

1 (BEGIN PROCEEDINGS VIA VIDEOCONFERENCE AT 12:00  
2 P.M.)

3 THE COURT: OKAY. WE'RE ON THE RECORD IN UNITED  
4 STATES V. GOMEZ-JIMENEZ, 3:19-CR-218. LET'S START BY SEEING IF  
5 THE INTERPRETATION FROM SPANISH TO ENGLISH IS WORKING. MR.  
6 HERNANDEZ, CAN YOU HEAR ME? YOU CAN NOD YOUR HEAD IF YOU DO.

7 (INTERPRETER NODDED HEAD.)

8 THE COURT: OKAY. VERY GOOD. AND THEN, MR.  
9 GOMEZ-JIMENEZ, ARE YOU ABLE TO HEAR THE INTERPRETER? PLEASE NOD  
10 YOUR HEAD IF YOU DO.

11 (DEFENDANT NODDED HEAD.)

12 THE COURT: OKAY. VERY GOOD. SO THANK YOU ALL FOR  
13 YOUR PATIENCE, AND THANK YOU ESPECIALLY TO MISS JACKSON FOR  
14 MAKING THIS TECHNOLOGY HAPPEN TODAY. COUNSEL, IF YOU COULD  
15 PLEASE STATE YOUR APPEARANCES FOR THE RECORD BEGINNING WITH THE  
16 UNITED STATES.

17 MR. SHANNON: GOOD AFTERNOON, YOUR HONOR. MAC SHANNON  
18 FOR THE UNITED STATES.

19 THE COURT: OKAY. AND YOU'RE ABLE TO SEE AND HEAR  
20 EVERYONE SO FAR?

21 MR. SHANNON: YES, SIR, EXCEPT FOR THE INTERPRETATION.

22 THE COURT: PERFECT. THEN FOR THE DEFENDANT, COULD  
23 YOU PLEASE STATE YOUR APPEARANCES, MISS BEYL?

24 MS. BEYL: GOOD AFTERNOON, YOUR HONOR. CHASTITY BEYL  
25 FOR MR. GOMEZ-JIMENEZ WHO IS PRESENT VIA VIDEO.

1 THE COURT: VERY GOOD, AND I KNOW YOU CAN HEAR ME, AND  
2 CAN YOU HEAR AND SEE EVERYBODY ELSE SO FAR?

3 MS. BEYL: YES, YOUR HONOR.

4 THE COURT: OKAY. WE HAVE A REPRESENTATIVE FROM  
5 PROBATION. MR. DUVALL, ARE YOU THERE?

6 DEPUTY CLERK: JEREMIAH, I THINK YOU WERE ON MUTE.

7 PROBATION OFFICER: GOOD AFTERNOON. JEREMIAH HERE.

8 THE COURT: GOOD AFTERNOON, AND THEN I NOTE FOR THE  
9 RECORD THAT WE HAVE A COURT-APPROVED INTERPRETER WHO WILL  
10 PROVIDE REALTIME INTERPRETATION FOR THE DEFENDANT. HE IS MR.  
11 ROBERTO HERNANDEZ. MISS JACKSON, COULD YOU PLEASE ADMINISTER  
12 THE OATH TO THE INTERPRETER?

13 DEPUTY CLERK: YES, YOUR HONOR.

14 (INTERPRETER SWORN.)

15 DEPUTY CLERK: THANK YOU.

16 THE COURT: VERY GOOD. MR. HERNANDEZ, ARE YOU ABLE TO  
17 SEE AND HEAR EVERYONE SO FAR?

18 THE INTERPRETER: YES, YOUR HONOR, I CAN.

19 THE COURT: VERY GOOD. AND, MR. SHANNON, MISS BEYL,  
20 DOES EITHER SIDE HAVE ANY OBJECTION OR CONCERNS REGARDING THE  
21 INTERPRETER? I'LL START WITH YOU, MR. SHANNON.

