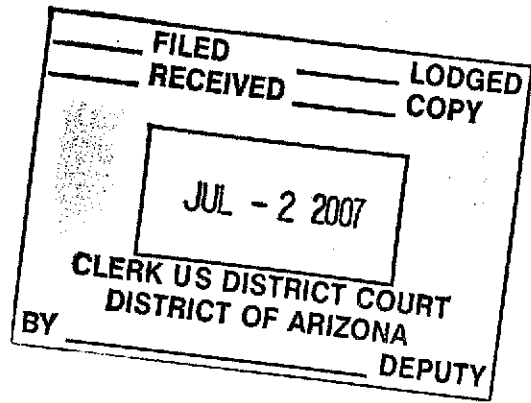


1 DANIEL G. KNAUSS
 United States Attorney
 District of Arizona
 2 AARON D. WEGNER
 Assistant U.S. Attorney
 United States Courthouse
 405 W. Congress St., Suite 4800
 Tucson, Arizona 85701-5040
 Telephone: (520) 620-7300
 Email: aaron.wegner@usdoj.gov
 6 Attorneys for Plaintiff



7 UNITED STATES DISTRICT COURT
 8 DISTRICT OF ARIZONA

9 United States of America,)
)
 10 Plaintiff,)
)
 11 v.)
 12 Alejandro Madera-Villa,)
)
 13 Defendant.)
 14

CR 07-885 - Tuc-DCB(HLE
 07-3525M
 PLEA AGREEMENT
 (Fast Track 5K3.1)
 (Defendant on a Term of Supervised
 Release for Less Than One Year)
 SR Violation No: 05-CR-1348-LAB
 (Southern District of California)

15 The United States of America and the defendant agree to the following disposition
 16 of this matter:

17 PLEA

18 The defendant agrees to plead guilty to an Indictment charging a violation of Title
 19 8 United States Code, Section 1326, enhanced by Title 8, United States Code, Section
 20 1326(b)(2), Illegal Re-entry After Deportation, a felony.

21 STIPULATIONS, TERMS AND AGREEMENTS

22 Maximum Penalties

23 A violation of 8 U.S.C. § 1326, enhanced by 8 U.S.C. § 1326(b)(2), is punishable
 24 by a maximum fine of \$250,000.00, or a maximum term of imprisonment of 20 years, or
 25 both, plus a term of supervised release of up to three years and a special assessment of
 26 \$100. The special assessment is due and payable at the time the defendant enters the plea

1 of guilty, and must be paid by the time of sentencing unless the defendant is indigent. If
2 the defendant is indigent, the special assessment will be collected according to Title 18,
3 United States Code, Chapters 227 and 229.

4 Agreements Regarding Sentence

5 Specific Offense Characteristics and Sentences

6 Pursuant to Rule 11(c)(1)(C), Fed. R. Crim. P. and U.S.S.G. § 5K3.1, the
7 government and the defendant stipulate and agree that the following is an appropriate
8 disposition of this case:

9 (A) Level 24 Offenses. Under the sentencing guidelines, as set forth in
10 U.S.S.G. § 2L1.2(a) and (b)(1)(A), if the defendant has a prior felony conviction for (i) a
11 drug trafficking offense for which the sentence imposed exceeded 13 months; (ii) a crime
12 of violence; (iii) a firearms offense; (iv) a child pornography offense; (v) a national security
13 or terrorism offense; (vi) a human trafficking offense; or (vii) an alien smuggling offense,
14 then the government and defendant agree the defendant's sentence shall be as follows:

15 30 to 37 months of imprisonment if defendant's Criminal History Category is I;

16 33 to 41 months of imprisonment if defendant's Criminal History Category is II;

17 37 to 46 months of imprisonment if defendant's Criminal History Category is III;

18 46 to 57 months of imprisonment if defendant's Criminal History Category is IV;

19 57 to 71 months of imprisonment if defendant's Criminal History Category is V;

20 63 to 78 months of imprisonment if defendant's Criminal History Category is VI.

