


**FILED**

**United States District Court**  
**Western District of Texas**  
WACO DIVISION

MAR 14 2017

CLERK, U.S. DISTRICT CLERK  
WESTERN DISTRICT OF TEXAS  
BY  DEPUTY

UNITED STATES OF AMERICA

v.

Case Number: WA-16-CR-00068(04)-AM  
USM Number: 68694-380

JESUS DENOVA LOPEZ  
aka: Joel Jaimes Denova

Defendant.

**JUDGMENT IN A CRIMINAL CASE**  
**(For Offenses Committed On or After November 1, 1987)**

The defendant, JESUS DENOVA LOPEZ, was represented by Steven Kendall Striegler.

The defendant pled guilty to Count(s) One, Two, Three, and Seven of the Indictment on August 31, 2016. Accordingly, the defendant is adjudged guilty of such Count(s), involving the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 846	Conspiracy to Possess with Intent to Distribute Methamphetamine	January 1, 2013	One
21 U.S.C. § 846	Conspiracy to Possess with Intent to Distribute Cocaine	January 1, 2013	Two
21 U.S.C. § 846	Conspiracy to Possess with Intent to Distribute Marijuana	January 1, 2013	Three
21 U.S.C. § 843	Unlawful Communication	November 25, 2015	Six

As pronounced on March 2, 2017, the defendant is sentenced as provided in pages 2 through 7 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Signed this the 13<sup>th</sup> day of March, 2017

  
ALIA MOSES  
United States District Judge

DEFENDANT: JESUS DENOVA LOPEZ  
CASE NUMBER: WA-16-CR-00068(04)-AM

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 210 months as to count 1; 210 months as to count 2; 60 months as to count 3; and 48 months as to count 6. Terms of imprisonment are to run concurrent, with credit for time served since March 10, 2016, pursuant to 18 U.S.C. § 3584(a).

The Court makes the following recommendation to the Bureau of Prisons:

That the defendant be incarcerated in a federal facility as close to Austin, Texas as possible.

That the defendant serve this sentence at F. C. I. Bastrop, If possible

The defendant shall remain in custody pending the service of sentence.

RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_, with a certified copy of this judgment.

BY

UNITED STATES MARSHAL

DEPUTY UNITED STATES MARSHAL

DEFENDANT: JESUS DENOVA LOPEZ  
CASE NUMBER: WA-16-CR-00068(04)-AM

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years as to count 1; 3 years as to counts two and Three; and One year as to count 6. Terms of Supervised Release are to run concurrent.

While on supervised release, the defendant shall comply with the mandatory, standard and if applicable, the special conditions that have been adopted by this court.

DEFENDANT: JESUS DENOVA LOPEZ  
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### CONDITIONS OF SUPERVISION

#### Mandatory Conditions:

- 1) The defendant shall not commit another federal, state, or local crime during the term of supervision.
- 2) The defendant shall not unlawfully possess a controlled substance.
- 3) The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter (as determined by the court) but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.
- 4) The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).
- 5) If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et. seq.*) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
- 3) If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.
- 7) If the judgment imposes a fine or restitution, it is a condition of supervision that the defendant pay in accordance with the Schedule of Payments sheet of the judgment.
- 3) The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.
- 3) The defendant shall notify the court of any marital change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

#### Standard Conditions:

- 1) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame. The defendant shall not leave the judicial district without permission of the court or probation officer.
- 2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed. The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
- 3) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- 4) The defendant shall answer truthfully the questions asked by the probation officer.
- 5) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 3) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that are observed in plain view.
- 7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.

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- 3) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 3) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.
- 10) The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified, for the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11) The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- 13) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.
- 14) If the judgment imposes other criminal monetary penalties, it is a condition of supervision that the defendant pay such penalties in accordance with the Schedule of Payments sheet of the judgment.
- 15) If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall provide the probation officer access to any requested financial information.
- 16) If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
- 17) If the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release. The defendant shall not illegally reenter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation or supervised release, the defendant shall immediately report in person to the nearest U.S. Probation Office.

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The Court further adopts such of the following special conditions applied to the supervised person by the judge at the time of the sentencing:

- 1) **Community Confinement:** The defendant shall reside in a Community Corrections Center for a period of \_\_\_\_ months to commence on \_\_\_\_\_. Further, once employed, the defendant shall pay 25% of his/her weekly gross income for his/her subsistence as long as that amount does not exceed the daily contract rate.

