

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 0:23-cr-60170-RNS-1

UNITED STATES OF AMERICA,

Miami, Florida

Plaintiff,

August 27, 2024

vs.

8:25 a.m. - 10:05 a.m.

ALEXANDRA ACOSTA,

Defendant.

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SENTENCING
BEFORE THE HONORABLE ROBERT N. SCOLA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 (The following proceedings were had:)

2 THE COURT: Good morning, everyone. Welcome.

3 Please be seated.

4 All right. Our first matter this morning is United

5 States of America versus Alexandra Acosta.

6 Who is here for the Government?

7 MR. JONES: Good morning. Assistant United States

8 Attorney Trevor Jones on behalf of the Government. Seated with

9 me is United States Attorney Adam Love, and special agent Tania

10 Johnson from the Federal Reserve Board, Office of the Inspector

11 General.

12 THE COURT: Good morning.

13 And for the defense?

14 MR. SILBER: Good morning, your Honor. Bryan Silber on

15 behalf of Alexandra Acosta, the defendant, who is also present

16 before the Court.

17 THE COURT: All right, good morning.

18 Good morning, Ms. Acosta.

19 THE COURT: And who is here from Probation?

20 PROBATION OFFICER: Good morning. Kira Harmeling on

21 behalf of United States Probation.

22 THE COURT: Good morning. And we have several matters

23 set for this morning. Let's take up the motion for new trial

24 and motion for judgment of acquittal.

25 I will give each side 30 minutes. I don't think you

1 need that much time to present argument.

2 So, I will hear from the defense first.

3 And do you want to save some of your time for rebuttal?

4 MR. JONES: Sure.

5 MR. SILBER: Thank you, your Honor.

6 Your Honor, I will be quick.

7 THE COURT: All right.

8 MR. SILBER: Everything I need to argue is in the
9 written motion. I don't think there is any new, finer point
10 that I could share with you here today.

11 But, the 30-second version is as follows: When I
12 analyzed the indictment, I see that, logically, based on the
13 allegations in the evidence, our four counts are really grouped
14 into two categories; Counts 1 and 3 go together, and Counts 2
15 and 4 go together. And, the reason for that is we have two
16 loan applications that were filed with the SBA that comprised
17 the allegations of fraud in this case. We have the initial
18 application for the loan, wherein the application falsely
19 stated certain payroll amounts, was falsely substantiated by
20 doctored tax returns. And, that application was used to
21 convince the SBA and the bank to loan the initial loan.

22 Subsequent thereto, a couple of months later, a second
23 application was filed, and that was the forgiveness
24 application, wherein it was falsely stated that the applicant
25 had used more than 60 percent of the loan proceeds for payroll.

1 It was stated falsely that a hundred percent was used for
2 payroll, and that was not true.

3 The effect of that was the United States, not the
4 lender, the United States approved -- the SBA approved the
5 forgiveness application, and the United States paid the debt
6 owed to the lender.

7 So, as it relates to the initial application, that was
8 used to defraud the lender, whereas the forgiveness application
9 was used to defraud the United States.

10 With that in mind, if you look at Counts 1 and 3, both
11 of those address the forgiveness application; particularly, in
12 Count 1, she is accused of conspiracy to defraud the United
13 States. If we are talking about defrauding the United States,
14 it doesn't say "United States and Cross River Bank," or, it
15 doesn't also say "United States and/or Cross River Bank."

16 If we are talking only about defrauding the United
17 States, then we are talking about the forgiveness application,
18 because in the initial application, the United States was
19 merely a guarantor in the event there was a default. It wasn't
20 until the forgiveness application was approved that the United
21 States reached into its Treasury and paid the third-party bank,
22 and therein became victimized.

23 The reason why we are asking for relief in a judgment
24 of acquittal is because the evidence tying Ms. Acosta to the
25 fraudulent application for the fraudulent activity in the

1 forgiveness application is lacking. And, a reasonable jury
2 would not ignore the exculpatory evidence that was presented.

3 The issue that we have is the jury's verdict was
4 unreasonable, in light of all the exculpatory evidence and all
5 the questions I raised at trial. And, I reiterate to you that
6 it is in the motion. I am not going to hash through every
7 single one of them right now; but, again, I need to address the
8 fact that the forgiveness application was never -- the
9 signature was never authenticated. The DocuSign or another
10 service, as we sit here today -- no evidence was ever presented
11 as to who signed that document, who submitted it, other than
12 Ms. Acosta's testimony denying that she did it.

13 If you recall, your Honor, the witness from the bank,
14 Ms. Beechan, was the one that pointed out -- with the purple
15 hair, as I remember her -- the last thing she testified to is
16 she could not tell us that Ms. Acosta is the one who signed the
17 forgiveness application.

18 So, we have a major reasonable doubt as to what was
19 going on with the forgiveness application. The verdict, as to
20 Counts 1 and 3, cannot stand. A reasonable jury would not
21 ignore all of that exculpatory evidence and all of the
22 questions that were raised.

23 A similar argument as to Counts 2 and 4, except those
24 counts address the initial application.

25 Okay, now, if you recall, your Honor, the signature on

1 the initial application was authenticated using DocuSign; but,
2 the evidence proved that that DocuSign was done by
3 Mr. St. Louis. And, we know that because it was his ID address
4 in the DocuSign.

5 We also know that because she had an email giving him
6 access to her log-in credentials. There was a subsequent email
7 not only for her G-mail account, but also for her Home Depot
8 account. But, the Home Depot information isn't materially
9 necessarily to the initial application, but she does show a
10 course of conduct and the circumstantial conduct that
11 substantiates her claim.

12 Frankly, I don't think the Government even challenges
13 the defense's claim that she gave her log-in credentials.

14 We are asking for a judgment of acquittal because,
15 again, as with Counts 1 and 3, there is a doughnut hole here.
16 There's a major lack of evidence. There is a conflict in the
17 evidence created by all the exculpatory evidence that was
18 submitted. And, based on that, it is our position that the
19 jury did not act reasonably, and that the Court should enter a
20 judgment of acquittal.

21 That is it as for the motion for judgment of acquittal.

22 Alternatively, if the Court were to deny that, we are
23 also asking, in a separate motion, for a new trial.

24 Our first grounds incorporate all the arguments made in
25 the judgment of acquittal motion; that the jury acted

1 unreasonably.

2 Then, we revisit a couple -- the two motions we filed
3 prior to trial, wherein we asked the Court to exclude any
4 evidence concerning the IRA audit and evidence concerning her
5 employment at the Sheriff's Office.

6 To the extent that the Court has reserved the
7 testimony, at this point, and seen the trial, maybe the Court's
8 position has changed on those matters. Maybe you might agree
9 with the defense that that evidence was more prejudicial than
10 it was probative. Certainly, the Government was not able to
11 bring in the evidence of her employment.

12 They could have told the same story, but, without that
13 prejudicial effect, that unfairly prejudicial effect.

14 As I said in my motion before trial, they could have
15 referred to the Sheriff's Office as her employer, and her
16 status as a deputy sheriff as her employment.

17 The jury did not need to know that she was a law
18 enforcement officer to understand this case and make a
19 decision, because her employment had nothing to do with the
20 offenses she was charged with. It was not part of her work.
21 It was not germane to her work. It did not involve her work.
22 The offense occurred independent of that.

23 In any event, if the Court is to deny the motion for
24 judgment of acquittal, for the reasons stated in the motion for
25 new trial as an alternative form of relief, we would also ask

1 that you give her a new trial where the evidence we are asking
2 to exclude is either excluded or severely limited in some
3 capacity that would change the circumstances and give her a
4 different type of trial.

5 THE COURT: All right. Thank you.

6 MR. SILBER: Thank you, your Honor.

7 MR. JONES: Your Honor, starting again, I won't belabor
8 the issues that are addressed in our briefing.

9 We will begin with the fact that we have a very high
10 standard to defer to the judgment of the 12 jurors, who sat
11 here and heard the evidence, saw the documentary evidence,
12 listened to the testimony, including Ms. Acosta, and determined
13 that she was incredible.

14 The bifurcation of Count 1 with Count 2 and 4 -- it
15 just doesn't hold up against the actual document. The document
16 charges a conspiracy to violate 15.645A, which is a false
17 statement to the SBA.

18 These were SBA forms that were created under a
19 Government program during the pandemic to protect against
20 COVID-19, you know, the tragedies that were occurring. And, it
21 is completely created by the SBA, run by the SBA, using
22 SBA-approved lenders and services in order to effectuate the
23 program. But, there is no dispute that this is the SBA. This
24 was the Government that they were lying to.

25 And, switching whether the forgiveness -- when the

1 money changes hands from the SBA paying back the lender, or,
2 who is giving her the first round of the first deposit must be,
3 doesn't change the fact that the false statements were made to
4 the SBA.

5 And, indeed, the SBA guarantees these loans throughout.

6 So, whether they are forgiven or not, this is the
7 reason why the banks were willing to do a lot of stuff because
8 there was a zero risk situation. Right?

9 The Government said that, "If you help us facilitate
10 this, you will get paid back."

11 Forgiveness comes to the defendant having it paid back,
12 not whether the lender is forgiven. It is whether the
13 defendant is forgiven.