22 MR. SHANNON: NO OBJECTIONS, YOUR HONOR.

23 THE COURT: MISS BEYL.

24 MS. BEYL: NO OBJECTION.

25 THE COURT: OKAY. MISS BOYD, COURT REPORTER, ARE YOU

1 ABLE TO HEAR AND SEE EVERYONE?

2 THE REPORTER: YES, YOUR HONOR.

3 THE COURT: OKAY. AND MR. GOMEZ-JIMENEZ, ARE YOU ABLE  
4 TO SEE AND HEAR EVERYONE SO FAR?

5 THE DEFENDANT: YES. YES. A LITTLE, YES.

6 THE COURT: IF AT ANY POINT ANYONE CANNOT HEAR OR SEE  
7 WHAT IS BEING SAID, PLEASE LET ME KNOW. WE ARE PROCEEDING TODAY  
8 VIA VIDEO CONFERENCE. WE'RE DOING SO PURSUANT TO THE CARES ACT  
9 AND THIS COURT'S GENERAL ORDERS. UNDER THE CARES ACT, FELONY  
10 PLEAS UNDER RULE 11 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE  
11 AND FELONY SENTENCINGS UNDER RULE 32 OF THE FEDERAL RULES OF  
12 CRIMINAL PROCEDURE MAY BE CONDUCTED VIA VIDEO CONFERENCE IF THE  
13 COURT FINDS THAT THE MATTER CAN NOT BE FURTHER DELAYED WITHOUT  
14 SERIOUS HARM TO THE INTERESTS OF JUSTICE, AND AFTER CONSULTATION  
15 WITH HIS COUNSEL, THE DEFENDANT CONSENTS TO PROCEEDING VIA VIDEO  
16 CONFERENCE.

17 MR. HERNANDEZ, AM I GOING TOO FAST?

18 THE INTERPRETER: NO, YOU'RE NOT. THANK YOU.

19 THE COURT: OKAY. IN THIS CASE, COUNSEL FOR THE  
20 DEFENDANT FILED AN UNOPPOSED MOTION SEEKING TO CONDUCT THE  
21 DEFENDANT'S SENTENCING HEARING VIA VIDEO CONFERENCE AT DOCKET  
22 NUMBER 24. ONE OF THE JUSTIFICATIONS FOR WHY THIS CASE CANNOT  
23 BE FURTHER DELAYED IS THE DEFENDANT HAS BEEN IN CUSTODY FOR  
24 ENOUGH TIME TO PUT HIM AT CREDIT TIME SERVED.

25 AS STATED IN THIS COURT'S MAY 19TH, 2020, TEXT ORDER, DOCKET

1 NUMBER 27, THE COURT AGREES, FURTHER DELAY WOULD RESULT IN THE  
2 DEFENDANT SERVING MORE TIME THAN HE COULD BE SENTENCED TO, WHICH  
3 IS, UNQUESTIONABLY, A SERIOUS HARM TO THE INTERESTS OF JUSTICE.

4 THE COURT ALSO ADDRESSED THE SECOND REQUIREMENT FOR  
5 PROCEEDING VIA VIDEO CONFERENCE IN ITS MAY 19TH, 2020, TEXT  
6 ORDER AT DOCKET NUMBER 27. THE COURT INTERPRETED THE UNOPPOSED  
7 MOTION SEEKING TO CONDUCT THE DEFENDANT'S SENTENCING HEARING VIA  
8 VIDEO CONFERENCE TO IMPLY THAT THE DEFENDANT HAS CONSENTED TO DO  
9 SO AFTER CONSULTATION WITH HIS ATTORNEY. HOWEVER, THE COURT  
10 WANTS TO NOW CONFIRM IN INTERPRETATION WITH THE DEFENDANT.

11 SO, MR. GOMEZ-JIMENEZ, I WANT TO MAKE SURE THAT YOU  
12 UNDERSTAND THAT YOU HAVE THE RIGHT TO WAIT TO BE SENTENCED UNTIL  
13 A TIME WHEN YOU CAN DO SO IN PERSON IN A COURTROOM OF THE  
14 LOUISVILLE COURTHOUSE AS IS TYPICAL. DO YOU UNDERSTAND THAT YOU  
15 HAVE THE RIGHT TO A SENTENCING HEARING IN PERSON?

16 THE INTERPRETER: YOUR HONOR, THE DEFENDANT WAS NOT  
17 ABLE TO HEAR EVERYTHING THAT YOU JUST SAID.

18 THE COURT: OKAY. AND I GUESS THE -- YEAH. GO AHEAD.

19 DEPUTY CLERK: I WAS GOING TO MAKE ONE RECOMMENDATION,  
20 MR. HERNANDEZ. FOR SOME REASON, YESTERDAY WE HAD ISSUES WITH  
21 THE INTERPRETER USING THEIR VIDEO, AND SOMETIMES THERE'S A  
22 LITTLE LAG. SO SOMETIMES IT HELPS IF YOU TURN YOUR VIDEO OFF,  
23 AND THE DEFENDANT CAN JUST HEAR YOU. I DON'T KNOW IF THAT'S THE  
24 ISSUE LIKE WE HAD YESTERDAY, BUT IT SEEMED TO HELP.

