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 7 United States of America

8
 9 UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
 11 Plaintiff,
 12
 13 v.
 14 EDGAR JOAQUIN MEZA-INDA,
 15 Defendant

Case No. 3:23-cr-1852-CAB
PLEA AGREEMENT
 (Pre-Indictment
 Fast-Track Program)

16 IT IS HEREBY AGREED between the plaintiff, UNITED STATES OF AMERICA,
 17 through its counsel, TARA K. MCGRATH, United States Attorney, and Daniel
 18 D. Shin, Assistant United States Attorney, and defendant, EDGAR JOAQUIN
 19 MEZA-INDA, with the advice and consent of Carmen Rivera, counsel for
 20 defendant, as follows:

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JAG:mf:10/16/23

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 Def. Initials _____

I

THE PLEA

A. THE CHARGE

Defendant agrees to waive Indictment and plead guilty to Count 1 of a six-count Information charging defendant with:

On or about August 10, 2023, within the Southern District of California, defendant, EDGAR JOAQUIN MEZA-INDA, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that CARLOS MARTINEZ ARMENTA had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

B. EARLY DISPOSITION (FAST-TRACK) PROGRAM

The disposition contemplated by this plea agreement is pursuant to an early disposition (Fast-Track) program authorized by the Attorney General of the United States and the United States Attorney for the Southern District of California.

In return for the concessions made by the Government herein, defendant agrees further as follows:

1. Defendant will not file any substantive motions (including those described in Fed. R. Crim. P. 12, other than motions seeking bail review); and
2. Upon acceptance of defendant's guilty plea by the District Court, and notwithstanding any preservation order(s) entered by the District Court, the Government need not hold or preserve any evidence seized in connection with this case, including but not limited to:
 - a. Any cellular device(s); and
 - b. Any vehicle(s).
3. Upon acceptance of defendant's guilty plea by the District Court, defendant will not oppose any motion by

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the Government to move that the Court lift or revoke any preservation order.

C. FORFEITURE

Defendant further agrees to the administrative and/or civil forfeiture of all properties seized in connection with this case which defendant agrees are subject to forfeiture to the United States pursuant to 8 U.S.C. § 1324(b). Defendant further waives defendant's right to receive timely notice of administrative forfeiture as set forth in 18 U.S.C. § 983(a) and waives receipt of all notice of forfeiture in this and all other administrative and civil proceedings. Defendant waives and disclaims defendant's interest, if any, in the properties to be forfeited as described above. Defendant further agrees not to contest or to assist any other person or entity in contesting the forfeiture of the property(ies) seized in connection with this case. By signing this plea agreement, defendant is hereby withdrawing any and all claims and any and all petitions relating to or arising from the seizures and forfeiture of properties in connection with this case.

D. DISMISSAL OF THE REMAINING COUNTS

The Government agrees to (1) move to dismiss the remaining counts without prejudice when Defendant is sentenced, and (2) not prosecute defendant thereafter on such dismissed charge(s) unless defendant breaches the plea agreement or the guilty plea entered pursuant to this plea agreement is set aside for any reason. If defendant breaches this agreement or the guilty plea is set aside, Section XII below shall apply.

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II

NATURE OF THE OFFENSE

A. ELEMENTS EXPLAINED

The offense to which defendant is pleading guilty has the following elements:

1. Defendant brought a person who was an alien to the United States and upon arrival did not immediately bring and present the alien to an appropriate immigration official at a designated port of entry.
2. Defendant knew or was in reckless disregard of the fact that the person was an alien who had not received prior official authorization to come to, enter, or reside in the United States.
3. Defendant acted with the intent to violate the United States immigration laws.

B. ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS

Defendant has fully discussed the facts of this case with defense counsel. Defendant has committed each element of the crime and admits that there is a factual basis for this guilty plea. The following facts are true and undisputed:

1. On August 10, 2023, defendant brought CARLOS MARTINEZ ARMENTA who was an alien to the United States. Specifically, defendant piloted a vessel into the United States from Mexico and was found in an area near Solana Beach. At that time, defendant was being paid to smuggle undocumented aliens into the United States from Mexico.
2. On August 10, 2023, defendant knowingly transported or moved CARLOS MARTINEZ ARMENTA along with 12 other aliens without legal status within the Southern District of California in order to help those people remain in the United States illegally.
3. Defendant and the other aliens were apprehended near Solana Beach, California.
4. Defendant knew or was in reckless disregard of the fact that the alien(s) in the vessel had not received prior official authorization to come to, enter, or reside in the United States. Upon arrival, Defendant did not immediately bring and present the alien(s) to an

1 appropriate immigration official at a designated port of
2 entry.

