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Federal criminal venue after *Abouammo*

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On June 11, 2026, the U.S. Supreme Court decided *Abouammo v. United States*.[1] In *Abouammo*, the Court was called to decide whether a defendant charged with falsifying a document with the intent to obstruct a federal investigation may be prosecuted in the district where the federal investigation was located, as opposed to where the falsification occurred.

As discussed below, the Court unanimously answered this question in the negative. This article analyzes the *Abouammo* decision and its implications on federal criminal venue.

Venue in federal criminal cases

Article III, Section 2 of the Constitution expressly requires that "[t]he Trial of all Crimes ... shall be held in the State where the said Crimes shall have been committed." And the Sixth Amendment relatedly requires trial by a jury "of the State and district wherein the crime shall have been committed."

These provisions are known as the Venue and Vicinage Clauses, respectively. The Constitution's venue requirements were enacted in response to English statutes authorizing the trial of colonists in England for allegedly treasonous acts in the American colonies.

Although these English statutes were never used, they were "roundly despised."[2] Indeed, the Declaration of Independence criticized the King for "transporting us beyond Seas to be tried for pretended offenses."

Accordingly, the Constitution requires trial "in the State where [a] Crime[] shall have been committed."[3] But how does one determine where a crime is committed? The U.S. Supreme Court eventually confronted that issue repeatedly, and three key decisions prior to *Abouammo* provide the framework for evaluating that question.

First, *United States v. Anderson*.[4] There, the defendant was called by a draft board in the Eastern District of Washington and reported to Fort Lewis in the Western District of Washington. The defendant refused to take his oath unless exempted from the Army's vaccination requirements. The Government charged the defendant in the Western District with violating the Selective Draft Act of 1917.

The Supreme Court explained that absent a specific venue provision delineating where venue is proper, venue is ascertained from the *locus delicti* of the offense — "determined from the nature of the crime alleged and the location of the act or acts constituting it."[5]

The nature of the defendant's crime was his refusal to submit to the selective service, which did not occur until the defendant refused to take the required oath. This refusal occurred in the Western District, where Fort Lewis was located — not in the Eastern District where the draft board was located. Therefore, venue was proper in the Western District.

Abouammo is a significant ruling that potentially signals apprehension of effects-based venue on the Court's part, but still raises a number of questions that practitioners and perhaps the Court will have to confront.

Second, *United States v. Cabrales*.[6] In *Cabrales*, the defendant was charged with money laundering in Missouri, despite the money laundering transactions having taken place in Florida. The Government argued that venue was proper in Missouri because the unlawful conduct from which the laundered proceeds were derived — drug trafficking — occurred in Missouri.

The *Cabrales* Court rejected this argument, holding that while "the money launderer must know she is dealing with funds derived from 'specified unlawful activity,'" for the purposes of venue, when the charged conduct is not a continuing offense, the location of that "specified unlawful activity" is irrelevant.[7]

Finally, *United States v. Rodriguez-Moreno*.[8] In Rodriguez-Moreno, the defendant was hired to find a drug dealer. While the defendant searched, he kidnapped a hostage in Texas. The hostage was later transported to New Jersey, then New York, and finally to Maryland.

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While in Maryland, the defendant decided that the hostage should be killed and held a revolver to his neck. The hostage escaped, however. The defendant was charged, tried, and convicted in New Jersey for using and carrying a firearm in relation to the kidnapping of the hostage. On appeal, the Third Circuit held that venue was improper in New Jersey because the defendant never "used" or "carried" the firearm in New Jersey.

The Supreme Court reversed, holding that the language, "in relation to any crime of violence," is "an essential conduct element" of 18 U.S.C. § 924(c)(1), and venue is proper where an "essential conduct element" occurs.[9]

The *Rodriguez-Moreno* Court distinguished *Cabrales* by explaining that the "specified underlying activity" required by the money laundering statute in *Cabrales* was a "circumstance element," not an "essential conduct element," and "circumstance element[s]" are not to be considered when identifying the locus delicti of an offense.[10]

Therefore, when analyzing the *locus delicti* of an offense, a court must look to all "essential conduct element[s]" and ignore "circumstance element[s]."

