting United States Senator on public corruption charges—except this time PIS ignores (and asks this Court to ignore) all of its prior arguments for why such cases should be tried in Washington, D.C. Whereas PIS argued that Senator Stevens was "located" in Washington, D.C. for Rule 21 purposes, PIS now argues that Senator Menendez is not really "located" in D.C. Instead, the prosecutors change this Rule 21 factor at their convenience to claim that what really matters is that Senator Menendez is a New Jersey "resident." Opp. at 3-4. Like Senator Stevens, the indictment alleges that Senator Menendez received multiple (over 100) emails sent to or from computer servers located in the District of Columbia. In *Stevens*, PIS argued that those emails demonstrated that the "location of events" for Rule 21 purposes was Washington, D.C. Ex. 1 at 7-8. But for Senator Menendez, they argue that emails do not really matter because the fact "[t]hat an email may have been sent from or received in Washington, D.C. creates nothing unique to the location of Washington, D.C., that favors transferring a trial to that district in the interests of justice." Opp. at 8.

These discrepancies in PIS's position evidence the disingenuousness that pervades the opposition to Defendants' motion to transfer. Moreover, based on several of the statements in its opposition (e.g., suggesting that Senator Menendez does not trust the objectivity of his

constituents), PIS appears to be more interested in scoring political points in the media than trying this case where its "center of gravity" truly exists. A proper application of the relevant legal factors demonstrates that this case—like *Stevens*—belongs in Washington, D.C.

ARGUMENT

I. LEGAL STANDARD

The parties agree that a Rule 21(b) transfer motion is analyzed pursuant to the factors identified by the Supreme Court in *Platt v. Minnesota Mining & Manufacturing Co.*, 376 U.S. 240 (1964), and that such motions are directed to the Court's discretion. *See* Mot. at 3-4; Opp. at 2-3. The government also does not dispute that its decision to bring charges in this District does *not* create any presumption that the case should be tried in this District, *see* Mot. at 3, and that "nothing in Rule 21(b) or in the cases interpreting it places on the defendant seeking a change of venue the burden of establishing truly compelling circumstances for such a change. It is enough if, all relevant things considered, the case would be *better off* transferred to another district." *United States v. Coffee*, 113 F. Supp. 2d 751, 753 (E.D. Pa. 2000) (emphasis added).

II. THE PLATT FACTORS WEIGH HEAVILY IN FAVOR OF TRANSFERRING THIS CASE TO THE DISTRICT OF COLUMBIA.

The parties agree that two of the *Platt* factors (the location of documents/records and the relative accessibility of the place of trial) are neutral in this case. *See* Mot. at 12, 14-15; Opp. at 8, 12. The remaining *Platt* factors are addressed in turn below.

A. Location of the Defendants

The government argues that because Senator Menendez "is a New Jersey *resident*," "this factor can only weigh in favor of keeping this trial in the District of New Jersey." Opp. at 3-4 (emphasis added). This argument is incorrect, and (as noted above) directly contradicts PIS's own position in similar cases.

First, the government appears to confuse the *location* of the defendant (the proper test under *Platt*) with the defendant's residence (a test invented by the government). Obviously Senator Menendez "concedes" he must be a resident of New Jersey in order to represent the State of New Jersey in the United States Senate—any sixth grade civics student would concur with the government's analysis of the Constitution's residency requirement. *See* Opp. at 3. But neither Rule 21 nor the case law interpreting its provisions is concerned with the technical "residence" or "domicile" of the defendant. Rather, Rule 21 addresses "the convenience of the parties," including where the defendant is physically located. *See Platt*, 376 U.S. at 243-44 (describing relevant factor as "the location of [the] defendant"). In this case, Senator Menendez's duties and responsibilities as a Senator require him to be physically present in Washington, D.C. for the majority of the work week. Washington, D.C. is thus his "location" for *Platt* purposes.

Second, although the government represents to this Court that Senator Menendez's *residence* in New Jersey is somehow determinative of his location under Rule 21, *see* Opp. at 3-4, PIS has said just the opposite before. As noted above, in *United States v. Stevens*, No. 08-CR-231 (D.D.C. 2008), when Senator Stevens moved to transfer the case to Alaska (arguing, *inter alia*, that he was a long-time Alaska resident and planned to be there to campaign during an election year), PIS opposed the motion, stating: "Since 1968, defendant Stevens has represented the State of Alaska in the United States Senate. *Although Stevens maintains a residence in Alaska, there can be no legitimate dispute that for all practical purposes, defendant Stevens lives and works in the District of Columbia*." Ex. 1 at 3-4 (emphasis added).

Before this Court, however, PIS now takes the opposite position, arguing that a Senator's formal *residence* is the operative factor. *See* Opp. at 3-4. The government cannot have it both

ways.[1] Proper analysis of the location of the defendant for Rule 21 purposes cannot change based upon PIS's desire to bring a corruption case in a particular district. Rather, as the government acknowledged in *Stevens*, "there can be no legitimate dispute that for all practical purposes," a sitting United States Senator "lives and works in the District of Columbia." The location of Senator Menendez thus favors transfer to the District of Columbia.[2]

B. Location of Likely Witnesses

The second *Platt* factor is the location of likely witnesses. Although the government broadly asserts that Defendants "inaccurately predict the likely witness list with a disproportionate representation from Washington, D.C.," Opp. at 4, the actual arguments raised by the government are exceedingly minor. The government claims that *one* Washington, D.C.-based witness was "double-counted," and that *one* New Jersey-based witness was left off of the Defendants' witness lists. *Id.* at 5-6. Notably, the government does not dispute the location of the remaining 69 witnesses on the Defendants' exhibits or attempt to demonstrate—through its own witness lists or otherwise—that the majority of likely witnesses work or reside in New Jersey. The government's quibbles with Defendants' exhibits are addressed in turn below.

First, the government accuses Defendants of "double-counting" some of the likely Washington, D.C.-based witnesses. *See* Opp. at 5. That is incorrect. Defendants' motion states that "the vast majority—approximately two-thirds—of the witnesses likely to be called by both the government and the defense at trial work or reside in Washington, D.C." Dkt. 18-1 at 6.

[1] PIS has to be aware of—and held accountable for—its own prior positions (particularly in this case, as one of its attorneys, Mr. Koski, was involved in a *Stevens*-related corruption case in Alaska and is mentioned in the "*Stevens* Report" prepared by a special prosecutor). Yet PIS failed to acknowledge this conflicting argument in its filing with the Court.

