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6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO

10
11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 SAGE YBARRA,
15 Defendants.

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Case No.: CR 21-121- JD
**SAGE YBARRA’S SENTENCING
MEMORANDUM AND MOTION
FOR VARIANCE**

1 Sage Ybarra profoundly regrets his participation in the “Grizzlies” and his role in the obstruction of
2 justice. He regrets his failure to perceive the danger posed by the “Grizzlies” and his failure to alert law
3 enforcement to that danger before his arrest.¹ Since his arrest, Mr. Ybarra has done everything in his
4 power to find community and self-worth in work, education, and family and to chart the right course in
5 his life – a remarkable achievement in introspection for a 24 year old whose life has been
6 characterized, as described below, by extreme psychological abuse punctuated by physical abuse.
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8 **I. INTRODUCTION**

9 Mr. Ybarra seeks a sentence of probation and home confinement in contrast to the five-month
10 sentence recommended by the United States Probation Office and the twelve-month custodial sentence
11 requested by the Government. Mr. Ybarra has resolved all objections to the Pre-Sentence Report (PSR)
12 and concurs with the calculations of the United States Sentencing Guidelines in the PSR.
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14 **II. SAGE YBARRA SUFFERED EXTRAORDINARY PSYCHOLOGICAL TRAUMA**
15 **DURING CHILDHOOD.**

16 Thanks to the matter hand, Sage Ybarra has been compelled to examine the relationships he had
17 established and the path he had embarked upon before his arrest in this matter on April 8, 2021. At the
18 time of his arrest, Sage Ybarra had not yet reached his 24th birthday – well before frontal lobe
19 development for males and, in his case in particular, development interrupted by a well-documented
20 history of psychological abuse punctuated by physical and sexual abuse from his biological parents,
21 grandfather, and his stepfather (not his current legal guardians). PSR ¶ 58-72, 77.
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23 Mr. Ybarra has shared his personal history of abuse with the United States Probation Officer who
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27 ¹ Mr. Ybarra did, however, alert the Government to the existence of two firearms shortly after his
28 arrest despite the fact that this evidence could have been used to further incriminate him. Exhibit A
(Sabelli Email dated April 14, 2021).

1 has comprehensively laid out that abuse in the PSR. PSR ¶ 58-72, 77. Mr. Ybarra asks this Court to
2 consider this history of abuse – often characterized in the modern literature as “adverse childhood
3 experience” – not to garner sympathy but because understanding this history of abuse allows the
4 Court to appreciate the factors that drove Mr. Ybarra to make the mistakes he made as well as the
5 reliability of his current transformation.² The extraordinary psychological chaos, confusion, and
6 abuse that he suffered in his childhood fueled his sense of not belonging as well as his sense of
7 vulnerability and therefore the drive that Mr. Ybarra felt to belong to the “Grizzlies” community.
8 This dynamic, of course, is not uncommon; many young men feel compelled to join “gangs” in the
9 absence of familial or community support. Young men neglected by their families – or *affirmatively*
10 *rejected* by family in Mr. Ybarra’s case – exhibit well-documented vulnerabilities to groups like the
11 “Grizzlies” that promise community, structure, and, ultimately, a false sense of self-worth.
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14 This extraordinary psychological chaos, confusion, and abuse may also assist the Court in
15 understanding how Mr. Ybarra has, in this short time, been able to initiate an impressive personal
16 transformation. This transformation has been noted not only by his legal guardians, *see* Exhibit B
17 (Letter of Bill and Christy Kasje), but is also reflected in his record of employment, education,
18 compliance with Court Orders, and cooperation with the Government since his arrest. PSR ¶ 73, 82,
19 84; Exhibit A. Over the last year, Mr. Ybarra has been working regularly in the construction trade,
20 *see* Exhibits C (Letter of Christine Ortega) and D (Letter of Erik Larson), and studying regularly at
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24 ² Paragraph 80 of the PSR reflects a score of 9 of 10 regarding Adverse Childhood Experiences
25 (ACEs):

26 The defendant was provided with a self-assessment, Adverse Childhood Experiences (ACEs),
27 at the time of the presentence interview. ACEs consists of ten questions that evaluates
28 traumatic events involving abuse, neglect, and household dysfunction that occur during
childhood (prior to age 18). Based on the defendant’s responses, the result was nine (9) out of
10. The higher the ACEs score, the higher the defendant’s risk for major chronic health, mental
health, economic health, and social health issues.

