

# Appendix A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

**United States of America**

**v.**

**Julian Silva-Aguilar**

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed On or After November 1, 1987)

**No. CR-18-01677-001-PHX-SPL**

**George Jacob Romero (FPD)**

Attorney for Defendant

USM#: 05200-508

ICE# A088700422

**THE DEFENDANT ENTERED A PLEA OF** guilty on 12/20/2018 to Count 1 of the Information.

**ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S):** violating Title 8, U.S.C. §1326(a), Reentry of Removed Alien, with sentencing enhancement pursuant to Title 8, U.S.C. §1326(b)(1), a Class C Felony offense, as charged in Count 1 of the Information.

**IT IS THE JUDGMENT OF THIS COURT THAT** the defendant is committed to the custody of the Bureau of Prisons for a term of **SIXTY (60) MONTHS**, with credit for time served. Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **THIRTY-SIX (36) MONTHS**.

**CRIMINAL MONETARY PENALTIES**

The defendant shall pay to the Clerk the following total criminal monetary penalties:

**SPECIAL ASSESSMENT: 100.00      FINE: WAIVED      RESTITUTION: N/A**

The defendant shall pay a total of \$100.00 in criminal monetary penalties, due immediately. Having assessed the defendant's ability to pay, payments of the total criminal monetary penalties are due as follows: Balance is due in equal monthly installments of \$25.00 over a period of four months to commence 60 days after the release from imprisonment to a term of supervised release.

The Court finds the defendant does not have the ability to pay a fine and orders the fine waived.

**SUPERVISED RELEASE**

It is ordered that while on supervised release, the defendant must comply with the mandatory and standard conditions of supervision as adopted by this court, in General Order 17-18, which incorporates the requirements of USSG §§ 5B1.3 and 5D1.2. Of particular importance, the defendant must not commit another federal, state, or local crime during the term of supervision. Within 72 hours of sentencing or release from the custody of the Bureau of Prisons the defendant must report in person to the Probation

Office in the district to which the defendant is released. The defendant must comply with the following conditions:

### **MANDATORY CONDITIONS**

- 1) You must not commit another federal, state or local crime.
- 2) You must not unlawfully possess a controlled substance. The use or possession of marijuana, even with a physician's certification, is not permitted.
- 3) You must refrain from any unlawful use of a controlled substance. The use or possession of marijuana, even with a physician's certification, is not permitted. Unless suspended by the Court, you must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

### **STANDARD CONDITIONS**

- 1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of sentencing or your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3) You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- 4) You must answer truthfully the questions asked by your probation officer.
- 5) You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must 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, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6) You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- 7) You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must 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, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

- 8) You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- 10) You must 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) You must 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 you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
- 13) You must follow the instructions of the probation officer related to the conditions of supervision.

### **SPECIAL CONDITIONS**

The following special conditions are in addition to the conditions of supervised release or supersede any related standard condition:

- 1) If deported, you must not re-enter the United States without legal authorization.

**THE COURT FINDS** that you have been sentenced in accordance with the terms of the plea agreement and that you have waived your right to appeal and to collaterally attack this matter. The waiver has been knowingly and voluntarily made with a factual basis and with an understanding of the consequences of the waiver.

The Court may change the conditions of probation or supervised release or extend the term of supervision, if less than the authorized maximum, at any time during the period of probation or supervised release. The Court may issue a warrant and revoke the original or any subsequent sentence for a violation occurring during the period of probation or supervised release.

The Court orders commitment to the custody of the Bureau of Prisons.

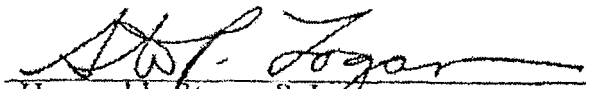
The defendant is remanded to the custody of the United States Marshal.

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Date of Imposition of Sentence: **Monday, June 10, 2019**

Dated this 10th day of June, 2019.

  
Honorable Steven P. Logan  
United States District Judge

**RETURN**

I have executed this Judgment as follows:

defendant delivered on \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_, the institution  
designated by the Bureau of Prisons with a certified copy of this judgment in a Criminal case.

