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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,  
Plaintiff,

vs.

Demetrio Perez-Velasquez,  
Defendant.

CR-09-292-PHX-DGC

FINDINGS AND RECOMMENDATION  
OF THE MAGISTRATE JUDGE UPON  
A PLEA OF GUILTY AND ORDER

Upon Defendant's request to enter a plea of Guilty pursuant to Rule 11 of the Federal Rules of Criminal Procedure, this matter was referred to the Magistrate Judge by the District Court and came on for hearing before U.S. Magistrate Judge Edward C. Voss on August 6, 2009, with the written consents of the Defendant, counsel for the Defendant, and counsel for the United States of America.

The undersigned magistrate judge accepted Defendant's waiver of indictment after inquiry was made of the Defendant as to his understanding of the right to prosecution by indictment that he was waiving. Thereafter, the matter came on for a hearing on Defendant's plea of guilty in full compliance with Rule 11, Federal Rules of Criminal Procedure, before the undersigned magistrate judge in open court and on the record.

In consideration of that hearing and the statements made by the Defendant under oath on the record and in the presence of counsel, and the remarks of the Assistant United States Attorney and of counsel for Defendant,

(A) I FIND as follows:

1 (1) that the Defendant understands the nature of the charge against him to  
2 which the plea is offered;

3 (2) that the Defendant understands his right to trial by jury, to persist in his  
4 plea of not guilty, to the assistance of counsel at trial, to confront and cross-examine  
5 adverse witnesses, and his right against compelled self-incrimination;

6 (3) that the Defendant understands what the maximum possible sentence is,  
7 including the effect of the supervised release term, and defendant understands that the  
8 sentencing guidelines are only advisory and that the court is free to exercise its  
9 discretion to impose any reasonable sentence allowed by law;

10 (4) that the plea of Guilty by the Defendant has been knowingly and  
11 voluntarily made and is not the result of force or threats or of promises apart from the  
12 plea agreement between the parties;

13 (5) that the Defendant is competent to plead guilty;

14 (6) that the Defendant understands that his answers may later be used  
15 against him in a prosecution for perjury or false statement;

16 (7) that the Defendant understands that by pleading guilty he waives the right  
17 to a trial, the right to a direct appeal, and the right to a collateral attack; and,

18 (8) that there is a factual basis for the Defendant's plea; and further,

19 (B) I RECOMMEND that the plea of guilty to the Information be accepted subject  
20 to the Court's acceptance of the plea agreement which shall remain lodged with the  
21 Court pending Judge Campbell's decision whether to accept or reject the plea  
22 agreement after review of the presentence report.

23 **ORDER**

24 IT IS ORDERED that any objection(s) to the guilty plea proceedings and any  
25 request(s) for supplementation of those proceedings be made by the parties in writing  
26 and shall be specific as to the objection(s) or request(s) made. All objections or requests  
27 for supplementation shall be filed within ten (10) days of the date of service of a copy of  
28 these findings unless extended by an Order of the assigned district judge.

1 IT IS FURTHER ORDERED that any letters, documents, or other matters  
2 defendant would like the sentencing judge to consider before sentencing (including the  
3 English translation of any writings not in English) must be submitted in paper form with  
4 the original to the probation office and copies to the sentencing judge and opposing  
5 counsel no later than seven (7) business days prior to the sentencing date or they may  
6 be deemed untimely by the sentencing judge and not considered. (ECF Manual, II § N  
7 at 24)

8 IT IS FURTHER ORDERED that any motions for upward or downward departures  
9 or any sentencing memoranda must be filed at least seven (7) business days prior to the  
10 sentencing date. Responses are due three (3) business days prior to the sentencing  
11 date. Any motion to continue the sentencing date shall be filed at least three (3)  
12 business days prior to the sentencing date.

13 DATED this 6th day of August, 2009.

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Edward C. Voss  
United States Magistrate Judge

25 Copies to: AUSA, Defense Counsel