[2] With respect to Dr. Melgen, PIS agrees that Dr. Melgen is located in Florida and will therefore have to travel in any event.

Defendants attached five exhibits listing likely witnesses, which included 70 unique names.[3] *See* Dkt. 18, Exs. 1-5. Of these names, the government does not dispute that 43—or 61 percent—work or reside in D.C.[4] Defendants' statement that "the vast majority—approximately two-thirds" of likely witnesses work or reside in Washington, D.C. is therefore completely accurate.

Second, the government complains that "at least one likely witness based in New Jersey—a witness referenced in the indictment, no less—is omitted entirely" from Defendants' exhibits. Opp. at 5-6. The government is referring to the *sister* of a personal friend of the Senator, who apparently lives in New Jersey. The Senator's personal friend herself is included on Defendants' exhibits, *see* Dkt. 18, Ex. 5, n.5, but the sister was not included because Defendants do not consider her a likely witness at this point. But even if the sister were included (as the government oddly represents that it will call her), the effect on the witness count is negligible. With the sister included, 43 of 71 likely witnesses (or 60.5 percent) work or reside in Washington, D.C., whereas only 9 of 71 (or 12.7 percent) work or reside in New Jersey.

Finally, the government urges the Court to essentially ignore the convenience of the witnesses, stating that "likely witnesses in this case are located all over the world …. Unlike many of the cases relied on by the Defendants, this is not the type of case where the majority of

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[3] As Defendants' motion explains, these witness lists are organized by topic to provide the Court with information regarding the topics about which the witnesses will likely testify. Three of the Senator's staff members are listed on more than one exhibit because Defendants anticipate that they will testify about more than one topic area. These three individuals, however, were not "double-counted." In the totals discussed above, these witnesses were each counted once.

[4] To the extent the government challenges the location of the remaining 69 witnesses at all, it merely asserts that Defendants "mistakenly assume that every witness interviewed or subpoenaed before the grand jury will be a witness at trial." Opp. at 4. That is incorrect. The government interviewed or subpoenaed far more than the 70 individuals listed on Defendants' exhibits. Moreover, despite this bald assertion, the government fails to identify a single Washington, D.C.-based witness from Defendants' exhibits who is unlikely to be called at trial.

witnesses are located in one district and the trial is located in another." Opp. at 5. As demonstrated above, that is wrong. This is precisely the type of case where the majority of witnesses (61 percent) are located in one district (Washington, D.C.) and the government is seeking to try Defendants in another district (New Jersey). If the trial takes place in New Jersey, almost 90 percent of the witnesses will be required to travel.[5] If the case is transferred to Washington, D.C., the majority of witnesses will not have to travel at all. The disproportionate percentage of likely witnesses located in Washington, D.C. thus strongly favors transfer. *See United States v. Clark*, 360 F. Supp. 936, 943 (S.D.N.Y. 1973) (granting motion to transfer where 35 of 52 likely witnesses were located in the transferee district).

C. Location of the Events at Issue

The third *Platt* factor is the location of the events at issue—the "center of gravity" or "nerve center" of the alleged conduct. *See* Mot. at 8. In its opposition, the government struggles in vain to explain why the "center of gravity" or "nerve center" of the alleged conspiracy was anywhere other than Washington, D.C. The government complains that "the majority of official acts that the Defendants rely on to tip the scales towards Washington, D.C., occurred over email," and asserts—without citing any authority—that the fact "[t]hat an email may have been sent from or received in Washington, D.C. creates nothing unique in the location of Washington, D.C., that favors transferring a trial to that district." Opp. at 7-8. But, as a matter of fact and law, the government could not be more wrong. Key events other than emails (meetings,

[5] The government also speculates that Senator Menendez's Washington staff members would not be inconvenienced by travel because they could simply work from the Senator's Newark office. *See* Opp. at 6. That, again, is incorrect. Legislative sessions, congressional hearings, and committee meetings are typically convened in Washington, D.C., not Newark. While some of the Senator's New Jersey staff would be able to continue working on casework from the D.C. office, that does not mean (as the government assumes) that the reverse is automatically true.

telephone conversations, filing of forms, etc.) occurred in D.C. And as to emails, prosecutors routinely argue (and the courts agree) that the sending or receipt of an email to or from a particular district is sufficient to create venue in that district (and to satisfy *Platt*'s "location of events" factor). *See, e.g.*, *United States v. Offill*, No. 1:09-cr-134, 2009 WL 1649777 at *3-*4 (E.D. Va. June 10, 2009) (holding that emails sent and received from forum district demonstrated "location of events" favored that district).[6]

Aside from being factually and legally incorrect, PIS also finds itself on the wrong side of its *own* prior position on the significance of emails in *Stevens*. In that case, PIS itself argued that the location of the events at issue favored trying Senator Stevens in D.C. because, *inter alia*, the conduct at issue included "multiple instances of … emails sent to and from a computer server located in the District of Columbia" and "multiple solicitations for official acts made to defendant Stevens, which involved … computer servers located in the District of Columbia, and which requested acts to be taken in the District of Columbia." Ex. 1 at 7-8. PIS cannot be allowed to argue one way when it wants to try a case in Washington, D.C. and the opposite when it does not. If emails sent to or from Senator Stevens in Washington, D.C. weighed in favor of trying Senator Stevens in Washington, D.C., then the same is also true for Senator Menendez.

The government also accuses Defendants of "focus[ing] disproportionately on the *quo*" and "ignoring the *quid*." Opp. at 6. According to the government, the case should be tried in New Jersey because some of the flights took off from or landed there. Opp. at 6-7. Again, the

[6] *See also United States v. Auernheimer*, 748 F.3d 525, 541 (3d. Cir. 2014) ("People and computers still exist in identifiable places in the physical world. When people commit crimes, we have the ability and obligation to ensure that they do not stand to account for those crimes in forums in which they performed no essential conduct elements of the crimes charged."); *United States v. Shusterman*, No. WDQ-13-0460, 2014 WL 6835161, at *3-*4 (D. Md. Dec. 2, 2014) (finding venue proper based on emails sent by co-conspirator to recipient in forum district).

