

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

HECTOR MANUEL GOMEZ RODRIGUEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ of *Certiorari* To The United States Court of Appeals
for the Ninth Circuit**

**APPENDIX (VOLUME III) – PRESENTED SEPARATELY UNDER S. CT.
R. 14.1(i)**

DAVID A. SCHLESINGER
JACOBS & SCHLESINGER LLP
The Douglas Wilson Companies Building
1620 Fifth Avenue, Suite 750
San Diego, CA 92101
Telephone: (619) 230-0012
david@jsslegal.com

Counsel for Petitioner

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA
3 UNITED STATES OF AMERICA, : Case No. 1:19-cr-00161-DAD-BAM
4 Plaintiff, : Fresno, California
5 v. : Wednesday, July 17, 2019
6 HECTOR MANUEL GOMEZ : INITIAL APPEARANCE RE:
7 RODRIGUEZ, ET AL., : CRIMINAL COMPLAINT
8 :
9 Defendants.
10 : : : : : : : : : : : : : : : : :
11 APPEARANCES:
12 For the United States of U. S. Attorney's Office
13 America: BY: KATHERINE E. SCHUH, AUSA
14 2500 Tulare Street, Suite 4-401
15 Fresno, CA 93721
16 For Defendant, Hector Manuel JOHN F. GARLAND, ESQ.
17 Gomez Rodriguez: 2950 Mariposa Street, Suite 130
18 Fresno, CA 93721-1435
19 For Defendant, Mucio Federal Defender Office
20 Alejandro Gomez Rodriguez: BY: ERIC KERSTEN, AFD
21 2300 Tulare Street, Suite 330
22 Fresno, CA 93721
23 Interpreter: ANNA WATROUS
24 Court Recorder: A. GIL-GARCIA
25 Transcript prepared by: JANICE RUSSELL TRANSCRIPTS
1418 Red Fox Circle
Severance, CO 80550
(757) 422-9089
trussell31@tdsmail.com
Proceedings recorded by electronic sound recording; transcript
produced by transcription service.

1 FRESNO, CALIFORNIA, WEDNESDAY, JULY 17, 2019, 2:42 P.M.

2 THE COURT: Okay. Calling the next matter on the
3 calendar, United States versus Hector Manuel Gomez Rodriguez
4 and Mucio Alejandro Gomez Rodriguez, Case No. 19-mj-141.

5 (The following proceedings were had with the aid of
6 Certified Spanish Court Interpreter Anna Watrous, oath on
7 file.)

8 MR. GARLAND: Good afternoon, your Honor. John
9 Garland making a special appearance for James Homola on behalf
10 of Hector Manuel Gonzalez [sic] Rodriguez, who is present in
11 custody being assisted by the Spanish interpreter sitting in
12 the back row closest to the Court.

13 MR. KERSTEN: And, your Honor, Eric Kersten, Federal
14 Defenders. Just to advise the Court that I previously spoke to
15 Mr. Mucio Gomez Garcia [sic]. He advised he would like an
16 opportunity to attempt to retain counsel and he prefers not to
17 submit a financial affidavit at this time as he's attempting to
18 retain counsel.

19 THE COURT: So does he wish to proceed with the
20 initial appearance or not? I can continue the initial
21 appearance for both if you wish to do so or I can go forward
22 with one. You tell me what you'd like to do?

23 MR. GARLAND: Your Honor, I'm prepared to accept the
24 appointment on behalf of Mr. Homola and have his initial
25 appearance, set a prelim, and we're going to request the

1 detention hearing be continued to Friday.

2 THE COURT: Well, Mr. Kersten, can you stand in for
3 today's purposes? I can do that, but I, I can't go forward if
4 there's nobody standing in. I realize he's not submitting a
5 financial affidavit. I don't have to appoint counsel.

