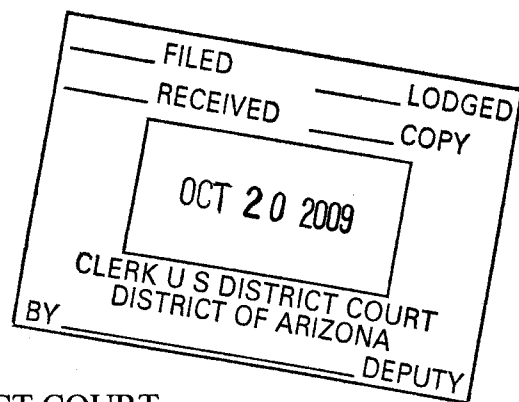


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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA

9
10 United States of America,
11
12 Plaintiff,
13 v.
14 Leobardo ROQUE-Riano
15 Defendant

09-33460-M-CRP

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).

25 This charge if proven, carries a maximum sentence of two (2) years imprisonment, a
26 \$250,000.00 fine, one (1) year supervised release, and a \$100.00 special assessment. The
27 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 forty-five (45) 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
12 departs from the terms and conditions set forth in this plea agreement, either party may
13 withdraw.
14

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

25 7. If the defendant was on supervised release at the time the present offense was
26 committed, the government may withdraw from the plea agreement.
27
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
4 not 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
6 by collateral attack, the reinstatement of the prior order of removal, deportation or
7 exclusion.
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1 **9. Factual Basis for Plea:**

2 I, Leobardo ROQUE-Riano, am a citizen of MEXICO. On or about October 19,
3 2009, at or near Menagers, Arizona, in the District of Arizona, I, Leobardo
4 ROQUE-Riano, was found in the United States. I admit that prior to my re-entry, I
5 was lawfully denied admission, excluded, deported and removed from the United
6 States through Nogales, Arizona on April 21, 2009. I did not obtain the express
7 consent of the Attorney General or the Secretary of the Department of Homeland
8 Security to re-apply for admission to the United States prior to my illegal presence
9 in the United States. Furthermore, as evidenced by my illegal presence in the
10 United States, I admit that I entered the the United States of America from the
11 United States of Mexico, at a time and place other than as designated by
12 Immigration Officers of the United States of America.

13
14 Dated this 20th day of OCTOBER, 2009.

15
16
17 Leobardo Roque Riano

18 Leobardo ROQUE-Riano
19 Defendant

20 Raul A. Miranda

21
22 Defense Counsel - RAUL A. MIRANDA

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

27 William L. Burke, Jr.
28 Special Assistant U.S. Attorney