Stevens case is instructive. In that case, *all* of the *quid*—renovations to a vacation home in Alaska, household goods, etc.—was located in Alaska, but PIS nevertheless argued that the case should be tried in Washington, D.C. because the official conduct (the *quo*) took place there. Ex. 1 at 6-8. The same is even more true in this case, as all of the alleged official acts took place in D.C. and only a small fraction of the alleged *quid* took place in New Jersey (some was also in D.C., and the majority of the alleged travel and hospitality took place in Florida and the D.R.).

Finally, the government argues that the case should be tried in New Jersey based on "geographic familiarity"—PIS worries that a D.C. jury "may not recognize" that Teterboro airport or certain counties whose Democratic campaign committees allegedly received contributions are located in New Jersey. *See* Opp. at 8. The prosecutors have far too little faith in the intelligence of juries if they truly believe that any jury anywhere would be incapable of understanding that Union County, Passaic County, Camden County, Essex County, and Teterboro airport are located in New Jersey.[7] But even if "geographic familiarity" were a real factor under *Platt*, that factor strongly favors transfer. As the government acknowledges, Defendants identified over 100 overt acts that took place in D.C. The government identifies 5 acts that took place in New Jersey. *See* Opp. at 8. By the government's own tortured logic, the case should plainly be tried in Washington, D.C. because a D.C. jury would be far more likely to "immediately recognize" the relevance and locations of the Secretary of Health and Human Services, the State Department, Customs and Border Patrol, or the Hart Senate Office Building.

[7] Indeed, one would assume that—whether this case is tried in Washington, D.C. or New Jersey—the prosecutors will likely point out that these locations are in New Jersey. Such basic, undisputed facts could also be stipulated.

D. Disruption of the Defendants' Businesses

The fifth *Platt* factor is disruption to Defendants' businesses. The government argues the Court should not be concerned with any disruption to the work of the Senator's Office because "the federal government will continue to function if the Defendants are tried in New Jersey."[8] Opp. at 9. The government also asserts that Defendants' joint request to transfer this proceeding "is another example of defendant Menendez asking this Court for special treatment because of his status as a United States Senator." *Id.* These statements sound more in inflammatory rhetoric aimed at the Senator's constituents and the media than actual legal argument.

Once again, PIS finds itself on the wrong side of its own arguments in *Stevens*. In that case, PIS argued that Senator Stevens should be tried in Washington, D.C. rather than Alaska because, *inter alia*, "he [would] be able to maintain close contact with his Senate office." Ex. 1 at 4. The same is true in this case, as Senator Menendez needs to be physically present in Washington, D.C. during the week in order to attend legislative session and committee hearings.[9]

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[8] The parties agree that Dr. Melgen's business will not be disrupted if he is tried in either Washington, D.C. or New Jersey because his medical practice has been suspended.

[9] In its opposition, the government also argues that "[m]embers of Congress have been indicted in the past, and they have been tried in places other than Washington, D.C." Opp. at 9. The government then lists six cases in which federal legislators have been tried outside of D.C. *Id.* One of those cases (*Jefferson*) actually undermines the government's argument, as Rep. Jefferson was not tried in his home district of Louisiana. To the contrary, he was tried right across the river from D.C. in the Eastern District of Virginia, a mere 15 minutes from his congressional office. Moreover, it is simply not the case that PIS routinely charges sitting Members of Congress in their home districts. In addition to *Stevens* (which was tried in D.C.), PIS has also filed a series of cases against sitting legislators in Washington, D.C. rather than in their home districts. *See, e.g.*, *United States v. Ney*, No. 1:06-cr-272 (D.D.C. 2006) (Congressman from Ohio); *United States v. Oakar*, 924 F. Supp. 232 (D.D.C. 1996) (Congresswoman from Ohio); *United States v. Hansen*, 566 F. Supp. 162 (D.D.C. 1983) (Congressman from Idaho); *United States v. Jenrette*, 594 F. Supp. 769 (D.D.C. 1983) (Congressman from South Carolina); *United States v. Kelly*, 707 F.2d 1460 (D.C. Cir. 1983) (Congressman from Florida).

As to the government's specious "special treatment" argument, PIS's own position in *Stevens* betrays the fact that the only party asking for special treatment in this case is the government, not Defendants. PIS fought long and hard to keep the *Stevens* trial in Washington, D.C., arguing that was where a corruption and financial disclosure case against a sitting United States Senator belonged. Yet before this Court, PIS now says the exact opposite, refusing to allow Senator Menendez to stand trial in the same district in which the government has brought similar cases against other sitting federal legislators. Defendants are not asking for special treatment, they are asking for the *same* treatment as other, similarly-situated defendants.

E. Expense to the Parties

The government similarly misconstrues the sixth *Platt* factor, expense to the parties. The government asserts that "witness travel is irrelevant to this factor because the defendants have conceded in their motion that this is not the type of case where they will be prejudiced by incurring burdensome costs for witness travel if the case is held in New Jersey," since Defendants anticipate eliciting much of their testimony from the government's own witnesses. *See* Opp. at 10-11. Apparently, the government believes that taxpayer money used to transport 43 D.C.-based witnesses to New Jersey (whether these witnesses are ultimately called by the government or Defendants) somehow does not count as an "expense to the parties." But the courts have consistently held that "proper analysis of [the expense] factor *cannot* disregard the expenses the United States would incur," *United States v. Ringer*, 651 F. Supp. 636, 639 (N.D. Ill. 1986) (emphasis added), because "public funds are to be safeguarded." *United States v. Atwood*, 538 F. Supp. 1206, 1209 (E.D. Pa. 1982).

The government also argues that expense to the parties is neutral or of "nominal value" because—although the entire prosecution team and several defense counsel are based in

Washington, D.C.—two FBI agents would have to travel to Washington, D.C. for trial. If these New Jersey-based FBI agents actually testify at trial, that would bring the grand total of all New Jersey-based participants to 11. Compared to the number of Washington-based witnesses and attorneys who would be required to travel to New Jersey (43 witnesses, 3 prosecutors, 8-10 defense counsel/staff), the travel of 2 FBI agents hardly renders expense to the parties "neutral."

F. Location of Counsel

The seventh *Platt* factor is the location of counsel. Although the government acknowledges that all four prosecutors assigned to this case are based on Washington, D.C., the government asserts that this factor is neutral and of "nominal value" because the defense attorneys are not *really* from Washington, D.C. *See* Opp. at 11-12. The point at which the government is questioning defense counsel's own representations regarding their respective location is the point at which the government is clearly grasping at straws.

