UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 25-20178-CR-ARTAU

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MAX ALBERTO MERA ULLOA,

Defendant.
_________________________________/

SENTENCING MEMORANDUM

Max Alberto Mera Ulloa, through undersigned counsel, respectfully submits this memorandum in connection with his sentencing on February 25, 2026. On October 15, 2025, Mr. Mera pled guilty to wire fraud conspiracy, 18 U.S.C. § 1349. Presentence Investigation Report, ECF No. 140 (PSR) ¶ 1. He admitted to working with Guillermo Lopez Carranza, his co-defendant, to secure fraudulent government loans during the COVID-19 pandemic for his own companies and then referred other individuals to Lopez Carranza to do the same.

As set forth below, the 18 U.S.C. § 3553(a) factors warrant a significant variance from the guideline range of 27 to 33 months, PSR ¶ 113, based on Mr. Mera's (i) unique family circumstances and the potential immigration consequences of his offense, (ii) early cooperation with the government, (iv) agreement to pledge his home to pay forfeiture and restitution, and (iv) to avoid unwarranted disparity with the 22-month sentence given to Lopez Carranza, who played a much larger role in the conspiracy, ECF No. 117. Together, these factors demonstrate that just punishment can be achieved with a sentence of five years' probation.

I. The 18 U.S.C. § 3553(a) factors warrant a downward variance to probation.

Section 3553(a) requires a sentence that is "sufficient, but not greater than necessary" to satisfy specific sentencing goals, including just punishment, deterrence of future criminal conduct, the need to avoid unwarranted sentencing disparities, and provide restitution to any victims of the offense. *See* § 3553(a). In determining the appropriate sentence, the Court must weigh several factors, including Mr. Mera's personal history and characteristics, the unique nature and circumstances of the offense, and any mitigating factors that may exist.

The Supreme Court has repeatedly affirmed a federal judge's ability to grant a variance from the advisory guideline range based on the § 3553(a) factors. *See*, *e.g.*, *Beckles v. United States*, 137 S. Ct. 886, 892 (2017). The Supreme Court has also made clear that granting a variance does not require a showing of extraordinary or special circumstances. To the contrary, "courts are entitled to vary from the . . . guidelines in a mine-run case where there are no 'particular circumstances' that would otherwise justify a variance from the guidelines' sentencing range." *Spears v. United States*, 555 U.S. 261, 267 (2009) (internal quotation omitted). This case, however, does present several significant and unique factors that show just punishment can be achieved with a sentence significantly below the advisory guideline range.

A. Mr. Mera's status as a first offender, family circumstances, and potential deportation warrant leniency.

Max Mera Ulloa is not a typical federal criminal defendant: he is an educated, 41-year-old father of four with another child on the way, who has spent his entire life working hard to build a successful business and support his family. PSR ¶ 75. He has no history of criminal conduct, substance abuse, or violence whatsoever. As set forth in the attached letters from his family, friends, and business associate, Mr. Mera is a fundamentally good person whose presence in the community clearly benefits those around him. Exhibit A (Letters of Support). He has shown sincere remorse for his offenses and done everything possible to mitigate the harm he has caused. *Id.* Mr. Mera's commitment to his family and making things right shows he understands the seriousness of his crimes and will never find himself in this situation again.

Mr. Mera was born in Ecuador and lived there until he was 16 years old. PSR ¶ 79. He came to New Jersey for high school, graduated from college in New York, and then returned to Ecuador to start a construction business. PSR ¶ 96. In 2016, Mr. Mera returned to the United States as a legal permanent resident. He mounted a successful business selling commercial and home appliances that at one point had five locations. PSR ¶ 96. He has continued to operate this business while out on bond. Mr. Mera, Rita Sofia, and his three daughters, currently reside in an apartment in Key Biscayne that Mr. Mera purchased in 2022. PSR ¶ 79.

This case has upended every part of Mr. Mera's life, he stands to lose his home, his legal status, and the business he worked hard to build. These collateral consequences underscore that a term of imprisonment is not necessary to ensure Mr.

