

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 22-CR-80118

UNITED STATES OF AMERICA,

Plaintiff,

Vs.

EDUARDO RAMOS LEYVA,

Defendant,

DEFENDANT'S SENTENCING MEMORANDUM

The defendant, EDUARDO LEYVA RAMOS, by and through her undersigned counsel, and pursuant to U.S.S.G. § 6A1.2-3, p.s., Fed. R. Crim. P. 32 (d), (e)(2) and (f), and the Fifth Amendment to the United States Constitution, respectfully files his Sentencing Memorandum and as grounds therefore, states as follows:

I. INTRODUCTION

Eduardo Leyva Ramos was born on August 4 1975, in Las Tunas, Cuba. Born to Eduardo Leyva Ardeo, age 83 and Esperanza Leyva Rodriguez, 78. Eduardo first moved to Quebec Canada in 2013. In January of 2015, he moved to the United States and settled in Miami, Florida. He has worked throughout his life. He currently lives with his wife Amira Abru. His friends and family are shocked that he involved himself in such an illegal scheme. Attached as exhibits you will find letters of support from family and friends in support of Mr. Eduardo Ramos.

Prior to this incident Eduardo had no contact with law enforcement. After his arrest Eduardo immediately agreed to cooperate with the government and was debriefed on several occasions.

Eduardo was arrested on or about August 3, 2022. He immediately accepted responsibility in this case, he instantly offered his cooperation to the government, including providing information against the other co-conspirators in this matter. He has signed both a written Plea Agreement and Factual Proffer. At sentencing, EDUARDO LEYVA RAMOS, through Counsel, will tell this Court he has continued to make good decisions since his arrest in this case.

II. SENTENCING SUBMISSION AND REQUEST FOR ALTERNATIVE SENTENCE:

Pursuant to *U.S. v. Booker*, 543 U.S. 220 (2005), the federal sentencing process has adopted a three-step approach. (See Fed. R. Crim. P. 11(M), amended December 1, 2007, *U.S. v. Pugh*, 515 F. 3d 1179 (11th Cir. 2008) and, most recently, Amendment 741 of the Sentencing Guidelines, effective November 1, 2010. First, the Court is to resolve any disputed guideline issues and determine the advisory guideline range. On October 15, 2018, the undersigned attorney filed objections to the PSR.

Second, the Court is to consider if there are any factors that may warrant a departure from the advisory guideline range. As before *U.S. v. Booker*, 543 U.S. 220 (2005), the court is to depart when it is warranted under the facts and circumstances of a particular case. “The application of the guidelines is not complete until the departures, if any, that are warranted are appropriately considered,” *U.S. v. Jordi*, 418 F. 3d 1212, 1215 (11th Cir. 2005). To that end, Eduardo is grateful that the plea agreement, reflects the government may file a § 5K1.1 motion on his behalf; however, it fails to identify any additional factors that may warrant a

downward departure. Eduardo believes such additional factors exist; however, he will ask this Court to consider them under the sentencing factors of 18 USC § 3553.

Lastly, the Court is to consider all of the sentencing factors of 18 USC § 3553(a) and impose sentence which is “reasonable” and not greater than necessary to achieve the sentencing objectives set forth in 18 USC § 3553(a). As set forth more fully below, Eduardo believes there are factors worthy of this Court’s consideration.

Eduardo began his cooperation with government agents immediately. He signed a written plea agreement and a factual proffer, and he pled guilty in this case.

A. Rehabilitation, Deterrence and Recidivism.

The sentencing factors of 18 USC § 3553(a)(1) include the nature and circumstances of the offense and the history and characteristics of the defendant. However, Eduardo Leyva is aware they also include the sentencing factors of 18 USC § 3553(a)(2), and this Court must also consider rehabilitation, deterrence and recidivism.

The Court may also consider sentences entered on other cases with similar fact to ensure that there is no disparity between in sentencing. Recently in United States V. Derek Arces case number 22-CR-80257, the defendant was sentenced to 41 months. The defendant in that case was a licensed attorney in the state of Florida had a better understanding of our legal system and had a position of trust in the community. Eduardo does not have that level of formal education.

The Sentencing Commission’s report, “Measuring Recidivism,” offers a statistical analysis of the type of person most likely and least likely to re-offend. The study demonstrates that the risk of Eduardo Leyva re-offending is extremely unlikely and shows how important it is in this case to limit any further incarceration. The study demonstrated that (1) those who are married are less likely to recidivate than those who were not; (2) those who have not used illicit

drugs are less likely to recidivate than those who did; (3) non-violent offenders are less likely to recidivate than violent offenders; (4) first time offenders are less likely to recidivate than repeat offenders; (5) those who are employed are less likely to recidivate than those who are not employed; and (6) those who are sentenced to non-jail sentences are less likely to recidivate than those who receive straight jail. Eduardo falls into most of these categories. With all that is known of this case and this defendant, there is no reason to believe this Court will ever see Eduardo Leyva again.

Eduardo and Counsel thank this Court for considering our Request for Alternative Sentence. Counsel will have further remarks at the time of sentencing.

Respectfully Submitted
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CERTIFICATE OF SERVICE

I hereby certify that on January 23,. 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record.

/s/Louis V. Martinez