United States Court of Appeals
For the First Circuit

No. 24-1049

UNITED STATES,

Appellee,

v.

GERMAINE VÉLEZ-RAMÍREZ,

Defendant, Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

[Hon. Gustavo A. Gelpí, U.S. Circuit Judge]

Before

Aframe, Lipez, and Dunlap,
Circuit Judges.

Tina Schneider, for appellant.

Marie Christine Amy, Assistant United States Attorney, with whom W. Stephen Muldrow, United States Attorney, and Juan Carlos Reyes-Ramos, Assistant United States Attorney, Chief, Appellate Division, were on brief, for appellee.

August 28, 2026

AFRAME, **Circuit Judge**. A jury convicted a member of the Police of Puerto Rico's Drug Unit, Germaine Vélez-Ramírez ("Vélez"), for receiving a bribe in violation of 18 U.S.C. § 666(a)(1)(B), after he agreed to help someone he had arrested avoid a criminal conviction in exchange for sex. Vélez now appeals his conviction. Principally, he contends that there was insufficient evidence for a reasonable jury to determine that assisting this person avoid a conviction was worth at least $5,000, a required element for a conviction under § 666(a)(1)(B). Vélez also argues that the prosecution improperly referenced his decision not to testify in violation of his Fifth Amendment right against self-incrimination. We affirm Vélez's conviction.

SUFFICIENCY OF THE EVIDENCE

Vélez timely moved for an acquittal, asserting that there was insufficient evidence to convict him on several elements of § 666(a)(1)(B). See Fed. R. Crim. P. 29. The district court denied the motion. On appeal, Vélez asserts only that the government failed to prove the "transactional element" of § 666(a)(1)(B), which requires that the value of the government "business" or "transaction" provided in exchange for the bribe equals or exceeds $5,000. United States v. Acevedo-Hernández, 898 F.3d 150, 162 (1st Cir. 2018) (quoting United States v. Bravo-Fernández, 722 F.3d 1, 12-13 (1st Cir. 2013)).

We review de novo the denial of a motion for acquittal. United States v. Abercrombie, 162 F.4th 47, 51 (1st Cir. 2025). In so doing, we ask whether any reasonable jury could have found that the evidence produced at trial, along with all reasonable inferences viewed in the light most favorable to the government, established the elements of the crime beyond a reasonable doubt. United States v. Ridolfi, 768 F.3d 57, 61 (1st Cir. 2013) (quoting United States v. Rodríguez, 735 F.3d 1, 7 (1st Cir. 2013)). We do not review these pieces of evidence and inferences "separately"; rather, we look at their "sum." Acevedo-Hernández, 898 F.3d at 161. We will uphold the verdict so long as any "plausible rendition" of the record supports it. United States v. Deschambault, 176 F.4th 9, 30 (1st Cir. 2026) (quoting United States v. Díaz-Colón, 163 F.4th 1, 16 (1st Cir. 2025)). Consistent with these principles, we recite the trial evidence in the light most favorable to the government. Abercrombie, 162 F.4th at 51.

On Friday, March 25, 2016, Vélez arrested Eleana Arocho-Gadivia ("Arocho"), who was twenty-one years old at the time, for possession of a marijuana cigarette. Officers then brought Arocho to a local police station where they processed her arrest, including by taking down her name and cell phone number. Arocho was told to report to court the next week and then was released later that night. But before Arocho left the station, she spoke with Vélez, who told her that he would call her once he left work to talk about the criminal process awaiting her. This was reassuring to Arocho. At the time, Arocho worked part time as an assistant nurse earning eight dollars an hour while she completed her undergraduate studies to become a full-time nurse. She was worried that an arrest would affect her ability to pursue this career path. Vélez's offer to help reduced her concerns.

Within the next day, Arocho and Vélez spoke a few times, sometimes in person and other times over the phone. During these conversations, Vélez told Arocho what she should expect from the criminal process. He also told her that he would help get her case dismissed. Arocho recognized that "nothing was for free," so she asked Vélez what he wanted in return. Vélez responded that the two of them "were adults and that [Arocho] knew already what he wanted." Arocho understood Vélez to be asking for sex.

