



1 DENNIS K. BURKE  
 2 United States Attorney  
 3 District of Arizona  
 4 405 W. Congress, Suite 4800  
 5 Tucson, Arizona 85701-5040  
 6 Telephone (520) 620-7300

6 UNITED STATES DISTRICT COURT  
 7 DISTRICT OF ARIZONA

9 United States of America,  
 10  
 11 Plaintiff,  
 12 v.  
 13 Jorge BERNAL-Enriquez  
 14 Defendant

09-00532M

PLEA AGREEMENT  
 (Flip-Flop)

Fast Track 5K3.1

16 The parties enter into the following agreement:

17  
 18 1. Defendant will enter a plea to Count 2 of the complaint, Alien Eluding  
 19 Examination and Inspection by Immigration Officers of the United States, a misdemeanor  
 20 offense, in violation of Title 8, United States Code, Section 1325. This plea will occur no  
 21 later than the time set for the detention hearing/preliminary hearing.

22  
 23 2. The government will dismiss Count 1 of the complaint, Illegal Re-Entry After  
 24 Deportation, a felony, in violation of Title 8, United States Code, Section 1326(a) and (b)  
 25 (1). This charge, if proven, carries a maximum sentence of ten (10) years imprisonment, a  
 26 \$250,000.00 fine, three (3) years supervised release, and a \$100.00 special assessment.

27 The government will dismiss this charge at the time of sentencing.  
 28

1           3. The maximum penalties for the offense to which I am pleading are six (6)  
2 months in custody, a \$5,000.00 fine. The government agrees to waive the \$10.00 special  
3 assessment.  
4

5           4. Pursuant to this plea agreement, the government and the defendant stipulate and  
6 agree to a sentence of     one hundred twenty     (120 ) consecutive days of imprisonment  
7 to be served in a designated Bureau of Prisons facility.  
8

9           5. The parties waive a Pre-Sentence Report and agree that sentencing will occur on  
10 the date of the change of plea. The defendant understands and agrees this plea agreement  
11 contains all the terms, conditions and stipulations regarding sentencing. If the court departs  
12 from the terms and conditions set forth in this plea agreement, either party may withdraw.  
13

14           6. Pursuant to this plea, the defendant waives: (1) any right to appeal the Court's  
15 entry of judgment against the defendant; (2) any right to appeal the imposition of sentence  
16 upon defendant under Title 18, United States Code, Section 3742 (sentence appeals); and  
17 (3) any right to collaterally attack defendant's conviction and sentence under Title 28,  
18 United States Code, Section 2255, or any other collateral attack. If the defendant files a  
19 notice of appeal or a habeas petition, notwithstanding this agreement, defendant agrees that  
20 this case shall, upon motion of the government, be remanded to the district court to  
21 determine whether defendant is in breach of this agreement and, if so, to permit the  
22 government to withdraw from the plea agreement.  
23  
24  
25

26           7. If the defendant was on supervised release at the time the present offense was  
27 committed, the government may withdraw from the plea agreement.  
28

1           8. The defendant admits that the defendant was the subject of a previous order of  
2 removal, deportation or exclusion. The defendant agrees to the reinstatement of that  
3 previous order of removal, deportation or exclusion. The defendant admits that he does not  
4 have a fear of returning to the country designated in the previous order. If this plea  
5 agreement is accepted by the court, the defendant agrees not to contest, either directly or by  
6 collateral attack, the reinstatement of the prior order of removal, deportation or exclusion.  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **9. Factual Basis for Plea:**

2 I, Jorge BERNAL-Enriquez, am a citizen of MEXICO. On or about October 02,  
3 2009, at or near Hereford, Arizona, in the District of Arizona, I, Jorge BERNAL-  
4 Enriquez, was found in the United States. I admit that prior to my re-entry, I was  
5 lawfully denied admission, excluded, deported and removed from the United States  
6 through Harlingen, Texas on August 27, 2009. I did not obtain the express consent  
7 of the Attorney General or the Secretary of the Department of Homeland Security  
8 to re-apply for admission to the United States prior to my illegal presence in the  
9 United States. Furthermore, as evidenced by my illegal presence in the United  
10 States, I admit that I entered the the United States of America from the United  
11 States of Mexico, at a time and place other than as designated by Immigration  
12 Officers of the United States of America.

13  
14 Dated this 7<sup>th</sup> day of October, 2009.

15  
16  
17 Jorge L Bernal E

18 Jorge BERNAL-Enriquez  
19 Defendant

20  
21 Michael P. Quinn

22 Defense Counsel

23  
24 DENNIS K. BURKE  
25 United States Attorney  
26 District of Arizona

27 Monte C. Clark

28 Special Assistant U.S. Attorney