The government's opposition brief lists the names of four PIS attorneys, *all* of whom are based in Washington, D.C. Opp. at 16. For purposes of this motion and reply brief, Defendants are represented by five attorneys: Abbe Lowell and Jenny Kramer for Senator Menendez, and Matthew Menchel, Kirk Ogrosky, and Murad Hussain for Dr. Melgen.[10] Of these attorneys, three are based in Washington, D.C. (Messrs. Lowell,[11] Ogrosky, Hussain), one is based in

[10] In addition, the government is also well aware that four other members of Senator Menendez's legal team (Messrs. Ryan, Tynan, Man, and Coyle), who have interacted with the government repeatedly throughout the course of its investigation, are *all* based in Washington, D.C. Mr. Koski copied these attorneys on the May 8, 2015, email correspondence between him and Mr. Lowell that is attached to the Court's May 12, 2015 Letter Order. These attorneys will be working at trial and filing notices of appearance at the appropriate time.

[11] If the government is somehow unclear about Mr. Lowell's location, Defendants clarify once again that (for 38 years) Mr. Lowell has lived with his family in the Washington, D.C. area and

Florida (Mr. Menchel), and one is based in New York (Ms. Kramer). In total, then, seven of the nine attorneys listed on the motions papers thus far are based in Washington, D.C. None have offices in New Jersey. The location of counsel thus plainly weighs in favor of transfer.

G. Dockets Conditions of Each District

The ninth *Platt* factor is relative docket conditions. Without a hint of irony, the government argues that—after taking more than two years to conduct its investigation—the public would be deprived of its right to a speedy trial if the case were transferred to Washington, D.C. Opp. at 12-13. The evidence cited in support of this argument, however, is nothing more than idle speculation. The government theorizes that a transfer of venue would result in a later trial date and delayed motions practice, and appears to assume—without any supporting data—that no active or senior Judge in the District of Columbia is available to hear a complex criminal case on the same schedule tentatively adopted by the Court. While Defendants appreciate the priority that the Court has placed on this case to date, the government fails to present any evidence that the schedule tentatively adopted by this Court would not follow the case to the District of Columbia, or that a D.C. judge would not afford the case the same priority.[12]

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works primarily from his firm's D.C. office. The fact that a website states that he also has an office address in New York (not New Jersey) does not change his "location" for *Platt* purposes.

[12] According to the Federal Judicial Center, the average filing-to-disposition time in felony criminal cases in both D.C. and New Jersey is between 11 and 12 months. *See* http://www.uscourts.gov/file/14254/download?token=gJzW0jub. In any event, this Court acknowledged that the schedule was subject to change pending the motions filed, including at least one motion (Speech or Debate Clause) that is immediately appealable by the unsuccessful party. *Every* case transferred from one venue to another has an existing schedule in effect. But the government fails to cite a single case in which such considerations have been found sufficient to outweigh the convenience of the parties and witnesses, the location of the events at issue, and the remaining *Platt* factors—all of which favor transfer.

Moreover, the government glosses over the fact that the decision to file this case in New Jersey rather than Washington, D.C.—which is inconsistent with PIS's past practices in *Stevens* and other public corruption cases—was solely left to the government, not Defendants. The government should not be permitted to manufacture its own factor by filing a case in an inconvenient forum, asking the Court to set a trial date, and then arguing that the case should not be transferred to a more appropriate forum because the trial date and motions schedule may have to be changed. Permitting the government to do so would defeat the purposes of Rule 21(b), which focuses on the convenience of the parties and witnesses and the interests of justice.

H. Other Special Elements

Finally, the last *Platt* factor is other special elements affecting transfer. Notably, the government fails to identify any special elements weighing against transfer. *See* Opp. at 13-16. Rather, the government merely disputes the special elements identified by the Defendants. *Id.*

With respect to the first special element—disruption to coordinate branches of government—the government urges the Court to ignore the burden of requiring dozens of legislative and executive branch officials to take leave to travel to New Jersey because "[h]igh-level officials take vacations" and "staffers occasionally call in sick, and yet the government continues to function." Opp. at 13. Clearly, Defendants have far more respect for the important work performed by (not to mention the time of) the dozens of legislative and executive branch employees who would likely be required to travel to New Jersey for trial. If such a burden on the coordinate branches can be avoided, Defendants submit that it should be.

With respect to the second special element—pervasive leaks of information by law enforcement to the news media in New Jersey—the government misses the point. As Defendants explained in their motion, the government moved its grand jury investigation to New

Jersey despite the fact that almost none of the witnesses called to testify work or reside in New Jersey and none of the alleged official acts took place there. Anonymous "law enforcement sources" then leaked information regarding the investigation to the local news media, in a manner quite clearly intended to create a circus in the Senator's home state.[13] Contrary to the government's rhetoric, *see* Opp. at 15, the Senator has no doubt that a jury in either New Jersey or Washington, D.C. will faithfully execute its duties and follow the Court's instructions. But the fact of the matter remains that it will obviously be easier to select a jury with fewer staunch supporters or detractors of the Senator in Washington, D.C. than New Jersey.[14] The Department of Justice should not be permitted to forum shop, to leak information before an indictment is even returned, to inconvenience public officials and their staffs unnecessarily, to espouse completely contradictory positions in similar cases, and to do all of this with impunity.

CONCLUSION

In this case, a careful analysis of the *Platt* factors demonstrates that this proceeding would be "better off" in the District of Columbia. *Coffee*, 113 F. Supp. 2d at 753. Accordingly, Defendants' motion to transfer venue should be granted.

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[13] The government criticizes Senator Menendez and his counsel for speaking up in their own defense, *see* Opp. at 14, after anonymous "law enforcement officials" leaked inaccurate information about the Senator's pending indictment while the grand jury was still in session. These leaks were serious enough to merit internal investigations by both the Office of Professional Responsibility and the Inspector General, and warranted some defense response.

[14] The government misunderstands or misstates the issue raised by the honest services charge. *See* Opp. at 15. The point is not that such cases can never be brought in a legislator's home district, but rather that describing potential jurors as "victims" of the crime—as PIS has done in this case—adds an extra layer of prejudice that would not be present in Washington, D.C.