Notably, the Supreme Court in *Rodriguez-Moreno* expressly left open the question of whether "venue ... may permissibly be based upon the effects of a defendant's conduct in a district other than the one in which the defendant performs the acts constituting the offense."[11]

The *Abouammo* decision

Two and a half decades after *Rodriguez-Moreno*, the Court granted certiorari in *Abouammo*. For the first time since *Rodriguez-Moreno*, *Abouammo* required the Court to analyze an "effects-based" theory under the "essential conduct elements" test.

Ahmad Abouammo was an employee at Twitter, based in San Francisco. While so employed, Abouammo provided a high-level Saudi official confidential information about two Saudi dissidents, in exchange for $300,000. Abouammo left Twitter and moved to Seattle. The FBI's San Francisco office investigated and ultimately sent two agents to interview Abouammo at his Seattle home.

Abouammo denied providing the Saudis with confidential information and claimed the payments were for legitimate consulting work. To support this claim, Abouammo went upstairs to "retrieve" an invoice. In reality, Abouammo created a fake invoice and emailed it to the agents. Upon returning to San Francisco, the agents reviewed the invoice's metadata and determined it was created during the interview, not beforehand.

Abouammo was charged in the Northern District of California for falsifying a record under 18 U.S.C. 1519, which makes it a crime to knowingly "falsif[y]" a "record [or] document" "with the intent to impede [or] obstruct" an ongoing or contemplated federal investigation.

Abouammo moved to dismiss for lack of venue, arguing that he could be tried only in the Western District of Washington, where the alleged falsification occurred, and not in the Northern District of California, where the FBI's investigation took place.

The District Court denied the motion, and the Ninth Circuit affirmed, reasoning that Abouammo's "intent to impede [or] obstruct" the investigation in San Francisco was a proper basis to ground venue there.

The Supreme Court reversed, holding that venue was improper in the Northern District of California. As the Court explained, venue must be grounded where the crime's "conduct elements" occur, which the Court framed as "the acts that the prosecution must prove to secure a conviction."[12]

Under that framework, venue under § 1519 must lie where the prohibited act — falsifying a document — took place. Significantly, once that act has occurred, the crime is complete. Section 1519 does not require transmission of the document or even its use. Given that the document was falsified in Seattle, venue in California was improper.

Critically, the Court rejected the Ninth Circuit's contention that venue could be based on the *mens rea* element — intent to affect a federal investigation. The Court noted that it "has never looked to a statute's *mens rea* elements in considering venue" and that it would not "make much sense to do so."[13]

Indeed, a falsification with intent occurs at the same place as a falsification without the requisite intent — i.e., intent alone does not extend the conduct to a new location.[14] And § 1519 does not require as an element that the falsification actually obstruct an investigation.[15]

Implications

Abouammo is a significant ruling that potentially signals apprehension of effects-based venue on the Court's part, but still raises a number of questions that practitioners and perhaps the Court will have to confront.

First, it is now clear that *mens rea* elements cannot be "essential conduct elements" under *Rodriguez-Moreno* and thus cannot support venue. But the Court's decision still allows venue where a defendant's conduct continues across multiple districts. That itself may implicate places other than where a defendant is physically present.

Consider the seminal example of a defendant in New York who shoots across the Hudson River and hits a victim in New Jersey. Or a defendant present and charged in Maryland who calls a witness in Missouri to threaten that witness over the phone.

Second, *Abouammo* leaves open the possibility of effects-based venue where a statute's essential conduct elements implicate an actual effect. But courts will have to consider

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carefully how this standard applies in practice. Consider 18 U.S.C. § 1028(a)(7), which prohibits transferring, possessing, or using a means of identification "*of another person*" with intent to violate the law.

