

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA * **CRIMINAL DOCKET NO. 10-019**

V. * **SECTION: “J”**

BYRON JAVIER GODINEZ-LOPEZ *

a/k/a Bayron Javier Godinez-Lopez

a/k/a Byron Javier Godinez *

a/k/a Byron J. Godinez

a/k/a Byron J. Godinez Lopez *

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FACTUAL BASIS

Should this matter have gone to trial, the Government would have proved beyond a reasonable doubt, through the introduction of competent testimony and admissible tangible exhibits, the following facts to support the allegations charged by the Indictment now pending against the defendant:

The Defendant, **BYRON JAVIER GODINEZ-LOPEZ** (hereinafter “**GODINEZ**”), has agreed to plead guilty as charged to the one-count Indictment charging him with making a false statement and entry to a federal agency, in violation of Title 18, United States Code, Section 1001.

A Special Agent from United States Immigration and Customs Enforcement

(hereinafter “ICE”) would testify that ICE enforces Title 8, U.S.C. §1324a, which requires all employers to verify employment eligibility for all of their employees. In November of 2009, ICE served an administrative subpoena and Notice of Inspection on Turn Services, an employer, requesting Employment Eligibility Verification forms (hereinafter “Form I-9”) for its employees. November 25, 2009, Turn Services delivered 229 Form I-9s pertaining to its employees to ICE. The Special Agent would testify that ICE conducted an audit of those Form I-9s, which revealed that fourteen employees of Turn Services were using alien registration numbers that were issued to other individuals. A further investigation revealed that three of those fourteen employees who were using alien registration numbers not issued to them had obtained genuine Transportation Worker Identification Credentials (hereinafter “TWIC cards”).

An official with Transportation Security Administration (TSA) would testify that TSA is an agency of the United States Department of Homeland Security within the executive branch of the government of the United States of America. The TSA official would testify that TWIC cards are required for all individuals seeking unescorted access to secure areas of maritime facilities and vessels, and all mariners holding United States Coast Guard-issued credentials. Further, an official with TSA would testify that the TWIC program is administered by TSA and is regulated by both TSA and the United States Coast Guard. The TSA official would testify that a person who wants to be issued

a TWIC card must apply through TSA, which has jurisdiction over such applications.

The TSA official would testify that on or about June 3, 2008, the defendant, **GODINEZ**, applied for TWIC card at a TSA office in the Eastern District of Louisiana. As part of the TWIC card application process, **GODINEZ** presented a permanent resident card as proof of identity. The TSA official would further testify that **GODINEZ** presented a written Transportation Worker Identification Credential Disclosure Form and Certifications, signed by the defendant, certifying and stating that he in fact satisfied the immigration status requirements described in 49 C.F.R. 1572.105. The TSA official would testify that illegal aliens are not eligible for issuance of a TWIC card. The TSA official would testify that the defendant, **GODINEZ**, was issued a TWIC card by TSA based on the information in his application, including his statements and entries in the Transportation Worker Identification Credential Disclosure Form and Certifications and his presentment of the permanent resident card.

The ICE Special Agent would testify that the permanent resident card presented to TSA by the defendant was counterfeit and contained an alien registration number assigned to another person. The ICE Special Agent would testify that on January 4, 2010, Turn Services informed ICE that the defendant, **GODINEZ**, worked aboard the M/V Black Beard at various locations on the Mississippi River. The M/V Black Beard has a security plan and requires all employees to have TWIC cards to work on the vessel as it conducts business in critical infrastructure areas. The ICE Special Agent would testify

that on January 12, 2010, ICE agents and the United States Coast Guard apprehended the three Turn Services employees suspected of using false information to procure valid TWIC cards at AEP Fleet Boat Operations in Convent, LA. The M/V Black Beard was having a crew change at this location. The ICE Special Agent determined that one of these employees was **GODINEZ**.

The ICE Special Agent would testify that, upon questioning **GODINEZ** under oath after being read his *Miranda* rights, the defendant stated that he was a citizen of Guatemala who was illegally in the United States. The ICE Special Agent confirmed the defendant's illegal status through the ICE database. The defendant further stated that he purchased a counterfeit permanent resident card, and he used that counterfeit card to obtain a genuine TWIC card. The defendant further stated that he used his counterfeit permanent resident card at each stage of the TWIC card application process. The ICE Special Agent would testify that the defendant was found to have in his possession a genuine TWIC card bearing the name Byron J. Godinez.

Testimony of an official from United States Citizenship and Immigration Services regarding record checks conducted through the Computer Linked Application Information Management System would show that the defendant, **GODINEZ**, did not receive consent from the United States Attorney General or his designated successor, the

Secretary of the Department of Homeland Security, to apply for admission or receive permission to enter the United States.

ROBERT WEIR Special Assistant United States Attorney	Date
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BYRON JAVIER GODINEZ-LOPEZ Defendant	Date
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CATHERINE CHAVARRI Attorney for Defendant	Date
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