25 THE INTERPRETER: I HAVE PROCEEDED TO TURN MY VIDEO

1 OFF.

2 THE COURT: OKAY.

3 THE DEFENDANT: NOW I HEAR YOU.

4 THE COURT: OKAY. VERY GOOD. HOW FAR BACK DID YOU  
5 NOT HEAR ME?

6 THE INTERPRETER: I ASKED THE INTERPRETER -- I MEAN  
7 THE DEFENDANT HOW FAR HE DID NOT HEAR, AND HE SAID, "I HEARD UP  
8 TO WHERE THE JUDGE ASKED ME TO CONFIRM THIS INTERPRETATION."

9 THE COURT: OKAY. WELL, IT IS IMPORTANT THE DEFENDANT  
10 HEAR EVERYTHING, SO I'M GOING TO GO BACK TO THAT POINT. WE ARE  
11 PROCEEDING TODAY VIA VIDEO CONFERENCE. WE'RE DOING SO PURSUANT  
12 TO THE CARES ACT AND THIS COURT'S GENERAL ORDER. THEN, MR.  
13 HERNANDEZ, LET'S STOP THERE AND JUST MAKE SURE THAT THE  
14 DEFENDANT CAN HEAR WHAT I JUST SAID, AND THEN YOU JUST TRANSLATE  
15 IT. MR. GOMEZ-JIMENEZ, WERE YOU ABLE TO HEAR THAT?

16 THE DEFENDANT: I DID HEAR, YES.

17 THE COURT: OKAY. VERY GOOD. UNDER THE CARES ACT,  
18 FELONY PLEAS UNDER RULE 11 OF THE FEDERAL RULES OF CRIMINAL  
19 PROCEDURE AND FELONY SENTENCINGS UNDER RULE 32 OF THE FEDERAL  
20 RULES OF CRIMINAL PROCEDURE MAY BE CONDUCTED VIA VIDEO  
21 CONFERENCE IF THE COURT FINDS THAT THE MATTER CANNOT BE FURTHER  
22 DELAYED WITHOUT SERIOUS HARM TO THE INTERESTS OF JUSTICE, AND  
23 AFTER CONSULTATION WITH HIS ATTORNEY, THE DEFENDANT CONSENTS TO  
24 PROCEEDING VIA VIDEO CONFERENCE.

25 IN THIS CASE, COUNSEL FOR THE DEFENDANT FILED AN UNOPPOSED

1 MOTION SEEKING TO CONDUCT THE DEFENDANT'S SENTENCING HEARING VIA  
2 VIDEO CONFERENCE AT DOCKET NUMBER 24. ONE OF THE JUSTIFICATIONS  
3 FOR WHY THIS CANNOT BE FURTHER DELAYED IS THE DEFENDANT HAS BEEN  
4 IN CUSTODY FOR ENOUGH TIME TO PUT HIM AT CREDIT TIME SERVED.

5 AS STATED IN THIS COURT'S MAY 19TH, 2020, TEXT ORDER AT  
6 DOCKET NUMBER 27, THE COURT AGREES, FURTHER DELAY WOULD RESULT  
7 IN THE DEFENDANT SERVING MORE TIME THAN HE COULD BE SENTENCED  
8 TO, WHICH IS, UNQUESTIONABLY, A SERIOUS HARM TO THE INTERESTS OF  
9 JUSTICE.

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11 PROCEEDING VIA VIDEO CONFERENCE IN ITS MAY 19TH, 2020, TEXT  
12 ORDER AT DOCKET NUMBER 27. THE COURT INTERPRETED THE UNOPPOSED  
13 MOTION SEEKING TO CONDUCT THE DEFENDANT'S SENTENCING HEARING VIA  
14 VIDEO CONFERENCE TO IMPLY THAT THE DEFENDANT CONSENTED TO DO SO  
15 AFTER CONSULTATION WITH HIS ATTORNEY. HOWEVER, THE COURT WANTS  
16 TO NOW CONFIRM THIS INTERPRETATION WITH THE DEFENDANT.

17 I WANT TO MAKE SURE THAT YOU, MR. GOMEZ-JIMENEZ, UNDERSTAND  
18 THAT YOU HAVE THE RIGHT TO WAIT TO BE SENTENCED UNTIL A TIME  
19 WHEN YOU CAN DO SO IN PERSON IN A COURTROOM OF THE LOUISVILLE  
20 COURTHOUSE AS IS TYPICAL. DO YOU UNDERSTAND THAT YOU HAVE THAT  
21 RIGHT?