14 So, this attempt to move now away from the jury
15 instructions, away from the charging documents, everything that
16 the jury was instructed to about general conspiracy, about
17 false statements, that is -- is a far cry from any real basis
18 for judgment of acquittal on those counts.

19 They apply -- conspiracy applies to false statements in
20 the application for the loan and for the forgiveness.

21 Now, I think, again, we can all agree that what we are
22 talking about here is knowledge, willfulness to join in the
23 conspiracy.

24 No one disagrees there was false statements. No one
25 disagrees on the amounts that were false statements. No one

1 disagrees as to the amount of all of this.

2 The Government presented the IP address that the
3 defense relied upon as exculpatory. It is not exculpatory. It
4 is inculpatory of conspiracy. That is why it was alleged as
5 conspiracy.

6 St. Luis is the person that helped her apply for this
7 loan. The evidence clearly creates the circumstances showing
8 they were together that day when they spoke with the IRS about
9 a \$20,000 outstanding judgment and decided to apply for a
10 \$20,000 loan.

11 Three days later, she gets funded.

12 Regardless of who hits the button that day, a
13 conspiracy doesn't require the person to do every bit of the
14 act, nor does it for aiding and abetting.

15 She gave the information necessary to complete the
16 crime.

17 The jury had an opportunity to hear Ms. Acosta.

18 They also learned that she withheld incredibly relevant
19 information from the Government, pretrial, that she doubled
20 down on and said was irrelevant during trial; that she never,
21 in her mind, tied these two issues to whether there was a
22 \$19,000 tax levied and a 19, \$20,000 loan. I mean, that
23 strains credulity, and the jury knew it -- for good reason. It
24 makes no sense.

25 The exculpatory evidence comes only from her testimony,

1 and it doesn't add up. They argued to the jury -- her theory
2 requires a person to commit a felony without her knowledge,
3 with no -- there is no, like, conveyance of aiding and
4 abetting. It is purely, "Here is evidence from my client in
5 your email address. I did this for you. I hope you enjoy your
6 \$20,000. You don't even know I did that."

7 If that is the theory, it does not make any sense.

8 And, the jury did not believe Ms. Acosta. The
9 circumstances surrounding the fact that she worked at BSO, had
10 not used the policy information, had stopped disclosing the
11 fact she was a realtor, that is probative of her vision of who
12 she was at that time as a sole proprietor.

13 She knew it was a side hustle that she knew wasn't
14 working. That's evidence that the jury can consider and say,
15 "Hey. If you are trying to" -- the fraud, your Honor -- we
16 can't, there is -- we don't get written agreements that say,
17 "Do you want to conspire to commit a crime?"

18 "Sure."

19 "Check this box. Great."

20 And then you find the evidence later.

21 We are trying to get inside someone's mind.

22 We are trying to prove things circumstantially, and
23 that is what we have here, is a lot of circumstantial evidence.

24 And, there is also direct evidence of them being
25 together on the day they applied.

1 But, the jury has to be given the opportunity to infer
2 from that evidence who Ms. Acosta was at the time, what she
3 knew about her employment, what she knew her income was, what
4 she knew about the program as a law enforcement officer; and,
5 her understanding of whether she ever could ever qualified for
6 \$20,000 for a forgivable loan for something she did on the
7 side. And, they did consider that, and 12 people agreed with
8 the Government that she committed these crimes.

9 You also heard that her mother and her wife worked for
10 the same real estate agent, her -- or real estate broker. She
11 didn't disclose any of this, that this is a \$20,000 loan,
12 right?

13 We have -- we have -- they are the closest family
14 members who do the same thing you do, and you don't want to
15 tell them that there is an opportunity for them to make some
16 money, free?

17 And, she knows it wasn't a stimulus.

18 She knows the difference between a stimulus -- there
19 are emails when she is asking about stimulus money versus what
20 a loan is.

21 She was very aware at the time that this is not the
22 same as the \$1,400 that everybody got, or people with certain
23 income got across the board.

24 She understood that this was an extra step.

25 She understood there was a DocuSign sent to her email

1 address. And, it included the false statement the same day it
2 was applied for; DocuSign, with the loan promissory notes.

3 And, we are to believe that she had no knowledge, did
4 not deliberately ignore anything that was going on, even with
5 Mr. St. Louis -- it is also indicative that her conduct with
6 St. Louis leading up to this with the IRS audit.

7 It is not about the audit. No one argued that this was
8 -- being audited for taxes is the crime, and that is what she
9 was here for. That was never argued. That is not the basis
10 for this coming in. This is alleged conspiracy. And, to show
11 conspiracy, you show the relationship between Ms. Acosta and
12 Mr. St. Louis; that it was a long-existing one; that there was
13 a level of trust among them; and, that in those two years
14 prior, she is back and forth.

15 First of all, they submit all these false statements in
16 the IRS forms. But, leading up to the audit, you can see that
17 she takes a position. She says that she is there; that the
18 evidence actually backs that up with her in-person signature in
19 2019; that it took place at Victory Taxes.

20 And then, when the moment comes that she can get out of
21 paying that, she learns that if she puts it on St. Louis,
22 completely, that she doesn't have to pay a fee, the added
23 percentage fee for negligence in her taxes, then she pivots to
24 that, and she says, "Oh, yes. By the way, my memory just got a
25 lot better. In fact, I never went in there. He did it all. I

1 can't believe he did that without my knowledge."

2 Right?

3 That evidence shows, one, her inability to be trusted;
4 two, that those two -- they worked together.

5 And, we saw the email. We saw the email that says,
6 "Don't tell my wife."

7 Well, her wife is going in to get her taxes done that
8 day. She is going in to get her taxes done by the person that
9 is being audited, who, with all the representations prior, and
10 she doesn't want to say to her wife, "Be careful. Don't go to
11 this guy anymore."

12 No. She turns to him and says, "Don't tell her about
13 the loan and the tax case."

14 That is strong evidence, your Honor, of two people
15 agreeing to accomplish an unlawful plan.

16 I can't imagine a more straight application of
17 someone's distrust. I mean, for a significant other, and
18 putting someone who is committing the crime with her, just
19 seeing that, that dichotomy of where the allegiance lies at
20 that moment, the jury saw that and the jury understands that.

21 I introduced -- again, the false statements are all
22 here. The wire communications, no dispute. All those elements
23 are checked.

24 So, really, what we are left with is knowledge. The
25 evidence and circumstances around it support that knowledge.

1 This jury had ample circumstantial evidence to find Ms. Acosta
2 was definitely aware of what was going in the application.
3 And, at best, she deliberately ignored it.

4 We have even got the good-faith instruction for wire
5 fraud, and they didn't believe that. They got a good faith
6 instruction for conspiracy, and they did not believe that
7 because they did not believe Ms. Acosta. Ms. Acosta is not
8 believable. She lied to me. She lied to this Court. She lied
9 to all the jurors that day.

10 And, that is why we ask that you deny the motion for
11 judgment of acquittal for all those counts, for all four
12 counts.

13 Now, as to the motion for new trial, the Court
14 addressed this pretrial. I think your ruling was sound then,
15 sound now, and sound during trial.

16 The IRS evidence never became a feature, itself, of the
17 trial. It is evidence of conspiracy, the relationship. It was
18 the statements in there about those two working together, being
19 in the same location.

20 We didn't go through and figure out whether she
21 actually made a certain amount of money every year, or whether
22 those expenses or approval -- we didn't spend time on that.

23 So, it didn't become a feature of anything except to
24 showed who she was with her co-conspirators. It was probative
25 for the jury to understand the conspiracy, and probative of

1 them to understand her inability to tell the truth.

2 And, it also showed the motive for the crime.

3 So, on that basis, a new trial should be denied.

4 BSO policy -- your Honor, there is no prejudice with
5 the BSO policy. They argued in closing that this was not
6 something that was a big deal anyway, and the only basis of
7 that policy introduction was to show her knowledge at the time,
8 her state of mind, who she was, what she believed.

9 We cannot try people in vacuum. We have to understand
10 that they -- we all come from something. Her experience as a
11 law enforcement officer is relevant. This was year two of the
12 pandemic where we are prosecuting people for PPP fraud.

13 It is implausible that she didn't know anything about
14 this. As a law enforcement officer, it is implausible. And,
15 the jury is entitled to understand who the people are at the
16 time. This isn't -- she worked full time. They need to know
17 what that work was. They need to know what she was doing.

18 It is not like a job where she was seven to ten, 12 in
19 the morning, and then was off the rest of the day. I mean,
20 that she made \$25,000 a year; that she earned a real living,
21 full time employment, had a lot of responsibilities outside of
22 work.

23 She is a decorated SWAT officer. She had plenty going
24 on in her life, not to be dedicated to a side hustle. She
25 clearly wasn't running a full business, and that goes to her

1 state of mind.

2 The jury is entitled to understand who she is at the
3 time when she is committing these crimes. And, that's why the
4 information about her being a law enforcement, the information
5 about her wife being a law enforcement officer was relevant.
6 She hid it from her wife, arguably, because her wife probably
7 would have been upset that she is breaking the law.