\_\_\_\_\_  
United States Marshal

By:

\_\_\_\_\_  
Deputy Marshal

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DEFENDANT: Julian Silva-Aguilar  
CASE NUMBER: CR-18-01677-001-PHX-SPL  
DISTRICT: Arizona

**STATEMENT OF REASONS**  
(Not for Public Disclosure)

*Sections I, II, III, IV, and VII of the Statement of Reasons form must be completed in all felony and Class A misdemeanor cases.*

**I. COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT**

- A. ☒ **The court adopts the presentence investigation report without change.**
- B. ☐ **The court adopts the presentence investigation report with the following changes:** *(Use Section VIII if necessary)*  
*(Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in the presentence report.)*
1. ☐ Chapter Two of the United States Sentencing Commission Guidelines Manual determinations by court *(briefly summarize the changes, including changes to base offense level, or specific offense characteristics):*
  2. ☐ Chapter Three of the United States Sentencing Commission Guidelines Manual determinations by court *(briefly summarize the changes including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility):*
  3. ☐ Chapter Four of the United States Sentencing Commission Guidelines Manual determinations by court *(briefly summarize the changes, including changes to criminal history category or scores, career offender status, or criminal livelihood determinations):*
  4. ☐ Additional Comments or Findings *(include comments or factual findings concerning any information in the presentence report, including information that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions; any other rulings on disputed portions of the presentence investigation report, identification of those portions of the report in dispute but for which a court determination is unnecessary because the matter will not affect sentencing or the court will not consider it):*
- C. ☐ **The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.**  
*Applicable Sentencing Guideline (if more than one guideline applies, list the guideline producing the highest offense level):*

**II. COURT FINDING ON MANDATORY MINIMUM SENTENCE** *(Check all that apply.)*

- A. ☐ One or more counts of conviction carry a mandatory minimum term of imprisonment and the sentence imposed is at or above the applicable mandatory minimum term.
- B. ☐ One or more counts of conviction alleged in the indictment carry a mandatory minimum term of imprisonment, but the sentence imposed is below a mandatory minimum term because the court has determined that the mandatory minimum does not apply based on:
- ☐ findings of fact in this case *(Specify)*
  - ☐ substantial assistance (18 U.S.C. § 3553(e))
  - ☐ the statutory safety valve (18 U.S.C. § 3553(f))
- C. ☒ No count of conviction carries a mandatory minimum sentence.

**III. COURT DETERMINATION OF GUIDELINE RANGE (BEFORE DEPARTURES OR VARIANCES):**

|   |             |    |              |
|---|-------------|----|--------------|
| Total Offense Level:                                      | 19          |    |              |
| Criminal History Category:                                | VI          |    |              |
| Guideline Range (after application of §5G1.1 and §5G1.2): | 63          | to | 78 months    |
| Supervised Release Range:                                 | 1           | to | 3 years      |
| Fine Range:   | \$10,000.00 | to | \$100,000.00 |

- ☒ Fine waived or below the guideline range because of inability to pay.

**IV. GUIDELINE SENTENCING DETERMINATION** *(Check all that apply.)*

- A. ☐ The sentence is within the guideline range and the difference between the maximum and minimum of the guideline range does not exceed 24 months.
- B. ☐ The sentence is within the guideline range and the difference between the maximum and minimum of the guideline range exceeds 24 months, and the specific sentence is imposed for these reasons: *(Use Section VIII if necessary)*
- C. ☒ The court departs from the guideline range for one or more reasons provided in the Guidelines Manual. *(Also complete Section V)*
- D. ☐ The court imposed a sentence otherwise outside the sentencing guideline system (i.e., a variance). *(Also complete Section VI)*

**V. DEPARTURES PURSUANT TO THE GUIDELINES MANUAL** *(If applicable.)***A. The sentence imposed departs** *(Check only one.):*

- ☐ above the guideline range
- ☒ below the guideline range

**B. Motion for departure before the court pursuant to** *(Check all that apply and specify reason(s) in sections C and D):***1. Plea Agreement**

- ☒ binding plea agreement for departure accepted by the court
- ☐ plea agreement for departure, which the court finds to be reasonable
- ☐ plea agreement that states that the government will not oppose a defense departure motion

**2. Motion Not Addressed in a Plea Agreement**

- ☐ government motion for departure
- ☐ defense motion for departure to which the government did not object
- ☐ defense motion for departure to which the government objected
- ☐ joint motion by both parties