Does an express reference to a victim open the door to effects-based venue? What about jurisdictional elements — such as those found in the Hobbs Act — that expressly contemplate an effect on interstate commerce?

Determining how to frame what a statute's conduct elements require is itself a nuanced exercise. Unlike in *Abouammo*, it will often not be the case that courts can simply look to the most significant verb in a statutory provision and ask where that action took place; indeed, *Rodriguez-Moreno* expressly rejected this approach.

Defense counsel should consider contesting, and prosecutors should avoid, any venue theories that rely on mens rea elements or conduct or effects that post-date the satisfaction of "essential conduct elements."

For example, while 18 U.S.C. § 1001's prohibition on false statements to the government speaks in terms of "making" a false statement, does the statute's "materiality" element permit effects-based venue where the governmental matter was or could have been affected? The Circuits are split on this question,[16] and the Supreme Court may eventually feel the need to weigh in.

Third, the Court's decision reflects a clear focus on the point in time at which the criminal violation is complete. Therefore, subsequent developments — even if admissible at trial — may be insufficient to justify venue, absent a clear tie to the statutory language.

Finally, the Court expressly left open in footnote 3 the question of whether Congress may enact specific venue provisions that go beyond what would otherwise be permitted in a *locus delicti* analysis.

On the one hand, "the venue rule is constitutional, and Congress lacks the power to finally decide what it means or when it is violated."[17] On the other, the Court has "sometimes suggested that Congress's view of appropriate venue, even if not coincident with our 'conduct elements' test, may make a difference to the analysis."[18]

Indeed, it is not illogical to argue that Congress has the power to define what constitutes a crime and thus has the concomitant power — at least to some degree — to define as a matter of law where a crime occurs. One can imagine some limits, of course.

It is more logical to conclude that a specific venue provision must have a rational connection to the alleged criminal activity for it to be invoked than to allow a specific venue provision that requires all bank fraud prosecutions in Arkansas, for example.

In any event, we can expect that whether the analysis differs when a specific venue provision is involved — indeed, whether specific venue provisions expanding venue are constitutional at all — will be litigated in the near future.

Moving forward, both prosecutors and defense counsel should closely examine the language of the applicable statute under which a defendant is charged, with a clear focus on what the "essential conduct elements" are and when exactly they were allegedly satisfied.

Defense counsel should consider contesting, and prosecutors should avoid, any venue theories that rely on *mens rea* elements or conduct or effects that post-date the satisfaction of "essential conduct elements." Consideration should also be given regarding the handling of effects-based venue cases where venue is tied to jurisdictional language, as opposed to "essential conduct."

Finally, defense counsel and prosecutors are well advised to consider the arguments for and against continued reliance on specific venue provisions, including what framework might apply to analyzing their constitutionality — to the extent the framework should differ from the *locus delicti* analysis.

Notes:

[1] *Abouammo v. United States*, No. 25-5146 (U.S. June 11, 2026).

[2] *Id.* at 4.

[3] U.S. Const., art. III, § 2.

[4] 328 U.S. 699 (1946).

[5] *Anderson*, 328 U.S. at 703.

[6] 524 U.S. 1 (1998).

[7] *Cabrales*, 524 U.S. at 8.

[8] 526 U.S. 275 (1999).

[9] *Rodriguez-Moreno*, 526 U.S. at 280-82.

[10] *Id.* at 280 n.4.

[11] *Id.* at 279 n.2.

[12] *Abouammo*, at 5.

[13] *Id.* at 6.

[14] *Id.*

[15] *Id.*

[16] *Compare, e.g.*, *United States v. Fortenberry*, 89 F.4th 702, 709 (9th Cir. 2023), *with United States v. Coplan*, 703 F.3d 46, 79 (2d Cir. 2012); *United States v. Oceanpro Indus. Ltd.*, 674 F.3d 323, 329 (4th Cir. 2012); *United States v. Ringer*, 300 F.3d 788, 791-92 (7th Cir. 2002).

[17] *Abouammo*, at 5 n.3.

[18] *Id.*

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