Mera is adequately punished. It is also not necessary to protect the community or deter Mr. Mera from committing further crimes. Even before his arrest, Mr. Mera confessed his crimes and accepted responsibility for them. During the nine months he has spent in the community on bond, he has been working and taking care of his wife and children. Sending him to prison next week will leave his wife on her own to care for three kids while pregnant without her primary source of financial support.

These extenuating circumstances, coupled with the myriad other ways Mr. Mera has been and will be punished for his crimes, show his imprisonment is unnecessary. Society would be far better served by allowing Mr. Mera to remain in the community under strict supervision as a productive citizen taking care of his minor children and pregnant wife.

B. Mr. Mera should be credited for his early cooperation.

On January 31, 2025, Mr. Mera met with the U.S. Attorney's Office and Special Agents from the Internal Revenue Service.[1] He gave a truthful and complete account of his involvement in the instant offense.

Mr. Mera explained that he met Guillermo Lopez Carranza though work and purchased about $30,000 worth of appliances from him. During the pandemic, Mr. Mera fell behind on his payments to Lopez Carranza. That was when Lopez Carranza suggested that he apply for government loans for small businesses. Lopez Carranza offered to apply for the loans on Mr. Mera's behalf for a 15% fee. Mr. Mera accepted

[1] The facts in this section are derived from a summary of Mr. Mera's proffer interview provided by the Government in discovery. A copy of this report can be furnished to the Court upon request.

and provided Lopez Carranza with his personal identifying information and information regarding his businesses and bank accounts. Lopez then applied for a loan on Mr. Mera's behalf using fraudulent information.

During the meeting, Mr. Mera was shown documents regarding all the fraudulent loans he was associated with. He admitted to having provided Lopez Carranza with the information necessary to apply for the loans and sign them. Mr. Mera explained that Lopez Carranza would fill out and submit the loan applications and create the email addresses associated with the applications so that Lopez could sign them himself. Lopez Carranza also decided what information to falsify to ensure the loan was processed. In exchange, Lopez Carranza required Mr. Mera to pay him 15% of the loan proceeds in cash. Mr. Mera admitted that Lopez Carranza applied for multiple fraudulent loans on behalf of his and his families' businesses.

Thereafter, Mr. Mera began referring friends and associates to Lopez Carranza for fraudulent loans. He explained to them that Lopez Carranza required a payment of 15% of the loan proceeds as commission. Lopez allowed Mr. Mera to keep a portion of his commission (2.5% of the loan proceeds) as a payment for referring him the loans. Mr. Mera provided the government with a handwritten ledger with a list of the loans he referred to Lopez Carranza.

On May 6, 2025, Lopez Carranza and Mendoza were arrested. Mr. Mera was arrested on May 15, 2025 and released on bond, ECF No. 27.

Mr. Mera was represented by private counsel at the time of the pre-indictment proffer interview and his arrest. *See id.* Consistent with his cooperation, Mr. Mera agreed to plead guilty and was scheduled for a plea hearing on August 18, 2025. ECF No. 46. Shortly before the hearing, Mr. Mera received a written plea agreement requiring him to cooperate and agree "to plead guilty regardless of any immigration consequences that his plea may entail, even if the consequence is the defendant's automatic removal from the United States." According to Mr. Mera, he had not previously been informed that he could lose his immigration status and be deported because of this case.

Mr. Mera panicked after learning of his potential deportation and fired his private counsel. Thereafter, he made the uncounseled decision to file several *pro se* motions. *See* ECF Nos. 49–56. He was not aware that filing these motions was inconsistent with his cooperation and might result in the government declining to file a U.S.S.G. § 5K1.1 motion based on his cooperation. Judge Altman struck the motions from the record without requiring the government to respond. ECF No. 59. Mr. Mera was then given court-appointed counsel, ECF No. 64, and pled guilty after having the opportunity to consult with the undersigned and immigration counsel, ECF No. 93.

The Court should reduce Mr. Mera's sentence based on his pre-indictment cooperation that led to the arrest and conviction of Lopez Carranza and Mendoza even without a 5K1.1 motion. To be clear, Mr. Mera is not arguing that he should have received a 5K1.1 motion from the government. He understands that he is not entitled to a 5K1.1 motion as he did not agree to cooperate by way of a plea agreement. He further understands that the government rescinded its offer of a cooperation plea because of his uncounseled decision to file multiple *pro se* motions was inconsistent with his cooperation.