22 THE DEFENDANT: YES, BUT I AM IN AGREEMENT TO PROCEED  
23 BY VIDEO CONFERENCE.

24 THE COURT: MR. GOMEZ-JIMENEZ, DID YOU DISCUSS THAT  
25 RIGHT WITH YOUR ATTORNEY?

1 THE DEFENDANT: YES.

2 THE COURT: YOU DISCUSSED GIVING UP THAT RIGHT WITH  
3 YOUR ATTORNEY, YOU HAD SUFFICIENT TIME FOR THAT DISCUSSION, DO  
4 YOU HAVE ANY ADDITIONAL QUESTIONS FOR YOUR ATTORNEY ON THIS  
5 MATTER, AND DO YOU CONSENT TO PROCEED VIA VIDEO CONFERENCE  
6 TODAY? IS THAT ALL CORRECT?

7 THE DEFENDANT: YES. IT IS CORRECT.

8 THE COURT: MR. SHANNON AND MISS BEYL, ARE THERE ANY  
9 PRELIMINARY ISSUES?

10 MR. SHANNON: NO, YOUR HONOR. NO PRELIMINARY ISSUES  
11 ON BEHALF OF THE UNITED STATES.

12 MS. BEYL: NO PRELIMINARY ISSUES FOR THE DEFENSE.

13 THE COURT: I HAVE RECEIVED AND REVIEWED THE FOLLOWING  
14 DOCUMENTS IN ADVANCE OF TODAY'S HEARING: THE PRESENTENCING  
15 REPORT, THE GOVERNMENT'S SENTENCING MEMO, AND THE DEFENDANT'S  
16 SENTENCING MEMO. MISS BEYL, AM I MISSING ANYTHING?

17 MS. BEYL: NO, YOUR HONOR.

18 THE COURT: DOES EITHER SIDE HAVE ANY ADDITIONAL  
19 DOCUMENTS OR LETTERS FOR THE COURT?

20 MR. SHANNON: NO, YOUR HONOR.

21 MS. BEYL: NO FURTHER FROM THE DEFENSE.

22 THE COURT: MISS BEYL, HAVE YOU AND THE DEFENDANT READ  
23 AND DISCUSSED THE PRESENTENCE REPORT PREPARED BY US PROBATION?

24 MS. BEYL: YES, YOUR HONOR.

25 THE COURT: HAVE YOU DISCUSSED OBJECTIONS?

1 MS. BEYL: YES, YOUR HONOR. WE HAVE NO OBJECTIONS TO  
2 THE FINAL PSR.

3 THE COURT: AND YOU HAD ENOUGH TIME FOR THOSE  
4 DISCUSSIONS, CORRECT?

5 MS. BEYL: YES, YOUR HONOR.

6 THE COURT: MR. GOMEZ-JIMENEZ, HAVE YOU READ AND  
7 DISCUSSED THE PRESENTENCE REPORT WITH YOUR ATTORNEY?

8 THE DEFENDANT: YES.

9 THE COURT: HAVE YOU HAD ENOUGH TIME TO DO THAT?

10 THE DEFENDANT: YES.

11 THE COURT: DO YOU HAVE ANY REMAINING QUESTIONS YOU  
12 WISH TO DISCUSS PRIVATELY WITH YOUR ATTORNEY BEFORE WE MOVE  
13 FORWARD WITH SENTENCING?

14 THE DEFENDANT: NO.

15 THE COURT: ARE YOU SATISFIED WITH THE REPRESENTATION  
16 OF YOUR ATTORNEY IN REGARD TO THIS PRESENTENCE REPORT?

17 THE DEFENDANT: YES. I AM HAPPY. I AM SATISFIED.

18 THE COURT: MISS BEYL, I NOTICED THAT THERE WAS ONE  
19 OBJECTION NOTED IN THE FINAL PSR REGARDING LOW END VERSUS LOWEST  
20 END. IN YOUR SENTENCING MEMO, YOU SAID YOU HAVE NO OBJECTIONS.  
21 JUST SO THE RECORD IS CLEAR, ARE YOU DROPPING THE OBJECTION?

22 MS. BEYL: YES, SIR. THAT WAS MY MISUNDERSTANDING.  
23 WHEN I WENT BACK AND LOOKED, IT SAID LOW VERSUS LOWEST.

24 THE COURT: OKAY. DO YOU HAVE ANY OTHER OBJECTIONS TO  
25 THE PSR?



1 MS. BEYL: NO, YOUR HONOR.

2 THE COURT: OKAY. SORRY. PLEASE BE PATIENT. OKAY.

3 AND, MR. SHANNON, NO OBJECTIONS TO THE PSR?

4 MR. SHANNON: THAT'S CORRECT. NO OBJECTIONS, YOUR  
5 HONOR.

6 THE COURT: OKAY. THE PSR SHALL BE PLACED IN THE  
7 RECORD AND FILED UNDER SEAL. IN THE EVENT OF AN APPEAL,  
8 PARTIES, THEIR COUNSEL, AND THE SIXTH CIRCUIT COURT OF APPEALS  
9 WOULD HAVE ACCESS TO THE PSR.