On the evening of March 26, the day after her arrest, Arocho got into Velez's car and the two drove off together to an open area where they were alone. There, they had sex in Vélez's car. Vélez then dropped Arocho at a Burger King, where she contacted her friends to pick her up. By the time one of her friends arrived, Arocho was "stressed" and "crying," as though "something bad emotionally [had] happened to her." Arocho later explained that she would not have had sex with Vélez absent his offer to obtain the dismissal of her criminal case.

The following week, Arocho went to court for her scheduled hearing. Arocho did not hire a lawyer or bring money for bail because she expected that Vélez would have arranged for the case to be dismissed. Instead, Vélez testified at the hearing that the case should proceed. The court then allowed the case to continue and set Arocho's bond at $100. This upset Arocho -- Vélez had not held up his end of the bargain and Arocho remained concerned that a criminal conviction would affect her career prospects. Arocho would later testify at Vélez's trial that she would have paid over $10,000 (indeed, over $100,000 if she could have afforded it) to avoid a conviction.

Arocho continued to have hearings in her criminal case for a little over a year. At first, she was assigned free legal counsel from Legal Aid. But, after that attorney recommended that Arocho plead guilty, Arocho hired a private attorney, whom she had to pay. Once Arocho hired a private attorney, there were a total of seventeen court dates set. The private attorney charged $400 per hearing. And each time Arocho appeared, she had to miss work. But some of these court dates were rescheduled because the prosecution was not prepared.

As it turns out, Vélez was responsible for many of these delays as he was trying to assist Arocho. Sometimes, he failed to show up to testify. Other times, the prosecution could not move forward because Vélez was trying to tamper with evidence related to the marijuana cigarette that formed the basis of Arocho's arrest. In fact, Vélez admitted to William Burgos-Vélez ("Burgos"), a police department colleague, that he was causing the delays to uphold his end of the bargain with Arocho.

On April 10, 2017, Arocho pleaded guilty. As a result, she had to pay a $1,000 fine and complete community service and a diversion course. Once Arocho met these requirements, her conviction was reclassified to a misdemeanor, and six months later, the conviction was removed from her criminal record. Arocho had to pay her attorney an additional $400 to have her record expunged.

Eventually, federal authorities became aware of Vélez's conduct. Burgos, who was also a Federal Bureau of Investigations ("FBI") informant, told federal authorities the information he had received from Vélez. Separately, Arocho told her attorney about her interactions with Vélez. Later, Arocho spoke with federal authorities and participated in grand jury proceedings regarding Vélez's conduct. Vélez was then indicted, tried, and convicted for violating 18 U.S.C. § 666(a)(1)(B).

Section 666(a)(1)(B) prohibits government officials from "corruptly solicit[ing] . . . or accept[ing] . . . anything of value from any person," if the official "inten[ds] to be influenced or rewarded in connection with any [governmental] business [or] transaction . . . involving any thing of value of $5,000 or more." A conviction under this provision also mandates that the official work for an "organization, government, or agency" that receives more than $10,000 in federal funds in a particular year, a requirement that the government proved at trial. 18 U.S.C. § 666(b). On appeal, the crux of Vélez's sufficiency challenge is that the government failed to produce adequate evidence that the value of the government "business" or "transaction" -- here, Arocho's ability to avoid criminal proceedings, a conviction, and having a criminal history -- was at least $5,000. 18 U.S.C. § 666(a)(1)(B).