8 And, I think I just merged those two -- last two
9 arguments, but the policy, itself, is not prejudicial to begin
10 with; but, to the extent it was, its evidentiary value
11 outweighed the probative effect. And, likewise, the law
12 enforcement aspect is fully relevant to this case, your Honor.

13 So, the motion for new trial, I think, should be
14 denied. Also, to the extent that it dovetails from the
15 judgment of acquittal basis, the Government would rest on the
16 same arguments it did for the judgment of acquittal. We
17 believe that there has been sufficient evidence in this case
18 that all the Court's rulings pre, during and post trial are
19 accurate and sound, and that we will rest on the briefing, your
20 Honor.

21 Thank you.

22 THE COURT: All right. Mr. Silber, you get the last
23 word on those motions.

24 MR. SILBER: Thank you.

25 Your Honor, I would only add that to me and my

1 perspective, this is why we have the rule that allows you to
2 seek a judgment of acquittal after a trial. My problem with
3 this case is that we are here on a reasonable -- on a "beyond a
4 reasonable doubt" standard. If this were a civil matter, we
5 would debate the preponderance of the evidence and I might feel
6 different about it.

7 But, my problem with the Government's case is that it
8 is unreasonable to convict under these circumstances because it
9 requires a leap in the absence of evidence. It isn't like
10 cases where we have a wire, or a testifying codefendant, or
11 some kind of admission, you know, something that would prove
12 that one extra piece that -- which shows the science that makes
13 all this a crime. The one little -- there is not one little
14 domino, not one brick is missing here, and it is the one point
15 that makes a huge difference. And, that's why the jury verdict
16 was unreasonable, because they have to make that leap and
17 assume what her state of mind is, and what she knew, while
18 ignoring exculpatory evidence that challenges that. And, that
19 is my problem. That's why the judgment of acquittal is
20 appropriate.

21 Thank you.

22 THE COURT: All right. Thank you.

23 The Court appreciates its duty to conduct a review of
24 the evidence in the light most favorable to the Government. I
25 think this is a very close question, legally.

1 But, I do believe that the evidence does support the
2 jurors' verdict, I think a reasonable jury could have found the
3 defendant guilty beyond a reasonable doubt as to each of the
4 counts. The fact that there was a reasonable construction of
5 the evidence that a jury could have believed doesn't eliminate
6 other reasonable construction that the jury found that supports
7 the convictions.

8 So, I am going to deny the motion for judgment of
9 acquittal.

10 As for the motion for new trial, I think the fact that
11 the -- there were three evidentiary issues, the IRS audit
12 evidence, the fact that she was employed as a sheriff, or
13 deputy in the Sheriff's Office, and, the fact that she --
14 related to the forms that she needed to submit were off-duty,
15 for off-duty work. Those were all very relevant and probative
16 of the issues related to the case.

17 And, I think for most of -- I don't see any prejudice
18 for the jury learning that she worked as a police officer,
19 particularly since we spend a lot of time in the jury selection
20 weeding out any jurors who had any bad feelings about police
21 officers. And, the fact that she had to submit off-duty forms,
22 I don't know how all that is prejudicial. It is relevant and
23 probative of the issue of whether she realizes that she would
24 be entitled to this type of a loan, if she wasn't really
25 working.

1 So, I am going to deny the motion for new trial, as
2 well.

3 That takes us to sentencing. Are both sides prepared
4 to go forward with the sentencing this morning?

5 MR. JONES: Yes, your Honor.

6 MR. SILBER: Yes, your Honor.

7 THE COURT: Has each side received and reviewed the
8 Presentence Investigation Report, as well as the addendum to
9 the report?

10 MR. SILBER: Yes, your Honor.

11 MR. JONES: Yes, your Honor.

12 THE COURT: And, Ms. Acosta, have you gone over the
13 report and addendum with your attorney?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Does the Government have any objection to
16 the report?

17 MR. JONES: No, your Honor.

18 THE COURT: Does the defense have any objections?

19 MR. SILBER: Other -- the only objection we verbalized
20 to Probation about the factual description, we would just enter
21 an objection to the extent that it contradicts Ms. Acosta's
22 testimony.

23 THE COURT: So, I will overrule those objections.

24 So, having resolved the objections, I find the base
25 offense level is a Level 7. There is a four-level increase

1 because the amount of loss was more than \$15,000 but less than
2 \$40,000.

3 There is a two-level increase for obstruction of
4 justice, based upon her perjury during her testimony during the
5 trial. I think that gives an adjusted offense level of 13.

6 She does meet the criteria of a zero-point offender,
7 which is a two-level reduction for that.

8 So, the total offense level is 11. The criminal
9 history category of one, and an advisory guideline range of
10 eight to 14 months.

11 So, with that as the advisory guideline range and in
12 consideration of the 18 United States Code Section 3553
13 factors, what is the Government's position as to an appropriate
14 sentence, and why?

15 MR. JONES: Your Honor, we are recommending ten months
16 incarceration. Here is why: I have obviously considered the
17 3553(a) factors, given the date and circumstances of this
18 offense. You know, we speak about it during our arguments
19 earlier this morning.

20 But, this is a serious offense. I want to acknowledge
21 that we have a \$20,000 loan, which isn't a \$20 million loan.
22 That aside, we were going through a national crisis, something
23 that happens once every hundred years. People needed money.
24 Businesses needed money. Small businesses, the people that
25 need the support in our communities to survive, a very scary

1 and unknown time.

2 That money was a lifeline to them. It was unavailable
3 to them because people stole from it, including Ms. Acosta.
4 That \$20,000 that she took, that she was not entitled to, would
5 have gone to another person. The unnamed victim, the faceless
6 victim in this courtroom is the person who could have gotten
7 that \$20,000. They could have saved their business, could have
8 helped their children, their families.

9 They needed -- they didn't have full time jobs with the
10 BSO making a hundred grand. They needed this money to survive
11 as a business, and they couldn't get it because of people like
12 Ms. Acosta, who decided that whatever their life was, wasn't
13 enough, financially, and they needed just a little bit more.
14 That is the greed.

15 And, that -- that poor person that did not get that
16 money, we need to make sure that in the future, that's not the
17 case. How do we do that? We have to let society know that it
18 is unacceptable to do this to other people, to do it to your
19 society, to your community members. We all are supposed to be
20 in this together, especially during times like that.

21 We need society to trust the system. We want to have
22 the people believe that you can't get away with this, because
23 you know what, this a is trust-based system that we created in
24 order to help people. And, if it is that easy to do, we are
25 going to have 70 percent of America doing this next time.

1 Next time we have a national crisis where the
2 Government is to step in and get involved, save the people that
3 they can, we are going to have droves of individuals saying,
4 "You know what, these PPP people, they didn't get much. It
5 seems like it was worth it."

6 So probably only get a handful, and then when they do
7 get them, they get probation.

8 You know, that's -- that's the narrative that can
9 float, based on the decision today.

10 Society is watching. Society is looking to see how
11 people are being punished for these crimes; and, in particular,
12 someone who is a law enforcement officer, someone who knows
13 better, someone who was trained in all this stuff, understands
14 what is right and wrong her whole life, apparently, and then
15 still decided to do this.

16 The nature and circumstances of these offenses are for
17 far greater than just \$20,000 fraud. So much deeper. This
18 just violates every trust in law enforcement. It stained a
19 community, it stains the BSO, and, in this instance, law
20 enforcement in general.

21 And, if we just give people passes because they have
22 backgrounds in law enforcement, what are we saying?

23 If you are an 18-year-old who makes a mistake and robs
24 a bank for \$20,000, you are going to jail for five years. But
25 you are an educated, middle-aged individual, all the reason in

1 the world not to do it, and you steal \$20,000. What do you
2 get?

3 You get to sit at home?

4 You are in timeout?

5 It is a serious offense. And, these \$20,000 loans take
6 just as much effort by the Government to approve as \$20 million
7 loans; people flying in from out of town, across the country,
8 all the way from Oregon to try this case.

9 Countless lives -- oh, and Ms. Acosta testified that
10 she was so sad and sorry that -- for all the families' lives
11 that disrupted by this mistake of hers. That is a lie. That
12 was another lie. Because if that was true, your Honor, she
13 wouldn't have drug us all through this.

14 People completely disagreed with her understanding of
15 what happened the whole time. She doesn't care.

16 Really?

17 She cares about herself. She cares about her family,
18 and I don't blame her for that. That is natural. We all try
19 to protect our families. I can appreciate that and empathize
20 with that. But, to sit up here in front of all of us and say
21 the prosecutors, the court reporter, everyone that is
22 sacrificing their lives -- "I am sorry I put you through this"
23 -- it is unbelievable.

24 The truth is yes, it is a lie. It is a tremendous
25 amount of work. It is so much work it is hard to even explain

1 to me what goes into these cases, because you have to prove
2 every one of these elements, whether it's a huge fraud or small
3 fraud.

4 And, you know, a \$20 million fraud who goes to prison
5 for ten to 15 years, the conduct is the same. The intention is
6 the same. The criminal mind is the same.

7 The level of greed is different. In fact, they were
8 capped at \$20,000. So, we will never really know. So, I want
9 to make sure the nature and the circumstances of these PPP
10 fraud cases are nothing to scoff at.