DATED: June 2, 2015

Respectfully submitted,

/s/ Matthew I. Menchel
Matthew I. Menchel
KOBRE & KIM LLP
2 South Biscayne Boulevard
35th Floor
Miami, Florida 33131
(305) 967-6100
matthew.menchel@kobrekim.com

/s/ Kirk Ogrosky
Kirk Ogrosky
Murad Hussain
ARNOLD & PORTER LLP
555 Twelfth Street, NW
Washington, D.C. 2004-1206
(202) 942-5000
Kirk.Ogrosky@aporter.com

Counsel for Dr. Salomon Melgen

/s/ Abbe David Lowell
Abbe David Lowell
Jenny Kramer
CHADBOURNE & PARKE LLP
1200 New Hampshire Avenue NW
Washington, DC 20001
(202) 974-5605
adlowell@chadbourne.com

Counsel for Senator Robert Menendez

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
v.	)	Criminal No. 08-CR-231 (EGS)
	)	
THEODORE F. STEVENS,	)	COUNTS ONE: 18 U.S.C. § 1001
	)	THROUGH SEVEN: (False Statements)
Defendant.	)	
	)	
	)	

UNITED STATES' OPPOSITION
TO DEFENDANT'S MOTION FOR TRANSFER OF VENUE

Introduction

Defendant Theodore F. Stevens seeks to have this proceeding transferred to the District of Alaska pursuant to Federal Rule of Criminal Procedure 21(b). In support of his motion, Stevens filed a 16-page memorandum. Curiously absent from Stevens' memorandum, however, is any reference whatsoever to this Court's recent published decision in *United States v. Quinn*, 401 F. Supp.2d 80 (D.D.C. 2005). In *Quinn,* this Court recognized that the "modern" approach includes "a general presumption that a criminal prosecution should be retained in the original district," and that Rule 21(b) should be "interpreted . . . as favoring the government's choice of forum." *Id.* at 85. Applying those factors to a case in which the defendants and most of the witnesses resided in a different jurisdiction, *Quinn* denied the Rule 21(b) venue transfer request as unwarranted. Stevens provides no compelling reason for this Court to deviate from that presumption.

If this case is transferred to the District of Alaska, the following must travel to Alaska for trial: the Judge and his staff, the defendant, defense counsel, much of the evidence, the witnesses from Washington, D.C., and the witnesses from other jurisdictions. If the case remains in the District of Columbia, where the crimes took place and the indictment was properly returned, the government's witnesses from Alaska and other states must travel, at no expense to themselves. Accordingly, Stevens' motion should be denied.

Background

On July 29, 2008, defendant Stevens was indicted by a grand jury in the District of Columbia. The indictment charges Stevens with knowingly and willfully engaging in a seven-year scheme to conceal his personal receipt of things of value, and with causing the submission of false financial disclosure forms covering calendar years 2001 through 2006. The false financial disclosure forms were created, reviewed, signed and filed in the District of Columbia, and a substantial portion of Stevens' scheme to conceal occurred in or around the District of Columbia.

Argument

Unlike the mandatory requirements of Rule 21(a), Rule 21(b) endows this Court with the discretionary authority to transfer a criminal trial "to another district for the convenience of the parties and witnesses and in the interest of justice." Fed. R. Crim. P. 21(b); *see also United States v. Heaps*, 39 F.3d 479, 482 (4th Cir. 1994). The Supreme Court has directed lower courts to consider the following ten factors in determining whether a transfer should be granted:

(1) the location of the defendant;
(2) the location of possible witnesses;
(3) the location of the events at issue;
(4) the location of documents and records;
(5) the disruption of defendant's business;
(6) the expense to the parties;
(7) the location of counsel;
(8) the relative accessibility of place of trial;
(9) the docket condition of each district; and
(10) any other special elements which might affect the transfer.

See Platt v. Minnesota Mining & Manufacturing Co., 376 U.S. 240, 243-44 (1964). When applied here, the *Platt* factors weigh in favor of keeping this trial in the District of Columbia.

a. This Court's 2005 *Quinn* Decision

Quinn involved an indictment of two Kentucky residents[1] who worked for a Kentucky-based business that exported truck parts internationally. 401 F. Supp.2d at 83. The defendants were charged with multiple crimes relating to a scheme to keep from obtaining required export licenses from a federal agency in the District of Columbia. *Id.* Although venue for the charged crimes was proper in the District of Columbia, the specific conduct that gave rise to the criminal charges related exclusively to shipments from Kentucky to various international locations. *Id*. at 85. There appears to have been no allegation that any of the shipments were sent from, delivered to, or transferred through the District of Columbia. 401 F. Supp.2d at 87.

After indictment, the defendants requested that this Court transfer venue to the Eastern District of Kentucky, predominantly because the defendants resided in Kentucky and because "no 'acts' related to these charges occurred in Washington, D.C." *Id.* In denying the defendants' request, this Court examined the *Platt* factors as well as the broad body of recent Rule 21(b) jurisprudence, and concluded that there should be "a general presumption that a criminal prosecution should be retained in the original district." *Id*. at 85. Specifically, under the Court's view, "[s]uch a view of Rule 21(b) is consistent with the trend in recent years away from granting transfers to mitigate the financial, emotional, or practical burdens of trial in a distant locale." *Id*. *Quinn*'s analysis of cases concluded that "transfer under Rule 21(b), although not unheard of, has been rare in recent years" – a phenomenon which *Quinn* partly attributed to "the massive expansion of technology and the relative decline in [travel] costs . . . ." *Id*. at 86.

Viewed in the light of *Quinn*, the *Platt* factors, and other recent judicial opinions, the facts in this case unquestionably weigh in favor of keeping the case in the District of Columbia.

b. Defendant is located here

Since 1968, defendant Stevens has represented the State of Alaska in the United States

[1] A third defendant – a citizen of Iran – was also indicted, but apparently *in absentia*. 401 F. Supp.2d at 84.

Senate. Although Stevens maintains a residence in Alaska, there can be no legitimate dispute that for all practical purposes, defendant Stevens lives and works in the District of Columbia. His spouse is an attorney at a law firm in the District of Columbia, and the family owns a personal residence in the District of Columbia. If a trial takes place in the District of Columbia, he will be able to maintain close contact with his Senate office, and continue to live in his own home. The location of defendant's home and work favor trial in this district.

