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UNITED STATES OF AMERICA

FILED
JAN 10 2007
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

CR07-01283

12 UNITED STATES OF AMERICA,) CR No. 07-)
13))
14 Plaintiff,) PLEA AGREEMENT FOR DEFENDANT
15)) ROMAN AMILGAR CAZARES
16 v.)
17))
18 ROMAN AMILGAR CAZARES,)
19 aka "Roman Amilcar Cazares,")
20))
21 Defendant.)

22 1. This constitutes the binding plea agreement between
23 ROMAN AMILGAR CAZARES, also known as "Roman Amilcar Cazares,"
24 ("defendant") and the United States Attorney's Office for the
25 Central District of California ("the USAO") in the above-
26 captioned case pursuant to Federal Rule of Criminal Procedure
27 11(c)(1)(C). This agreement is limited to the USAO and cannot
28 bind any other federal, state or local prosecuting,
administrative, or regulatory authorities.

1 PLEA

2 2. Defendant gives up the right to indictment by a grand
3 jury and agrees to plead guilty to a one-count information in the
4 form attached to this agreement or a substantially similar form.

5 NATURE OF THE OFFENSE

6 3. In order for defendant to be guilty of the crime
7 charged in the one-count information, a violation of Title 8,
8 United States Code, Section 1326(a), the following must be true:
9 (1) defendant was, at the time of the offense, an alien, that is,
10 a person who is not a natural-born or naturalized citizen, or a
11 national, of the United States; (2) defendant had been lawfully
12 deported or removed from the United States; (3) subsequent to
13 this deportation or removal, defendant was found in the United
14 States after knowingly and voluntarily re-entering and thereafter
15 remaining in the United States; and (4) the Attorney General or
16 his designated successor, the Secretary of the Department of
17 Homeland Security, or any authorized representative of either the
18 Attorney General or that Department, had not consented to
19 defendant's reapplying for admission or otherwise consented to
20 defendant's re-entry or presence in the United States. In order
21 for defendant to be subject to the heightened statutory maximum
22 penalties under 8 U.S.C. § 1326(b)(2), defendant's deportation or
23 removal must have occurred after defendant was convicted of an
24 aggravated felony, that is, the felony described in paragraph 8
25 below. Defendant admits that he is, in fact, guilty of this
26 offense as described in the information and that he is subject to
27 the heightened statutory maximum penalties under 8 U.S.C.
28 § 1326(b)(2), as set forth below.

1 PENALTIES

2 ~~4. The statutory maximum sentence that the Court can~~
3 impose for a violation of Title 8, United States Code, Section
4 1326(a), where the heightened statutory maximum penalties under
5 8 U.S.C. § 1326(b)(2) apply, is: 20 years imprisonment; a three-
6 year period of supervised release; a fine of \$250,000; and a
7 mandatory special assessment of \$100.

8 5. Supervised release is a period of time following
9 imprisonment during which defendant will be subject to various
10 restrictions and requirements. Defendant understands that if
11 defendant violates one or more of the conditions of any
12 supervised release imposed, defendant may be returned to prison
13 for all or part of the term of supervised release, which could
14 result in defendant serving a total term of imprisonment greater
15 than the statutory maximum stated above.

16 6. Defendant also understands that, by pleading guilty,
17 defendant may be giving up valuable government benefits and
18 valuable civic rights, such as the right to vote, the right to
19 possess a firearm, the right to hold office, and the right to
20 serve on a jury.

21 7. Defendant further understands that the conviction in
22 this case may subject defendant to various collateral
23 consequences, including but not limited to, deportation, removal,
24 revocation of probation, parole, or supervised release in another
25 case, and suspension or revocation of a professional license.
26 Defendant understands that unanticipated collateral consequences
27 will not serve as grounds to withdraw defendant's guilty plea.

1 FACTUAL BASIS

2 ~~8. Defendant and the USAO agree and stipulate to the~~
3 statement of facts provided below. This statement of facts
4 includes facts sufficient to support a plea of guilty to the
5 charge described in this agreement and to establish the
6 sentencing guideline factors set forth in paragraph 11 below. It
7 is not meant to be a complete recitation of all facts relevant to
8 the underlying criminal conduct or all facts known to defendant
9 that relate to that conduct.

10 Defendant, a citizen of Mexico, was at all times relevant to
11 this plea agreement an alien, that is, not a natural-born or
12 naturalized citizen, or national, of the United States. On or
13 about May 31, 2000, defendant was convicted of an aggravated
14 felony, namely, Possession for Sale of a Controlled Substance, to
15 wit: Cocaine, in violation of California Health and Safety Code
16 Section 11351, in the Superior Court of California, County of Los
17 Angeles, Case Number TA055801, a drug trafficking offense for
18 which defendant was sentenced to 178 days in jail.