11 I think it is imperative that we treat them as the
12 serious cases that they are, and that we set examples.

13 And, that dovetails into the, you know, respect for the
14 law, seriousness of the offense. This all kind of blends
15 together for the just punishment.

16 And, the ten months, your Honor, there needs to be
17 something where someone really weighs in and says, "That is not
18 worth it. I don't want to be -- I don't want to be that
19 person. I don't want to be with my family -- away from my
20 family. I don't want to sacrifice."

21 They need to see the results are just not worth it when
22 they get this opportunity in the future. They are deterred.

23 And, that's -- it is a tough line. And I understand,
24 whether it is ten months, 14 months, or seven months, I get it.

25 And, we are talking about a month here. Is that going

1 to persuade society from acting differently?

2 That is hard to determine. But, I am not asking for
3 14 months because I am a reasonable person, and I don't believe
4 that is necessary. I think a ten-month sentence is the right
5 standard here. And, it is also in line with Senior Judge
6 Cahn's sentence in a very similar case, where that person
7 wasn't even enhanced for obstruction. She went to trial. She
8 gotten \$10,000 more than Ms. Acosta. She was sentenced to
9 seven months' incarceration.

10 She, too, never accepted responsibility for what she
11 had done, continued through sentencing, to deny all
12 responsibility.

13 And, I think we need to be careful that we at least
14 acknowledge that these similarly situated defendants need to
15 have similar sentences, and those who are similarly situated
16 and accepted responsibility, took ownership for their acts back
17 then, those people get a benefit. They get the benefit and
18 support from the Government to help them right the ship.

19 It shows that if you make -- you made a mistake, and
20 you own that, and you want to make things right, appreciate
21 that people -- this doesn't define them in any way. But, we
22 need you to understand that, you know, what you did was wrong.
23 You understand you cannot do this, and society knew you
24 couldn't do this, but you accepted responsibility. You pled
25 guilty. You set forth the factual proffer, and you owned it.

1 And, we have countless BSO people who did that, and
2 they get the probations.

3 Right?

4 They get two years' probation. Even five years
5 probation. Some, home confinement. Their crimes were just as
6 serious.

7 But, the crux is, it is the ownership of it. Just like
8 anything is like that. It is like -- who is the person that is
9 actually going to accept responsibility and say, "What I did
10 was wrong."

11 She still has not done that. She won't.

12 So, what is the message?

13 I think the message is there is a price to pay for
14 crime. And incarceration is a very serious consequence. I
15 understand that. It is a necessary one. And, it is not so
16 that she can be removed from society. I am not suggesting that
17 Ms. Acosta is a danger to anybody. This is purely about fair
18 message.

19 It falls within the guidelines -- and, I will note
20 again that the -- with the new amendment to the sentencing
21 guidelines, your Honor, zero-point offenders do get a very nice
22 time reduction. It is two points. That is fair.

23 But, you will hear from defense counsel, he is going to
24 go on about her life of no crime and, you know, all of her
25 experience in the community and being a standup citizen. That

1 is kind of baked into these guidelines now. At least, part of
2 it. So, to vary downward based on the lack of criminal
3 history, the lack of prior issues, violating the law, that is a
4 -- what the Sentencing Commission has given us to base our
5 guidelines, now, which is eight to 14 months. Eight to
6 14 months.

7 The final thing I want to end on, your Honor, is
8 everyone is entitled to a trial. But, you aren't entitled to
9 lie to the Government, repeatedly, over the course of -- this
10 crime started in 2021. But, you know, the lies never ended.
11 That's the thing about fraud. These aren't -- this isn't a --
12 a petty theft, walking into a Walmart and taking something, you
13 have a lapse of judgment, and then the next thing you know,
14 someone picks you up. You get a criminal record because that
15 day, you made a terrible mistake, and it was a one-time thing.

16 Frauds pile up. It is a constant -- it is constant.
17 It never goes away. The lies continue, and they continued when
18 she sat for the proffer and withheld very important
19 information, because she knew it was bad information. She knew
20 it was prejudicial. And, she lied again at trial. She is
21 doubling down, doubling down, and doubling down.

22 And, I think that -- that there needs to be a message
23 sent that it is unacceptable. It is not acceptable. And, ten
24 months' incarceration is sufficient but not greater than
25 necessary to effect that.

1 Your Honor, thank you for your time.

2 THE COURT: All right. Thank you.

3 Mr. Silber?

4 MR. SILBER: Thank you, your Honor.

5 So, I have prepared a few thoughts, and I have some
6 witnesses, briefly, to appear before the Court.

7 And, also, Ms. Acosta would like to address the Court
8 when I am finished.

9 First, your Honor, I want to convey to the Court, to
10 the Government, Ms. Acosta's appreciation of the seriousness of
11 this offense. And, she recognizes that, not only as a citizen
12 in our community, but as a law enforcement officer.

13 She appreciates that she is here before your Honor in
14 federal court as a person convicted of wire fraud and some
15 other very serious offenses. She does not take any of this
16 lightly. And, I just want you to know that her head is where
17 it is supposed to be about the seriousness of what we are doing
18 here.

19 Secondly, in terms of her respect for the law and
20 deterrence, this is a person with tremendous respect for the
21 law. I understand that we are here under these conditions.
22 But, number one, she has respect for this process. She has
23 respect for the Court, and she also respects the jury's
24 decision in the end. And, that's something that has permeated
25 her character her entire life. It is why she went into law

1 enforcement.

2 She is not an offender who has -- who appears before
3 the Court with no record of employment, no record of any
4 academic achievement; no record of waking up and going to work
5 and doing the things that we are all supposed to do every day.
6 She has respect for the law.

7 And, I can tell you, when it comes to what has done --
8 you know, what this case has done in terms of her agency and
9 her being a law enforcement officer, she is tremendously
10 ashamed. This is not a happy moment. This is a tremendous
11 blight on an otherwise extremely exceptional and successful
12 life.

13 And, she is very ashamed that she is the person that
14 brought this dishonor to the Sheriff's Office.

15 As I explained in my sentencing memorandum, and I will
16 elaborate, her career in law enforcement, aside from her
17 children, her wife and family, was the most important thing to
18 her. She is someone that woke up and went to that job with
19 passion. It was just not a nine-to-five.

20 She was not one of these disgruntled officers that we
21 see who, after so many years on the job, they lose their
22 passion for it. She was eager. She loved her work.
23 Deterrence is accomplished by prosecuting all these cases,
24 regardless of the sentencing sanctions.

25 The message was very clear, I think, to the community

1 that our Government is holding our law enforcement to the
2 standard they ought to be held. The message was sent.

3 And, as far as I know, I don't think, in district
4 court, at least, \$20,000 PPP fraud is prosecuted. She is here
5 because of her status as law enforcement. She is being
6 prosecuted because of that status. She has lost her career
7 over this.

8 There is a lot of collateral side things going on that
9 she is experiencing that a normal, nonlaw enforcement civilian,
10 rather, I should say, defendant does not experience here.

11 She has also paid full restitution, your Honor. She
12 appears before the Court not owing anything. She has made the
13 victim whole.

14 And, as I mentioned in my sentencing memorandum, motion
15 for downward variance, that was literally the first thing she
16 wanted me to communicate to the Government, and I will
17 represent to you, your Honor, it was at a time when she really
18 had no clue what would happen with her case. And, she was
19 actually hopeful, at that point that we would have a different
20 outcome than where we are here, and, what I need to say is not
21 even going to trial.

22 But, her position was, when she realized that this was
23 money she is not entitled to, she made it clear, whatever
24 happens, when we -- "I will return every penny of it," because
25 she knows she is not entitled to it.

1 And, I believe Mr. Jones, if you will recall, that
2 really was what I discussed with him, before any discussion
3 about the case, not knowing his position on any of the things
4 we were going to talk about, which, I think, had meaning, and
5 one, in fact, that there is exculpatory evidence here, and
6 there is an alternative theory that reasonably speaks to
7 innocence.

8 Let's talk about her law enforcement career, which is a
9 big part of my motion for a downward variance. I want to be
10 clear about something. We are not asking you to give her a
11 break or mitigate her sentence just because she is a member of
12 law enforcement. Everybody here is held to the same standard,
13 both in aggravating conditions, mitigating conditions, neutral
14 conditions. We are all held to the same law.

15 What I am asking you is, however, is to give her credit
16 for the meritorious and exceptional things she has done. Like
17 I said, it was not a nine-to-five for her. It wasn't just a
18 factory job. It was something she showed up and did with zeal,
19 with bravery, with valor, with passion.

20 And, to be honest -- and this is just my personal
21 take -- I think that is the worst part of this whole
22 experience, that she will never be in law enforcement again.

23 This is a person, your Honor, who has been recognized
24 for saving lives. As I mentioned in my sentencing memorandum,
25 she saved a man's life at the airport by doing CPR on him.

1 But for her quick thinking and quick acting, that
2 gentleman may not be alive here, and she was recognized for
3 that.