The Court should nevertheless reduce Mr. Mera's sentence based on his timely and complete cooperation. The Eleventh Circuit has unequivocally stated that "a judge basing a sentence under the considerations outlined in 18 U.S.C. § 3553 may take a defendant's substantial assistance into account even if a prosecutor withdraws (or does not file) a § 5K1.1 motion." *United States v. Barner*, 572 F.3d 1239, 1250 (11th Cir. 2009). Mr. Mera's substantial assistance to the government's investigation and prosecution of his codefendants *prior to his arrest* merits a significant downward variance. To deny him that would send the wrong message to other would-be government cooperators: that their efforts to truthfully confess and try to assist the government are futile without a 5K1.1 motion.

C. Mr. Mera has agreed to commit the proceeds from the sale of his apartment towards forfeiture and restitution.

Mr. Mera's agreement to commit the proceeds from the sale of his home towards forfeiture and restitution is strong evidence of his remorse and rehabilitation that warrants a significant variance. *See* ECF No. 141-1 (Stipulation and Settlement Agreement).

In sentencing Mr. Mera, the Court must consider "the need to provide restitution to any victims of the offense." § 3553(a)(7). The Eleventh Circuit has recognized that "extraordinary restitution, whether paid before or after adjudication of guilt, may, in the unusual case, support a departure from the guidelines." *United States v. Kim*, 364 F.3d 1235, 1238 (11th Cir. 2004). To determine whether a restitution payment is extraordinary enough to warrant a lesser sentence, courts look to several factors "such as the degree of voluntariness, the efforts to which a defendant went to make restitution, the percentage of funds restored, the timing of the restitution, and whether the defendant's motive demonstrates sincere remorse and acceptance of responsibility." *Id.* at 1244. All of these factors weigh in favor of a significant variance here.

For one, Mr. Mera's decision to pledge the proceeds from the sale of his home towards forfeiture and restitution was completely voluntary. Undersigned counsel advised the government of his interest in forfeiting the home and Mr. Mera readily agreed to execute a stipulation and settlement agreement pledging the proceeds of the sale of the property to the government. ECF No. 141. As set forth in the PSR, Mr. Mera has approximately $824,189 of equity in the home. PSR ¶ 103. This amount is more than twice the forfeiture order, ECF No. 135, and significantly higher than Mr. Mera's proceeds from the fraud.

Earlier this year, Mr. Mera filed for bankruptcy after falling significantly behind on his mortgage payments and other debts. *See* 26-10280-RAM Max Alberto Mera Ulloa (S.D.F.L. Bankruptcy Court). He is currently working and making payments towards his apartment to avoid foreclosure and has agreed to sell his home. He has advised the bankruptcy court and his assigned trustee of his agreement to forfeit the proceeds of the sale. *Id.* at ECF No. 39. The Bankruptcy court has scheduled a hearing on this matter on February 26, 2026. *Id.* at ECF No. 40. Undersigned counsel has conferred with the assigned trustee to determine whether Mr. Mera can proceed with the sale of the apartment and bankruptcy proceedings if he is incarcerated. The uncertainty surrounding this issue provides further support for allowing Mr. Mera to remain in the community to resolve his affairs.

D. A significant variance is required to avoid unwarranted disparity with Guillermo Lopez Carranza's 22-month sentence.

The downward variance and 22-month sentence received by Lopez Carranza, Mr. Mera's co-defendant, also warrants a significant variance here. Under § 3553(a)(6), the Court must "avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." This requires the Court to ensure that Mr. Mera's sentence is reasonable considering the sentence received by Lopez, a member of the same conspiracy.

As set forth in the PSR, Lopez Carranza played a much larger role in the conspiracy. PSR ¶ 36. He was the "the leader/organizer of the scheme, and submitted all of the loan applications from his home computer, while Mendoza and Mera Ulloa acted as PPP loan brokers for their respective clients." *Id.* "Lopez Carrazana submitted the loan applications with falsified supporting documents that he created." PSR ¶ 37. Because Lopez Carranza was involved in a separate conspiracy with Mendoza, his offense conduct was far more widespread, and his loss amount was twice as high as $5,948,423 as Mr. Mera's ($2,384,105). PSR ¶ 43.