This case presents a wrinkle that differentiates it from many cases addressing the transactional element of § 666(a)(1)(B). The most straightforward category of cases dealing with this element occurs when the business or transaction that a government official provides is a government payment to the bribe-giver. For example, when an official accepts a bribe to award a government contract to the bribe-giver, the transactional element is satisfied when the contract provides the bribe-giver with at least $5,000. A second more straightforward category of case occurs when a government official provides an intangible business or transaction that is not easily valued -- for example, increased freedom for an individual on supervised relief -- in exchange for a bribe that is easily valued -- for example, earrings with an established market value and a bag full of cash. See United States v. Townsend, 630 F.3d 1003, 1008-09, 1011-12 (11th Cir. 2011). In those circumstances, the value of the bribe may stand as a proxy for the value of the business or transaction rendered because it serves as an estimate of "how much a person in the market would be willing to pay" for that intangible service. Id. at 1011 (quoting United States v. Marmolejo, 89 F.3d 1185, 1194 (5th Cir. 1996); see also Bravo-Fernández, 722 F.3d at 13.

This case falls into a third category where neither the government business or transaction nor the bribe has an easily ascertainable value, i.e., a dropped criminal charge and a sexual encounter. Still, there are methods to approximate the value of such transactions in these more nebulous circumstances. Most notably, to value the government business or transaction, courts have relied on the "value of the benefit the bribe-giver will receive if the bribe is successful." United States v. Owens, 697 F.3d 657, 659 (7th Cir. 2012); see also United States v. Delgado, 984 F.3d 435, 448 (5th Cir. 2021). For example, in United States v. Curescu, a developer provided $7,000 to a middleman who pocketed most of the money for himself and then paid a municipal plumbing inspector $1,000 to sign off on unlicensed plumbing that another party had performed for the developer. 674 F.3d 735, 738 (7th Cir. 2012). A jury convicted the plumbing inspector. Id. at 737. In affirming the conviction, the court of appeals determined that the value of the inspector's rubber stamp exceeded $5,000. Id. at 743. The court did not look to the amount of the bribe that the inspector received, which was only $1,000. Id. Rather, it looked to the benefit that the developer received from not having to redo the plumbing. Id.

We rely primarily on this latter method of valuation, which is consistent with the district court's unchallenged jury instruction explaining that "'value' means the face, part, market value, or cost price . . . whichever is greater," and emphasizing that "intangible items, such as . . . sexual services" could be used to measure value. (Emphasis added.) Accordingly, we ask whether there was sufficient evidence that resolving the criminal charge by dismissal was worth at least $5,000 to Arocho under the circumstances she faced. In so doing, we are mindful of the "wisdom of the jury" regarding how to value "difficult-to-quantify benefits," such as Arocho's "liberty interest[]" and a clean record. Delgado, 984 F.3d at 448.

At the time she was arrested, Arocho was earning eight dollars an hour and studying to become a full-time nurse with increased earning potential. She feared that a criminal record would prevent her from obtaining this career advancement and stated that she would be willing to pay $10,000 (and even $100,000 if she had such funds) to avoid this outcome. Further, Arocho's response and attitude toward her encounter with Vélez lends credibility to her subjective valuation -- she would not have had sex with Vélez absent his offer to help her and their encounter left her in tears.

This trial evidence, along with reasonable inferences and credibility determinations made in the light most favorable to the government, see Acevedo-Hernández, 898 F.3d at 161, would permit a reasonable jury to conclude that Arocho, given her young age, expected her career earnings would increase by far more than $5,000 if she became a full-time nurse and that a drug-related conviction would likely jeopardize this potential financial gain. And her subjective valuation (at least $10,000) of gaining dismissal of the charge against her, along with her decision to put herself through an emotionally taxing event, support the jury's conclusion that the value to Arocho of avoiding a criminal record for a drug-related charge was at least $5,000. That is to say, Arocho's subjective valuation, which was corroborated by objective indicia supporting that valuation, supports the jury verdict.

Moreover, this is not a case where there was evidence only of Arocho's subjective valuation. Throughout her criminal proceedings, Arocho accrued legal fees and fines that she could have avoided had Vélez successfully gotten her case dismissed. Again, there were seventeen hearings scheduled in Arocho's case after she hired private counsel, and private counsel charged her $400 per court appearance. Arocho also had to pay a $1,000 fine, an additional $400 to her attorney to have her criminal record expunged, and a $100 bond. Assuming Arocho attended all seventeen hearings (a point to which we return below) these costs amount to

$8,300. And on top of these costs, each time that Arocho had to attend a hearing, she missed work, where she would have earned eight dollars an hour.