6 MR. KERSTEN: Your Honor, I, I could just advise -- we
7 could do an initial appearance.

8 THE COURT: Okay.

9 And Gentlemen, you have each been charged -- I'm
10 sorry.

11 On behalf of the United States?

12 MS. SCHUH: Good afternoon, your Honor. Kate Schuh on
13 behalf of the United States.

14 THE COURT: Good afternoon to you, Ms. Schuh.

15 Gentlemen, you've each been charged by criminal
16 complaint dated today, July 17, 2019, with the following
17 violations: Manufacture of marijuana, conspiracy to
18 manufacture, distribute, and possess with the intent to
19 distribute marijuana. Each of these charges carries a
20 mandatory minimum of ten years in custody, a fine of up to \$10
21 million, and a minimum of five years up to a lifetime of
22 supervised release.

23 You each have the right to remain silent. Anything
24 you say can and may be used against you.

25 And if you can't afford counsel, you're entitled to

1 have me appoint counsel for you.

2 And let me begin with Mr. Hector Manuel Gomez
3 Rodriguez.

4 Sir, is that your name?

5 DEFENDANT HECTOR GOMEZ RODRIGUEZ: Yes.

6 THE COURT: Okay. And do you understand what you're
7 charged with and the maximum possible penalties that could be
8 imposed if you're convicted of these offenses?

9 DEFENDANT HECTOR GOMEZ RODRIGUEZ: Yes. Yes.

10 THE COURT: And I have reviewed your financial
11 affidavit and I find that you are eligible for appointment of
12 counsel.

13 And I'm sorry, Mr. Garland. You said that you're
14 standing in for somebody today?

15 MR. GARLAND: James Homola. Yes, your Honor.

16 THE COURT: Mr. Homola. Okay.

17 And I will appoint Mr. Homola to represent you. And
18 you are hereby advised that if -- actually, I'm going to wait
19 on that.

20 So Mr. Garland, have you received a copy of the, of
21 the criminal complaint on behalf of Mr. Gomez Rodriguez --

22 MR. GARLAND: Yes, your Honor.

23 THE COURT: -- Hector Manuel Gomez Rodriguez?

24 And how does, what does he wish to do today?

25 MR. GARLAND: We'll have his initial appearance.

1 Your Honor, he, Mr. Gomez Rodriguez has received a
2 copy of the complaint. His name is correctly set forth
3 thereon. He'd waive a reading of the complaint and advisement
4 of statutory and constitutional rights, deny the allegations in
5 the complaint, request a preliminary hearing be set on July
6 31st before the Duty Magistrate.

7 And with respect to detention, we would ask that the
8 detention hearing be continued to Friday. Pretrial Services
9 has interviewed Mr. Gomez Rodriguez, but needs time to verify
10 information and prepare a report.

11 THE COURT: Thank you very much.

12 With regard to detention, you're entitled to be
13 released if there are conditions or combination of conditions
14 that would reasonably assure your appearance at all future
15 court proceedings and ensure the safety of the community.

16 Is the Government requesting detention as to Mr.
17 Hector Manuel Gomez Rodriguez?

18 MS. SCHUH: It is, your Honor.

19 THE COURT: Thank you very much.

20 And I am going to set the detention hearing. Is
21 Friday acceptable to you, Ms. Schuh?

22 MS. SCHUH: That's fine with the Government, your
23 Honor.

24 THE COURT: Thank you.

25 And I will set the detention hearing on Friday, July

1 19th, and that'll be at 2:00 p.m.

2 And I'll order that you remain temporarily detained
3 pending the outcome of the detention hearing.

4 And Mr. Mucio Alejandro Gomez Rodriguez, is that your
5 name?

6 DEFENDANT MUCIO GOMEZ RODRIGUEZ: Yes.

7 THE COURT: Thank you.

8 Do you understand what you're charged with and the
9 maximum possible penalties that could be imposed if you're
10 convicted of these offenses?

11 DEFENDANT MUCIO GOMEZ RODRIGUEZ: Yes.

12 THE COURT: You also, sir, have the right to coun,
13 appointed counsel if you can't afford an attorney. I don't
14 have your financial affidavit so I can't appoint an attorney
15 for you today, but Mr. Kersten graciously has agreed to stand
16 in for you for today's purposes until you decide whether you
17 wish to retain an attorney or not.