4 There was another instance where three schools were
5 evacuated because of bomb threats. And, due to her specialized
6 position at the airport, she was one of the number of teams
7 that were called in after everyone was taken out to go into
8 these buildings and look for the bombs, and diffuse them if
9 they were discovered.

10 As you know, your Honor, explosives -- working in law
11 enforcement is some of the most dangerous jobs a law
12 enforcement officer can have, for a variety of reasons; the
13 main one being there is a bomb. That is the kind of work she
14 excelled at.

15 And, she stepped forward where other people stepped
16 back. That situation was cleared. Nobody was hurt. It had
17 the happy ending everybody was hoping for. And again, she was
18 acknowledged for that.

19 And, there are other countless instances where other
20 deputies were pinned down in a backyard, and she endangered
21 herself to help them.

22 There was an instance in West Park, a neighborhood in
23 Broward County, where three juveniles were shot in a drive-by
24 shooting by someone who was using an AK-47. But for the fact
25 that Deputy Acosta acted quickly while other deputies were

1 still taking fire -- mind you, she saved those children's
2 lives. And, I think that counts for something, in terms of her
3 law enforcement career, that is the basis I am looking at. As
4 a character, anchor in her character, that would justify a
5 mitigating sanction.

6 If you look at her employee reviews, every review, she
7 either meets the Sheriff's Office's expectations or she exceeds
8 them, in every sense.

9 You know, she made it to SWAT, first female to do so.
10 That was not something easy. That was not something light.

11 My point, your Honor, is all this speaks to her
12 character. It all speaks to her characteristics.

13 And, I understand we are here to address punishment on
14 this very serious conviction. But, I think the Government is
15 mistaken when they ask the Court to sentence her in light of
16 what the other Sheriff's Office offenders received. Sentencing
17 should be tailored to the individual.

18 And, we can't speak to those cases. I don't know about
19 the other people's characteristics. I don't know how many
20 lives they have saved. I don't even know if they were happy
21 being employed in the Sheriff's Office.

22 I don't know the equities or merits or demerits in
23 their case. The fact that some got probation and others were
24 incarcerated, I would ask the Court not give great weight to
25 that, because this is not a grand conspiracy. The only thing

1 that connects these offenders is they worked in the same place.

2 But, the Government would have you sentence them as
3 though they were co-conspirators in the same, overall matter,
4 which is not the case. If it was the case. I would feel
5 differently about it.

6 But, the only thing that connects them is they work in
7 the same place.

8 Next, your Honor, Ms. Acosta also had a young boy. His
9 name is Ollie. He is four years old. What makes Ollie unique
10 is he has a very serious diabetic condition. And, what makes
11 it difficult on the family is he is not -- they can't just drop
12 him off at school and he is okay. They have to constantly
13 monitor his health care all day long.

14 They literally count every carb that he consumes;
15 constantly monitoring his blood sugar. It fluctuates. It goes
16 up, it goes down. Some days, he needs an insulin shot.

17 The school is constantly, every day, are calling upon
18 Ms. Acosta to address Ollie's medical condition; giving him the
19 insulin, when not to give it, maybe he needs a candy to bring
20 up his sugar.

21 And, the problem it creates for the family is, as you
22 know, Ms. Acosta's wife, Erin, is also a law enforcement
23 officer. She is a sergeant at the Miramar Police Department.
24 She normally works nights.

25 When this case happened, the agency allowed her to

1 switch to days, though there is a very strong likelihood she is
2 going to go back to nights.

3 She certainly serves at their will. At a moment's
4 notice, they could change her schedule.

5 Taking care of Ollie is a two-parent situation. And,
6 should she be incarcerated, it is really going to affect their
7 ability to manage his diabetes, with one parent working nights
8 in law enforcement and the other one incarcerated.

9 The Government makes an issue of Ms. Acosta's proffer
10 that she gave. One thing they did not mention, which I think
11 the Court should also consider, even though there wasn't any
12 substantial assistance agreement, through her and myself,
13 Ms. Acosta provided evidence to the Government that they used
14 to successfully indict and prosecute Mr. St. Louis. He was the
15 other person charged in this particular case.

16 We shared with them the IP evidence. We shared with
17 them email evidence. She was extremely cooperative, showed up
18 and agreed to answer any question they wanted, wanted to ask of
19 her. But, her -- they may have issue with part of her proffer.
20 But, the other proffer, they benefitted greatly from. She
21 assisted them. They did not even know of Mr. St. Louis's
22 existence until she told them about it.

23 They did not know of the evidence they needed to get
24 the indictment until she told them about it. Certainly, the IP
25 evidence we produced to them was a component of that.

1 I mentioned her status as law enforcement. The Court
2 should consider that she also, no matter what happens here with
3 her sentence, she is already being punished for the conduct in
4 this case.

5 As a convicted felon, her career is gone. She will
6 never work in law enforcement again. And, that literally was
7 the most precious thing to her. To sustain that loss is
8 probably the biggest hit to her.

9 You know, some people have jobs, and some people have
10 careers. To those who have careers, who had to go to school,
11 had to fight hard, had to really apply themselves and work very
12 hard and overcome obstacles, overcome adversity and get to
13 where they are going in a career, it is a different loss than
14 if you have -- don't have a career that you put all that energy
15 and effort into.

16 I think the Court should also consider that, given her
17 status in law enforcement, she will have the enhanced risk.
18 Should she be incarcerated, should other inmates learn of her
19 status, they will endanger her in ways that other offenders are
20 not endangered when they are incarcerated.

21 And, finally, I would add, your Honor, I think the
22 Court should also consider the character of her defense. The
23 Government is accusing her of lying. But, let's look at the
24 other parts. She could have come in here and thumbed her nose
25 at them.

1 She could have come in here and said, "Hey, go prepare
2 your case."

3 She didn't do that. The character of her defense was I
4 can agree where I can agree, but I am going to challenge where
5 I am going to challenge. She didn't challenge the existence of
6 the loan. She didn't challenge the admission of all their
7 documents. All that was stipulated to.

8 It was not a -- a defense with indignity, as sometimes
9 you can see. In any event, with that, we are asking the Court
10 to downward vary and impose a sanction of probation.

11 If the Court is wishing to incarcerate her, I would ask
12 the Court to consider that she is in zone B, having scored
13 Level 11 as a total offense level. And, under 5C 1.1 C, home
14 confinement would be an appropriate alternative to
15 incarceration.

16 With that, your Honor, I would like to call a couple of
17 witnesses. First, I would call Peter Acosta, my client's
18 father.

19 THE COURT: All right.

20 Come on up to the lectern, sir.

21 MR. ACOSTA: Yes.

22 Good morning.

23 THE COURT: Good morning.

24 MR. ACOSTA: Your Honor, first, I want to thank the
25 Court for the opportunity to speak for my beautiful daughter,

1 Alex.

2 And, I cannot speak to any of the -- what has happened
3 with this crime. Unfortunately, one of the greatest regrets of
4 my life is that I have not been able to be part of her life
5 because I am living in another country.

6 But, I maintained contact with her. I have followed
7 her baseball career, her college education, and then finally
8 the dream of her life was to become a police officer. And, I
9 was able to support her, and she -- she has been like an
10 example for me.

11 I would like to say and I am going to speak to her
12 character as a father.

13 Everywhere that I have come in contact with her
14 teammates, her fellow coworkers, elsewhere, they -- she shines
15 as a light, and everyone has very good things to say about her.

16 So, I think that, you know, her disposition and her
17 intents are always to serve.

18 Obviously, one of the great -- one of the reasons she
19 became a police officer was to serve. And, she was always in
20 service, even prior to that career.

21 I am going to deviate a little bit from the formality
22 of this. I understand, you know, the prosecution's case. I
23 understand that, you know, that we are here so that if it turns
24 out that Alex did commit a violation, that what we are looking
25 for is repaying her debt to society, which is what we are

1 looking at here.

2 As a father, now, I don't maybe see that incarcerating
3 a police officer for X amount of months would be in the best
4 interests of that repayment. I am not familiar with the
5 federal system for community service, or paying that debt, if
6 it came to that. That, just locking somebody up or
7 incarcerating them would benefit the society.

8 So -- as maybe not deviating as a judge to a parent,
9 maybe a father to a father, you could understand that I would,
10 if it comes to that, for her to repay this debt, that there
11 would be alternatives to serve the community and repay that
12 debt without maybe possibly endangering her life and just waste
13 time of somebody to be incarcerated. So, as a father to
14 father, I, you know, I beg the Court to take that into
15 consideration.

16 I love my daughter. I don't think I have been a good
17 role model for her because of my physical absence. But, I can
18 tell you that over the last few years of observing her, her
19 career, her enthusiasm for the job she does, Alex has been a
20 role model for me, the father.

21 And, I just beg the Court to take this into account,
22 the statement from a father.

23 And, I thank you for this time.

24 THE COURT: All right. Thank you, sir.

25 MR. SILBER: I have Erin Acosta, your Honor, my

1 client's wife.

2 THE COURT: All right. Come on up.

3 I don't want you to read anything, because I can read a
4 letter. So, look at me, from one human being to another, and
5 tell me what you want to say about your wife. You don't need
6 to have a letter.