Although defendant Stevens claims that many courts have accorded significant weight to the location and residence of the defendant, *see* Stevens Mem. No. 1 at 3-4, both this Court and the United States Court of Appeals for the District of Columbia have concluded that it is one of the more "minor" *Platt* factors. *See Quinn*, 401 F. Supp.2d at 86 (location of defendant in Kentucky is only "minor consideration"); *Jones v. Gasch*, 404 F.2d 1231, 1240 (D.C. Cir. 1967) (in affirming district court's denial of Rule 21(b) transfer motion, court noted that residency is only "a factor to be considered," and is "not the controlling factor" in the analysis).

c. Defense Counsel is Here

Stevens has selected defense counsel from a law firm whose only office is in Washington, D.C. If Stevens' venue motion were to be granted, Stevens' Washington, D.C. counsel will be required to travel to Alaska for all pre-trial hearings and for the duration of trial. If the case remains in the District of Columbia, his attorneys can continue to work out of their own offices.

d. The Location of Witnesses is Not Dispositive

In *Quinn*, this Court denied the defendants' request to transfer the case to the Eastern District of Kentucky, despite the Court's conclusion that "more potential witnesses reside in Kentucky than reside near Washington, D.C." 401 F. Supp.2d at 87. Of particular relevance in *Quinn* was the fact that "there also are numerous witnesses who live in neither location . . . and they will be required to travel to either Kentucky or Washington for trial." A similar conclusion is required here. The government agrees with Stevens that the majority of the government's witnesses reside in Alaska. However, there are multiple prospective government witnesses who live in the District of Columbia

area, as well as multiple prospective government witnesses who live in other parts of the United States.

Moreover, under the applicable case law, the mere location of witnesses is not dispositive. Before a defendant is entitled to a discretionary transfer, he must demonstrate a substantial balance of inconvenience arising from the distant location of his witnesses, that is, he must show either that they might not appear at all, *see, e.g., United States v. Haley,* 504 F. Supp. 1124, 1127 (E.D. Pa. 1981), or that they would be "so greatly inconvenienced by a trial here that this matter should be transferred" in the interests of fairness. *United States v. Baltimore & Ohio Railroad,* 538 F.Supp. 200, 205 (D.D.C. 1982) (defendants' argument that the great majority of their witnesses resided in N.D. Ohio or closer to Cleveland than to Washington, D.C. insufficient to warrant transfer).

With respect to Stevens' prospective witnesses, the government agrees with Stevens' acknowledgment that, because a Rule 21(b) motion places the burden on the defendant, "some courts have required more than just a statement of numbers and general locations of witnesses when addressing witness convenience" regarding the defendant's proposed witnesses. *See* Stevens Mem. No. 1. at 7. Although Stevens does not cite to it, one such decision is *United States v. The Spy Factory, Inc.*, 951 F. Supp. 450 (S.D.N.Y. 1997), which this Court cited approvingly in *Quinn*. *See Quinn*, 401 F. Supp.2d at 85-86 ("[t]he 1997 *Spy Factory* ruling . . . is reflective of the modern approach to Rule 21(b) motions"). In *Spy Factory*, then-District Judge Sonia Sotomayor concluded that the "defendants here have not met their burden of proving" this *Platt* factor. 951 F. Supp. at 456. *Spy Factory* held that "a naked allegation that witnesses will be inconvenienced by trial in a distant forum will not suffice for transfer," and noted that a defendant seeking transfer on this basis "must offer specific examples of witnesses' testimony and their inability to testify because of the location of the trial." 951 F. Supp.2d at 456-57 (quoting *Haley*, 504 F. Supp. 1124, 1125 (E.D.Pa. 1981)).

Stevens fails to make even a threshold showing of either of the criteria recognized in *Spy Factory*. First, although Stevens makes the unsupported claim that he will call multiple witnesses

from the District of Alaska, Stevens fails to proffer even a single name of any individual who meets that criteria. *See* Stevens Mem. No. 1 at 6-8. Second, Stevens' memorandum fails to allege that any prospective defense witness will be *unable* to testify if the case is held in the District of Columbia instead of the District of Alaska. The requirements imposed by *Spy Factory* make sense, and Stevens' complete failure to satisfy them, in and of itself, precludes Stevens from carrying his burden on this *Platt* factor.

e. The Possible Disruption of Defendant Stevens' Business.

Concerning this factor, Stevens asserts that his business will be disrupted if he is forced to stand trial on September 24, 2008, in the District of Columbia. Here, Stevens first demanded to have a trial prior to the November election (and thus during his campaign period), and then after that demand was met, now uses the fact that the trial will be prior to the November election (and thus during his campaign period) as a primary basis in support of his request for a discretionary venue transfer under Rule 21(b). *See* Stevens Mem. No. 1 at 12-13. The transcript from the August 7, 2008 arraignment hearing demonstrates that the Court went to great lengths to restructure the Court's calendar to accommodate Stevens' request that his trial be completed prior to the November 2008 election. Any further accommodation to defendant Stevens in this regard is not warranted.[2]

Finally, as described *infra*, Stevens' ongoing reelection campaign is, taken as a whole, a substantial factor weighing *against* transfer to the District of Alaska.

f. A Substantial Number of Events Occurred Here.

Simply put, this is a case about a scheme to conceal, largely through the submission of false financial disclosure forms to the United States Senate. Defendant Stevens' yearly financial disclosure forms were created, reviewed, signed, submitted, and filed in the District of Columbia. The District of Columbia was the site of the harm inflicted by defendant's crimes, and this jurisdiction has a strong interest in adjudicating the charges that were appropriately brought here.

[2] Although Stevens' counsel claims that the indictment date was "surprisingly" selected, *see* Stevens Mem. No. 1 at 12, Stevens' counsel was in fact well aware of the progress and factors that played a role in the timing of the Indictment.

Stevens asserts that a discretionary Rule 21(b) venue transfer is nonetheless required because the "vast majority" of the conduct at issue took place exclusively within the District of Alaska. *See* Stevens Mem. No. 1 at 9. On this point, Stevens is both legally and factually incorrect.