18 You also have the right to remain silent. Anything
19 you say can and may be used against you.

20 And Mr. Kersten, on behalf of Mr. Mucio Alejandro
21 Gomez Rodriguez, have you received a copy of the criminal
22 complaint?

23 MR. KERSTEN: I have, your Honor. I, I spoke to Mr.
24 Gomez Rodriguez prior to receiving a copy of the complaint, but
25 I advised him of the general allegations against him. So he

1 knows of the, the potential charges and potential penalty.

2 He also indicated to me that his name is spelled
3 incorrectly on the, on the, the paperwork that the Court has.
4 It should be Mucio, M-U-C-I-O, not M-U-S-I-O.

5 THE COURT: Thank you for that correction. It'll be
6 noted.

7 MR. KERSTEN: And he would deny the allegations in the
8 complaint and request a preliminary hearing.

9 THE COURT: Thank you very much.

10 With regard to detention, you, sir, are also entitled
11 to be released if there are conditions or combination of
12 conditions that would reasonably assure your appearance at all
13 future court proceedings and ensure the safety of the
14 community.

15 Is the Government requesting detention as to Mr. Mucio
16 Alejandro Gomez Rodriguez?

17 MS. SCHUH: Yes, your Honor.

18 THE COURT: Thank you.

19 And can I set the detention hearing on the 19th also
20 for this gentleman?

21 MR. KERSTEN: Your Honor, I don't know what his status
22 will be on the 19th. I don't know whether he's spoken to, to
23 Pretrial. We would ask that the matter be set for a status
24 conference on the 19th and hopefully, he will have, he will
25 know whether he's going to have counsel or not at that time.

1 But given that I'm just making a special appearance,
2 I, I'd prefer not to set a detention hearing at this time.

3 THE COURT: Well, I kind of have to set a detention
4 hearing either within three days or five days, I think, unless
5 the parties don't want me to. But I thought I did.

6 MR. KERSTEN: Well, we, we could set it for the, for
7 Friday with the understanding that, that we may request that it
8 be continued.

9 THE COURT: Absolutely. Why don't we do that. Why
10 don't we set a detention hearing for Friday, the 19th of July,
11 at 2:00 p.m., with the understanding that counsel, whoever
12 counsel is for Mr. Mucio Alejandro Gomez Rodriguez, can decide
13 what he wishes to do on that date.

14 With regard to the preliminary hearing, you indicated
15 July 31, 2019.

16 Is that acceptable to the remaining parties?

17 MR. KERSTEN: That's fine, your Honor.

18 MR. GARLAND: Yes.

19 MS. SCHUH: Yes, your Honor. Thank you.

20 THE COURT: And that'll be at 2:00 p.m.

21 Is there anything further in this case?

22 MR. KERSTEN: No, your Honor.

23 MR. GARLAND: No, your Honor. Thank you.

24 THE COURT: Okay.

25 MS. SCHUH: No, your Honor. Thank you.

1 THE COURT: You're welcome. Thank you very much.

2 (Proceedings concluded at 2:50 p.m.)

3

4

5

6

7

CERTIFICATE

8 I, court approved transcriber, certify that the
9 foregoing is a correct transcript from the official electronic
10 sound recording of the proceedings in the above-entitled
11 matter.

12 /s/ Janice Russell

November 1, 2022

13 Janice Russell, Transcriber

Date

14

15

16

18

18

四

1 FRESNO, CALIFORNIA, FRIDAY, JULY 19, 2019, 2:04 P.M.

2 THE COURT: Thank you. Good afternoon. Please be
3 seated.

4 Okay. Let's start with Matter No. 3, United States
5 versus Hector Manuel Gomez Rodriguez, 19-mj-141, for a
6 detention hearing.

7 (The following proceedings were had with the aid of
8 Certified Spanish Court Interpreter Becky Rubenstein, oath on
9 file.)

10 THE COURT: Let me take appearances.

11 MS. SCHUH: Good afternoon, your Honor. Kate Schuh on
12 behalf of the United States.

13 THE COURT: Good afternoon, Ms. Schuh.

14 MR. HOMOLA: If it may please the Court, your Honor.
15 James Homola, appointed counsel with Hector Manuel Gomez
16 Rodriguez.