21 (B) Level 20 Offenses. Under the sentencing guidelines, as set forth in
22 U.S.S.G. § 2L1.2(a) and (b)(1)(B), if the defendant has a prior felony conviction for a drug
23 trafficking offense for which the sentence imposed was 13 months or less, then the
24 government and defendant agree the defendant's sentence shall be as follows:

25 18 to 24 months of imprisonment if defendant's Criminal History Category is I;

26 21 to 27 months of imprisonment if defendant's Criminal History Category is II;

1 24 to 30 months of imprisonment if defendant's Criminal History Category is III;
2 30 to 37 months of imprisonment if defendant's Criminal History Category is IV;
3 37 to 46 months of imprisonment if defendant's Criminal History Category is V;
4 41 to 51 months of imprisonment if defendant's Criminal History Category is VI.

5 (C) **Level 16 Offenses.** Under the sentencing guidelines, as set forth in
6 U.S.S.G. § 2L1.2(a) and (b)(1)(C), if the defendant has a prior aggravated felony conviction
7 for any offense other than those enumerated in U.S.C.G. §§ 2L1.2(b)(1)(A) or (B), then the
8 government and defendant agree the defendant's sentence shall be as follows:

9 8 to 14 months of imprisonment if defendant's Criminal History Category is I;
10 10 to 16 months of imprisonment if defendant's Criminal History Category is II;
11 12 to 18 months of imprisonment if defendant's Criminal History Category is III;
12 18 to 24 months of imprisonment if defendant's Criminal History Category is IV;
13 24 to 30 months of imprisonment if defendant's Criminal History Category is V;
14 27 to 33 months of imprisonment if defendant's Criminal History Category is VI.

15 If the defendant has multiple convictions, which fall under more than one specific
16 offense classification level (i.e. U.S.S.G. § 2L1.2(b)(1)(A),(B), and/or (C)), the highest
17 specific offense classification level will be used in calculating the sentence which will be
18 imposed upon the defendant. The precise level of offense and number of months sentence
19 imposed will be determined by the court based upon the defendant's criminal record.

20 This agreement is conditioned on the defendant having one of the above-enumerated
21 aggravated felony convictions, and having less than 18 criminal history points. If the
22 defendant has 18 or more criminal history points, or if the government discovers a
23 conviction other than those disclosed to the defense prior to sentencing, the government
24 shall have the right to withdraw from this agreement.

25 This agreement is conditioned upon the defendant being on supervised release for
26 less than one year. If prior to sentencing the government discovers the defendant was not

1 on supervised release at the time the present offense was committed, the government
2 reserves the right to amend this agreement.

3 The defendant understands and agrees that this plea agreement contains all the terms,
4 conditions and stipulations regarding sentencing. If the defendant requests or if the court
5 authorizes (a) any downward departure; (b) any reduction of criminal history category
6 which differs from that set forth in the Presentence report; or (c) any other reduction of
7 sentence not specifically agreed to in writing by the parties, the government may withdraw
8 from the plea agreement. If the court departs from the terms and conditions set forth in this
9 plea agreement, either party may withdraw.

10 If the Court, after reviewing this plea agreement, concludes any provision is
11 inappropriate, it may reject the plea agreement under Rule 11(c)(5), Fed. R. Crim. P., giving
12 the defendant, in accordance with Rule 11(d)(2)(A), Fed. R. Crim. P., an opportunity to
13 withdraw the defendant's guilty plea.

14 Waiver of Defenses and Appeal Rights

15 The defendant waives any and all motions, defenses, probable cause determinations,
16 and objections which the defendant could assert to the information or indictment or to the
17 Court's entry of judgment against the defendant and imposition of sentence upon the
18 defendant providing the sentence is consistent with this agreement. The defendant further
19 waives: (1) any right to appeal the Court's entry of judgment against defendant; (2) any right
20 to appeal the imposition of sentence upon defendant under Title 18, United States Code,
21 Section 3742 (sentence appeals); and (3) any right to collaterally attack defendant's
22 conviction and sentence under Title 28, United States Code, Section 2255, or any other
23 collateral attack. The defendant acknowledges that this waiver shall result in the dismissal
24 of any appeal or collateral attack the defendant might file challenging his conviction or
25 sentence in this case. If the defendant files a notice of appeal or a habeas petition,
26 notwithstanding this agreement, defendant agrees that this case shall, upon motion of the

1 government, be remanded to the district court to determine whether defendant is in breach
2 of this agreement and, if so, to permit the government to withdraw from the plea agreement.

