

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 16-20010-CR-MORENO

UNITED STATES OF AMERICA

vs.

**FERNANDO MENDEZ VILLAMIL,
a/k/a "Fernando Mendez,"
Defendant.**

FACTUAL BASIS IN SUPPORT OF PLEA

The United States hereby files this factual basis in support of the change of plea of defendant FERNANDO MENDEZ VILLAMIL. In support thereof, the government asserts the following facts:

Beginning on or about 2002, and continuing through on or about January 2016, the defendant, FERNANDO MENDEZ VILLAMIL, along with defendants Maritza Exposito, Arnaldo O Jimenez, and Yomara Vila and others known and unknown to the government conspired to commit fraudulent schemes including (1) falsely billing Medicare and Medicaid for patient encounters that did not occur and were not medically necessary; (2) providing false diagnosis of psychiatric impairments that were used to fraudulently obtain Social Security disability benefits; (3) falsely certifying diagnosis of psychiatric impairments on USCIS Form N-648 so that persons applying for naturalization were fraudulently exempted from the examination required to satisfy the testing requirement in civics and language; and (4) prescribing Medicaid and Medicare beneficiaries medicines that were not medically necessary.

Defendant Mendez Villamil was a Florida licensed physician with a psychiatric practice in Miami, Florida. During 2002 through 2010, defendant Mendez Villamil was a Medicaid provider authorized to submit claims to Florida Medicaid and during 2002 through 2013, defendant Mendez Villamil was a Medicare provider authorized to submit claims to Medicare. While the government does not believe that every patient seen by the defendant and every patient record produced by the defendant involved a fraudulent claim, the government would have proven that the defendant committed the various types of fraud mentioned above in the manner summarized below.

Beginning 2002 and continuing through January 2016, individuals who were seeking to obtain Social Security disability benefits paid approximately \$1,500 in cash payments in exchange for a false mental diagnosis from defendant Mendez Villamil in support of their disability application. Defendant Mendez Villamil, in some instances, back dated patients' records to intentionally mislead the Social Security Administration (SSA) into believing the individual had a long term mental health treatment history that did not in fact exist. Defendant Mendez Villamil provided sample patient progress notes to defendant Exposito and other co-conspirators and instructed them how to clone and falsify patient records. These false and fraudulent medical records were then faxed to the SSA to support the disability application of those individuals that paid cash to defendant Mendez Villamil. The SSA, relying on the authenticity of the diagnosis and clinical records submitted by defendant Mendez Villamil, paid disability benefits in excess of \$20,302,923 to individuals and their dependents that were not qualified or eligible to receive such benefits.

Examples of this fraudulent scheme were audio and video recorded on April 22, 2015 and April 30, 2015, by a Confidential Source (CS) who was gainfully employed at the time and not

suffer from any mental illness. He paid the required \$1,500 in cash and obtained a disabling mental diagnosis from defendant Mendez Villamil. During the April 30, 2015 meeting between the CS and defendant Mendez Villamil, defendant Mendez Villamil told the CS that, “we will begin in January of last year, 2014” (meaning the medical records would be back dated one year). After discussing with the CS how he should work “off the books” to justify his disability claim, defendant MENDEZ-VILLAMIL then talked to the CS about the process to obtain disability benefits (e.g., how long it takes, denial, and appeal). Defendant MENDEZ-VILLAMIL told the CS he would put down a severe diagnosis, because the CS is young. Defendant MENDEZ-VILLAMIL then described a bi-polar disorder to the CS. Defendant MENDEZ-VILLAMIL then told the CS that he was giving him a prescription for medication that he could pick up cheaply, but cautioned the CS not to take it. Defendant MENDEZ-VILLAMIL stated the CS did not have to see him every month but that he, MENDEZ-VILLAMIL, would document the file monthly as if he had done so. Defendant MENDEZ-VILLAMIL said that if the CS did not have time to see him, the CS should come in for his appointment and ask “Maritza” (meaning EXPOSITO) for the prescription and MENDEZ-VILLAMIL would send it out to him (in the reception room). Defendant MENDEZ-VILLAMIL emphasized that it was important that the CS fill the prescriptions.