- 3
- 4 5. Defendant acted with the intent to violate the United
5 States immigration laws.
- 6 6. CARLOS MARTINEZ ARMENTA was paying \$13,500, to be brought
7 into the United States illegally and transported or moved
8 illegally to his destination therein.
- 9 7. When defendant was piloting the vessel with the group,
10 there were thirteen aliens including the person specified
11 in the count on board.
- 12 8. Defendant piloted the vessel in an unsafe manner.
13 Specifically, defendant piloted/navigated the vessel on
14 the open sea for many hours during the night without
15 navigation lights, the vessel was over capacity, there
16 were not enough life jackets or flotation safety devices
17 aboard the vessel when at least one individual did not
18 know how to swim, and the Defendant abandoned the vessel
19 with all 13 material witnesses left on board near a rocky
20 shore.

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III

PENALTIES

The crime to which defendant is pleading guilty carries the following penalties:

- 17 A. A maximum 10 years in prison;
- 18 B. A maximum \$250,000.00 fine;
- 19 C. A mandatory special assessment of \$100.00 per count;
- 20 D. Unless the Sentencing Court finds the defendant to be
21 indigent, an additional mandatory special assessment of
22 \$5,000.00 per count;
- 23 E. A term of supervised release of not more than 3 years.
24 Defendant understands that failure to comply with any of the
25 conditions of supervised release may result in revocation of
26 supervised release, requiring defendant to serve in prison,
27 upon any such revocation, all or part of the statutory maximum
28 term of supervised release for the offense that resulted in
such term of supervised release; and
- F. Possible ineligibility for certain Federal benefits.

IV

**DEFENDANT'S WAIVER OF TRIAL RIGHTS
AND UNDERSTANDING OF CONSEQUENCES**

This guilty plea waives defendant's right at trial to:

- A. Continue to plead not guilty and require the Government to prove the elements of the crime beyond a reasonable doubt;
- B. A speedy and public trial by jury;
- C. The assistance of counsel at all stages of trial;
- D. Confront and cross-examine adverse witnesses;
- E. Testify and present evidence and to have witnesses testify on behalf of defendant; and
- F. Not testify or have any adverse inferences drawn from the failure to testify.

Defendant has been advised by counsel and understands that because defendant is not a citizen of the United States, defendant's conviction in this case make it practically inevitable and a virtual certainty that defendant will be removed or deported from the United States. Defendant also may be denied United States citizenship and admission to the United States in the future.

V

**DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE
PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION**

Any information establishing the factual innocence of defendant known to the undersigned prosecutor in this case has been turned over to defendant. The Government will continue to provide such information establishing the factual innocence of defendant.

If this case proceeded to trial, the Government would be required to provide impeachment information for its witnesses. In addition, if defendant raised an affirmative defense, the Government would be required to provide information in its possession that supports such a

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1 defense. By pleading guilty, defendant will not be provided this
2 information, if any, and defendant waives any right to this information.
3 Defendant will not attempt to withdraw the guilty plea or file a
4 collateral attack on the existence of this information.

5 VI

6 **DEFENDANT'S REPRESENTATION THAT GUILTY**
7 **PLEA IS KNOWING AND VOLUNTARY**

8 Defendant represents that:

- 9 A. Defendant has had a full opportunity to discuss all the facts
10 and circumstances of this case with defense counsel and has a
11 clear understanding of the charges and the consequences of
12 this plea. By pleading guilty, defendant may be giving up, and
13 rendered ineligible to receive, valuable government benefits
14 and civic rights, such as the right to vote, the right to
15 possess a firearm, the right to hold office, and the right to
16 serve on a jury. The conviction in this case may subject
17 defendant to various collateral consequences, including but
18 not limited to revocation of probation, parole, or supervised
19 release in another case; debarment from government
20 contracting; and suspension or revocation of a professional
21 license, none of which can serve as grounds to withdraw
22 defendant's guilty plea;
- 23 B. No one has made any promises or offered any rewards in return
24 for this guilty plea, other than those contained in this
25 agreement or otherwise disclosed to the court;
- 26 C. No one has threatened defendant or defendant's family to
27 induce this guilty plea; and,
- 28 D. Defendant is pleading guilty because defendant is guilty and
for no other reason.