7 MRS. ACOSTA: Okay.

8 MR. SILBER: I had actually told her to write a letter
9 because it would be easier than to get flustered.

10 THE COURT: I read it.

11 MR. SILBER: I thought it would be easier to for her to
12 deliver her comments.

13 THE COURT: We are not here to have her give a
14 performance. If you want to tell me, from one human being to
15 another, what you want me to consider about your wife, then
16 tell me.

17 MRS. ACOSTA: Okay. Understood.

18 Good morning, Judge. I want to thank you for letting
19 me have this opportunity. I want to introduce myself. I am
20 Erin Acosta. I have been in law enforcement for 14 years.
21 Last two years, I have served as a sergeant on a road patrol
22 unit. I work mainly midnights. And, I am a mom to a
23 four-year-old, boy, Oliver and stepmother to a nine-year-old
24 girl, Emory.

25 I am also Alex's wife of seven years. I met Alex about

1 ten years ago. We worked together. We shared a road between
2 Miramar and West Park.

3 So, the things that you have heard today or that you
4 will read, I have witnessed firsthand, such as the night that
5 those three juveniles got shot with an AK-47, and her running
6 and putting chest gloves on them before Rescue even got there.
7 She saved those -- those three juveniles's life, and I
8 witnessed that.

9 Law enforcement is Alex with a passion, and you can see
10 by her resume that she was born to serve her community. And, a
11 lot of us in law enforcement don't -- we go to work, and we get
12 our paycheck. We might answer some calls and then we go home.
13 But, that wasn't Alex. She used her own time for years to get
14 -- years and years to make that SWAT team. It was the most
15 important thing to her.

16 Probably, more important than anything else, was her
17 being a mom.

18 She is an extremely equal partner. She picks up where
19 I fail. And, she is the soccer mom, the football mom, that I
20 am not.

21 She wears her dad/mom t-shirt at competitions, and she
22 is the morning mom. She always has been. She gets up, makes
23 breakfast, gets them ready for school. And, I mentioned I have
24 spent most of my career working midnights. And, when you have
25 two people share a life together and become parents together,

1 that work shift work, it is not -- it is not an easy life.

2 But, it is one that we worked well at. There were countless
3 times we would pass each other on the road in the mornings so I
4 could say good morning to her and the kids, and I love you and
5 have a good day, and then I go and try to get some sleep before
6 my midnight shift that night.

7 It became extremely important to our family for her to
8 be that morning mom when my son was diagnosed with Type 1
9 diabetes two years ago when he was two.

10 Now, not only does she do the lunches and gets them
11 ready, but we literally have to write down every single carb
12 that is in his lunchbox so the teachers understand what he is
13 eating, and what is appropriate to give him. He gets insulin
14 every time he eats.

15 She has allowed me to continue working midnights, get
16 that rest I need so I can go in for my shift and take care of
17 the guys that work for me and have a clear head because she
18 takes care of all the daytime stuff; the teachers that call and
19 text, the alerts that we get on our phone, probably, I don't
20 know, multiple times a day.

21 And, I just hope that you take into consideration the
22 hardship that it would put on our kids, mainly, our son,
23 Oliver, because it is going to be extremely difficult to
24 continue working shift work, and take care of his needs and
25 make sure that he is safe and healthy, being an only parent.

1 Thank you for this opportunity.

2 THE COURT: Okay. Thank you.

3 MS. GARCIA: Good morning, sir.

4 THE COURT: Good morning.

5 What is your name?

6 MS. GARCIA: My name is Maritza Garcia.

7 THE COURT: All right.

8 MS. GARCIA: My daughter, Alex -- there are so many
9 stories I have about Alex. She is an achiever. She never
10 gives up. She is an excellent softball player. She is a great
11 daughter, and the best mom. She has two beautiful kids that I
12 love dearly. But, to her, it is her life.

13 She wakes up in the morning and it is all about the
14 kids. Sometimes, we go and -- I mean, it is like incredible
15 how she can manage work, all the things that she does, the
16 after-games, the church, everything, she does everything for
17 those kids. And, I am so worried what is going to happen to
18 Ollie. They call her in school all the time. Sometimes, it is
19 incredible how his sugar goes up and down, and it is so scary
20 because she tells me, "I have to take him to the urgent care.
21 He is out of control."

22 And, she is on top of him 24-7, your Honor. She wakes
23 up in the middle of the night, all of the time, just checking
24 his sugar to see if he is going to be okay. What is going to
25 happen to Ollie, your Honor?

1 I worry about the other one, too, because she is nine
2 and-a-half, and she thinks she is 25. And, she needs her mama.
3 And, how am I going to explain to her, how am I going to say to
4 her that she is not going to be there for her?

5 All I want to know is, is what can I do?

6 What could I have done to help this, to make you see
7 that -- what is it going to do for the system?

8 What is it going to do for anyone to take her away from
9 her kids?

10 What is that going to do for her?

11 What is it going to do for anybody, your Honor?

12 Put yourself in my shoes. I am her mother. I have so
13 many stories to tell. She is an achiever. She is -- she is a
14 bright, young person that has given it all. I saw her going
15 through the Fort Lauderdale experience with Bronx. Bronx is
16 her dog. I saw her going through everything with SWAT. She
17 tried it once, she didn't succeed. She tried it twice, she
18 made it.

19 She went all out. She wanted to be a SWAT officer, and
20 she did. And, I was so proud. I just want to say here, what
21 is going to happen to Ollie?

22 I am sorry. I have been taking care of my daughter all
23 my life. And, the only thing I need is, is for her to be safe
24 with the kids. I don't want anything except for her to be able
25 to take care of her kids. That is the most important thing

1 right now.

2 We are all adults, but those kids, they need her. She
3 needs to be there. I just don't know what else to say. All I
4 can tell you is that I am the proudest, proudest mom in the
5 whole world. That is my daughter there. She has made it
6 through thick and thin. A lot of -- a lot of young people try
7 for SWAT, and they didn't make it.

8 She wanted to -- she wanted to save people. She has
9 been doing it for years. And, that's what she is all about.
10 That \$20,000 is -- that doesn't even make sense. She made a
11 mistake, trusting somebody. But, that's just the way it
12 happened, and that was it.

13 She needs to be with her family, your Honor. Please
14 don't, don't send her away. She -- he needs her. He is four
15 years old, and we want him to be here. We don't want him to go
16 away. Please, keep her here. Thank you for listening to me.

17 THE COURT: All right. Thank you.

18 MR. SILBER: Your Honor, this is Ms. Acosta's uncle.

19 THE COURT: State your name.

20 MR. ALFONSO: Good morning, your Honor. My name is
21 Disnardo Alfonso.

22 THE COURT: Good morning.

23 MR. ALFONSO: I am Alexandra's uncle and godfather.
24 And, I would like to tell you a little story about her growing
25 up.

1 As an eight-year-old, she was fascinated by softball,
2 enough to the point she put it as her college career. She went
3 to college, two colleges. She won an NCWA championship in 2004
4 as a softball player -- 2011.

5 Later, she moved back to -- 2004, she moved back down
6 to Florida and to start her law career.

7 She applied for BSO in numerous police departments down
8 here in south Florida. She started, I believe, as a 911
9 operator somewhere in the Lighthouse area.

10 And, in 2013, she got the call from BSO. That is where
11 she started, BSO. And, she started and worked in the West Park
12 area.

13 And, she has been, since that time, basically, my hero.
14 She puts her life on the line to save others. As you have
15 heard others before me testify, she has saved lives. I don't
16 think I would do the same. But, she did it. And, because that
17 is what she wanted to do.

18 And, she always strived to be the best at what she did.
19 That's why she put in the SWAT. Something that can challenge
20 her. It gave her an edge to be better than what she was.

21 So, after the second time, she basically made the SWAT
22 office. Right after she worked in Fort Lauderdale airport as a
23 explosive experts for checking for explosives and on
24 passengers' luggage.

25 Now, when she became a SWAT officer, she went to what I

1 would call sort of hell because it took monumental strain on
2 her body, physically, as well as mentally. And you can tell by
3 looking at her.

4 But, when she made it, you can see her smile after she
5 made it. She has got pearly whites. It is very hard to see
6 her here because of the situation she is going through now.
7 But, she does have a beautiful smile.

8 She befriends all those who come and talk to her. She
9 is very helpful to her community. She offers -- she works with
10 charities. She is close to the Joe DiMaggio Hospital, where
11 she takes care of all the -- does charity for the kids. She
12 runs, supports.

13 As you already heard, Oliver is her small baby. I call
14 him a baby, a four-year-old.

15 But, his issue with this, as was well discussed before,
16 his insulin has been a problem. It is never steady. She fears
17 for his life. She is scared because he needs, basically, to be
18 around people because he is always falling all over the place.

19 Sorry, your Honor.

20 Anyway, I do expect leniency from the Court. I ask for
21 mercy, your Honor. I hope she does not go to jail. I beg for
22 you to -- not to put her in jail. She is a mother, and she
23 needs her two kids. I can't see her kids miss their mother.
24 They haven't missed their mother since they were born. One is
25 nine, and one is four. And, I hate for them to miss their

1 mother, even if it is for a short time. The kids will be in a
2 rough patch, as well as us who support them.