**Location Monitoring Program:**

- 2) **Radio Frequency Monitoring:** The defendant shall participate in the Location Monitoring Program with Radio Frequency Monitoring for a period of \_\_\_\_ days/months. You shall abide by the rules and regulations of the Participant Agreement Form. During this time, you will remain at your place of residence except for employment and other activities approved in advance by your probation officer. You will maintain a telephone at your place of residence without "caller ID," "call forwarding," "call waiting," "call back/call block," a modem or a portable cordless telephone for the above period as directed by the probation officer. You will wear an electronic monitoring device and follow location monitoring procedures specified by your probation officer. You shall pay all or part of the costs of the program based on the ability to pay as directed by the probation officer.
- 3) **Global Positioning Satellite (GPS):** The defendant shall participate in the Location Monitoring Program for a term not to exceed \_\_\_\_ days/months, which will include remote location monitoring using \_\_\_\_ Active \_\_\_\_ Passive Global Positioning Satellite (GPS) tracking. You shall abide by the rules and regulations of the Participant Agreement Form. During this time, you will remain at your place of residence except for employment and other activities approved in advance by your probation officer. You will maintain a telephone at your place of residence without "caller ID," "call forwarding," "call waiting," "call back/call block," a modem or a portable cordless telephone for the above period as directed by the probation officer. At the direction of the probation officer, you shall wear a transmitter and be required to carry a tracking device. You shall pay all or part of the costs of the program based on the ability to pay as directed by the probation officer.
- 4) **Community Service:** The defendant shall perform \_\_\_\_ hours of community service work without pay, at a location approved by the probation officer, at a minimum rate of four hours per week, to be completed during the first \_\_\_\_ months of supervision.
- 5) **Sex Offender Search & Seizure Condition:** If required to register under the Sex Offender Registration and Notification Act, the defendant shall submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of probation or supervised release or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions.

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**CRIMINAL MONETARY PENALTIES/ SCHEDULE**

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program shall be paid through the Clerk, United States District Court, 800 Franklin Avenue, Room 380, Waco, Texas 76701.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTAL:	\$400.00	\$ .00	\$ .00

**Special Assessment**

It is ordered that the defendant shall pay to the United States a special assessment of \$400.00. The debt is incurred immediately.

**Fine**

The fine is waived because of the defendant's inability to pay.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column above. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

**APPENDIX B**

**U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT GRANTING  
COUNSEL'S PETITION SUGGESTING FUTILITY OF PETITION FOR  
WRIT OF CERTIORARI**



IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 17-50209

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UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

JESUS DENOVA LOPEZ, also known as Joel Jaimes Denova,

Defendant - Appellant

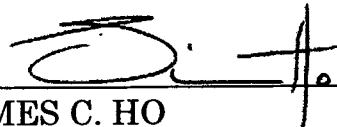
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Appeal from the United States District Court  
for the Western District of Texas

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ORDER:

IT IS ORDERED that the motion of attorney Philip J. Lynch to withdraw  
as court appointed counsel is GRANTED.

  
\_\_\_\_\_  
JAMES C. HO  
UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 17-50209

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UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

JESUS DENOVA LOPEZ, also known as Joel Jaimes Denova,

Defendant - Appellant

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Appeal from the United States District Court  
for the Western District of Texas

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O R D E R:

IT IS ORDERED that the motion of attorney Philip J. Lynch to withdraw  
as court appointed counsel is GRANTED.



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JAMES C. HO  
UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 17-50209  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 25, 2018

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JESUS DENOVA LOPEZ, also known as Joel Jaimes Denova,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:16-CR-68-4

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Before REAVLEY, GRAVES, and HO, Circuit Judges.

PER CURIAM:\*

Jesus Denova Lopez appeals the 210-month sentence imposed after he pleaded guilty to four crimes arising from a large drug-trafficking conspiracy. The sentence was at the top of the correctly calculated advisory guideline range and is presumed to be reasonable. *See United States v. Alonzo*, 435 F.3d 551, 554 (5th Cir. 2006). The presumption may be rebutted if Denova Lopez shows “that the sentence does not account for a factor that should receive significant

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 17-50209

weight, it gives significant weight to an irrelevant or improper factor, or it represents a clear error of judgment in balancing sentencing factors.” *United States v. Cooks*, 589 F.3d 173, 186 (5th Cir. 2009).

Denova Lopez argues that the sentence does not sufficiently account for his sincere contrition, acceptance of responsibility, limited education, and lack of any criminal history. Further, he argues that a sentence at the bottom of the guideline range would have satisfied the sentencing factors of 18 U.S.C. § 3553(a), including protecting the public and deterring him from additional criminal conduct. He concludes that the district court committed a clear error in weighing the § 3553(a) factors.

In essence, Denova Lopez asks this court to substitute his assessment of the sentencing factors for the district court’s, which is contrary to the deferential review dictated by the Supreme Court in *Gall v. United States*, 552 U.S. 38, 51 (2007). His disagreement with the sentence does not rebut the presumption of reasonableness. *See United States v. Ruiz*, 621 F.3d 390, 398 (5th Cir. 2010). While a lesser sentence might have also been reasonable, Denova Lopez has not shown that the sentence the district court imposed was unreasonable. *See Gall*, 552 U.S. at 51.

The judgment is AFFIRMED.