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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA

9 United States of America,)
10 Plaintiff,)
11 v.)
12 Saul Larguerro-Hernandez,)
aka Saul Lagerro-Hernandez,)
13 aka Manuel Varela,)
14 Defendant.)

CR 06-1367-TUC-FRZ (BPV)
06-8041M

Supervised Release No.:
CR-04-00833-SRB-PHX

PLEA AGREEMENT

(Fast Track 5K3.1)

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

18 PLEA

19 The defendant agrees to plead guilty to an Indictment charging a violation of Title
20 8 United States Code, Section 1326, enhanced by Title 8, United States Code, Section
21 1326(b)(2), Illegal Re-entry After Deportation, a felony.

22 STIPULATIONS, TERMS AND AGREEMENTS

23 Maximum Penalties

24 A violation of 8 U.S.C. § 1326, enhanced by 8 U.S.C. § 1326(b)(2), is punishable
25 by a maximum fine of \$250,000.00, or a maximum term of imprisonment of 20 years, or
26 both, plus a term of supervised release of up to three years and a special

1 assessment of \$100. The special assessment is due and payable at the time the defendant
2 enters the plea of guilty, and must be paid by the time of sentencing unless the defendant
3 is indigent. If the defendant is indigent, the special assessment will be collected according
4 to Title 18, United States Code, Chapters 227 and 229.

5 Agreements Regarding Sentence

6 Specific Offense Characteristics and Sentences

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

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

- 16 30 to 37 months of imprisonment if defendant's Criminal History Category is I;
17 33 to 41 months of imprisonment if defendant's Criminal History Category is II;
18 37 to 46 months of imprisonment if defendant's Criminal History Category is III;
19 46 to 57 months of imprisonment if defendant's Criminal History Category is IV;
20 57 to 71 months of imprisonment if defendant's Criminal History Category is V;
21 63 to 78 months of imprisonment if defendant's Criminal History Category is VI.

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

26 ///

1 18 to 24 months of imprisonment if defendant's Criminal History Category is I;
2 21 to 27 months of imprisonment if defendant's Criminal History Category is II;
3 24 to 30 months of imprisonment if defendant's Criminal History Category is III;
4 30 to 37 months of imprisonment if defendant's Criminal History Category is IV;
5 37 to 46 months of imprisonment if defendant's Criminal History Category is V;
6 41 to 51 months of imprisonment if defendant's Criminal History Category is VI.

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

11 8 to 14 months of imprisonment if defendant's Criminal History Category is I;
12 10 to 16 months of imprisonment if defendant's Criminal History Category is II;
13 12 to 18 months of imprisonment if defendant's Criminal History Category is III;
14 18 to 24 months of imprisonment if defendant's Criminal History Category is IV;
15 24 to 30 months of imprisonment if defendant's Criminal History Category is V;
16 27 to 33 months of imprisonment if defendant's Criminal History Category is VI.

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

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

1 This agreement is conditioned upon the defendant being on supervised release. If
2 prior to sentencing the government discovers the defendant was not on supervised release
3 at the time the present offense was committed, the government reserves the right to amend
4 this agreement.

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

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

16 Waiver of Defenses and Appeal Rights

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

1 sentence in this case. If the defendant files a notice of appeal or a habeas petition,
2 notwithstanding this agreement, defendant agrees that this case shall, upon motion of the
3 government, be remanded to the district court to determine whether defendant is in breach
4 of this agreement and, if so, to permit the government to withdraw from the plea agreement.

5 If on supervised release at the time the present offense was committed, the defendant
6 waives his/her right to a revocation hearing on any allegations of supervised release
7 violations.

8 Reinstatement of Removal, Deportation, or Exclusion

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

16 Reinstitution of Prosecution

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

25 If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any
26 court in a later proceeding, the government will be free to prosecute the defendant for all

1 charges as to which it has knowledge, and any charges that have been dismissed because
2 of this plea agreement will be automatically reinstated. In such event, the defendant waives
3 any objections, motions, or defenses based upon the Speedy Trial Act or the Sixth
4 Amendment to the Constitution as to the delay occasioned by the later proceedings.
5 Defendant agrees that the stipulated sentencing ranges set forth under "Agreements
6 Regarding Sentence" will not be offered if prosecution is re-instituted.

7 Disclosure of Information to U.S. Probation Office

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

12 Effect on Other Proceedings

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

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

20 WAIVER OF DEFENDANT'S RIGHTS

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

1 all with the assistance of counsel, to be presumed innocent until proven guilty beyond a
2 reasonable doubt, and to appeal.

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

5 I have been advised by my attorney of the nature of the charge to which I am
6 entering my guilty plea. I have further been advised by my attorney of the nature and range
7 of the possible sentence.

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

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

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

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

19 ELEMENTS OF THE OFFENSE

20 1. The defendant is an alien.

21 2. The defendant has been previously denied admission, excluded, deported, and
22 removed from the United States.

23 3. The defendant knowingly entered or was found in the United States.

24 4. The defendant did not obtain the express consent of the Attorney General or
25 Secretary of the Department of Homeland Security to reapply for admission to the United
26 States prior to returning to the United States.

1 FACTUAL BASIS AND SENTENCING FACTORS

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


5 I am not a citizen or national of the United States. I was deported, excluded,
6 or removed from the United States through Nogales, Arizona on September
7 6, 2002. I was voluntarily present and found in the United States in Choulic,
8 Arizona on July 16, 2006. I did not obtain the express consent of the
9 Attorney General or Secretary of the Department of Homeland Security to
10 reapply for admission to the United States prior to returning to the United
11 States.

12 Furthermore, for sentencing purposes, I admit I was convicted of theft, an
13 aggravated felony on November 10, 1999, and sentenced to three months jail
14 and three years probation and then on May 2, 2001, my probation was
15 revoked, and I was sentenced to one year prison. I was represented by an
16 attorney.

17 I further admit that I was under a term of supervised release in CR-04-00833-
18 SRB-PHX when the present offense was committed.

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25
26
Date

2/21/07


Saul Larguerro-Hernandez
Defendant


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

1 the guilty plea is entered in accordance with all the requirements of Rule 11, Fed. R. Crim.
2 P.

3 I translated or caused to be translated this agreement from English into Spanish to
4 the defendant on the 28th day of September, 2006.

5
6 9/21/07
Date



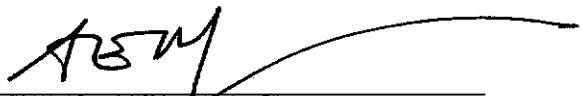
Ralph Malanga
Attorney for Defendant

8 GOVERNMENT'S APPROVAL

9 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 PAUL K. CHARLTON
13 United States Attorney
District of Arizona

14
15 2/21/07
Date



~~DON B. OVERALL~~ Anthony E. Mainiot
Assistant U.S. Attorney