

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA

v.

Case No. 2:25-cr-00068

KRISTA MARIE MENCHACA

DEFENDANT'S SENTENCING MEMORANDUM

Comes now the defendant, Krista Marie Menchaca, by Assistant Federal Public Defender Emily L. Szopinski, and submits this memorandum outlining the various 18 U.S.C. § 3553(a) factors for the Court's consideration at her upcoming sentencing hearing. For the reasons set forth below, Ms. Menchaca requests a sentence of probation.

I. 18 U.S.C. § 3553(a) Factors for Consideration

With a criminal history category of I and a Total Offense Level of 8, the advisory guideline range set forth in the Presentence Investigation Report ("PSR") recommends a term of imprisonment between zero and six months with Zone A sentencing options. PSR ¶ 57. Ms. Menchaca respectfully requests the Court impose a within-Guidelines sentence of two years of probation and relies upon the following 18 U.S.C. § 3553(a) factors in support of a non-custodial sentence.

A. The nature and circumstances of the offense.

Like many Americans, the COVID-19 pandemic was a challenging time for Ms. Menchaca. Ms. Menchaca was a single parent to two young children. She had

recently moved to Michigan with her mother and daughter to get away from an ex-boyfriend. While in Michigan, she was working as a Certified Nurse Assistant (“CNA”). Someone that she was friends with through work approached her about applying for a PPP loan and encouraged her to apply because it was “very, very, very popular.” ¶ 11. At the time, it was common for people to boast about the “free” money that they had received from the Government in the form of PPP loans.¹

Ms. Menchaca’s co-worker connected her with someone who would fill out the PPP application on her behalf. In return, Ms. Menchaca would provide her liaison with \$3,000 of the proceeds of the loan. Communicating through the phone, Ms. Menchaca provided that person with her driver’s license and bank account information. The third party filled out the application, including a fraudulent IRS Form 1040, and presented it to Ms. Menchaca for her signature. At this point, Ms. Menchaca decided not to apply for the PPP loan and tried to back out of the arrangement. She told the third party of her intentions not to go through with it. Instead, the third party falsified Ms. Menchaca’s signature and submitted the application on her behalf.

At the time, Ms. Menchaca was pregnant with her second daughter. She moved back to West Virginia in July 2021 and attempted to get a job. Because she was approximately 6 months pregnant, finding employment was proving impossible

¹ See, e.g., *Are PPP Loan Companies Legit? PPP Loans Are Being Aggressively (And I Suspect Deceptively) Marketed*, Medium (Mar. 23, 2021), available at <https://medium.com/web-design-web-developer-magazine/are-ppploan-companies-legit-ppp-loans-are-being-aggressively-and-i-suspect-deceptively-marketed-2fa99e7ec6fb>.

and no one would hire her. She was also in and out of the hospital with complications from her pregnancy. She had always worked, so Ms. Menchaca found herself in a new situation and a scary one: she was the sole caretaker to her oldest daughter and had a new baby on the way, and she had no source of income. When she checked her account balance and noticed that she had received \$19,395, she realized that the person from Michigan must have submitted the PPP loan on her behalf.

Notably, Ms. Menchaca did not spend the \$19,395 PPP loan money frivolously. Instead, she spent the proceeds to care of herself, her daughter, and the baby on the way. She also sent \$3,000 to the person who filled out the application. Now, Ms. Menchaca will be working to pay back the \$19,395 that she used to keep herself and her children afloat during a trying time.²

B. The history and characteristics of the defendant.

Ms. Menchaca was born in Marquette, Michigan. Her parents divorced when she was only three years old, and she primarily resided with her mother in West Virginia throughout her childhood. She grew up alongside three siblings. She maintained a good relationship with her father and spent summers and holidays with him.

Ms. Menchaca graduated from Capital High School in Charleston, West Virginia in 2011. In 2012, Ms. Menchaca received her Certified Nursing Assistant

² Notably, nearly three-quarters of PPP funds “flowed to the top fifth of household income.” See David Autor et al., *The \$800 Billion Paycheck Protection Program: Where Did the Money Go and Why Did It Go There?*, Journal of Economic Perspectives (Spring 2022), available at <https://blueprintedn.com/wp-content/uploads/2022/01/jep.36.2.55.pdf>.

license. As a teenager, Ms. Menchaca worked part-time jobs at Wendy's and McDonalds. Since receiving her CNA license, Ms. Menchaca has held steady employment as a CNA at various hospitals and health care facilities.

In 2024, Ms. Menchaca began taking classes at Bridge Valley Community and Technical College to become a radiology technician. She completed her first year of prerequisite courses in May 2025. She is currently delaying her second year of schooling as she is pregnant and unable to complete the clinical practicums necessary for her degree while pregnant due to the radiation exposure. Because the program is only offered in the fall, she plans to resume her course of study in Fall 2026 and expects to graduate in Spring 2027. For the past year, Ms. Menchaca has been working full-time while attending school.

Ms. Menchaca has been a single mother of her eight-year-old and three-year old children for their entire lives. She is currently pregnant and expecting her third child in November 2025. Not only has she been the sole caregiver to her children, but she has also been the primary financial support for her children. Notably, “[i]ncarceration of a parent normally causes major negative economic, social, and psychological consequences to the child, and may have life-long [adverse] repercussions.” *United States v. G.L.*, 305 F.R.D. 47, 50 (E.D.N.Y. 2015) (collecting literature). If Ms. Menchaca is given a custodial sentence, her children are likely to “suffer developmental harm . . . in the form of behavioral and educational difficulties” as a result of her absence, Sarah Abramowicz, *Beyond Family Law*, 63 Case W. Res. L. Rev. 293, 321 (2012), along with a heightened risk of “diminished life chances and

criminal involvement.” Bruce Western & Becky Pettit, *Incarceration and Social Inequality*, Daedalus, Summer 2010, at 16.