**3. Other**

- ☐ Other than a plea agreement or motion by the parties for departure

**C. Reason(s) for Departure** *(Check all that apply):*

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> 4A1.3 Criminal History Inadequacy          | <input type="checkbox"/> 5K2.1 Death                             | <input type="checkbox"/> 5K2.12 Coercion and Duress                       |
| <input type="checkbox"/> 5H1.1 Age                                  | <input type="checkbox"/> 5K2.2 Physical Injury                   | <input type="checkbox"/> 5K2.13 Diminished Capacity                       |
| <input type="checkbox"/> 5H1.2 Education and Vocational Skills      | <input type="checkbox"/> 5K2.3 Extreme Psychological Injury      | <input type="checkbox"/> 5K2.14 Public Welfare                            |
| <input type="checkbox"/> 5H1.3 Mental and Emotional Condition       | <input type="checkbox"/> 5K2.4 Abduction or Unlawful Restraint   | <input type="checkbox"/> 5K2.16 Voluntary Disclosure of Offense           |
| <input type="checkbox"/> 5H1.4 Physical Condition                   | <input type="checkbox"/> 5K2.5 Property Damage or Loss           | <input type="checkbox"/> 5K2.17 High-Capacity, Semiautomatic Weapon       |
| <input type="checkbox"/> 5H1.5 Employment Record                    | <input type="checkbox"/> 5K2.6 Weapon or Dangerous Weapon        | <input type="checkbox"/> 5K2.18 Violent Street Gang                       |
| <input type="checkbox"/> 5H1.6 Family Ties and Responsibilities     | <input type="checkbox"/> 5K2.7 Disruption of Government Function | <input type="checkbox"/> 5K2.20 Aberrant Behavior                         |
| <input type="checkbox"/> 5H1.11 Military Record                     | <input type="checkbox"/> 5K2.8 Extreme Conduct                   | <input type="checkbox"/> 5K2.21 Dismissed and Uncharged Conduct           |
| <input type="checkbox"/> 5H1.11 Charitable Service, Good Works      | <input type="checkbox"/> 5K2.9 Criminal Purpose                  | <input type="checkbox"/> 5K2.22 Sex Offender Characteristics              |
| <input type="checkbox"/> 5K1.1 Substantial Assistance               | <input type="checkbox"/> 5K2.10 Victim's Conduct                 | <input type="checkbox"/> 5K2.23 Discharged Terms of Imprisonment          |
| <input type="checkbox"/> 5K2.0 Aggravating/Mitigating Circumstances | <input type="checkbox"/> 5K2.11 Lesser Harm                      | <input type="checkbox"/> 5K2.24 Unauthorized Insignia                     |
|   |  | <input checked="" type="checkbox"/> 5K3.1 Early Disposition Program (EDP) |

- ☐ Other Guideline Reason(s) for Departure, to include departures pursuant to the commentary in the Guidelines Manual (see "List of Departure Provisions" following the Index in the Guidelines Manual), *(Please specify):*

**D. State the basis for the departure.** *(Use Section VIII if necessary)*

**VI. COURT DETERMINATION FOR A VARIANCE (If applicable)****A. The sentence imposed is (Check only one.):**

- ☐ above the advisory guideline range  
☐ below the advisory guideline range

**B. Motion for a variance before the court pursuant to (Check all that apply and specify reason(s) in sections C and D):****1. Plea Agreement**

- ☐ binding plea agreement for a variance accepted by the court  
☐ plea agreement for a variance, which the court finds to be reasonable  
☐ plea agreement that states that the government will not oppose a defense motion for a variance

**2. Motion Not Addressed in a Plea Agreement**

- ☐ government motion for a variance  
☐ defense motion for a variance to which the government did not object  
☐ defense motion for a variance to which the government objected  
☐ joint motion by both parties

**3. Other**

- ☐ Other than a plea agreement or motion by the parties for variance

**C. 18 U.S.C. § 3553(a) and other reason(s) for a variance (Check all that apply)**☐ The nature and circumstances of the offense pursuant to 18 U.S.C. § 3553(a)(1)

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Mens Rea   | <input type="checkbox"/> Extreme Conduct | <input type="checkbox"/> Dismissed/Uncharged Conduct |
| <input type="checkbox"/> Role in the Offense                                  | <input type="checkbox"/> Victim Impact   |  |
| <input type="checkbox"/> General Aggravating or Mitigating Factors (Specify): |  |  |