3 I thank you for your time, and have a good day.

4 THE COURT: All right. Thank you, sir.

5 MR. SILBER: The last is James Harn, H-A-R-N.

6 THE COURT: Come on up, Mr. Harn.

7 MR. HARN: Yes, sir.

8 THE COURT: Good morning.

9 MR. HARN: Good morning. Thank you -- thank you for
10 allowing me to speak. My name is James Harn. I was in law
11 enforcement for 40 years, as an investigator for about 20 of
12 those years.

13 I have seen everything. Like the old guys say, I know
14 things. I know things because of the time I spent there.

15 Alex, my partner, called me and asked me if I would
16 work this case with them. The first day, I refused. I said I
17 am not going to do it. He said, "Please, just meet Alex.
18 Please just meet Alex."

19 Once I met her, it was over. She is the first person
20 that I will have ever brought into my home and worked with, in
21 50 years of doing this.

22 Her character is undeniable to me.

23 The trial, I watched the trial. I have been very
24 cautious about what I should say here. But, they know things.
25 And, there is an elephant in the room. They know things.

1 There is nothing that could be -- there is nothing that
2 would benefit from putting Alex in incarceration. Nothing
3 could be benefitted.

4 If Mr. Jones thinks it is for deterrence, the
5 deterrence is already there, your Honor. The deterrence is
6 already there.

7 There is nothing, nothing that can be gained by
8 incarceration. Only bad things can happen. And, that's to
9 Ollie. I had the pleasure of meeting the young man, a
10 beautiful child. The Type 1 diabetes is a death sentence for a
11 child if it is not handled properly.

12 I appreciate the time you gave me, your Honor. I don't
13 want to bore you with anything else, because I will get
14 something from both attorneys saying I shouldn't say that.
15 Like I said, there is an elephant in the room.

16 Thank you, your Honor.

17 THE COURT: All right. Thank you.

18 MR. SILBER: Lastly, your Honor, Ms. Acosta would like
19 to address the Court.

20 Would you like her to do it from there, or from the
21 podium?

22 THE COURT: Wherever you are comfortable.

23 Ms. Acosta, you have the right to make a statement to
24 me before I impose sentence. You don't have to say anything.
25 But, if you would like to say something, this is your

1 opportunity.

2 THE DEFENDANT: Yes, your Honor.

3 I want to start by apologizing to the Court, to
4 everybody involved in this process, and taking time away from
5 you and your families, and causing any inconvenience. I really
6 am. I am sorry to my SWAT teammates and to the agency that I
7 worked for and put my life on the line for, and putting in a
8 bad light.

9 I apologize to my family for putting them all through
10 this. I believed I could handle things independently, so I
11 want to apologize to my wife for not relying on her for
12 support.

13 Thank you all for standing by me.

14 I grew up in a small family that included my maternal
15 grandparent, my uncle, and my mom. They were strict Cubans.
16 It is a strict Cuban household. And, all they did was teach me
17 right from wrong and encourage me to help others.

18 And, it was just my family values. I have always
19 prided myself on being a good person, which is why I enjoy
20 serving my community and doing the things I did.

21 My family always taught me everything I know. They
22 taught me love, patience, hard work and, most importantly, how
23 to be a good human. My family values are probably what
24 inspired me not only to serve my community, but to be the best
25 I could at it.

1 Those close to me know that there is not anything I
2 can't do if I set my mind to it. And, I do think that I take
3 immense pride in my accomplishments.

4 The first one, I was one of the two deputies chosen to
5 be a canine handler with Bronx at the Sheriff's Office, serving
6 mostly at the airport.

7 Second was to become the first female SWAT operator at
8 BSO. And, it was no easy task. I took pride in knowing that I
9 was taking the worst of the worst off the streets.

10 And, I couldn't have done any of that without the
11 support of my family. So, as my family sits here today, and my
12 grandparents watch me from up above, I can't help but feel like
13 I let them down. But, just like they have always taught me, if
14 you learn from your mistakes, your Honor, and you make -- you
15 can't -- you make them right in the best way you can. I plan
16 to always continue to serve my community in any way, shape, or
17 form.

18 I have even investigated serving in the Navy, if that
19 becomes a possibility.

20 I was informed that it would take a waiver because of
21 the felony convictions. It has been a struggle, but I have
22 managed to get three jobs to help continue providing for my
23 family as I always have.

24 I realize that I should have been more vigilant when it
25 came to my finances. The managing of my finances has never

1 being a strong suit of mine. So, I set out taking a financial
2 literacy course to become more responsible for handling my
3 money.

4 My family taught me that mistakes will happen, but it
5 is what you do to prevent them from happening again that is the
6 most important.

7 As a mom of two awesome kids, Ollie, who is four, and
8 Emory, who is nine, I have learned several valuable lessons on
9 my life's journey, although not always by choice. I intend to
10 use these lessons to continue growing as a person and to
11 demonstrate to my children how to become good humans as they
12 transition to adulthood.

13 Speaking of lessons, my four-year-old son has learned
14 many lessons in his short lifetime. Ollie is Type 1 diabetic.
15 He is insulin independent, and needs to get a shot to live.
16 Since he is only four, he can't manage his diabetes yet on his
17 own, or give himself his injections yet.

18 In short, managing diabetes is counting every single
19 carb that goes into your body, to keep your blood sugar at an
20 average level. If his blood sugar is too high, he could have
21 problems with his eyesight, nerves in his feet, hands, and
22 more. If his blood sugar drops too low without any caring, he
23 could die.

24 Someone with knowledge of Type 1 diabetes must always
25 be managing Ollie's sugar as high as it goes.

1 Some kinds of schools won't even take Ollie because of
2 his diabetes. And, the ones that do require constant contact
3 with my wife, and me, to provide crucial medical
4 recommendations because all people with diabetes are not alike.

5 We continue to communicate with the pediatric
6 endocrinology department at Joe DiMaggio's Children's Hospital,
7 and many changes in all these diabetes -- all these Type 1
8 diabetes. That is a huge undertaking for two working parents.
9 A loss of one would be substantial, and Ollie's health would be
10 at risk.

11 Finally, your Honor, I want you to know I respect the
12 criminal justice system, this Court, and I respect the jury's
13 decision.

14 I really want to thank you for allowing me to address
15 this Court.

16 THE COURT: All right. Thank you.

17 All right. The Court has considered the statements of
18 the parties, the presentence report which contains advisory
19 guidelines as well as the statutory factors set forth in 18
20 United States Code Section 3553(a).

21 Having previously determined that the total offense
22 level is a Level 11, with a criminal history category of 1 and
23 a guideline range of 8 to 14 months in prison, I -- first, I am
24 going to adjudicate Ms. Acosta guilty of Counts 1 through 4. I
25 don't believe I did that at the time the verdict came in. That

1 was contemplating the post trial motions for judgment of
2 acquittal. So, I will adjudicate her guilty of those four
3 counts.

4 First, it is the order of the Court that the defendant
5 pay a fine of \$4,000. And, in determining what an appropriate
6 sentence is, this is a serious offense that caused a great deal
7 of harm to our community and to our law enforcement community.

8 All these other Broward Sheriff's department employees,
9 with one conspiracy -- they were all involved in similar
10 activities.

11 I think it is important to impose a sentence that
12 provides proper punishment, deters others and promotes respect
13 for the law.

14 One of the factors I have to consider is the sentences
15 of the similarly situated defendants, to make sure I impose a
16 sentence that does not result in unwarranted sentencing
17 disparities.

18 If you look at a number of other Sheriff's Office
19 employees that are involved in similar offenses, and ten
20 different judges from this district gave them either home
21 confinement or probation. There is one of the defendants who
22 went to trial before Judge Kahn and received a seven-month
23 sentence. And, I know several people apologized for the
24 inconvenience of causing the prosecutor and the Court and court
25 reporter to be here for trial. That is our job. That is not

1 an inconvenience. That is what we are here to do. So, you
2 don't need to apologize for that.

3 People don't get a higher sentence because they are
4 being punished in going to trial. People get a lower sentence
5 because they are accepting responsibility for their actions.

6 So, the fact that Ms. Acosta did not accept
7 responsibility is a factor to consider, and I am a firm
8 believer in the Constitutional right to a trial by jury to make
9 the Government prove the case against the defendant.

10 I would never punish a defendant for going to trial.

11 But, that right ends at the threshold of the witness
12 stand. And, the defendant does not have a Constitutional right
13 to lie to the jury.

14 And, I think the fact that Ms. Acosta testified
15 untruthfully distinguishes her from all other somewhat
16 similarly situated officers and employees of the department
17 that received probation or home confinement.

18 When you have a police officer who is facing the
19 sentence in a criminal case, which, unfortunately, happens more
20 often than any judge would want to see, it is kind of a
21 two-edged sword, because these people have devoted their lives
22 to public service. But, at the same time, they abused that
23 trust. When you abuse that trust, it reflects poorly on the
24 other officers who are serving.

25 I do believe that Ms. Acosta's service as a police

1 officer prior to this case is commendable, admirable, and was
2 outstanding, even compared to other police officers.