10 ALTHOUGH THE GUIDELINES ARE NO LONGER MANDATORY, THEY  
11 REPRESENT A STARTING POINT IN DETERMINING THE APPROPRIATE  
12 SENTENCE, A SENTENCE THAT IS SUFFICIENT BUT NOT GREATER THAN  
13 NECESSARY.

14 I CALCULATE THE FOLLOWING ADVISORY GUIDELINE RANGE: THE  
15 DEFENDANT'S BASE OFFENSE LEVEL IS 8. THERE IS A TWO-LEVEL  
16 REDUCTION FOR ACCEPTANCE OF RESPONSIBILITY UNDER 3E1.1(A),  
17 BRINGING THE TOTAL OFFENSE LEVEL TO 6. THE DEFENDANT'S CRIMINAL  
18 HISTORY SCORE IS 1 PLACING HIM IN A CRIMINAL HISTORY CATEGORY OF  
19 1.

20 THIS PRODUCES A GUIDELINES RANGE OF ZERO TO SIX MONTHS'  
21 IMPRISONMENT, ONE TO FIVE YEARS' PROBATION, A SUPERVISED RELEASE  
22 RANGE FOLLOWING IMPRISONMENT OF NOT MORE THAN ONE YEAR, AND A  
23 FINE RANGE OF \$1,000 TO \$9,500. THE SPECIAL ASSESSMENT IS \$100.

24 ARE THERE HAVE ANY OBJECTIONS FOR THE RECORD REGARDING THIS  
25 GUIDELINE RANGE THAT HAS BEEN CALCULATED HERE, MR. SHANNON?

1 MR. SHANNON: NO, YOUR HONOR.

2 THE COURT: AND MISS BEYL?

3 MS. BEYL: NO, YOUR HONOR.

4 THE COURT: MR. SHANNON, RESTITUTION IS NOT APPLICABLE  
5 IN THIS CASE, CORRECT?

6 MR. SHANNON: THAT IS CORRECT, YOUR HONOR.

7 THE COURT: FORFEITURE IS NOT BEING SOUGHT IN THIS  
8 CASE, CORRECT?

9 MR. SHANNON: YES, SIR. THAT IS CORRECT.

10 THE COURT: HAVING REVIEWED THE PLEA AGREEMENT, THE  
11 COURT UNDERSTANDS THE AGREED-UPON SENTENCING RECOMMENDATION TO  
12 BE AS FOLLOWS: A SENTENCE OF IMPRISONMENT AT THE LOW END OF THE  
13 APPLICABLE GUIDELINE RANGE, A FINE AT THE LOWEST END OF THE  
14 APPLICABLE GUIDELINE RANGE IS APPROPRIATE, AND A REDUCTION OF  
15 TWO LEVELS BELOW THE OTHERWISE APPLICABLE GUIDELINE FOR  
16 ACCEPTANCE OF RESPONSIBILITY AS PROVIDED BY 3E1.1(A), PROVIDED  
17 THE DEFENDANT DOES NOT ENGAGE IN FUTURE CONDUCT WHICH VIOLATES  
18 ANY FEDERAL OR STATE LAW, VIOLATES A CONDITION OF BOND,  
19 CONSTITUTES AN OBSTRUCTION OF JUSTICE, OR OTHERWISE DEMONSTRATES  
20 A LACK OF ACCEPTANCE OF RESPONSIBILITY.

21 MISS BEYL, IS MY UNDERSTANDING OF THE AGREED-UPON SENTENCING  
22 RECOMMENDATION CORRECT?

23 MS. BEYL: YES, YOUR HONOR.

24 THE COURT: MR. SHANNON, IS MY UNDERSTANDING OF THE  
25 AGREED-UPON SENTENCING RECOMMENDATION CORRECT?

1 MR. SHANNON: YES, YOUR HONOR.

2 THE COURT: ANY MOTIONS THAT THE COURT NEEDS TO  
3 ADDRESS?

4 MR. SHANNON: NOT ON BEHALF OF UNITED STATES. NO,  
5 YOUR HONOR.

6 MS. BEYL: NO MOTIONS BY THE DEFENSE.

7 THE COURT: I'M GOING TO ASK COUNSEL TO ADDRESS ANY  
8 FACTORS SET OUT IN 3553(A) THAT THEY BELIEVE ARE APPROPRIATE,  
9 AND WHICH WOULD SUPPORT OR JUSTIFY THE SENTENCE SET FORTH IN THE  
10 B PLEA AGREEMENT. AND, OBVIOUSLY, MR. GOMEZ-JIMENEZ'S PLEA  
11 AGREEMENT PROPOSES A SENTENCE INSIDE THE GUIDELINES RANGE. SO  
12 I'LL START WITH MR. SHANNON.