17 THE COURT: All right.

18 MR. HOMOLA: He's in court.

19 Raise your hand.

20 THE COURT: Okay. Thank, thank you, Mr. Homola.
21 And let me see Mr. Gomez Rodriguez.

22 Okay. Hold on. We have a technical issue.

23 (Pause)

24 THE COURT: Okay.

25 Okay. We can go forward now.

1 MR. HOMOLA: He's in court, your Honor, being assisted
2 by the certified court interpreter.

3 THE COURT: Thank you.

4 Okay. So we're here for a detention hearing. I have
5 received and reviewed a recommendation from Pretrial Services.
6 That recommendation recommends detention on the basis of non,
7 basis of nonappearance. Pretrial Services does believe there
8 are conditions that would, that would rebut the presumption of
9 detention on the basis of danger.

10 Okay. Sorry. We need to restart the system.

11 (Pause)

12 THE COURT: Okay. I'm, I'm so sorry for the delay.
13 It's important that we have this recorded, but I, I, I
14 apologize for the delay in these important proceedings.

15 So Pretrial Services is recommending detention on the
16 basis of nonappearance, not on danger.

17 And let, let me hear from you, Mr. Homola.

18 MR. HOMOLA: I've gone over the Pretrial Services
19 report with my client, your Honor. There is no additions or
20 corrections and we would submit on the report.

21 THE COURT: Okay.

22 Ms. Schuh, is there anything you'd like to add?

23 MS. SCHUH: No, your Honor. The Government submits on
24 the report as well.

25 THE COURT: Okay.

1 Then I will adopt the recommendation of Pretrial
2 Services for detention solely based on the risk of
3 nonappearance.

4 I will note that it is a rebuttable presumption case.
5 So the presumption is that detention is warranted on the basis
6 of nonappearance and danger. Mr. Gomez Rodriguez does not have
7 legal status, is a citizen of Mexico, has family in Mexico.
8 There's no third-party custodian. He has a residence in Mexico
9 and there's no resources for a bond.

10 But, but I will state to the extent that there are
11 ever any more conditions it -- it -- since this is based on
12 nonappearance, he has a very limited criminal history. There,
13 there's no issues regarding danger. He was willing to have a
14 location monitor.

15 I agree with the recommendation at this time that
16 conditions are not sufficient in light of those ties to Mexico,
17 but it's possible that at sometime there are other conditions
18 that would be there. I'm not, I'm not saying what it might be,
19 but the fact that we have right now no bond, no third-party
20 custodian I, I think that these conditions are not adequately,
21 are not adequate to reasonably assure the appearance.

22 So for that reason I will detain, but I'm stating on
23 the record in case other conditions are someday apparent.

24 MR. HOMOLA: Thank you, your Honor.

25 THE COURT: Okay. Thank you.

1 Now let's turn to the other defendant in Matter No. 3.

2 That's United States versus Mucio Alejandro Gomez Rodriguez,
3 19-mj-141, for a detention hearing.

4 Let me take appearances.

5 MR. KERSTEN: Your Honor, at the initial appearance
6 Mr. Mucio Gomez Rodriguez indicated that he was attempting to
7 retain counsel. He is unable to do so. So he completed a
8 financial affidavit and he's asking for appointment of counsel
9 at this time.

10 THE COURT: Okay. Thank you.

11 Good afternoon, Mr. Kersten.

12 Good afternoon again, Ms. Schuh.

13 And let me see Mr. Mucio Alejandro Gomez Rodriguez.

14 DEFENDANT MUCIO GOMEZ RODRIGUEZ: I am.

15 THE COURT: Okay. Thank you.

16 So you know, Mr. Gomez Rodriguez, that you are
17 entitled to counsel and if you can't afford counsel, I will
18 appoint one for you.