29 VII

30 **AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE,**
31 **SOUTHERN DISTRICT OF CALIFORNIA**

32 This plea agreement is limited to the United States Attorney's
33 Office for the Southern District of California, and cannot bind any
34 other authorities in any type of matter, although the Government will
35 bring this plea agreement to the attention of other authorities if
36 requested by defendant.

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VIII

APPLICABILITY OF SENTENCING GUIDELINES

The sentence imposed will be based on the factors set forth in 18 U.S.C. § 3553(a). In imposing the sentence, the sentencing judge must consult the United States Sentencing Guidelines (Guidelines) and take them into account. Defendant has discussed the Guidelines with defense counsel and understands that the Guidelines are only advisory, not mandatory. The Court may impose a sentence more severe or less severe than otherwise applicable under the Guidelines, up to the maximum in the statute of conviction. The sentence cannot be determined until a presentence report is prepared by the U.S. Probation Office and defense counsel and the Government have an opportunity to review and challenge the presentence report. Defendant agrees to request that a presentence report be prepared. Nothing in this plea agreement limits the Government's duty to provide complete and accurate facts to the district court and the U.S. Probation Office.

IX

SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

This plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). The sentence is within the sole discretion of the sentencing judge who may impose the maximum sentence provided by statute. It is uncertain at this time what defendant's sentence will be. The Government has not made and will not make any representation as to what sentence defendant will receive. Any estimate of the probable sentence by defense counsel is not a promise and is not binding on the Court. Any recommendation made by the Government at sentencing is also not binding on the Court. If the sentencing judge does not follow any

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1 of the parties' sentencing recommendations, defendant will not withdraw
 2 the plea.

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4 PARTIES' SENTENCING RECOMMENDATIONS

5 A. SENTENCING GUIDELINE CALCULATIONS

6 Although the Guidelines are only advisory and just one factor the
 7 Court will consider under 18 U.S.C. § 3553(a) in imposing a sentence,
 8 the parties will jointly recommend the following Base Offense Level,
 9 Specific Offense Characteristics, Adjustments, and Departures:

- | | | |
|----|--|--------------------|
| 10 | 1. Base Offense Level [USSG § 2L1.1(a)(3)] | 12 |
| 11 | 2. Number of Aliens [USSG § 2L1.1(b)(2)] | +3 |
| 12 | 3. Prior Immigration Felony [USSG § 2L1.1(b)(3)] | * |
| 13 | 4. Substantial Risk [USSG § 2L1.1(b)(6)] | 18/+2 ¹ |
| 14 | (Increase by 2 levels, but if the resulting
offense level is less than level 18,
increase to level 18) | |
| 15 | 5. Acceptance of Responsibility [USSG § 3E1.1] | -2/3 |

17 *There is no agreement regarding defendant's criminal history
 18 category. However, if defendant has previously sustained a conviction
 19 for a felony immigration and naturalization offense, the parties will
 20 recommend a +2 adjustment, pursuant to USSG § 2L1.1(b)(3)(A). If
 21 defendant has previously sustained two or more such felony immigration
 22 convictions, the parties will recommend a +4 adjustment, pursuant to
 23 USSG § 2L1.1(b)(3)(B).

24 **The Government reserves the right to reduce its recommended fast
 25 track departure if defendant does not proceed to sentencing on the first

28 ¹ The parties are free to argue for the applicability of the
 Specific Offense Characteristic, pursuant to USSG § 2L1.1(b)(6).

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1 date set by the Court unless the parties agree to a continuance or
2 sentencing is continued on the Court's own motion.

