

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

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CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF ARIZONA

8 United States of America,
9 Plaintiff,
10 v.
11 Diego Hernandez-Acuna,
12 Defendant.

Amended 9-16-05
CR03-916-1-PHX-CKJ

ADMISSIONS OF ALLEGATION
CONTAINED IN PETITION TO
REVOKE SUPERVISED RELEASE
AND/OR PROBATION

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

16 TERMS OF THE AGREEMENT

17 1. This is a revocation of:

- 18 supervised release
19 probation

20 2. The defendant will admit to the allegation in the ^{amended} Petition to Revoke, ^{which} This is a Grade
21 ~~CC~~ violation. As a result, the defendant's supervised release / probation will be revoked.
22 The government agrees to dismiss at sentencing any remaining allegations in the petition,
23 if the defendant is sentenced in accordance with this agreement.

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3. The parties agree that the defendant will be sentenced to:
 _____ months incarceration; OR

a period of incarceration not to exceed the middle of the applicable guideline range under U.S.S.G. § 7B1.4(a) (Revocation Table), and not below the minimum of that range; OR ~~4-7 mo.~~ 3-6 mo.

other (specify): _____

*MSE
DHA
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4. This sentence will be followed by:

an additional term of _____ months of supervised release

an additional term of supervised release to be determined by the court

NO additional term of supervised release

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

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

5. Consecutive/Concurrent sentences:

There is no agreement regarding consecutive or concurrent sentences (or the issue is not applicable in this case);

The government agrees that it will not take a position whether this sentence should be concurrent or consecutive to another sentence.

//

1
2 6. Statutory and Guideline Provisions:

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

4 **Revocation Table**
5 (In months of imprisonment)

6

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

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

- 15 1) Criminal History - I
- 16 2) Guideline Range - 18-24 m.
- 17 3) Statutory Maximum incarceration - 10 years

18 c) Supervised release statutory maximums pursuant to 18 U.S.C. § 3583 (e)(3):

- 19 1) Class A felony - 5 years
- 20 2) Class B felony - 3 years
- 21 3) Class C or D felony - 2 years
- 22 4) Any other case - 1 year


23 //

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

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

17 9. I understand all of the provisions of this agreement. This written plea agreement
18 contains all the terms and conditions of my plea, and any promises made by anyone
19 (including my attorney) that are not contained within this written agreement are without
20 effect and are void.

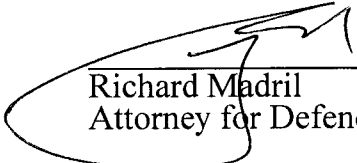
21
22 7/14/2005
23 _____
Date

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23 _____
Diego Hernandez-Acuna
Defendant

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1 10. I have discussed this case and the plea agreement with my client in detail, and have
2 translated it for my client if necessary. No assurances, promises, or representations have
3 been given to me or my client by the government or by any of its representatives which are
4 not contained in this written agreement. I concur in the entry of the plea as indicated above
5 and on the terms and conditions set forth in this agreement as in the best interests of my
6 client.

7 7-14-2008
8 Date


Richard Madril
Attorney for Defendant

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

12
13 PAUL K. CHARLTON
14 United States Attorney
District of Arizona

15
16 7.14.05
17 Date


MONTE C. CLAUSEN
Assistant U.S. Attorney