13 MR. SHANNON: YOUR HONOR, I BELIEVE THIS IS A STANDARD  
14 B PLEA AGREEMENT. THE UNITED STATES IS NOT AWARE OF ANY CONDUCT  
15 BY MR. GOMEZ THAT WOULD VIOLATES ANY TERMS OF OUR AGREEMENT. WE  
16 BELIEVE THE GUIDELINES AS CALCULATED ACCURATELY REFLECT THE  
17 SERIOUSNESS OF THIS OFFENSE, AND WE WOULD ASK THE COURT TO  
18 FOLLOW THE AGREEMENT.

19 THE COURT: MISS BEYL.

20 MS. BEYL: THANK YOU, JUDGE. IN ADDITION TO THE  
21 ARGUMENTS THAT I MADE IN THE SENTENCING MEMO, I WOULD ADD THAT  
22 THE SIX MONTHS THAT MR. GOMEZ-JIMENEZ HAS BEEN IN CUSTODY IS  
23 SUFFICIENT BUT NOT GREATER THAN NECESSARY TO ACCOMPLISH THE  
24 GOALS IN 3553(A) OR THE FACTORS IN 3553(A).

25 I WILL ADD THAT MR. GOMEZ-JIMENEZ DOES HAVE SOME FAMILY HERE

1 IN THE COUNTRY, INCLUDING TWO CHILDREN. HE ALSO HAS A SISTER  
2 AND NIECES HERE IN LOUISVILLE. BECAUSE OF THAT, AS WELL AS THE  
3 JOB OPPORTUNITIES, THAT WAS THE REASON THAT HE WAS HERE IN THE  
4 UNITED STATES.

5 BASED UPON THAT, HIS AGE, HIS VERY LOW CRIMINAL RECORD, I  
6 THINK THAT SIX MONTHS, ESPECIALLY BECAUSE THAT IS AT THE HIGH  
7 END OF THE GUIDELINE RANGE, THAT WOULD BE AN APPROPRIATE  
8 SENTENCE. FOR THAT REASON, I WOULD ASK THE COURT TO SENTENCE  
9 MR. GOMEZ-JIMENEZ TO TIME SERVED.

10 THE COURT: THANK YOU, MISS BEYL. ANYTHING ELSE TO  
11 ADD CONCERNING HIS SENTENCE, INCLUDING CONDITIONS FOR SUPERVISED  
12 RELEASE?

13 MS. BEYL: NO, YOUR HONOR.

14 THE COURT: MR. GOMEZ-JIMENEZ, THIS IS THE PART OF  
15 TODAY'S HEARING WHERE YOU HAVE THE OPPORTUNITY TELL ME DIRECTLY  
16 ANYTHING YOU PERSONALLY WOULD LIKE ME TO CONSIDER IN DETERMINING  
17 YOUR SENTENCE. WHILE THIS IS NOT REQUIRED OF YOU TO SPEAK, IT  
18 IS YOUR RIGHT PURSUANT TO THE CRIMINAL RULES OF PROCEDURE TO  
19 SPEAK DIRECTLY TO THE COURT, AND IF YOU CHOOSE TO DO SO, I CAN  
20 ASSURE YOU THAT I WILL GIVE YOU MY UNDIVIDED ATTENTION. WOULD  
21 YOU LIKE TO SAY ANYTHING?

22 THE DEFENDANT: NO.

23 THE COURT: THE COURT HAS CONSIDERED THE ADVISORY  
24 SENTENCING GUIDELINES AND THE FACTORS IN 18 USC 3553(A), AND I  
25 IMPOSE THE FOLLOWING SENTENCE: IT'S THE JUDGMENT OF THE COURT

1 THAT THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE BUREAU OF  
2 PRISONS FOR A TERM OF TIME SERVED AS TO COUNT 1 OF THE  
3 INDICTMENT.