In *Quinn*, the defendants "ma[de] much of the fact that no 'acts' related to these charges occurred in Washington, D.C." *Id.* This Court rejected that claim as a persuasive *Platt* factor, noting that certain acts *had* in fact occurred in Washington, D.C.: notably, the failure to obtain the export license that served as the basis for the crime charged in the indictment. *Id*. *Quinn* further recognized that this *Platt* factor does not require the Court to engage in a column-by-column tally of where every relevant act occurred; rather, the factor is more narrowly focused "to contemplate a case where jurors might benefit from a visit to a crime scene or might require some understanding of local geography." *Id.* [3]

From a factual standpoint, the most critical acts taken in this case – the yearly financial disclosure forms filed by defendant Stevens, which the Indictment alleges to have been part and parcel of a scheme to conceal Stevens' receipt of more than $250,000 worth of things of value – were taken in the District of Columbia. Because these are, in fact, the crimes charged, they should be entitled great weight under Rule 21(b). Furthermore, defendant Stevens is flatly incorrect in asserting that "all of the alleged underlying conduct . . . took place in Alaska." Stevens Mem. No. 1 at 9. In fact, as defendant Stevens and his counsel are assumedly aware, numerous acts occurred

[3] In his Memorandum, defendant Stevens suggested that the location of the Girdwood Residence itself supported transfer because he might request that the jury have an opportunity to view it. Stevens Mem. No. 1 at 4-5. There is no need for a jury inspection in this case. The Girdwood Residence is not the "scene of the crimes", but is rather merely the subject of some, but not all, of the defendant's false statements. Furthermore, Stevens is incorrect that the precise value of the work performed (*see* Stevens Mem. No. 1 at 5) will be a predominant issue at trial. The issue for the jury will not be whether Stevens received precisely $250,000 in benefits; rather, the issue will be whether Stevens knew he received more than $260 in benefits from a source that he did not repay.

Moreover, we note that Stevens has been provided with more than 1,000 high resolution digital photos of the inside and outside of the Girdwood Residence, all of which were taken on July 30, 2007, as well as multiple spherical high-resolution photographic reproductions of the same location. Should this Court deem any physical features of the Girdwood Residence to be independently relevant to the issues at trial, the massive amount of photographic rendering of it by the government, as well as any similar materials prepared by the defendant, should suffice.

within the District of Columbia in connection with the conduct charged in the Indictment. For instance:

- The 1999 Land Rover transaction was conducted partly in the District of Columbia, involved correspondence and financial instruments sent from the District of Columbia, and ultimately involved the shipment of the 1964 ½ Mustang from the District of Columbia.
- Multiple instances of correspondence concerning the Girdwood Residence occurred in the District of Columbia over a six-year period, including transmission of architectural drawings to the District of Columbia, telephone calls to and from the District of Columbia, emails sent to and from a computer server located in the District of Columbia, and handwritten personal correspondence sent from the District of Columbia.
- Multiple solicitations for official acts made to defendant Stevens, which involved written correspondence sent to addresses and computer servers located in the District of Columbia, and which requested acts to be taken in the District of Columbia.

g. The Evidence is Here

As this Court noted in *Quinn*, "[i]n light of the availability of electronic storage and transfer of the documents relevant to this matter, this factor is of no significance to the analysis." 401 F. Supp.2d at 87. The same conclusion is required here. Nearly all of the government's evidence will be rendered in an electronic format. With respect to hard-copy originals, located in the District of Columbia are approximately 42 boxes of materials that Stevens produced to the government, in hard-copy format, prior to his Indictment. Because the heart of this case involves the submission of false documents to the Senate, and the case was investigated and the indictment properly returned here, the key documents are also located here. This factor does not weigh in favor of transfer.

h. Expense to the Parties

We agree with defendant Stevens that this factor is "neutral at best." Stevens Mem. No. 1

at 13.

i. Relative Accessibility

Washington, D.C. is a transportation hub with three major airports, and is easily accessible from almost any point in the country, including Alaska. We agree with defendant Stevens that this factor is neutral.

j. Docket Conditions in Each District

Although we agree with defendant Stevens' factual statements concerning the docket conditions in each District, we submit that this factor in fact weighs against transfer. As Stevens properly recognized, should a transfer be ordered, it is highly likely that this Court – or another United States District Judge – would be required to travel to the District of Alaska to preside over Stevens' trial. All three active United States District Judges for the District for Alaska were nominated to, and confirmed by, the United States Senate during defendant Stevens' tenure as a Senator from Alaska. Although concededly speculative, it is entirely possible that a transfer to the District of Alaska could result in a recusal of the federal judges resident in the District of Alaska – thus resulting in a judge and staff relocating temporarily to Alaska to try the case.[4]

k. Special Factors Relative to Transfer

There is one "special factor" that is relevant to defendant Stevens' request to transfer venue to the District of Alaska: Stevens' current status as a candidate for the United States Senate election being held in Alaska this fall. Although Stevens references this factor as a reason *for* transfer, it is in fact a substantial factor weighing heavily *against* transfer.

As Stevens acknowledges, the primary and general elections for Stevens' United States Senate seat will occur this fall. Stevens has multiple challengers in his party's primary election on August 26, and will likely be one of two candidates in the November 4, 2008, general election.

[4] During the August 7, 2008, scheduling conference, the Court noted its recent experience with, and procedures for, high-profile criminal cases that garner significant national media attention. It may thus very well be that the District of Alaska is not as well equipped to handle the related issues as this Court is.

Stevens has already begun campaigning, and the proffered reason for transfer is to permit Stevens to be able to campaign in advance of, as well as *during*, his criminal trial.

In the ten days following his arraignment, Stevens has participated in multiple campaign rallies in which Stevens has vocally proclaimed his innocence of the crimes charged against him. These rallies, and thus Stevens' claims, have been widely reported in the Alaska media. For instance, in connection with at least one recent campaign trip, Stevens engaged in a specific discussion with a Ketchikan, Alaska, newspaper reporter about the charges he faces in the Indictment. According to an August 4, 2008, article in the *Ketchikan Daily News*, Stevens told a reporter:

> This is an indictment for failure to disclose gifts that are controversial in terms of whether they were or were not gifts. It's not bribery; it's not some corruption; it's not some extreme felony. . . . As a matter of fact, the verdict is the general election.

Andrew Damstedt, *Stevens: 'Verdict is the General Election'*, Ketchikan Daily News, August 4, 2008, at A1 (annexed hereto as Exhibit A). Given Stevens' stated reason for requesting a venue transfer – to campaign on nights and weekends – it is fair to assume that Stevens' campaign activities will continue, if not increase dramatically, as the general election approaches. Furthermore, it is fair to assume that Stevens' campaign activities will include, among other things, speeches, debates, and a significant number of campaign events. Finally, it is fair to assume that Stevens will continue to proclaim his innocence in public fora and will continue to offer explanations and characterizations of the factual and legal issues in the case.