3 B. ACCEPTANCE OF RESPONSIBILITY

4 Despite paragraph A above, the Government need not recommend an
5 adjustment for Acceptance of Responsibility if defendant engages in
6 conduct inconsistent with acceptance of responsibility including, but
7 not limited to, the following:

- 8 1. Fails to truthfully admit a complete factual basis as
9 stated in the plea at the time the plea is entered, or
10 falsely denies, or makes a statement inconsistent with,
11 the factual basis set forth in this agreement;
- 12 2. Falsely denies prior criminal conduct or convictions;
- 13 3. Is untruthful with the Government, the Court or probation
14 officer; or
- 15 4. Breaches this plea agreement in any way.

16 C. FURTHER ADJUSTMENTS AND SENTENCE REDUCTIONS
17 INCLUDING THOSE UNDER 18 U.S.C. § 3553

18 Defendant may request or recommend additional downward adjustments,
19 departures, or variances from the Sentencing Guidelines under 18 U.S.C.
20 § 3553. The Government will oppose any downward adjustments, departures,
21 or variances not set forth in Section X, paragraph A above.

22 D. NO AGREEMENT AS TO CRIMINAL HISTORY CATEGORY

23 The parties have no agreement as to defendant's Criminal History
24 Category, except that, if defendant is determined to be a Career
25 Offender, the parties agree that defendant is automatically a Criminal
26 History Category VI pursuant to USSG § 4B1.1(b).

27 E. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

28 The facts in the "factual basis" paragraph of this agreement are
true and may be considered as "relevant conduct" under USSG § 1B1.3 and

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1 as the nature and circumstances of the offense under 18 U.S.C.
2 § 3553(a)(1).

3 F. PARTIES' RECOMMENDATIONS REGARDING CUSTODY

4 The Government agrees to recommend that defendant be sentenced to
5 the greater of: within the advisory guideline range as calculated by
6 the Government, or the time served in custody at the time of sentencing.

7 G. SPECIAL ASSESSMENTS AND FINE

8 The parties will jointly recommend that defendant pay a special
9 assessment in the amount of \$100.00 per felony count of conviction to
10 be paid forthwith at time of sentencing.

11 In addition, unless the sentencing court finds defendant to be
12 indigent, the parties also will jointly recommend that defendant pay an
13 additional special assessment in the amount of \$5,000 per count of
14 qualifying conviction, which shall not be payable until defendant
15 satisfies all outstanding fines, orders of restitution, and any other
16 obligation in this case related to victim-compensation. Special
17 assessments shall be paid through the office of the Clerk of the District
18 Court by bank or cashier's check or money order made payable to the
19 "Clerk, United States District Court."

20 The parties will not recommend imposition of a fine due to
21 defendant's limited financial prospects and because the cost of
22 collection, even taking into account the Inmate Responsibility Program,
23 likely would exceed the amounts that could reasonably be expected to be
24 collected.

25 H. SUPERVISED RELEASE

26 The Government is free to recommend a period of supervised release.
27 If the Court imposes a term of supervised release, defendant will not
28 seek to reduce or terminate early the term of supervised release until

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1 defendant has served at least two-thirds of the term of supervised
2 release and has fully paid and satisfied any special assessments, fine,
3 criminal forfeiture judgment and restitution judgment.

4 **XI**

5 **DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK**

6 Defendant waives (gives up) all rights to appeal and to collaterally
7 attack every aspect of the conviction and sentence, including any
8 restitution order. This waiver includes, but is not limited to, any
9 argument that the statute of conviction or defendant's prosecution is
10 unconstitutional and any argument that the facts of this case do not
11 constitute the crime charged. The only exceptions are 1) defendant may
12 appeal a custodial sentence above the high end of the guideline range
13 recommended by the Government at sentencing (if USSG § 5G1.1(b) applies,
14 the high end of the range will be the statutorily required mandatory
15 minimum sentence), and 2) defendant may collaterally attack the
16 conviction or sentence on the basis that defendant received ineffective
17 assistance of counsel. If defendant appeals, the Government may support
18 on appeal the sentence or restitution order actually imposed.