4 UPON RELEASE FROM IMPRISONMENT, THE DEFENDANT SHALL BE  
5 PLACED ON SUPERVISED RELEASE FOR A TERM OF ONE YEAR AS TO COUNT  
6 1. THE DEFENDANT SHALL ABIDE BY THE STANDARD CONDITIONS OF  
7 SUPERVISION ADOPTED BY THE COURT AS WELL AS THE SPECIAL  
8 CONDITION THAT HAS BEEN DETAILED IN THE PRESENTENCE  
9 INVESTIGATION REPORT. THIS SPECIAL CONDITION IS THAT, IF  
10 DEPORTED, THE DEFENDANT MAY NOT REENTER THE UNITED STATES  
11 WITHOUT WRITTEN PERMISSION OF THE SECRETARY OF HOMELAND  
12 SECURITY. THIS SPECIAL CONDITION WILL BE FURTHER EXPLAINED BY  
13 THE US PROBATION OFFICER.

14 ADDITIONALLY, THE COURT DETERMINES THAT THE DEFENDANT HAS A  
15 LOW RISK OF SUBSTANCE ABUSE, AND MANDATORY DRUG TESTING IS  
16 HEREBY SUSPENDED UNTIL FURTHER ORDER OF THE COURT.

17 THE DEFENDANT IS REQUIRED TO PAY A SPECIAL PENALTY  
18 ASSESSMENT FEE OF \$100 AS TO THE SINGLE COUNT OF CONVICTION.  
19 THIS FINANCIAL SANCTION SHALL BE PAID IN ACCORDANCE WITH THE  
20 SCHEDULE OF PAYMENTS PAGE CONTAINED IN THIS JUDGMENT.

21 RESTITUTION IS NOT AN ISSUE IN THIS CASE. A FINE AND THE COSTS  
22 OF INVESTIGATION, PROSECUTION, INCARCERATION, AND SUPERVISION  
23 ARE WAIVED DUE TO THE DEFENDANT'S INABILITY TO PAY.

24 HAVING CONSIDERED 18 USC 3553(A) AND THE ADVISORY GUIDELINES  
25 WHICH PRODUCE A TOTAL OFFENSE LEVEL OF 6 AND A CRIMINAL HISTORY

1 CATEGORY OF 1, THE ADVISORY GUIDELINE RANGES ARE ZERO TO SIX  
2 MONTHS' IMPRISONMENT, ONE TO FIVE YEARS' PROBATION, A SUPERVISED  
3 RELEASE RANGE FOLLOWING IMPRISONMENT OF NO MORE THAN ONE YEAR,  
4 AND A FINE RANGE OF \$1,000 TO \$9,500.

5 A SENTENCE MUCH TIME SERVED FOLLOWED BY ONE YEAR OF  
6 SUPERVISED RELEASE FALLS WITHIN THE ADVISORY GUIDELINE RANGES  
7 AND IS SUFFICIENT BUT NOT GREATER THAN NECESSARY TO COMPLY WITH  
8 THE PURPOSES SET FORTH IN SECTION 3553(A)(2), AND SATISFIES  
9 STATUTORY PROVISIONS, AND IT CONFORMS WITH THE PLEA AGREEMENT.

10 DO THE PARTIES HAVE ANY OBJECTIONS TO THE SENTENCE JUST  
11 PRONOUNCED OR THE SPECIAL CONDITIONS IMPOSED, ALL OF WHICH SHALL  
12 BE INCORPORATED IN THE JUDGMENT? MR. SHANNON.

13 MR. SHANNON: NO OBJECTIONS, YOUR HONOR.

14 THE COURT: ANY ARGUMENTS THE GOVERNMENT HAS MADE THAT  
15 YOU DO NOT FEEL I HAVE ADDRESSED IN RENDERING THE SENTENCE?

16 MR. SHANNON: NO, YOUR HONOR. YOU HAVE ADDRESSED  
17 ALL -- EVERYTHING.

18 THE COURT: AND THEN, MISS BEYL, DO YOU HAVE ANY  
19 OBJECTIONS TO THIS SENTENCE?

20 MS. BEYL: NO OBJECTIONS, YOUR HONOR.

21 THE COURT: ANY ARGUMENTS YOU'VE ASSERTED THAT YOU DO  
22 NOT FEEL I HAVE ADEQUATELY ADDRESSED IN RENDERING THE SENTENCE?

