

UNITED STATES DISTRICT COURT  
 ARIZONA DISTRICT COURT

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MAY 21 2007	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY	S. BEPHTY

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 GUILLERMO RIOS BUSTAMANTE,

Movant,

Vs.

Docket No. 06-CR-00843-001-PHX-SMM

UNITED STATE OF AMERICA

Respondent.  
 -----

MOTION AS REQUEST FOR THE REDUCTION OF  
 TIME FROM 6 TO 18 MONTHS AS A DEPORTABLE  
 ALIEN PURSUANT TO 18 U.S.C. § 3553 (b)  
 3582 (c)(2); 28 U.S.C. § 994 (d);  
 U.S.S.G. Ch. 1pt, A Inter 4 (b).

Comes now, GUILLERMO RIOS BUSTAMANTE, hereafter Movant, acting pro se and moves this Honorable Court to grant reduction of 6 to 18 months a downward departure and/or a sentence out of the United States Sentencing Guidelines as it deem fit and proper or by statute governing the Movant's Act pursuant to 242 (h)(a) of the Immigration and Naturalization Act amended in 8 U.S.C. § 1252 (h)(2)(a), as grounds for this request Movant respectfully submits:

1. This amendment is part of future streamlining deportation process for non-violent offenders to be deported prior to the completion of their sentence.

2. Movant, is a citizen of the Republic of Mexico, was convicted in the United States District Court Arizona, 401 West Washington St. Phoenix, Az. 85003

to count(s) 21:952 (A) Importation of 5 Kilos or more of a mixture or subs containing a detectable amt of Cocaine, its salts, optical ang geometric isomers and salts of isomers.

3. Pursuant to the United States V. Gaither, 1 F.3d 1040 (10th Cir.1993) trial courts may properly depart downward from sentencing guidelines if sentencing did not account for mitigating factor in United States V. Smith, 27 F.3d at 649 (D.C. 1994)(the defendant's ineligibility for pre-release custody and minimum security confinement as a result of his status as a deportable alien constituted a mitigating facts to be considered by the trial court). See also United States V. White, 71 F.3d 920,922 (1995)(trial

court granted defendant six months downward departure in accordance with Smith because defendant was an alien and accepted deportation, given up right to appeal) and United States V. Agu, 763 F. Suoo. 703 (1993)(trial court departed downward to account for mitigating circumstances stemming from consequences of alien defendant's accepting deportation).

4. Movant is now rendered ineligible to participate in drug rehabilitation programs as well title 18 U.S.C. § 3621, successful candidate typically obtain up to one year - reduction sentence up completion of the course.

5. Movant's disqualification for community supervised release "after care" as a result of his immigration detainer render him ineligible for this programs 18 U.S.C. §3621 (e).

Movant is further barred from from qualifying of early release pursuant to 18 U.S.C. § 3624 (c). A program that enables the prisoner to be phrased in to the community up six months prior to his release date.

6. As example of how this benefits create sentencing disparity, Movant illustrate - the following case:

(1) An American citizen sentenced to 60 months for drug offense is eligible for a maximum reduction in this sentence of one year drug program, and six months half-way -- house.

Without considering good time credits, which is common to all inmates, the American Citizen is out on the street a year and a half earlier than his alien counter part.

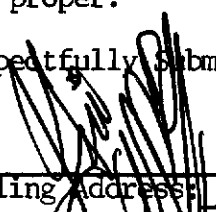
(2) This disparate treatment is underserved and constitutes a violation of equal protection rights as provided in the Fourteenth Amendment of the United States Constitution.

Movant respectfully ask to this H. Court for consideration to grant a downward - departure and/or in the alternative a sentence out side of the United States Sentencing Guidelines, as stipulated by the Attorney General of the United States in return for the alien consequence of deportation (U.S.S.G. § 5K2.0 a at page 2).

Movant offers no challenge whatsoever to the United States attempt to deported me and agree fully with their attempt to do so.

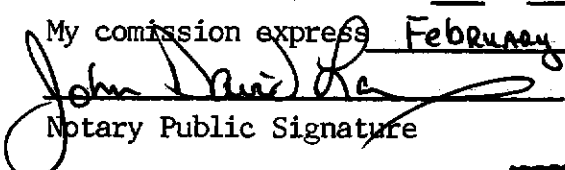
Petitioner prays this H. Court to grant any relief this H. Court consider just and proper.

Respectfully Submitted,

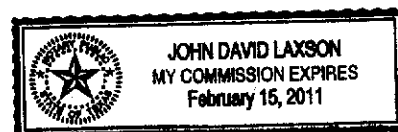
  
Mailing Address: Id No. - 68907208  
CCA/ Eden Detention Center  
P.O. Box 605  
Eden, Tx. 76837-0605

Sworn before me John David Laxson Notary Public  
for State Texas, on this 15<sup>th</sup> of MAY 2007.