In October 2015, the SSA faxed a request for information regarding the CS’s diagnosis and treatment to defendant MENDEZ-VILLAMIL’s office, as is routinely done when a disability applicant cites a treating physician. On November 18, 2015, defendant MENDEZ-VILLAMIL’s office forwarded, via wire, to the SSA 35 pages of medical records and completed a United States Citizenship and Immigration Services (USCIS) form that included an Initial Psychiatric Evaluation dated January 23, 2014, and monthly Progress Notes for the time period February 2014

through November 13, 2015. The Evaluation and Progress Notes have what appears to be the signature of defendant MENDEZ-VILLAMIL. The CS was shown what purports to be his signature in the initial psychiatric evaluation and he stated it is not his signature. Defendant MENDEZ-VILLAMIL purports, on the form signed on November 14, 2015, that the CS suffers from “auditory hallucinations,” is “disheveled,” and diagnosed as “bipolar,” “depressed with psychosis” with a “poor” prognosis.

In addition to the fraudulent scheme documented in the recording mentioned above, several witnesses will testify that beginning as early as 2002 and continuing through 2016, defendant Mendez Villamil would create fraudulent medication management records documenting patient visits that never occurred. In some instances individuals would come in to his office, sign in for approximately 5 or 6 individuals that were not actually present, meet with Mendez Villamil and obtain prescriptions for those individuals who were not present. In other instances, individuals would simply walk up to the reception desk and pick up a prescription for psychotropic medications. Defendants Mendez Villamil, Exposito, Vila, and other co-conspirators would then create progress notes documenting patient visits that never took place on the dates prescriptions were dispensed. Defendant Mendez Villamil would then use those false medical records to support his billing to Medicare and Medicaid. Interviews of individuals that were receiving these prescriptions and filling them revealed that they never needed the medications and were not using them, as instructed. As a result, approximately \$25,905,372 in false claims were submitted to the Florida Medicaid program of which approximately \$16,711,447 were paid for office visits that never occurred and for medications that were neither needed nor taken. In addition, approximately \$15,787,675 in false claims was submitted to the Medicare Part B and D program of which approximately \$12,868,071 was paid

for office visits that never occurred and medications that were neither needed nor taken.

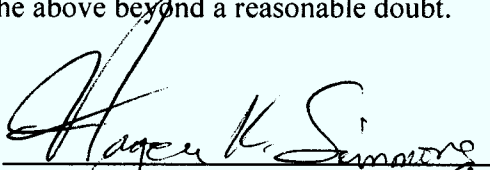
Beginning 2011 and continuing through January 2016, in exchange for cash payments, MENDEZ-VILLAMIL and his co-conspirators provided fraudulently certified USCIS Forms N-648, Medical Certification for Disability Exceptions, to resident aliens who were applying for naturalization. USCIS form N-648 is intended for an applicant who seeks an exception to the English and/or civics requirements for naturalization due to a physical or developmental disability or mental impairment that has lasted, or is expected to last, 12 months or more. Patient recruiters would come in to defendant Mendez Villamil's office, meet with him and provide him the biographical information of resident aliens who were seeking to obtain disability certifications for USCIS. Defendant Mendez Villamil would instruct his co-conspirators to create patient records supporting a false mental disability diagnosis and Forms N-648. These false Forms N-648 were then created by defendant Exposito and other co-conspirators and given to patient recruiters and individuals who then submitted them to USCIS, in order to obtain a waiver from the English and/or civic requirements of the U.S. naturalization process, as well as any fees that were associated with that process. As a result of these false and fraudulent form N-648s, USCIS waived immigration fees in excess of \$814,640 to scores of individuals who were otherwise not entitled to receive such waivers.

Furthermore, in or around 2004, at the request of defendant MENDEZ-VILLAMIL and Individual 3, defendants JIMENEZ and EXPOSITO introduced Individual 2 (as mentioned in the Indictment) to defendant MENDEZ-VILLAMIL as a person interested in marrying Individual 3 for the purpose of evading a provision of the immigration laws of the United States. In return for participating in the false marriage with Individual 3, defendant MENDEZ-VILLAMIL offered to assist Individual 2 to fraudulently obtain SSA disability benefits and cash payment. Defendant

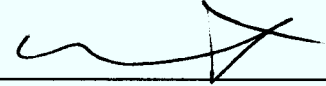
EXPOSITO assisted defendant MENDEZ-VILLAMIL in the preparation of fraudulent Progress Notes for Individual 2 and provided unnecessary prescriptions for Xanax to Individual 2.

These events occurred in Miami Dade County, in the Southern District of Florida and elsewhere. The above-described facts serve only as a summary of the testimony were this case to proceed to trial and are not intended to be an exhaustive account of all the information available to the Government concerning the offenses charged in the Indictment. If this case were to go to trial the Government would be in a position to prove all of the above beyond a reasonable doubt.


Date: 5/10/16

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FERNANDO MENDEZ VILLAMIL
Defendant