

FILED	LODGED
RECEIVED	COPY
NOV - 4 2009	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

UNITED STATES DISTRICT COURT
 DISTRICT OF ARIZONA

#09-34414M(Jm)

United States of America,

 Plaintiff,

 v.
 Alisandro MERINO-Cortez
 Defendant

PLEA AGREEMENT
 (Flip-Flop)

Fast Track 5K3.1

The parties enter into the following agreement:

1. Defendant will enter a plea to Count 2 of the complaint, Alien Eluding Examination and Inspection by Immigration Officers of the United States, a misdemeanor offense, in violation of Title 8, United States Code, Section 1325. This plea will occur no later than the time set for the detention hearing/preliminary hearing.
2. The government will dismiss Count 1 of the complaint, Illegal Re-Entry After Deportation, a felony, in violation of Title 8, United States Code, Section 1326(a). This charge if proven, carries a maximum sentence of two (2) years imprisonment, a \$250,000.00 fine, one (1) year supervised release, and a \$100.00 special assessment. The government will dismiss this charge at the time of sentencing.

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 thirty (30) 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
26

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

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.
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, Alisandro MERINO-Cortez, am a citizen of Mexico. On or about November 03,
3 2009, at or near Amado, Arizona, in the District of Arizona, I, Alisandro
4 MERINO-Cortez, was found in the United States. I admit that prior to my re-
5 entry, I was lawfully denied admission, excluded, deported and removed from the
6 United States through Harlingen, Texas on August 25, 2009. I did not obtain the
7 express consent of the Attorney General or the Secretary of the Department of
8 Homeland Security to re-apply for admission to the United States prior to my
9 illegal presence in the United States. Furthermore, as evidenced by my illegal
10 presence in the United States, I admit that I entered the the United States of
11 America from the United States of Mexico, at a time and place other than as
12 designated by Immigration Officers of the United States of America.

13 Dated this 4 day of NOVEMBER, 2009.

14
15
16
17 Alisandro Merino Cortez

18 Alisandro MERINO-Cortez
19 Defendant

20
21 [Signature]
22 Defense Counsel

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

27 [Signature]

28 Special Assistant U.S. Attorney