19 I'm in receipt of a financial affidavit that is signed
20 by Mr. Gomez Rodriguez on today's date under penalty of
21 perjury. I find based on this information Mr. Gomez Rodriguez
22 cannot afford counsel and I will appoint Mr. Kersten on behalf
23 of the Federal Public Defenders to accept appointment of
24 counsel.

25 Are you prepared to go forward with the detention

1 hearing today?

2 MR. KERSTEN: No, your Honor. We're asking that the
3 detention hearing be continued till Wednesday to allow time for
4 Pretrial to interview Mr. Gomez Rodriguez.

5 THE COURT: Thank you.

6 Ms. Schuh, any objection?

7 MS. SCHUH: No objection, your Honor.

8 THE COURT: Okay.

9 Madam Clerk, can you set that to Wednesday, please?

10 THE COURTROOM DEPUTY: The detention hearing continued
11 to July 24, 2019, 2:00 p.m., before Judge Grosjean.

12 MR. KERSTEN: Thank you.

13 THE COURT: Hold on just a moment.

14 Do I need to make --

15 MS. SCHUH: Your Honor, I --

16 THE COURT: Is that within the, the time or should I
17 make --

18 MR. KERSTEN: It --

19 THE COURT: -- a finding?

20 MR. KERSTEN: No. I, I believe it will be within the
21 five, five days.

22 MS. SCHUH: I believe it's the fifth day, your Honor,
23 now that I'm thinking --

24 THE COURT: Oh, okay.

25 MS. SCHUH: -- about it. Yes.

1 THE COURT: Okay.

2 I -- in, in the abundance of caution, I don't know if
3 the previous detention, temporary detention order is
4 sufficient, but I will order that Mr. Gomez Rodriguez remain
5 detained in the custody and control of the U. S. Marshal until
6 that time.

7 And is that before me?

8 THE COURTROOM DEPUTY: I think -- yes, it is.

9 THE COURT: Okay.

10 So I, I will see you on Wednesday.

11 Okay. Thank you.

12 MR. KERSTEN: Thank you, your Honor.

13 (Proceedings concluded at 2:13 p.m.)

14

15

16

17

CERTIFICATE

18 I, court approved transcriber, certify that the
19 foregoing is a correct transcript from the official electronic
20 sound recording of the proceedings in the above-entitled
21 matter.

22 | /s/ Janice Russell

November 1, 2022

23 Janice Russell, Transcriber

Date

24

25

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. 1:19-mj-00141-SKO

Plaintiff,

v.

HECTOR MANUEL GOMEZ RODRIGUEZ,

DETENTION ORDER

Defendant.

A. Order For Detention

After conducting a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i).

B. Statement Of Reasons For The Detention

The Court orders the defendant's detention because it finds:

By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.

By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person and the community.

C. Findings of Fact

The Court's findings are based on the evidence which was presented in Court and that which was contained in the Pretrial Services Report, and includes the following:

(1) Nature and Circumstances of the offense charged:

(a) The crime, Conspiracy to Manufacture Marijuana with the Intent to Distribute, is a serious crime and carries a maximum penalty of life

(b) The offense is a crime of violence.

(c) The offense involves a narcotic drug.

(d) The offense involves a large amount of controlled substances.

(2) The weight of the evidence against the defendant is high.

(3) The history and characteristics of the defendant including:

(a) General Factors:

The defendant appears to have a mental condition which may affect whether the defendant will appear.

The defendant has no known family ties in the area.

The defendant has no known steady employment.

The defendant has no known substantial financial resources.

The defendant is not a long time resident of the community.

The defendant does not have any known significant community ties.

Past conduct of the defendant :

The defendant has a history relating to drug abuse.

The defendant has a history relating to alcohol abuse.

The defendant has a significant prior criminal record.

The defendant has a prior record of failure to appear at court proceedings.

The defendant has a history of violating probation and/or parole.

(b) Whether the defendant was on probation, parole, or release by a court;
At the time of the current arrest, the defendant was on:

Probation
 Parole
 Release pending trial, sentence, appeal or completion of sentence.