3 Reinstatement of Removal, Deportation, or Exclusion

4 The defendant admits that the defendant was the subject of a previous order of
5 removal, deportation or exclusion. The defendant agrees to the reinstatement of that
6 previous order of removal, deportation or exclusion. The defendant admits that he does not
7 have a fear of returning to the country designated in the previous order. If this plea
8 agreement is accepted by the Court, the defendant agrees not to contest, either directly or
9 by collateral attack, the reinstatement of the prior order of removal, deportation or
10 exclusion.

11 Reinstitution of Prosecution

12 Nothing in this agreement shall be construed to protect the defendant in any way
13 from prosecution for perjury, false declaration or false statement, or any other offense
14 committed by the defendant after the date of this agreement. In addition, if the defendant
15 commits any criminal offense between the date of this agreement and the date of
16 sentencing, the government will have the right to withdraw from this agreement. Any
17 information, statements, documents and evidence which the defendant provides to the
18 United States pursuant to this agreement may be used against the defendant in all such
19 proceedings.

20 If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any
21 court in a later proceeding, the government will be free to prosecute the defendant for all
22 charges as to which it has knowledge, and any charges that have been dismissed because
23 of this plea agreement will be automatically reinstated. In such event, the defendant waives
24 any objections, motions, or defenses based upon the Speedy Trial Act or the Sixth
25 Amendment to the Constitution as to the delay occasioned by the later proceedings.

26 ///

1 Defendant agrees that the stipulated sentencing ranges set forth under "Agreements
2 Regarding Sentence" will not be offered if prosecution is re-instituted.

3 Disclosure of Information to U.S. Probation Office

4 The defendant understands the government's obligation to provide all information
5 in its file regarding the defendant to the United States Probation Office. The defendant
6 fully understands and agrees to cooperate fully and truthfully with the United States
7 Probation Office in providing all information requested by the probation officer.

8 Effect on Other Proceedings

9 This agreement does not preclude the United States from instituting any civil or
10 administrative proceedings as may be appropriate now or in the future.

11 The defendant understands that if the defendant violates any of the conditions of the
12 defendant's supervised release, the supervised release may be revoked. Upon such
13 revocation, notwithstanding any other provision of this agreement, the defendant may be
14 required to serve a term of imprisonment or the defendant's sentence may otherwise be
15 altered.

16 WAIVER OF DEFENDANT'S RIGHTS

17 I have read each of the provisions of the entire plea agreement with the assistance
18 of counsel and understand its provisions. I have discussed the case and my constitutional
19 and other rights with my attorney. I understand that by entering my plea of guilty I will be
20 giving up my right to plead not guilty; to trial by jury; to confront, cross-examine, and
21 compel the attendance of witnesses; to present evidence in my defense; to remain silent and
22 refuse to be a witness against myself by asserting my privilege against self-incrimination;
23 all with the assistance of counsel, to be presumed innocent until proven guilty beyond a
24 reasonable doubt, and to appeal.

25 I agree to enter my guilty plea as indicated above on the terms and conditions set
26 forth in this agreement.

1 I have been advised by my attorney of the nature of the charge to which I am
2 entering my guilty plea. I have further been advised by my attorney of the nature and range
3 of the possible sentence.

4 My guilty plea is not the result of force, threats, assurance or promises other than the
5 promises contained in this agreement. I agree to the provisions of this agreement as a
6 voluntary act on my part, rather than at the direction of or because of the recommendation
7 of any other person, and I agree to be bound according to its provisions.

8 I agree that this written plea agreement contains all the terms and conditions of my
9 plea and that promises made by anyone (including my attorney) that are not contained
10 within this written plea agreement are without force and effect and are null and void.