19 Defendant was lawfully removed from the United States on or
20 about July 31, 2000, February 1, 2001, and February 23, 2001.
21 Subsequent to defendant's removal, defendant knowingly and
22 voluntarily re-entered and thereafter remained in the United
23 States. Defendant did so without the consent of the Attorney
24 General or his designated successor, the Secretary of the
25 Department for Homeland Security, or of any authorized
26 representative of either the Attorney General or that Department,
27 to reapply for admission or to otherwise re-enter and remain in
28 the United States. After defendant re-entered and remained in

1 the United States, on or about July 14, 2007, immigration
2 ~~authorities found defendant in Los Angeles County within the~~
3 Central District of California.

4 WAIVER OF CONSTITUTIONAL RIGHTS

5 9. By pleading guilty, defendant gives up the following
6 rights:

- 7 a) The right to persist in a plea of not guilty.
8 b) The right to a speedy and public trial by jury.
9 c) The right to the assistance of legal counsel at
10 trial, including the right to have the Court appoint counsel for
11 defendant for the purpose of representation at trial. (In this
12 regard, defendant understands that, despite his or her plea of
13 guilty, he or she retains the right to be represented by counsel
14 - and, if necessary, to have the court appoint counsel if
15 defendant cannot afford counsel - at every other stage of the
16 proceedings.)
17 d) The right to be presumed innocent and to have the
18 burden of proof placed on the government to prove defendant
19 guilty beyond a reasonable doubt.
20 e) The right to confront and cross-examine witnesses
21 against defendant.
22 f) The right, if defendant wished, to testify on
23 defendant's own behalf and present evidence in opposition to the
24 charges, including the right to call witnesses and to subpoena
25 those witnesses to testify.
26 g) The right not to be compelled to testify, and, if
27 defendant chose not to testify or present evidence, to have that
28 choice not be used against defendant.

1 By pleading guilty, defendant also gives up any and all
2 ~~rights to pursue any affirmative defenses, Fourth Amendment or~~
3 Fifth Amendment claims, and other pretrial motions that have been
4 filed or could be filed.

5 SENTENCING FACTORS

6 10. Defendant understands that the Court is required to
7 consider the United States Sentencing Guidelines ("U.S.S.G." or
8 "Sentencing Guidelines") among other factors in determining
9 defendant's sentence.

10 11. Defendant and the USAO agree and stipulate to the
11 following applicable Sentencing Guidelines factors:

12	Base Offense Level	:	8	[U.S.S.G. § 2L1.2(a)]
13	Removal after			
14	conviction for an			
15	aggravated felony			
16	that is a drug			
17	trafficking offense			
18	(Less Than 13 mos)	:	+12	[U.S.S.G. § 2L1.2(b)(1)(B)]
19	Acceptance of			
20	Responsibility	:	-3	[U.S.S.G. § 3E1.1(a), (b)]
21	Early Disposition			
22	Program Departure	:	-4	[U.S.S.G. § 5K3.1]

23 Total Offense Level : 13

24 The parties agree that an appropriate sentence for defendant is
25 one including a sentence of imprisonment at the low end of the
26 range determined by this total offense level and the criminal
27 history category calculated by the court in accordance with
28 Chapter 4 of the Sentencing Guidelines without any departure
based on inadequacy of criminal history under U.S.S.G. § 4A1.3
("defendant's calculated criminal history"). The parties agree

1 not to seek, argue, or suggest that any other specific offense
2 ~~characteristics, adjustments, departures, or variances in~~
3 sentence pursuant to the Sentencing Guidelines and/or the factors
4 set forth in 18 U.S.C. § 3553(a) be imposed. Defendant
5 represents, and the USAO does not contest, that defendant does
6 not have the ability to pay a fine.

7 12. Accordingly, defendant and the USAO agree and stipulate
8 pursuant to Fed. R. Crim. P. 11(c)(1)(C) that the appropriate
9 sentence in this case is that defendant be ordered to: (a) pay a
10 special assessment of \$100; and (b) serve a sentence of
11 imprisonment of duration equal to the low end of the applicable
12 guideline range determined by a total offense level of 13 and
13 defendant's calculated criminal history category, followed by a
14 three-year period of supervised release, which includes the
15 following terms and conditions:

16 (a) Defendant shall comply with the rules and
17 regulations of the U.S. Probation Office and General Order
18 318, including, but not limited to, the condition that
19 defendant shall not commit another federal, state or local
20 crime;

21 (b) Defendant shall refrain from any unlawful use of a
22 controlled substance. As directed by the Probation Officer,
23 the defendant shall submit to one drug test within 15 days
24 of release from imprisonment. Thereafter, defendant shall
25 also submit to periodic drug testing as directed by the
26 Probation Officer, not to exceed eight drug tests per month;
27 and
28

1 (c) Defendant shall comply with the immigration rules
2 ~~and regulations of the United States, and when deported or~~

3 removed from this country, either voluntarily or
4 involuntarily, not re-enter the United States illegally.
5 The defendant is not required to report to the Probation
6 Office while residing outside of the United States; however,
7 within 72 hours of release from any custody or any reentry
8 to the United States during the period of Court-ordered
9 supervision, the defendant shall report for instructions to
10 the U.S. Probation Office.