My commission expires February 15, 2011

  
Notary Public Signature

NOTARY PUBLIC SEAL



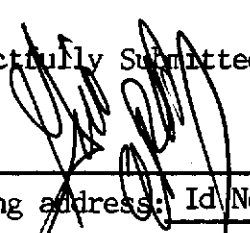
CERTIFICATE OF SERVICE

Guillermo Rios Bustamante movant mailed a copy of this motion to the  
United States Attorney for the District Court Arizona

Mailing Address: 401 West Washington St.  
Phoenix, Az. 85003

Under penalty of perjury under 28 U.S.C. § 1746, on the 09 day of May  
2007.

Respectfully Submitted,

  
Mailing address: Id No.- 68907208  
CCA/ Eden Detention Center  
P.O. Box 605  
Eden, Tx. 76837-0605

INSTITUTION: EDN EDEN CI

NAME.....: RIOS-BUSTAMANTE, GUILLERMO EMILIANO  
RESIDENCE...: , MX

REG. NO: 68907-208

TYPE OF REVIEW.....: ~~INITIAL CLASSIFICATION~~/PROGRAM REVIEW

NEXT REVIEW DATE.....: August 14, 2007

PROJ. RELEASE DATE...: 05-04-2010  
PAROLE HEARING DATE...: NONE

RELEASE METHOD...: GCT REL  
HEARING TYPE...: NONE

DATE OF NEXT CUSTODY REVIEW: 8-31-07

DETAINERS (Y/N): Y

CIM STATUS (Y/N)....: N

IF YES, RECONCILED (Y/N): N

PENDING CHARGES.....: Bre.

OFFENDER IS SUBJECT TO NOTIFICATION UNDER 18 U.S.C. 4042(B) (Y/N)....: X  
IF YES - CIRCLE ONE - DRUG TRAFFICKING/CURRENT VIOLENCE/PAST VIOLENCE

CATEGORY	---	CURRENT ASSIGNMENT	---	EFF DATE	TIME
CMA	IHP PART	INS INST HRNG PGM PARTICIPANT		02-06-2007	1405
CMA	PROG RPT	NEXT PROGRESS REPORT DUE DATE		01-31-2010	1406
CMA	RPP INELIG	RELEASE PREP PGM INELIGIBLE		02-06-2007	1406
CMA	V94 CDA913	V94 CURR DRG TRAF ON/AFT 91394		02-06-2007	1406
CJS	IN	IN CUSTODY		01-04-2007	0930
DRG	DRG I NONE	NO DRUG INTERVIEW REQUIRED		02-06-2007	1407
EDI	ESL EXEMPT	ESL NEED-PERMANENTLY EXEMPT		02-01-2007	1503
EDI	GED XN	EXEMPT GED NON-PROMOTABLE		02-01-2007	1502
FRP	UNASSG	FINANC RESP-UNASSIGNED		01-04-2007	0930
LEV	LOW	SECURITY CLASSIFICATION LOW		01-04-2007	1034
MDS	NOT MED CL	NOT MEDICALLY CLEARED		01-04-2007	0930
QTR	F03-052U	HOUSE F/RANGE 03/BED 052U		02-05-2007	0924
RLG	UNKNOWN	RELIGION UNKNOWN		01-04-2007	0930
WRK	UNASSG	UNASSIGNED		01-31-2007	1905

WORK PERFORMANCE RATING: Initial

INCIDENT REPORTS SINCE LAST PROGRAM REVIEW: Initial

FRP PLAN/PROGRESS: TRUST FUND DEPOSITS PAST 6 MO: \$ 0

FRP PAYMENTS PAST 6 MO: \$ 0 OBLG BALANCE: \$ 100<sup>02</sup>

CURRENT FRP PLAN: \$ Part PAYMENTS COMMENSURATE: YES    / NO   ✓  

IF NO, NEW PAYMENT PLAN: Doc agree to pay on FRP and was canceled on FRP actual consequence at this time

RELEASE PREPARATION PARTICIPATION: Not Eligible Basic Skills

CCC RECOMMENDATION: Not Eligible Basic Skills

PROGRESS MADE SINCE LAST REVIEW: Failed

GOALS FOR NEXT PROGRAM REVIEW MEETING: To perform FPP as agreed on monthly payments and to continue with auto-job in education also to also to take advantage of all programs and classes here at CCA Edson Team will review in Report.

LONG TERM GOALS: Maintain good conduct and keep living suggestions clean at all times. To perform FPP and to maintain job at education as a tutor and to enroll in programs and classes by next term also to save money at 3 a month for release. Team will review in Report.

OTHER INMATE REQUESTS/TEAM ACTIONS:  
407 9408 verified  
Visitation and phone list updated  
Security designation and needs reviewed  
Judicial Recommendation Reval FPP

Re: Logson Christian FPP Point Treat No FPP