19 **XII**

20 **BREACH OF THE PLEA AGREEMENT**

21 Defendant and defendant's attorney know the terms of this agreement
22 and shall raise, before the sentencing hearing is complete, any claim
23 that the Government has not complied with this agreement. Otherwise,
24 such claims shall be deemed waived (that is, deliberately not raised
25 despite awareness that the claim could be raised), cannot later be made
26 to any court, and if later made to a court, shall constitute a breach
27 of this agreement.

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1 Defendant breaches this agreement if defendant violates or fails
2 to perform any obligation under this agreement. The following are non-
3 exhaustive examples of acts constituting a breach:

- 4 A. Failing to plead guilty pursuant to this agreement;
- 5 B. Failing to fully accept responsibility as established in
6 Section X, paragraph B, above;
- 7 C. Failing to appear in court;
- 8 D. Attempting to withdraw the plea;
- 9 E. Failing to abide by any court order related to this case;
- 10 F. Appealing (which occurs if a notice of appeal is filed) or
11 collaterally attacking the conviction or sentence in violation
12 of Section XI of this plea agreement; or
- 13 G. Engaging in additional criminal conduct from the time of
14 arrest until the time of sentencing.

15 If defendant breaches this plea agreement, defendant will not be
16 able to enforce any provisions, and the Government will be relieved of
17 all its obligations under this plea agreement. For example, the
18 Government may proceed to sentencing but recommend a different sentence
19 than what it agreed to recommend above. Or the Government may pursue any
20 charges including those that were dismissed, promised to be dismissed,
21 or not filed as a result of this agreement (defendant agrees that any
22 statute of limitations relating to such charges is tolled indefinitely
23 as of the date all parties have signed this agreement; defendant also
24 waives any double jeopardy defense to such charges). In addition, the
25 Government may move to set aside defendant's guilty plea. Defendant may
26 not withdraw the guilty plea based on the Government's pursuit of
27 remedies for defendant's breach.

28 Additionally, if defendant breaches this plea agreement: (i) any
statements made by defendant, under oath, at the guilty plea hearing
(before either a Magistrate Judge or a District Judge); (ii) the factual

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1 basis statement in Section II.B in this agreement; and (iii) any evidence
 2 derived from such statements, are admissible against defendant in any
 3 prosecution of, or any action against, defendant. This includes the
 4 prosecution of the charge(s) that is the subject of this plea agreement
 5 or any charge(s) that the prosecution agreed to dismiss or not file as
 6 part of this agreement, but later pursues because of a breach by the
 7 defendant. Additionally, defendant knowingly, voluntarily, and
 8 intelligently waives any argument that the statements and any evidence
 9 derived from the statements should be suppressed, cannot be used by the
 10 Government, or are inadmissible under the United States Constitution,
 11 any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of
 12 the Federal Rules of Criminal Procedure, and any other federal rule.

13 XIII

14 CONTENTS AND MODIFICATION OF AGREEMENT

15 This plea agreement embodies the entire agreement between the
 16 parties and supersedes any other agreement, written or oral. No
 17 modification of this plea agreement shall be effective unless in writing
 18 signed by all parties.

19 XIV

20 DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT

21 By signing this agreement, defendant certifies that defendant has
 22 read it (or that it has been read to defendant in defendant's native
 23 language). Defendant has discussed the terms of this agreement with
 24 defense counsel and fully understands its meaning and effect.

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XV

DEFENDANT SATISFIED WITH COUNSEL

Defendant has consulted with counsel and is satisfied with counsel's representation. This is defendant's independent opinion, and defendant's counsel did not advise defendant about what to say in this regard.

Respectfully submitted,

TARA K. MCGRATH
United States Attorney




DANIEL D. SHIN
Assistant U.S. Attorney

10/25/2023

DATED

10/25/23

DATED




Marc Levinson, Esq.
CARMEN RIVERA
Defense Counsel

IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" PARAGRAPH ABOVE ARE TRUE.

10/25/23

DATED



EDGAR JOAQUIN MEZA-INDA
Defendant

Approved by:

/s/Michael Deshong
MICHAEL DESHONG
Assistant U.S. Attorney

7/18/2023 cek

I interpreted this agreement from English to Spanish

Date: October 25, 2023
signed: Yolanda France
Yolanda France

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Def. Initials _____
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