1 DeAnza College, *see* PSR ¶ 82. He has also developed plans to manufacture emissions-compliant
 2 parts for classic cars. *See* E (Statement of Sage Ybarra). Despite his history of trauma, he has his eyes
 3 on the prize – a lawful and fulfilling life based on work, education, and family.

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 5 **III. A SENTENCE OF PROBATION FULFILLS THE OBJECTIVES OF A FAIR,**
RATIONALE, AND HUMANE CRIMINAL LEGAL SYSTEM.

6 Based on this transformation and based on the importance of the adverse childhood experiences he
 7 suffered, Mr. Ybarra asks this Court to impose a sentence of probation and home detention. A sentence
 8 of probation would allow Mr. Ybarra to follow through with the hard work he has done since his arrest
 9 to set the right course in his life thereby promoting the interests of the community and the
 10 rehabilitative objectives of our sentencing regimen. In contrast, a custodial sentence would simply
 11 interrupt Mr. Ybarra’s progress without contributing in any way to the public interest; a custodial terms
 12 would prioritize punishment over common sense and humanity – an instinct which has led us to
 13 overcrowded prisons during an epidemic and mass incarceration over the last four decades.

14
 15 **A. The Parties and United States Probation Office Agree Regarding the Guidelines**
Calculation.

16 The United States Probation Office (“Probation”) accurately calculates the United States
 17 Sentencing Guidelines in the PSR, and it is consistent with the plea agreement. PSR ¶¶ 39–49; Dkt.
 18 No. 84 ¶ 7. Because the total offense level is 11 and the defendant’s criminal history category is I, the
 19 sentencing range under the Guidelines is 8 to 14 months of imprisonment. PSR ¶ 90.

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 21 **B. The § 3553 Factors Support a Sentence of Probation and Home Detention.**

22 Under 18 U.S.C. § 3553(a), in arriving at the appropriate sentence for the defendant, the Court
 23 should consider four factors which, undersigned counsel submits, support a sentence of probation and
 24 home detention:

- 25
 26 1. The nature and circumstances of the offense and the history and characteristics of the
 27 2. The need for the sentence imposed to reflect the seriousness of the offense, to promote respect
 28 3. The need for the sentence imposed to afford adequate deterrence to criminal conduct; and
 4. The need to avoid unwarranted sentence disparities among defendants with similar records

1 who have been found guilty of similar conduct.

2 The nature and circumstances of the offense.

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4 The offense relates to obstruction of justice. Mr. Ybarra never made the choice to harm another
5 person though he used words that many of us – especially with age and maturity – would not have
6 employed. His choice to destroy evidence occurred, of course, in a context of fear and panic which
7 was soon replaced by his decision to cooperate with the Government by surrendering two handguns
8 that he had ordered but never taken possession of.

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10 The characteristics of the defendant.

11 As set forth above, Mr. Ybarra is a very young man who endured extreme adverse childhood
12 trauma and has already turned the corner as reflected in his employment, education, and attitude. He
13 has the support of his legal guardians who rescued him from biological parents who did not provide
14 the physical, emotional, or social support that every child needs.

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16 The need for the sentence imposed to afford adequate deterrence to criminal conduct.

17 The facts of this case are, to say the least, extremely unusual. There is no reason to believe that
18 the resolution of this matter will have any impact on the decisions of others with respect to future
19 criminal conduct.

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21 The need to avoid unwarranted sentence disparities.

22 Mr. Ybarra is, given his age and role in the offense, the least culpable. This Court should avoid an
23 unwarranted disparity by imposing a sentence on Mr. Ybarra which is less than that imposed on other
24 accused in this case.

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1 **IV. CONCLUSION**

2 Mr. Ybarra’s hard work and transformation stand in stark contrast to the predictions of the
3 Government that Mr. Ybarra would exploit this Court’s decision to release him by fleeing or
4 contributing to criminal conduct by others. On the contrary, Mr. Ybarra has done everything in his
5 power since his release to chart the right course in his life – a remarkable achievement in
6 introspection for a 24-year-old whose life has been characterized by trauma. This Court should
7 encourage and reward his efforts – and promote the interests of the community – by imposing a
8 sentence of probation and home confinement that would allow Mr. Ybarra to follow through with his
9 self-driven commitment to better his life and simultaneously honor the commitment of his guardians,
10 Bill and Christy Kasje, who have supported him and will continue to support him through this
11 process.
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14 DATED: February 8, 2022

Respectfully submitted,

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 /s/

MARTIN A. SABELLI

Counsel for SAGE YBARRA
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