

Filed February 12, 2002

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 00-5237, 00-5238, 00-5261

UNITED STATES OF AMERICA

v.

LINETTE PEREZ, Appellant in No. 00-5237

UNITED STATES OF AMERICA

v.

JUANCHO ALCANTERA, Appellant in No. 00-5238

UNITED STATES OF AMERICA

v.

EDMUNDO BATOON, Appellant in No. 00-5216

Consolidated Appeals From the
United States District Court
For the District of New Jersey
(D.C. Crim. No. 99-cr-00100-3, No. 99-cr-00100-4 and
No. 99-00100-6)
District Judge: Honorable John W. Bissell

Argued: December 12, 2000

Before: SCIRICA, AMBRO, Circuit Judges, and
POLLAK, District Judge*

* The Honorable Louis H. Pollak, Senior District Judge for the Eastern
District of Pennsylvania, sitting by designation.

ORDER AMENDING SLIP OPINION

It is now ordered that the Slip Opinion in the above case
filed February 4, 2002, be amended as follows:

On Page 23, Footnote 13 should read in full:

This begs the question of what happens if the
Government alleged facially valid venue in the
indictment but offered no testimony at trial proving
venue. If no defense objection is raised at or before the
close of the Government's case-in-chief, Sandini and
Polin instruct that, notwithstanding the lack of
prosecution testimony, the venue defense is waived.
Sandini, 803 F.2d at 127; Polin, 323 F.2d at 557.

A related question is what happens when facially valid venue is alleged in the indictment, the Government presents no evidence on venue during its case-in-chief, and the defense objects at the close of the Government's case. In that case the District Court has the discretion to allow the Government to reopen its case. This "give[s] the government an opportunity . . . to provide additional proof, if possible, to cure an insufficient presentation on venue." Turley , 891 F.2d at 61.

By the Court,

/s/Thomas L. Ambro
Circuit Judge

Dated: February 12, 2002

A True Copy:
Teste:

Clerk of the United States Court of Appeals
for the Third Circuit