At sentencing, the government recommended a sentence of 22 months after filing a 5K1.1 motion on his behalf. Like Mr. Mera, Lopez Carranza met with the government for a proffer. But unlike Mr. Mera, Lopez Carranza did not agree to cooperate pre-indictment. He only agreed to cooperate and plead guilty *after* learning of Mr. Mera's meeting with the government and willingness to cooperate. As a result, Mr. Mera's cooperation at an early stage in the proceedings was far more valuable than Lopez Carranza's cooperation and showed a greater acceptance of responsibility.

Thus, Mr. Mera's cooperation should result in a greater reduction than Lopez Carranza's who was the leader of the fraud, which went far beyond his dealings with Mr. Mera. This, in addition to the other mitigating factors set forth herein, support a sentence of probation, or, at a minimum, far below 22 months.

II. Just punishment can be achieved in this case with a sentence of probation.

Federal statutes recognize the appropriateness of a probationary sentence for first offenders like Mr. Mera. See 28 U.S.C. § 994(j) (directing that alternatives to incarceration are generally appropriate for first offenders not convicted of a violent or otherwise serious offense); 18 U.S.C. § 3561(a) (authorizing sentences of probation unless the defendant was convicted of a Class A or B felony, probation was otherwise precluded, or the defendant is sentenced at the same time to a term of imprisonment). Furthermore, by setting the range of penalties for wire fraud from zero to twenty years, 18 U.S.C. § 1349, Congress explicitly authorized sentences of probation for this type of offense.

Although sentences of probation are rare in federal court, this case is atypical for several reasons given Mr. Mera's preindictment cooperation, the potential immigration consequences of his offense, and pledge to forfeit hundreds of thousands of dollars to the government. This is therefore the rare case where probation would satisfy the purposes of punishment.

To be certain, probation "is not a 'get-out-of-jail free card.'" *See United States v. Pyles*, 272 F. App'x 258, 262 (4th Cir. 2008) (affirming sentence of 36 months' probation for aiding and abetting the distribution of crack cocaine). The reality is that while sentences of incarceration are "qualitatively more severe than probationary sentences of equivalent terms," a sentence of probation can be quite punitive. *Gall v. United States*, 552 U.S. 38, 48-49 (2007). Probation is a severe punishment: it places substantial restrictions on a person's liberty; may require home detention, community confinement, and community service; and places the person at risk of imprisonment for a minor technical violation. Indeed, with a 60-month sentence of probation, Mr. Mera will be under the supervision of this Court for far longer than Lopez Carranza (22 months custody and 18 months supervised release) or Mendoza (33 months custody and 12 months supervised release).

That, of course, depends on whether or for how long Mr. Mera is allowed to remain in the Unites States. As a legal permanent resident, his conviction in this matter subjects him to removal proceedings. PSR ¶ 80. If he is sentenced to a term of imprisonment, he will likely be transferred to ICE custody at the end of his federal sentence and remain there until an immigration judge determines whether he will lose his legal permanent resident status and be deported.

Sentencing Mr. Mera is not just warranted by the § 3553(a) factors, but also beneficial to the community. It provides sufficient punishment for his crimes, while allowing him to remain in the community to take care of his family, sell his home to pay forfeiture and restitution, and gives him an opportunity to continue working and being productive while his immigration case is decided.

For all these reasons, we ask that the Court consider sentencing Mr. Mera to a term of probation.

Respectfully submitted,

HECTOR DOPICO
FEDERAL PUBLIC DEFENDER

By: */s/Leticia M. Olivera*

Leticia M. Olivera
Assistant Federal Public Defender
Special A. No.: A5503215
150 W. Flagler Street, Suite 1700
Miami, Florida 33130
Tel: 305-530-7000
E-Mail Address: Leticia_olivera@fd.org

CERTIFICATE OF SERVICE

I HEREBY certify that on February 20, 2026, 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 or *pro se* parties identified in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ *Leticia M. Olivera*