Vélez makes several unavailing arguments in response. First, he asserts that Arocho's subjective valuation -- that she would pay at least $10,000 to avoid a criminal record -- should not be used as a proxy for the bribe's value. He contends that relying on Arocho's "personal assessment of value, without more . . . would effectively vitiate" the transactional element. While that sometimes may be true, the argument does not describe this case. As noted, the government relied on several pieces of evidence to prove its point, not just Arocho's "personal assessment." A reasonable jury could have linked Arocho's subjective valuation with her concerns for her career and future earning potential to conclude that Arocho understood that she had much to lose given her present circumstances. It also could have considered Arocho's $1,000 fine, $400 expungement fee, $100 bond, and other calculable expenditures related to her hearing schedule and hourly wages. We need not decide whether Vélez's conviction could be sustained had the government relied solely on Arocho's subjective valuation because that is not the situation we face.

Next, Vélez contends that many of the costs submitted as evidence at trial were artificially inflated. Specifically, Vélez asserts that (1) Arocho had so many scheduled court proceedings because his failure to show up in court and his tampering with the evidence stalled the prosecution, and (2) Arocho would have incurred substantially fewer costs had she stuck with her Legal Aid attorney. He contends that these costs increased the value of the bribe after it was initially accepted, that he could not have anticipated that change, and that the costs therefore should not be considered when determining the value of the transaction.

This argument does not work for several reasons. As an initial matter, we do not see why Vélez's tampering with evidence and his failure to appear in court should work to his benefit. We also do not see why Vélez should benefit from Arocho's decision to exercise her right to select her preferred counsel. Vélez had no reason to anticipate that Arocho would choose a Legal Aid lawyer or otherwise avoid attorney's fees. So, under the logic of Vélez's own argument, which hinges on his expectation of Arocho's costs, it would not make sense to reduce Arocho's attorney's fees to zero.

Moreover, valuation methods that look to the value derived by a bribe-giver inherently permit valuation based on information that may be unknown to the official when he accepts the bribe. Here, for example, Vélez could have known in the abstract that Arocho wanted to avoid a criminal charge but not specifically that she feared that the charge would affect her career earning potential. That fact would not insulate Vélez from culpability.

In any event, our prior cases have assessed the value of a business or transaction using information that was not known when the deal was struck. In Acevedo-Hernández, for example, a Puerto Rico trial judge was initially bribed with offers of jobs for his family members and an appellate judgeship, which came with a salary raise. 898 F.3d at 155. In assessing the value of the bribe, we considered not only these expected benefits, but also restaurant and bar tabs, along with labor costs associated with home improvements, that did not arise until after the initial agreement. Id. at 164.

Finally, Vélez points to several lines of testimony suggesting that not all seventeen hearings occurred due to rescheduling. This, he continues, means that Arocho likely spent less on legal fees than the full $8,300 identified above. The record does not reveal how many of the hearings were cancelled without Arocho making an appearance, only that seventeen were scheduled. Nevertheless, she clearly made some appearances, including for a probable cause hearing in August 2016, and for her sentencing in April 2017. At the minimum, the jury could have inferred that Arocho had to pay attorney's fees of some amount in addition to the fine and the bond that she paid, and further, that this sum numbered somewhere in the thousands.

But even if a jury could not have reasonably concluded that Arocho's legal fees were at least $5,000, Vélez's arguments, viewed collectively, fail for a more fundamental reason. The government was tasked with demonstrating the value of an intangible good that defies precise or readily quantifiable valuation -- Arocho's ability to avoid the immediate and long-term burdens associated with the criminal process and a criminal history. To do so, it presented evidence related to Arocho's career earning potential, evidence that Arocho incurred legal fees, evidence that Arocho missed work to attend hearings, and evidence of the emotional cost that Arocho suffered. None of these pieces of evidence are literal proxies for the cost of avoiding the criminal process or a criminal conviction; but together, they paint a picture of that value. See Delgado, 984 F.3d at 448-49.