11 I am satisfied that my defense attorney has represented me in a competent manner.

12 I am not now on or under the influence of any drug, medication, liquor, or other
13 intoxicant or depressant, which would impair my ability to fully understand the terms and
14 conditions of this plea agreement.

15 ELEMENTS OF THE OFFENSE

- 16 1. The defendant is an alien.
- 17 2. The defendant has been previously denied admission, excluded, deported, and
18 removed from the United States.
- 19 3. The defendant knowingly entered or was found in the United States.
- 20 4. The defendant did not obtain the express consent of the Attorney General or
21 Secretary of the Department of Homeland Security to reapply for admission to the United
22 States prior to returning to the United States.

23 FACTUAL BASIS AND SENTENCING FACTORS

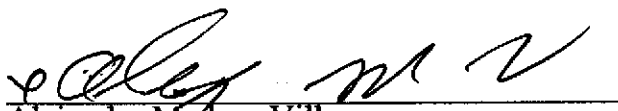
24 I agree that the following facts accurately describe my conduct in connection with
25 the offense to which I am pleading guilty and that if this matter were to proceed to trial the
26 government could prove these facts beyond a reasonable doubt:

1 I am not a citizen or national of the United States. I was deported, excluded,
2 or removed from the United States through San Ysidro, California on July 21,
3 2006. I was voluntarily present and found in the United States in Nogales,
4 Arizona on April 19, 2007. I did not obtain the express consent of the
Attorney General or Secretary of the Department of Homeland Security to
reapply for admission to the United States prior to returning to the United
States.

5 Furthermore, for sentencing purposes, I admit I was convicted of bringing in
6 illegal aliens without presentation and aiding and abetting, aggravated
7 felonies, on December 12, 2005, and I was represented by an attorney. I was
8 sentenced to 12 months prison and three years supervised release.

9 I further admit that I was under a term of supervised release **for less than one**
10 **year** in 05-CR-1348-LAB (Southern District of California) when the present
11 offense was committed.

12 7-2-07
13 Date

14 
15 Alejandro Madera-Villa
16 Defendant

17 DEFENSE ATTORNEY'S APPROVAL

18 I have discussed this case and the plea agreement with my client in detail and have
19 advised the defendant of all matters within the scope of Rule 11, Fed. R. Crim. P., the
20 constitutional and other rights of an accused, the factual basis for and the nature of the
21 offense to which the guilty plea will be entered, possible defenses, and the consequences
22 of the guilty plea, including the defendant's waiver of the right to appeal. No assurances,
23 promises, or representations have been given to me or to the defendant by the government
24 or by any of its representatives which are not contained in this written agreement. I concur
25 in the entry of the plea as indicated above and on the terms and conditions set forth in this
26 agreement as in the best interests of my client. I agree to make a bona fide effort to ensure
the guilty plea is entered in accordance with all the requirements of Rule 11, Fed. R. Crim.

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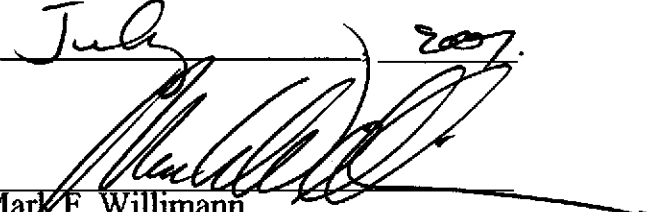
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1 I translated or caused to be translated this agreement from English into Spanish to
2 the defendant on the 2 day of July 2007.

3
4 7-2-07
Date


Mark F. Willimann
Attorney for Defendant

6 GOVERNMENT'S APPROVAL

7 I have reviewed this matter and the plea agreement. I agree on behalf of the United
8 States that the terms and conditions set forth are appropriate and are in the best interests of
9 justice.

10 DANIEL G. KNAUSS
United States Attorney
District of Arizona

11
12
13 7-2-07
Date


AARON D. WEGNER
Assistant U.S. Attorney