11 (d) Defendant shall cooperate in the collection of a
12 DNA sample from the defendant.

13 The parties agree that no prior imprisonment (other than credits
14 that the Bureau of Prisons may allow under 18 U.S.C. § 3585(b))
15 may be credited against this stipulated sentence, including
16 credit under Sentencing Guideline § 5G1.3.

17 13. The parties request that defendant be sentenced as soon
18 as possible following the entry of defendant's guilty plea. The
19 parties stipulate and agree that, with the exception of
20 defendant's criminal history, there is sufficient information in
21 the record to enable the Court to exercise its sentencing
22 authority meaningfully without a presentence investigation or
23 report. The parties agree that the Probation Office may prepare
24 a presentence report that is limited to defendant's criminal
25 history. To the extent defendant has a right to a presentence
26 investigation and preparation of a presentence report relating to
27 anything other than defendant's criminal history, defendant
28 hereby knowingly, voluntarily, and intelligently waives that

1 right. The parties request that the Court find, pursuant to
2 ~~Federal Rule of Criminal Procedure 32(c)(1), that the information~~
3 in the record, coupled with a presentence report limited to
4 defendant's criminal history, is sufficient to enable the Court
5 to exercise its sentencing authority meaningfully without a more
6 complete presentence investigation and report. The parties
7 understand and agree that, in the event that the Court declines
8 to make this finding and instead orders that a more complete
9 presentence investigation be conducted and/or a more complete
10 presentence report prepared, such action shall have no effect on
11 the validity of this Agreement or any of its terms or conditions
12 and shall not provide a basis for either party to withdraw from
13 the plea agreement.

14 14. The Court will determine the facts and calculations
15 relevant to sentencing and decide whether to agree to be bound by
16 this agreement. Both defendant and the USAO are free to: (a)
17 supplement the facts by supplying relevant information to the
18 United States Probation Office and the Court, and (b) correct any
19 and all factual misstatements relating to the calculation of the
20 sentence.

21 15. Defendant understands and agrees that this agreement is
22 entered into pursuant to Fed. R. Crim. P. 11(c)(1)(C). So long
23 as defendant does not breach the agreement, defendant may
24 withdraw from this agreement and render it null and void if the
25 Court refuses to be bound by this agreement and indicates that it
26 will impose a sentence including a criminal fine and/or a term of
27 imprisonment greater than that specified in paragraph 12 above.
28 The USAO may, in its discretion, withdraw from this agreement and

1 render it null and void if the defendant breaches this agreement
2 ~~or if the Court refuses to be bound by this agreement and~~

3 indicates that it will impose a sentence including a term of
4 imprisonment or supervised release less than that specified in
5 paragraph 12 above.

6 DEFENDANT'S OBLIGATIONS

7 16. Defendant agrees:

8 a) To plead guilty as set forth in this agreement at
9 the first appearance before the district judge assigned to the
10 case.

11 b) To not knowingly and willfully fail to abide by
12 all sentencing stipulations contained in this agreement.

13 c) To not knowingly and willfully fail to: (i) appear
14 as ordered for all court appearances, (ii) surrender as ordered
15 for service of sentence, (iii) obey all conditions of any bond,
16 and (iv) obey any other ongoing court order in this matter.

17 d) Not to commit any crime; however, offenses which
18 would be excluded for sentencing purposes under U.S.S.G.
19 § 4A1.2(c) are not within the scope of this agreement.

20 e) To not knowingly and willfully fail to be truthful
21 at all times with Pretrial Services, the U.S. Probation Office,
22 and the Court.

23 f) To pay the applicable special assessment at or
24 before the time of sentencing unless defendant lacks the ability
25 to pay.

26 THE USAO'S OBLIGATIONS

27 17. If defendant complies fully with all defendant's
28 obligations under this agreement, the USAO agrees to abide by all

1 sentencing stipulations contained in this agreement.

2 BREACH OF AGREEMENT

3 18. If defendant, at any time between the execution of this
4 agreement and defendant's surrender for service of defendant's
5 custodial sentence, knowingly violates or fails to perform any of
6 defendant's obligations under this plea agreement ("a breach"),
7 the USAO may declare this agreement breached. If the USAO
8 declares this agreement breached, and the Court finds such a
9 breach to have occurred, defendant will not be able to withdraw
10 defendant's guilty plea even if the Court does not agree to be
11 bound by the sentence agreed to in paragraph 12 above, and the
12 USAO will be relieved of all of its obligations under this
13 agreement.

