

1 PAUL K. CHARLTON  
2 United States Attorney  
3 District of Arizona  
4 Don Overall  
5 Assistant U.S. Attorney  
6 405 West Congress Street, Suite 4800  
7 Tucson, Arizona 85701-5040  
8 Telephone: (520) 620-7300  
9 Attorneys for Plaintiff

6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF ARIZONA

8 United States of America,  
9 Plaintiff,

10 v.

11 Petru-Martinez  
12 Defendant.

03-626  
CR ~~05-1223~~  
13 REVOCATION DISPOSITION  
14 AGREEMENT

13 The United States of America and the defendant agree to the following disposition  
14 of this matter:

15 TERMS OF THE AGREEMENT

16 1. This is a revocation of:

- 17  supervised release  
18  probation

19 2. The defendant will admit to allegation (s) A in the Petition to Revoke.

20 This is a Grade B violation. As a result, the defendant's supervised release / probation  
21 will be revoked. The government agrees to dismiss at disposition any remaining allegations  
22 in the petition, if the defendant is sentenced in accordance with this agreement.

23 3. The parties agree that the defendant will be sentenced to:

24  12 months incarceration; OR

25  a period of incarceration not to exceed the middle of the applicable  
26 guideline range under U.S.S.G. § 7B1.4(a) (Revocation Table), and  
not below the minimum of that range; OR

other (specify): \_\_\_\_\_

1 4. This sentence will be followed by:

- 2 ( ) an additional term of \_\_\_\_\_ months of supervised release
- 3 ( ) an additional term of supervised release to be determined by the court
- 4  NO additional term of supervised release

5 If the defendant is sentenced to a term of probation or supervised release, the  
6 defendant agrees to comply with the previously imposed conditions and any others  
7 the probation department or court deems appropriate.

8 ( ) In addition, the following additional condition(s) shall be imposed:

9 \_\_\_\_\_

10 \_\_\_\_\_

11 \_\_\_\_\_

12 5. Consecutive/Concurrent sentences:

- 13  There is no agreement regarding consecutive or concurrent sentences  
(or the issue is not applicable in this case);
- 14 ( ) The government agrees that it will not take a position whether this  
15 sentence should be concurrent or consecutive to another sentence.

16 6. Statutory and Guideline Provisions:

17 a) U.S.S.G. § 7B1.4, the Terms of Imprisonment (Policy Statement) provides:

18 **Revocation Table**  
(In months of imprisonment)

19 <u>Grade of</u>	<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>	<u>V</u>	<u>VI</u>
20 <u>Violation</u>						
21 <b>Grade C</b>	3-9	4-10	5-11	6-12	7-13	8-14
22 <input checked="" type="checkbox"/> <b>Grade B</b>	4-10	6-12	8-14	12-18	18-24	21-27
23 <b>Grade A</b>	(1) Except as provided in subdivision (2) below:					
24	12-18	15-21	18-24	24-30	30-37	33-41
25	(2) Where a defendant was on probation or supervised release as a result of a Class A felony:					
26	24-30	27-33	30-37	37-46	46-57	51-63

1 b) Penalties applicable for defendant's original offense:

- 2 1) Criminal History - III IV  
3 2) Guideline Range - 37-46 mo.  
4 3) Statutory Maximum Incarceration - 20 yrs  
5 4) Maximum Supervised Release - 3 yrs

6 c) For **probation** violations, the defendant, upon revocation of probation, may  
7 be re-sentenced to any term of imprisonment not to exceed statutory  
8 maximum of the original offense of conviction. (18 U.S.C. § 3565 (a)(2))

9 d) For **supervised release** violations, the maximum *imprisonment* upon  
10 revocation of supervised release (pursuant to 18 U.S.C. § 3583 (e)(3)) is:

- 11 ( ) Class A felony - 5 years  
12 ( ) Class B felony - 3 years  
13 (X) Class C or D felony - 2 years  
14 ( ) Any other case - 1 year

15 The maximum *supervised release* following any term of imprisonment upon  
16 revocation of supervised release shall not exceed the maximum supervised  
17 release for the underlying offense, less any term of imprisonment that was  
18 imposed upon revocation. (18 U.S.C. § 3883(h))

19 7. Waiver of Appeal & Collateral Attacks - The defendant waives any and all motions,  
20 defenses, probable cause determinations, and objections which the defendant could assert  
21 to the information or indictment, or petition to revoke, or to the Court's entry of judgment  
22 and imposition of sentence upon the defendant, providing the sentence is consistent with  
23 this agreement. The defendant further waives: (1) any right to appeal the Court's entry of  
24 judgment against defendant; (2) any right to appeal the imposition of sentence upon  
25 defendant; and (3) any right to collaterally attack defendant's conviction and sentence in a  
26 habeas petition under 28 U.S.C. § 2255 or motion under any other statute or rule. If the  
defendant files a notice of appeal or any habeas petition, notwithstanding this agreement,  
the defendant agrees that, upon motion of the government, this case shall be remanded to  
the district court to determine whether defendant is in breach of this agreement and, if so,  
to permit the United States to withdraw from this disposition agreement.

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

5 9. I understand all of the provisions of this agreement. This written disposition  
6 agreement contains all the terms and conditions of my agreement, and any promises made  
7 by anyone (including my attorney) that are not contained within this written agreement are  
8 without effect and are void.

9 7/26/06  
Date

Samuel M. Peter  
Defendant

10  
11 10. I have discussed this case and the written agreement with my client in detail, and  
12 have translated it for him if he does not speak English. No assurances, promises, or  
13 representations have been given to me or my client by the government or by any of its  
14 representatives which are not contained in this written agreement. I concur in the entry of  
15 the agreement as indicated above and agree that the terms and conditions set forth in this  
16 agreement are in the best interests of my client.

17 7/26/06  
Date

[Signature]  
Attorney for Defendant

18  
19  
20 11. I have reviewed this matter and the agreement. I agree on behalf of the United States  
21 that the terms and conditions set forth are appropriate and are in the best interests of justice.

22 PAUL K. CHARLTON  
23 United States Attorney  
District of Arizona

24 7-25-06  
25 Date

[Signature]  
Don Overall  
Assistant U.S. Attorney