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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,)	NO. 1:17-cr-0031-DLH
)	
Plaintiff,)	
)	
vs.)	
)	DEFENDANT’S MOTION FOR
MICHAEL GIRON a/k/a/)	CHANGE OF VENUE.
MICHAEL GERON.)	
)	
Defendant.)	

Defendant Michael Giron, by his attorneys Timothy Lohraff and Peter Schoenburg, hereby move this Court for an order, pursuant to Rule 21, Federal Rules of Criminal Procedure transferring the venue of the trial of this case to a District within the jurisdiction of the Eighth Circuit, other than the District of North Dakota, or in the alternative, transferring the venue of the trial to Fargo, Eastern Division.

In support of his motion, Mr. Giron contends that, due to the massive amount of widespread pretrial publicity regarding the Dakota Access Pipeline (DAPL) protests, he cannot received a fair and impartial jury as guaranteed him by the Fifth and Sixth Amendments to the United States Constitution.

As is more specifically set forth in the Memorandum accompanying the Motion:

1. Massive, pervasive and prejudicial publicity surrounded the anti-DAPL protesters and generated strong feelings about the pipeline and its protesters in a majority

1 of the residents in the counties from which Mr. Giron's prospective venire is to be drawn.

2 2. A research project conducted by the National Jury Project (NJP) revealed that
3 the vast majority of juror-eligible residents in Morton and Burleigh Counties have been
4 exposed to publicity about the anti-DAPL protesters, have formed a negative opinion about
5 the protests and the protestors, believe that the arrested protesters are "guilty," and cannot
6 be fair and impartial if selected as jurors in the trial of a protester.

7 3. A second research project conducted by the NJP concerned only with Cass
8 County, revealed that while pretrial publicity had also been extensive in Cass County, North
9 Dakota, Cass County residents were far less directly impacted by the protests and negative
10 opinions about the protesters, while significant, was less intense and less negative than
11 surveys conducted in Morton County and Burleigh county.

12 4. The government itself contributed to, and exacerbated, the widespread negative
13 and, at times, inflammatory, publicity about the anti-DAPL protesters and the dissemination
14 of information and misinformation by the government and its agents increased the
15 prejudicial impact of the publicity.

16 5. The extensive and prejudicial pre-trial publicity referenced herein and detailed
17 in the accompanying Memorandum, the affidavit of National Jury Project Director Dianne
18 Wiley, and the exhibits attached thereto, has so impacted the community from which the
19 defendant's venire is to be drawn that a fair and impartial jury cannot be seated in his case.

20 A change of venue from the District of North Dakota is required to secure to the
21 Defendant his Right to Due Process, including his rights to a fair and impartial jury and to
22 a fair trial, as guaranteed him by the Fifth and Sixth Amendments to the United States
23 Constitution and the requested transfer of venue is in the best interests of justice.

24 DATED this 11th day of October, 2017.

25 Respectfully submitted,
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s/Timothy R. Lohraff
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CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties associated with this case.

s/Timothy R. Lohraff

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