3 I do believe the fact that she had a difficult
4 childhood is somewhat mitigating. The fact she paid the full
5 amount of restitution is somewhat mitigating. I think the fact
6 that she has some unique family circumstances relating to
7 caring for her younger son is also somewhat mitigating. But,
8 she does have a strong support system.

9 In light of all of the circumstances, it is the
10 judgment of the Court the defendant is committed to the
11 Bureau of Prisons to be -- to serve a sentence of four months
12 in prison. That is as to each of Counts 1 through 4 to run
13 concurrently with each other, for a total of four months.

14 Upon release from prison, she is to be on supervised
15 release for one year.

16 Within 72 hours of release from the custody of the
17 Bureau of Prisons, she will report in person to the Probation
18 Office in the district where she is released.

19 While on supervised release, in addition to the
20 mandatory and standard conditions of supervision that are set
21 forth in part F of the presentence report, the following
22 special conditions will apply: Association restriction,
23 required child support, financial disclosure requirement, no
24 new debt restriction, self-employment restriction, permissible
25 search condition and the unpaid restitution, fines or special

1 assessment condition.

2 Each of those are more specifically noted in part F of
3 the presentence report.

4 The defendant must also pay a special assessment of a
5 hundred dollars as to each of the four counts of conviction,
6 for a total of \$400 payable to the United States immediately.

7 So, the total sentence is four months in prison, one
8 year supervised release, and \$4,000 fine and a \$400 special
9 assessment.

10 I will terminate her supervised release early after six
11 months if she is in compliance with all of the terms and
12 conditions of her supervision and has fully paid her fine and
13 the special assessment.

14 And, I would have imposed the same sentence even if I
15 had not given her a two-level increase for obstruction of
16 justice.

17 I am going to allow the defendant to remain free on
18 bond under the same conditions of release during this time
19 during the course of her appeal.

20 Now that sentence has been imposed, does the defendant
21 or her counsel object to the Court's findings of fact, or the
22 manner in which sentence was pronounced, or any of the Court's
23 sentencing rulings?

24 MR. SILBER: No, your Honor.

25 THE COURT: All right.

1 Ms. Acosta, you have the right to appeal both the
2 conviction and the sentence that was imposed.

3 However, any notice of appeal must be filed within
4 14 days after entry of the judgment.

5 If you are unable to pay the cost of an appeal, you may
6 file for leave to appeal in forma pauperis, which means you can
7 appeal without prepaying any fees or costs.

8 Do you anticipate hiring an attorney for the appeal?

9 MR. SILBER: So, your Honor, I actually wanted to
10 address this. She is going to speak to an appellate lawyer. I
11 referred her to two different people. I will not be continuing
12 on as her counsel for the appellate purposes.

13 So, it is -- I was going to ask the Court should I file
14 a motion to withdraw?

15 Can she apply for the public defender, at this point?

16 I am not sure what the procedure is the Court would
17 follow.

18 THE COURT: Okay. I mean, does she qualify for the
19 public defender?

20 MR. SILBER: I don't know.

21 THE COURT: Ms. Acosta, raise your right hand, please.

22 Do you swear or affirm to tell the truth, the whole
23 truth and nothing but the truth?

24 THE DEFENDANT: I do, your Honor.

25 THE COURT: All right. And so how much money do you

1 have in the banks, stocks, bonds, anything like that?

2 THE DEFENDANT: I have like \$500 in my bank account. I
3 am not sure what is in my FRS pension. And, I believe I have a
4 mutual fund. I am not sure what is in there. I believe it is
5 like \$20,000.

6 THE COURT: Let's see. If we look at the financial
7 information in the -- let's see.

8 Okay. So, you have a Tamarac residence that is worth
9 \$141,000. Is that your share of the equity?

10 You own that with your wife?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Is there a mortgage on that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: What is the amount of the mortgage?

15 THE DEFENDANT: Left over, or the monthly payments?

16 THE COURT: No, the left over.

17 THE DEFENDANT: I believe there is \$270,000.

18 THE COURT: Where is that listed in?

19 PROBATION OFFICER: Listed in paragraph 117. The
20 online real estate marketplace value of that property was
21 553 -- 553,900. And, I believe that the mortgage balance was
22 270. And, the equity in the residence was 283,900, of which
23 half of that is her share.

24 THE COURT: All right.

25 And other than the liability that you have in the PSI,

1 which totals \$60,000, do you have any other liabilities?

2 THE DEFENDANT: Yes, I do, your Honor.

3 THE COURT: And what is that?

4 THE DEFENDANT: I have a \$20,000 consolidation loan,
5 \$24,000, I have two credit cards, \$5,000 each.

6 THE COURT: I don't believe she would qualify for the
7 public defender.

8 So, you need to -- first of all, Mr. Silber, you have
9 an obligation to represent her to make sure a notice of appeal
10 is filed.

11 MR. SILBER: Correct.

12 THE COURT: So, Ms. Acosta, you have an obligation to
13 try and make some arrangements to hire an attorney. It appears
14 that you don't qualify for the public defender. Should you
15 need additional time -- these are deadlines that cannot be
16 missed. So, the notice of appeal has to be filed within
17 14 days. You can ask for an extension of that time before the
18 14 days. So -- and I am not going to allow Mr. Silber to
19 withdraw until somebody else has taken over and there is a
20 notice of appeal that is filed.

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Okay. So, my question is -- because I have
23 not done this -- so, if she loses the appeal and has to serve,
24 usually, I would say you can voluntarily surrender in 60 days
25 or I take her into custody today. So, there is no, like,

1 specific date where there is going to be an order and a mandate
2 from the 11th Circuit.

3 So, let's assume, obviously, if she wins her appeal,
4 then that is a nonissue. But, if she loses her appeal, then
5 how do I say, like, and then you need to go surrender to do
6 your sentence?

7 If I remember, I can just set it for a status and say,
8 "Come in and let's figure out where you're going to serve your
9 sentence."

10 MR. SILBER: You could set a status. Maybe you could
11 order it. I am not sure how to go about that.

12 THE COURT: Here is what I will do. I will order the
13 parties to file updated status reports. Let's start within
14 180 days. I am sure the appeal is going to take at least that
15 long. And then every 90 days thereafter, with reference to
16 status of the appeal and her surrender, just so there is
17 something on the docket that notifies the Court that there is
18 that issue that she is not going to automatically have. Most
19 people who appeal are already serving their sentence. So,
20 nothing needs to be done.

21 So, the Probation Office still has her passport. So,
22 because she is going to remain on bond, pending the appeal, you
23 can keep her passport.

24 And, when the appeal is over, you can return that to
25 her wife. When the appeal is over and she surrenders, we can

1 return that to her wife.

2 All right.

3 Anything further from either the Government or the
4 defendant this morning?

5 MR. JONES: No, your Honor.

6 MR. SILBER: Just one last thing, your Honor. Two,
7 actually, two points.

8 One is because her wife is a law enforcement officer,
9 her wife has to carry a firearm for those purposes, and work
10 purposes. And, also, I would suggest for the safety of their
11 home, I -- obviously, they live together, for they are married.
12 I am not sure exactly how to navigate the issue of a firearm in
13 the house while she is on release, at this point, I know or
14 serving, whatever, sanctions, if that is the case.

15 THE COURT: Because that is one of the standard
16 conditions, mandatory and conditions not to have a firearm in
17 the house or property?

18 PROBATION OFFICER: Your Honor, I can confer with the
19 pretrial officer. But, from the last conversation I had with
20 Ms. Hilaire, who is her current pretrial officer, I believe
21 that as long as it is locked in a safe, that she does not have
22 access to, she doesn't have the code to it, I believe that's
23 okay.

24 THE COURT: Is that what is being done now?

25 MR. SILBER: Well, her original bond condition, the

1 Court allowed her to possess firearms. They do not -- the
2 Government had asked for that restriction as a standard
3 restriction, and the Court denied it. So, all the BSO
4 defendants were allowed to possess firearms during --

5 THE COURT: But now, now, she is a convicted felon.

6 MR. SILBER: Correct.

7 THE COURT: So, she can't possess a firearm.

8 So, is there some -- is there a safe that your wife can
9 have in the house that --

10 THE DEFENDANT: Yes, sir. We have a safe in the house.

11 THE COURT: Okay. And how is it accessed?

12 THE DEFENDANT: She has the code. I don't have the
13 code anymore.

14 THE COURT: Okay. Okay. So, I will allow the wife to
15 have a firearm or firearms in the house as long as they are in
16 a safe that the defendant does not have access to during her
17 release and during her supervised release.

18 Anything else?

19 MR. SILBER: That is it, your Honor.

20 THE COURT: All right. Thank you all very much for
21 your presentations.

22 We will be in recess.

23 MR. SILBER: Thank you, your Honor.

24 COURT SECURITY OFFICER: All rise.

25 (Proceedings concluded at 9:06 a.m.)

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C E R T I F I C A T E

I hereby certify that the foregoing is an
accurate transcription of the proceedings in the
above-entitled matter.

November 24, 2024
DATE

/s/Sharon Velazco
SHARON VELAZCO, RPR, FPR
Official Court Reporter
United States District Court
400 North Miami Avenue
9th Floor
Miami, Florida 33128

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