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6 **IN THE UNITED STATES DISTRICT COURT**
 7 **FOR THE DISTRICT OF ARIZONA**

8 United States of America,)	
)	CR08-601-TUC-FRZ-JCG
9 Plaintiff,)	
)	
10 vs.)	
)	SENTENCING MEMORANDUM
11 Cindy Alice Alvarado,)	
)	
12 Defendant.)	(Sentencing: October 9, 2009)
13)	

14 Defendant, **Cindy Alice Alvarado**, through counsel, files the attached Memorandum
 15 of Points and Authorities for consideration of a sentence of either probation, or time served
 16 with a term of supervised release, at the time of sentencing.

18 **RESPECTFULLY SUBMITTED:** October 2, 2009.

20 JON M. SANDS
 Federal Public Defender

21 /s/ Deirdre M. Mokos
 22 DEIRDRE M. MOKOS
 23 Assistant Federal Public Defender

24 ECF Copy to: Raquel Arellano, AUSA
 Glenn Parks, USPO

25 cc: Cindy Alvarado
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 When imposing a sentence the Court must consider the following factors:

3 The court shall impose a sentence sufficient, but not greater than necessary, to
4 comply with the purposes set forth in paragraph (2) of this subsection. The court, in
determining the particular sentence to be imposed, shall consider—

5 (1) the nature and circumstances of the offense and the history and
characteristics of the defendant;

6 (2) the need for the sentence imposed –

(A) to reflect the seriousness of the offense, to promote respect for the
law, and to provide just punishment for the offense;

7 (B) to afford adequate deterrence to criminal conduct;

8 (C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational
training, medical care, or other correctional treatment in the most
9 effective manner;

10 (3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for –

11 (A) the applicable category of offense committed by the applicable
category of defendant as set for in the guidelines – . . .¹

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13 One cannot simply separate Cindy Alvarado from her family. Cindy and her husband
14 are dedicated to their family. They split their work schedules so that they can care for their
15 children (this also saves child care costs). And it seems to be paying off. By all measures
16 and according to her teachers, F.A. is an outstanding student.² Due to her hard work she has
17 been rewarded by being chosen for "MESA" at Amphitheater Middle School which stands
18 for Mathematics, Engineering and Science Achievement. She has also achieved excellent
19 grades in her Advanced Orchestra class and dreams of becoming a professional orchestra
20 player. But her dreams may be foreclosed if one or both of her parents are sent to prison.

21 F.A.'s grandmother has responded as most loving grandparents would respond: at age
22 sixty-two, long after she finished raising her children, she is willing to jump back into the
23 world of small children to care for her four grandchildren. But in reality the children will

24 _____
25 ¹18 U.S.C. § 3553, *U.S. v. Booker*, 543 U.S. 220 (2005).

26 ²Documentation has been submitted separately.

1 still suffer. F.A., for example will no longer be able to participate in MESA in which she
2 received the third place engineering award. F.A.'s grandmother presently lives in Eloy and
3 would likely have to relocate to Tucson which will force her into maintaining two homes.
4 Either that or the children would have to move to Eloy which will have a severe impact on
5 F.A.'s life. F.A.'s grandmother currently works from 3:00 p.m. to midnight. She will have
6 to change her schedule to be there for the children when they get out of school or she will
7 have to incur childcare costs which will substantially reduce whatever she usually counts on
8 to support herself in just one house. And she will have to make arrangements for childcare
9 for the youngest children who are not in school. This will be an immense financial burden.
10 On the other hand, Cindy can and does provide a better, stable environment for them - free
11 from the chaos they will face if she is incarcerated. By doing so, she can prevent them from
12 having problems in the future.

13 Also important is the fact that Cindy has done well on pre-trial release for about one
14 and one-half years, since April 14, 2008. There have been no incidents. Even her offense
15 was a short-lived departure from an otherwise law-abiding life. Instead of getting in trouble,
16 Cindy has stayed focused despite the stress of her present situation and finished her degree.

17 Further, Cindy and her family have modified their lifestyle. They no longer live in a
18 four bedroom house. They now live in a two bedroom apartment. Their 1997 vehicle is paid
19 off. Their other vehicle is on loan from Cindy's mother. For entertainment, the family is
20 sticking with low or no cost activities. For example, they can go bowling as a family and
21 without cost due to Mr. Alvarado's employment at a bowling alley. And they make more use
22 of the local parks.

23 Additionally, Cindy will be paying restitution. She needs to work in order to earn the
24 money to pay the restitution. And she is presently employed with an employer who knows
25 her circumstances and will continue to employ her. But if Cindy were to be incarcerated, that
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1 job will have to be filled by someone else and there may not be another job with such an
2 understanding employer, especially in this economy and for a person with a felony
3 conviction.

4 Finally, probation, or time served with a term of supervised release is punishment,
5 especially in this case. Cindy has not had to report to a pre-trial services officer, but she will
6 have to report to a Probation Officer. She will be subject to searches. Her purchases and her
7 life will be scrutinized. If she is on supervision, she can take classes. Due to the 0-6 month
8 guidelines in this case and the designation delay it is unlikely that she would get any real
9 education and/or vocational training that she can use from BOP if she were to be
10 incarcerated. Also, if she violates, the Court can always send her to prison in the future.
11 Right now she is very concerned about the possibility of going to prison. This will loom
12 large over her and serve as motivation for her to do well on probation or supervised release.

13 **Conclusion**

14 Cindy Alvarado has no prior criminal history. She knows that she was wrong and she
15 is remorseful for what she did. She accepted responsibility, pled guilty, and will pay
16 restitution. She has never wavered in her acceptance of responsibility. She has been steadily
17 employed, found an employer who will keep her despite her conviction, and has even
18 graduated from college despite the stressful situation she has faced. The fact that she has
19 remained employed, sought employment that she can keep and graduated from college
20 demonstrate that she is responsible and motivated. And, most importantly, she has continued
21 caring for her children and continued to maintain her close knit family.

22 If she were to be sent to prison, her family would be irreparably harmed. But
23 probation, or time served and a period of supervised release, are available for her offense.
24 Sentencing Cindy to either probation, or to the time she has already served along with a term
25 of supervised release, will provide the best opportunity for Cindy to remain on track, to

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1 continue working and to continue caring for her children.

2 Incarceration is not necessary to prevent another offense. Cindy has been released on
3 her own recognizance for about one and one-half years, since April 14, 2008, and there have
4 been no further incidents.

5 For all of the above reasons, Cindy respectfully requests this Court to sentence her to
6 either probation, or to time served and a term of supervised release, a sentence that is
7 sufficient, but not greater than necessary to comply with the purposes set forth in 18 U.S.C.
8 § 3553. *See also, U.S. v. Booker, 543 U.S. 220 (2005).*

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