23 MS. BEYL: NO, YOUR HONOR.

24 THE COURT: HAVING ADDRESSED ALL THE REMAINING ISSUES  
25 WITH THE SENTENCE, THE SENTENCE IS HEREBY ORDERED IMPOSED AS

1 STATED, AND AN APPROPRIATE JUDGMENT SHALL BE ENTERED.

2 MR. GOMEZ-JIMENEZ, YOU HAVE THE RIGHT TO APPEAL YOUR  
3 CONVICTION OR GUILTY PLEA PURSUANT TO RULE 32(J)(1)(A) AND A  
4 RIGHT TO APPEAL YOUR SENTENCE UNDER RULE 32(J)(1)(B). HOWEVER,  
5 IN YOUR PLEA AGREEMENT, YOU WAIVED CERTAIN RIGHTS TO APPEAL AND  
6 ATTACK BOTH YOUR GUILTY PLEA AND YOUR SENTENCE. MR.  
7 GOMEZ-JIMENEZ, DO YOU REMEMBER THAT WAIVER?

8 THE DEFENDANT: YES.

9 THE COURT: PURSUANT TO THAT WAIVER, YOU ARE ONLY  
10 PERMITTED TO HAVE APPEAL FOR PURPOSES OF PROSECUTORIAL  
11 MISCONDUCT OR INEFFECTIVE ASSISTANCE OF COUNSEL. AS SUCH, ANY  
12 NOTICE OF APPEAL MUST BE FILED WITHIN 14 DAYS OF JUDGMENT. IF  
13 YOU ARE UNABLE TO PAY THE COSTS OF AN APPEAL, YOU MAY APPLY FOR  
14 LEAVE TO APPEAL AS A PAUPER. MR. GOMEZ-JIMENEZ, DO YOU  
15 UNDERSTAND YOUR APPEAL RIGHTS? AND I HEARD SI, BUT I DIDN'T  
16 HEAR MR. HERNANDEZ' TRANSLATION.

17 THE INTERPRETER: THE INTERPRETER WILL REPEAT. "YES,  
18 BUT I DON'T HAVE."

19 THE COURT: MR. GOMEZ-JIMENEZ, YOU MEAN YES, YOU  
20 UNDERSTAND YOUR APPEAL RIGHTS, BUT YOU DON'T HAVE A PLAN TO  
21 APPEAL? IS THAT WHAT YOU'RE SAYING?

22 THE DEFENDANT: YES. I REALLY DON'T HAVE ANYTHING TO  
23 SAY.

24 THE COURT: OKAY. MISS BEYL, IS THERE ANY ADDITIONAL  
25 INFORMATION REGARDING THE DEFENDANT'S APPEAL RIGHTS THAT YOU

1 FEEL THE COURT NEEDS TO ADDRESS WITH HIM AT THIS TIME?

2 MS. BEYL: NO, YOUR HONOR.

3 THE COURT: DO YOU HAPPEN TO KNOW IF HE HAS ALREADY  
4 SIGNED THE APPEAL DOCUMENT?

5 MS. BEYL: YES. HE HAS SIGNED IT, AND I BELIEVE THAT  
6 IT WAS SENT TO THE CASE MANAGER BEFORE WE WENT ON THE RECORD.

7 THE COURT: OKAY. IT IS MY UNDERSTANDING THAT MR.  
8 GOMEZ-JIMENEZ IS CURRENTLY IN CUSTODY. AS SUCH, THE DEFENDANT  
9 SHALL REMAIN IN CUSTODY. ARE THERE ANY FURTHER ISSUES YOU  
10 BELIEVE THE COURT NEEDS TO ADDRESS, MR. SHANNON?

11 MR. SHANNON: NO, YOUR HONOR. NO ISSUES AT THIS TIME.

12 THE COURT: MISS BEYL?

13 MS. BEYL: NO, YOUR HONOR.

14 THE COURT: MR. GOMEZ-JIMENEZ, I KNOW THERE WAS A LOT  
15 OF LEGAL JARGON AS I WAS PRONOUNCING THAT SENTENCE, BUT THE  
16 POINT OF ALL THAT WAS THAT I HAD SENTENCED YOU TO THE TIME THAT  
17 YOU HAVE ALREADY SERVED IN CUSTODY. I KNOW THAT THIS MAY NOT BE  
18 THE END OF THE ROAD FOR YOU IN TERMS OF THE POSSIBILITY OF  
19 DEPORTATION. KNOW THAT I WISH YOU THE BEST. I WISH YOU GOOD  
20 LUCK. IF THERE'S NOTHING ELSE, WE'RE ADJOURNED. THANK YOU ALL.

21 MS. BEYL: THANK YOU.

22 MR. SHANNON: THANK YOU, YOUR HONOR.

23 THE DEFENDANT: THANK YOU.

24

25