Although it might very well be that the significant amount of Stevens' pretrial campaign activities (as well as those of his opponents) could potentially taint a jury pool in Alaska, there can be no question that his proposal to campaign *during* the trial poses severe problems. We submit that a trial jury in the District of Columbia, with normal instructions by the Court, would not have to be sequestered and could continue to participate meaningfully in the fall 2008 election process. Given the obvious media attention in Alaska that will be afforded to its sitting Senator campaigning while on trial, as well as the ostensible television, newspaper, and radio advertisements that will be run by

both general election candidates, a trial jury in the District of Alaska would effectively have to be sequestered, and precluded from having any access to television, radio, or newspapers during the course of the trial. The necessary effect of this would be to deprive the members of the jury not only access to their families and their homes and their normal activities, but likely to their ability to participate in the electoral process in advance of the November 2008 general election.

Conclusion

This case should be tried in the District of Columbia, where the crimes were committed, where the indictment was properly returned, and where all the parties and their counsel are located. A proposed Order is attached below.

Respectfully submitted,

WILLIAM M. WELCH II
Chief, Public Integrity Section

/s/ Nicholas A. Marsh
BRENDA K. MORRIS
Principal Deputy Chief

NICHOLAS A. MARSH
EDWARD P. SULLIVAN
Trial Attorneys

JOSEPH W. BOTTINI
JAMES A. GOEKE
Assistant United States Attorneys
for the District of Alaska

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
v.	)	Criminal No. 08-CR-231 (EGS)
	)	
THEODORE F. STEVENS,	)	COUNTS ONE: 18 U.S.C. § 1001
	)	THROUGH SEVEN: (False Statements)
Defendant.	)	
	)	
_____	)	

[PROPOSED] ORDER DENYING DEFENDANT'S
MOTION TO TRANSFER VENUE

Having considered Defendant Theodore F. Stevens' Motion to Transfer Venue to the District of Alaska, I hereby order that the Motion is DENIED.

_____
The Honorable Emmet G. Sullivan
United States District Judge

Dated: Washington, D.C.
_____, 2008

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2008, a copy of the United States' Opposition for Defendant's Motion for Transfer of Venue was served electronically, via the District Court's ECF system, on defense counsel as set forth below:

Robert Cary, Esq.
Williams & Connolly LLP
725 Twelfth St. NW
Washington, D.C. 20005

/s/ Nicholas A. Marsh
Nicholas A. Marsh

KETCHIKAN DAILY NEWS

69°/52°

75 CENTS | MONDAY, AUG. 4, 2008 | KETCHIKAN, ALASKA | VOL. 80 NO. 182 (USPS 293-940) | 14 PAGES

Stevens: 'Verdict is the general election'

Senator speaks out on upcoming trial for first time since indictments as he begins home-state swing

Sen. Ted Stevens, R-Alaska, center, talks with locals at Ketchikan's Blueberry Festival Saturday. Here, City of Ketchikan Mayor Bob Weinstein offers a handshake and greeting.
Staff photo by Tom Miller

By ANDREW DAMSTEDT
Daily News Staff Writer

On his first visit to Alaska since his federal indictment, Sen. Ted Stevens said he expects to prove his innocence on seven felony counts of not disclosing a quarter of a million dollars worth of gifts before voters go to the ballot box in November.

"I asked the judge for a speedy trial and he has granted that," Stevens said. "This gives us ample time to get this trial over before the general election and that means my innocence will be confirmed before Alaskans go to the ballot box."

Stevens pleaded innocent Thursday to the charges filed by the U.S. Justice Department in Washington, D.C. He was in Ketchikan Saturday on a planned campaign stop before the primary election on Aug. 26.

"I did not expect this indictment," Stevens said. "This is an indictment for failure to disclose gifts that are controversial in terms of whether they were or were not gifts. It's not bribery; it's not some corruption; it's not some extreme felony."

Stevens said the past week had reassured him about the United States justice system. A federal judge has set his trial Sept. 24, with an expected timeframe of up to four weeks.

"A person that's innocent wants a speedy trial," Stevens said. "We wanted people to know we want it as soon as possible,"

Stevens also asked that the trial be held in Alaska, and a judge is expected to rule on that matter in a couple of weeks. Stevens said 40 to 60 witnesses who live in Alaska will be called to testify at the trial and it would be inconvenient to have them travel to Washington, D.C.

The charges come from an ongoing federal investigation, during which FBI agents raided Stevens' Girdwood home last year. The charges accuse Stevens of accepting $250,000 of work on that home from VECO Corp., but failing to list them on financial disclosure records.

Stevens said he expects to stay in the Senate race after the primary and through the general election, but "that depends on the verdict, doesn't it? As a matter of fact, the verdict is the general election."

He did not respond as to whether he thought his indictment was a political move, but said it was an "unheard of situation," to have charges filed so close to a primary election.

"This investigation, this charge is for failure to disclose gifts and it's not some multimillion dollar scandal of bribery charge or anything else," he said. "It's a failure to disclose gifts and we're going to see that through."

He said he has not heard a critical remark from his Senator colleagues, at least "not to my face." Some Republican senators running for re-election have returned or redirected contributions from Stevens' political action committee.

"That's a knee-jerk reaction," Stevens said, calling the money funding that he only helped raise by attending fundraisers. "If they want to give back the money that's their problem, but not mine." He noted several senators have kept the money his committee donated.

Stevens also dismissed remarks made by a spokesman for Republican presidential candidate John McCain, calling Stevens' indictment "a sad reminder that the next president will have his work cut out for him in rebuilding public trust."

Stevens said McCain's staff has "hated" him for a long time.

"They don't like Alaskans or Alaska or me," he said. "They don't like the Arctic National Wildlife Refuge. They don't like anything about us, so just forget about them. I can get along with John all right. He did vote for ANWR once. They forget that."

Stevens said he continued to support McCain for president.

"Who do you want to be sitting there when you have to decide to attack Iran? Who do you want to be sitting there when you have to decided what to

See 'Stevens in Ketchikan,' page 2

'Twas a very Blueberry Saturday

Sunshine greeted with glee by all (except some contestants)

Man, 41, falls from Grant St.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, v. ROBERT MENENDEZ and SALOMON MELGEN, Defendants.	Crim. No. 2:15-cr-00155 Hon. William H. Walls

CERTIFICATE OF SERVICE

I hereby certify that, on June 2, 2015, a true and correct copy of the foregoing reply brief was duly filed with the CM/ECF system for the United States District Court for the District of New Jersey, which will send electronic notifications of the filing to all counsel of record.

/s/ Abbe David Lowell