☐ The history and characteristics of the defendant pursuant to 18 U.S.C. § 3553(a)(1)

- |  |   |
|--|---|
| <input type="checkbox"/> Aberrant Behavior                       | <input type="checkbox"/> Lack of Youthful Guidance      |
| <input type="checkbox"/> Age                                     | <input type="checkbox"/> Mental and Emotional Condition |
| <input type="checkbox"/> Charitable/Good Works                   | <input type="checkbox"/> Military Service               |
| <input type="checkbox"/> Community Ties                          | <input type="checkbox"/> Non-Violent Offender           |
| <input type="checkbox"/> Diminished Capacity                     | <input type="checkbox"/> Physical Condition             |
| <input type="checkbox"/> Drug or Alcohol Dependence              | <input type="checkbox"/> Pre-sentence Rehabilitation    |
| <input type="checkbox"/> Employment Record                       | <input type="checkbox"/> Remorse/Lack of Remorse        |
| <input type="checkbox"/> Family Ties and Responsibilities        | <input type="checkbox"/> Other (Specify):               |
| <input type="checkbox"/> Issues with Criminal History (Specify): |   |

☐ To reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense (18 U.S.C. § 3553(a)(2)(A))☐ To afford adequate deterrence to criminal conduct (18 U.S.C. § 3553(a)(2)(B))☐ To protect the public from further crimes of the defendant (18 U.S.C. § 3553(a)(2)(C))☐ To provide the defendant with needed educational or vocational training (18 U.S.C. § 3553(a)(2)(D))☐ To provide the defendant with medical care (18 U.S.C. § 3553(a)(2)(D))☐ To provide the defendant with other correctional treatment in the most effective manner (18 U.S.C. § 3553(a)(2)(D))



- ☐ To avoid unwarranted sentencing disparities among defendants (18 U.S.C. § 3553(a)(6)) (*Specify in section D*)
- ☐ To provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7))
- ☐ Acceptance of Responsibility    ☐ Conduct Pre-trial/On Bond    ☐ Cooperation Without Government Motion for Departure
- ☐ Early Plea Agreement    ☐ Global Plea Agreement    ☐ Waiver of Indictment
- ☐ Time Served (*not counted in sentence*)    ☐ Waiver of Appeal
- ☐ Policy Disagreement with the Guidelines (*Kimbrough v. U.S.*, 552 U.S. 85 (2007)). (*Specify*).
- ☐ Other (*Specify*):

D. **State the basis for a variance.** (*Use Section VIII if necessary*)

## VII. COURT DETERMINATIONS OF RESTITUTION

- A. ☒ Restitution Not Applicable.
- B. Total Amount of Restitution: \$
- C. Restitution not ordered (*Check only one.*):
1. ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).
  2. ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).
  3. ☐ For other offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweigh the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).
  4. ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. §§ 1593, 2248, 2259, 2264, 2327 or 3663A, restitution is not ordered because the victim(s)'(s) losses were not ascertainable (18 U.S.C. § 3664(d)(5)).
  5. ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. §§ 1593, 2248, 2259, 2264, 2327 or 3663A, restitution is not ordered because the victim(s) elected to not participate in any phase of determining the restitution order (18 U.S.C. § 3664(g)(1)).
  6. ☐ Restitution is not ordered for other reasons. (*Explain*)
- D. ☐ **Partial restitution is ordered for these reasons** (18 U.S.C. § 3553(c)):

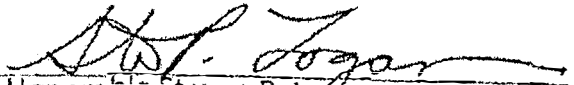
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VIII. ADDITIONAL BASIS FOR THE SENTENCE IN THIS CASE *(If applicable)*

- ☐ In the event the guideline determination(s) made in this case are found to be incorrect, the court would impose a sentence identical to that imposed in this case. (18 U.S.C. § 3553(a)).

Defendant's Soc. Sec. No.: None Date of Imposition of Judgment 6/10/2019  
Defendant's Date of Birth: 6/1/1988  
Defendant's Residence Address: Guzman, Jalisco, Mexico  
Defendant's Mailing Address: \_\_\_\_\_

Dated this 10th day of June, 2019.

  
Honorable Steven P. Logan  
United States District Judge