14 LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

15 19. Defendant gives up the right to appeal any sentence
16 imposed by the Court and the manner in which the sentence is
17 determined, provided that the sentence does not include a
18 criminal fine and requires a term of imprisonment no greater than
19 that specified in paragraph 12 above, and with the exception that
20 defendant reserves the right to appeal the calculation of
21 defendant's criminal history category. Defendant also gives up
22 any right to bring a post-conviction collateral attack on the
23 conviction or sentence, except a post-conviction collateral
24 attack based on a claim of ineffective assistance of counsel, a
25 claim of newly discovered evidence, or an explicitly retroactive
26 change in the applicable Sentencing Guidelines, sentencing
27 statutes, or statutes of conviction.

28

1 20. The USAO gives up its right to appeal any sentence
2 ~~imposed by the Court, provided that the sentence includes terms~~
3 of imprisonment and supervised release no less than as specified
4 in paragraph 12 above, and with the exception that the government
5 reserves the right to appeal the calculation of defendant's
6 criminal history category.

7 COURT NOT A PARTY

8 21. The Court is not a party to this agreement and need not
9 accept the parties' stipulations or the sentence agreed to in
10 paragraphs 11 and 12 above. In the absence of a breach by
11 defendant of this agreement, however, either defendant or the
12 USAO may withdraw from this agreement and render it null and void
13 under the conditions specified in paragraph 15 above if the Court
14 refuses to be bound by this agreement.

15 NO ADDITIONAL AGREEMENTS

16 22. Except as set forth herein, there are no promises,
17 understandings or agreements between the USAO and defendant or
18 defendant's counsel. Nor may any additional agreement,
19 understanding or condition be entered into unless in a writing
20 signed by all parties or on the record in court.

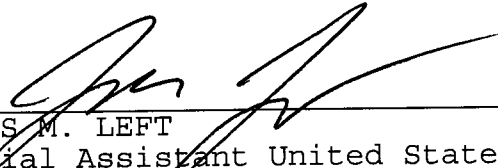
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1 This agreement is effective upon signature by defendant and
2 ~~an Assistant United States Attorney.~~

3 AGREED AND ACCEPTED

4 UNITED STATES ATTORNEY'S OFFICE
5 FOR THE CENTRAL DISTRICT OF CALIFORNIA

6 THOMAS P. O'BRIEN
7 United States Attorney

8 
9 JAMES M. LEFT
10 Special Assistant United States Attorney

11 11/12/07
Date

12 **DEFENDANT & COUNSEL: INITIAL THE TRUE STATEMENT AND CROSS-OUT THE**
13 **OTHER:**

14 (1) This agreement has been read to me in Spanish, the
15 language I understand best.

16 **OR:**

17 (2) I am fluent in English and have carefully read this
18 agreement.

19 I have discussed every part of it with my attorney. I understand
20 the terms of this agreement, and I voluntarily agree to those
21 terms. My attorney has advised me of my rights, of possible
22 defenses, of the Sentencing Guideline provisions, and of the
23 consequences of entering into this agreement. No promises or
24 inducements have been made to me other than those contained in
25 this agreement. No one has threatened or forced me in any way to
26 enter into this agreement. Finally, I am satisfied with the
27 representation of my attorney in this matter.

28 Roman Amilgar Cazares
ROMAN AMILGAR CAZARES
Defendant

11/14/07
Date

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I, Maria Dolores Martin am fluent in written and spoken

English and Spanish languages. I accurately translated this entire agreement from English into Spanish to defendant ROMAN AMILGAR CAZARES on this date.

Maria Dolores Martin
Interpreter

11/14/07
Date

I am ROMAN AMILGAR CAZARES' attorney. I have carefully discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible defenses, and of the consequences of entering into this agreement. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.

Richard D. Galt
Counsel for Defendant
ROMAN AMILGAR CAZARES

11/13/07
Date

CERTIFICATE OF SERVICE

I, **LIEN NGO**, declare:

That I am a citizen of the United States and resident or employed in Los Angeles County, California; that my business address is the Office of United States Attorney, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not a party to the above-entitled action;

That I am employed by the United States Attorney for the Central District of California who is a member of the Bar of the United States District Court for the Central District of California, at whose direction I served a copy of **PLEA AGREEMENT FOR DEFENDANT ROMAN AMILGAR CAZARES**

service was:

Placed in a closed envelope, for collection and interoffice delivery addressed as follows:

Placed in a sealed envelope for collection and mailing via United States Mail, addressed as follows:

RICK GOLDMAN, DFPD

By hand delivery addressed as follows:

By facsimile as follows:

This Certificate is executed on **November 19, 2007**, Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.



LIEN NGO