Ms. Menchaca is a caring mother and a hard worker. Since she has been on bond in this case, Ms. Menchaca has continued to demonstrate her willingness and ability to abide by the law, maintain steady employment, and comply with all conditions set forth by the probation office. Unlike a sentence of imprisonment, a probationary sentence would allow Ms. Menchaca to continue earning money towards her restitution obligation which she is eager to repay. She has a demonstrated work ethic and employment history and there is no doubt that she will continue to be a productive member of society.

C. The need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct.

To date, the undersigned is aware of at least 11 defendants in this district who have been sentenced for similar conduct. Of those 11 defendants, two had loss amounts that were double that of Ms. Menchaca’s, and the other nine had comparable loss amounts. Each of those 11 defendants was sentenced to a term of probation. *See United States v. Malik Breckenridge*, Case No. 2:22-cr-00084 (S.D. W.Va. Nov. 17, 2022) (Berger, J.) (sentencing defendant to a term of five years of probation with a total loss amount of \$41,666); *United States v. Alexis Ransom*, Case No. 2:22-cr-00122 (S.D. W.Va. Feb. 7, 2023) (Faber, J.) (sentencing defendant to a term of five years of probation with a total loss amount of \$42,250); *United States v. Tiffany Bowlin*, Case No. 2:22-cr-00205 (S.D. W.Va. May 4, 2023) (Copenhaver, J.) (sentencing defendant to a term of five years of probation with a total loss amount of \$20,833); *United States*

v. Calvin Butler, Case No. 2:22-cr-00161 (S.D. W. Va. May 18, 2023) (Goodwin, J.) (sentencing defendant to a term of five years of probation with a total loss amount of \$18,540); *United States v. Aalik Wilsher*, Case No. 2:23-cr-00051 (S.D. W. Va. Aug. 8, 2023) (Goodwin, J.) (sentencing defendant to a term of three years of probation with a total loss amount of \$20,459); *United States v. Daniel Satow*, Case No. 2:23-cr-00056 (S.D. W. Va. Aug. 10, 2023) (Johnston, C.J.) (sentencing defendant to a term of five years of probation with a total loss amount of \$21,283); *United States v. Tamir Pratt*, Case No. 2:23-cr-00038 (S.D. W. Va. Sept. 28, 2023) (Goodwin, J.) (sentencing defendant to a term of two years of probation with a loss amount of \$20,832), *United States v. Imeesha Bradley*, Case No. 2:23-cr-00112 (S.D. W. Va. Jan. 19, 2024) (Faber, J.) (sentencing defendant to a term of five years of probation with a loss amount of \$18,703); *United States v. Sean Boyd*, Case No. 2:23-cr-00123 (S.D. W. Va. Feb. 22, 2022) (Copenhaver, J.) (sentencing defendant to a term of five years' probation with a loss amount of \$23,817); *United States v. Jessica Nutter*, Case No. 2:24-cr-00081 (S.D. W. Va. Dec. 4, 2024) (Copenhaver, J.) (sentencing defendant to a term of five years of probation with a loss amount of \$25,830); *United States v. Anna Omar*, Case No. 1:24-cr-00036 (S.D. W. Va. Feb. 14, 2025) (Faber, J.) (sentencing defendant to a term of five years of probation with a loss amount of \$23,410).

D. The need for the sentence to reflect the seriousness of the offense, promote respect for the law, and provide just punishment.

In outlining the duties of the United States Sentencing Commission, Congress made it clear that the Commission “shall insure that the guidelines reflect the general

appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense.” 28 U.S.C. § 994. Ms. Menchaca’s only criminal history is a single instance of possessing marijuana—an offense for which she promptly pled guilty. As a person with almost no criminal history who has spent no time in jail, she has a very low risk of recidivism. *See* Report of U.S.S.C. (May 2004) “Recidivism and the ‘First Offender’” (“The analysis [of empirical data on re-offending] delineates recidivism risk for offenders with minimal prior criminal history and shows that the risk is lowest for offenders with the least experience in the criminal justice system.”).

A sentence of probation adequately reflects the seriousness of Ms. Menchaca’s conduct and provides just punishment for her offense. As the Supreme Court has recognized, a sentence of probation is “a substantial restriction of freedom.” *Gall v. United States*, 552 U.S. 38, 48 (2007). Ms. Menchaca will be closely monitored by the Probation Office for the entirety of her probationary term, and she is very aware that if she were to violate any term of probation, the Court could re-sentence her to a term of imprisonment within or above her suggested guideline range.

E. The kinds of sentences available and the sentencing guideline range.

Ms. Menchaca’s sentencing guideline range is between 0 and 6 months of imprisonment. The proposed sentence of probation falls within that guideline range. Above all, a sentence of probation will allow Ms. Menchaca to continue working and pay her restitution obligations while remaining a dedicated and present parent to her three children.

II. Conclusion

For the forgoing reasons, Ms. Menchaca submits that a probationary sentence is sufficient, but not greater than necessary, to achieve the statutory sentencing purposes of 18 U.S.C. § 3553(a).

III. Time Needed for Sentencing

Ms. Menchaca does not anticipate calling any witnesses to testify at the upcoming sentencing hearing and believes the hearing will last approximately thirty minutes.

Date: August 8, 2025.

Respectfully submitted,

KRISTA MENCHACA

By Counsel

WESLEY P. PAGE
FEDERAL PUBLIC DEFENDER

s/Emily L. Szopinski

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