Vélez's attempts to question Arocho's subjective valuation, reduce the appropriate cost of her attorney, and trim the number of hearings Arocho attended do not meaningfully undermine that image. Though the government could have offered stronger evidence -- for example, explicit testimony about how Arocho's career earning potential would be affected by a criminal record or receipts for Arocho's attorney's fees -- we cannot say that the "sum" of the evidence was so trifling that "no rational jury could have found [Vélez] guilty beyond a reasonable doubt." Acevedo-Hernández, 898 F.3d at 161 (quoting United States v.

Acosta-Colón, 741 F.3d 179, 191 (1st Cir. 2013)). Accordingly, we reject Vélez's sufficiency-of-the-evidence argument.

RIGHT AGAINST SELF-INCRIMINATION

Vélez's second challenge on appeal is that the government improperly commented on his failure to testify in its rebuttal closing argument. A comment of this sort can violate a defendant's Fifth Amendment right not to "be compelled in any criminal case to be a witness against himself," Const. amend. V. See Gomes v. Brady, 564 F.3d 532, 537 (1st Cir. 2009). We reproduce the alleged violation in its entirety, including the emphases from Vélez's brief:

> But, you know, I want you to consider, <u>in a situation like this, where a bribe is offered and a bribe is received</u>, how common or uncommon is it that a person either making the bribe or receiving the bribe is going to post it on Facebook or Instagram, or any other social media, is going to write somewhere for everyone to see, or whether <u>those agreements happen in secret between the two parties, and usually nobody knows about what happened there except those two people?</u>
>
> <u>Sometimes we learn about it from one of those people because they speak up. And in this case, you may consider whether you learned about what happened between the two because of one person or because [of] the two people who were involved in that agreement and conversation? You heard from [Arocho], how she said that they agreed to that before having sex.</u> I even asked her, Did you have sex because you found him handsome? She said no. She said more than once, I had sex with him because he promised me to help me with my case. And I asked, What did that mean? To

> get it thrown out. So [Arocho] was one of the two parties involved in that agreement. And I ask you whether the evidence that the United States presented to you that [Vélez] himself said that weighs to prove that element of the crime.

Vélez did not object to this statement at trial and so, as he concedes, our review is for plain error. See Fed. R. Crim. P. 52(b). Among other requirements, this standard of review mandates that there was a "clear or obvious error." United States v. Bruno-Cotto, 119 F.4th 201, 206 (1st Cir. 2024). There was not.

As is often the case with challenges of this type, some context helps. See, e.g., United States v. Vazquez-Larrauri, 778 F.3d 276, 286 (1st Cir. 2015) (citing United States v. Sepulveda, 15 F.3d, 1161, 1187 (1st Cir. 1993)). In his closing statement, Vélez argued that the government failed to show that he agreed to help get Arocho's criminal case dismissed. On rebuttal, the government made the above-quoted statement, explaining that bribe-takers rarely announce publicly their crimes but that the jury could still convict because it had heard from the bribe-giver, Arocho. The government then informed the jury that it had heard corroborating testimony from Burgos, the FBI informant who had stated that Vélez told him about the bribe.

These statements did not obviously leverage Vélez's decision not to testify at trial. Instead, "assigning ordinary words their most natural meaning," the government's rebuttal highlighted proof to fill an evidentiary gap to which Vélez had pointed. Sepulveda, 15 F.3d at 1187. In other words, the government was emphasizing evidence that was presented, not the absence of evidence resulting from Vélez's silence. Given that the government's rebuttal was not "manifestly intended or was of such character that the jury would naturally and necessarily take it to be a comment on the failure of the accused to testify," we fail to see a clear or obvious error. United States v. Laboy-Delgado, 84 F.3d 22, 31 (1st Cir. 1996) (quoting United States v. Lilly, 983 F.2d 300, 307 (1st Cir. 1992)).

Affirmed.