(c) Other Factors:

The defendant is an illegal alien and is subject to deportation.
 The defendant is a legal alien and will be subject to deportation if convicted.
 Other:

(4) The nature and seriousness of the danger posed by the defendant's release are as follows:

(5) Rebuttable Presumptions

In determining that the defendant should be detained, the court also relied on the following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e), which the court finds the defendant has not rebutted:

a. The crime charged is one described in § 3142(f)(1).
 (A) a crime of violence; or
 (B) an offense for which the maximum penalty is life imprisonment or death; or
 (C) a controlled substance violation that has a maximum penalty of ten years or more; or
 (D) A felony after the defendant had been convicted of two or more prior offenses described in (A) through (C) above, and the defendant has a prior conviction of one of the crimes mentioned in (A) through (C) above which is less than five years old and which was committed while the defendant was on pretrial release

b. There is probable cause to believe that defendant committed an offense for which a maximum term of imprisonment of ten years or more is prescribed
 in the Controlled Substances Act, 21 U.S.C. §§ 801, et seq.,
 the Controlled Substances Import and Export Act, 21 U.S.C. §§ 951, et seq.,
 the Maritime Drug Law Enforcement Act, 46 U.S.C. App. §§ 1901, et seq., or
 an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b.
 an offense involving a minor under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

D. Additional Directives

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

The defendant be afforded reasonable opportunity for private consultation with counsel; and

That, on order of a court of the United States, or on request of an attorney for the Government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

IT IS SO ORDERED.

Dated: July 19, 2019

/s/ *Eric P. Shore*
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

3 UNITED STATES OF AMERICA, : Case No. 1:19-cr-00161-DAD-BAM

4 Plaintiff, : Fresno, California
5 v. : Wednesday, July 31, 2019
 : 2:09 p.m.

6 HECTOR MANUEL GOMEZ : ARRAIGNMENT AND PLEA RE:
RODRIGUEZ, ET AL., INDICTMENT

— $\int_{-\infty}^{\infty} f(x) dx = \int_{-\infty}^{\infty} g(x) dx$ —

DEFENDANTES.

11 APPEARANCES:

12 For the United States of U. S. Attorney's Office
America: BY: JUSTIN GILIO, AUSA
13 2500 Tulare Street, Suite 4-401
Fresno, CA 93721

15 For Defendant, Hector Manuel JAMES R. HOMOLA, ESQ.
Gomez Rodriguez: 2950 Mariposa Street, Suite 250
Fresno, CA 93721-1435

16 For Defendant, Mucio VIRNA SANTOS, ESQ.
17 Alejandro Gomez Rodriguez: 1225 E. Divisadero Street
Fresno, CA 93721

19 Interpreter: BECKY RUBENSTEIN

30 Court Recorder: A. TIMKEN

21 Transcript prepared by: JANICE RUSSELL TRANSCRIPTS
1418 Red Fox Circle
22 Severance, CO 80550
(757) 422-9089
23 trussell31@tdsmail.com

24 Proceedings recorded by electronic sound recording; transcript
25 produced by transcription service.

1 FRESNO, CALIFORNIA, WEDNESDAY, JULY 31, 2019, 2:09 P.M.

2 THE COURT: All right. Calling Item No. 4 on the
3 calendar, United States of America versus Hector Manuel Gomez
4 Rodriguez and Mucio Alejandro Gomez Rodriguez.

5 (The following proceedings were had with the aid of
6 Certified Spanish Court Interpreter Becky Rubenstein, oath on
7 file.)

8 MR. HOMOLA: If I may, your Honor, on Hector Manuel
9 Gomez Rodriguez, James Homola, appointed counsel for
10 Mr. Rodriguez, Gomez Rodriguez, who's third one in the front
11 being assisted by the interpreter.

12 THE COURT: All right, Mr. Homola. Good afternoon
13 again.

14 MS. SANTOS: Good afternoon, your Honor. Virna Santos
15 making a special appearance for Attorney Galatea DeLapp on
16 behalf of her client, Mucio Alejandro Gomez Rodriguez, who is
17 present in custody and being assisted by the Spanish language
18 interpreter.

19 THE COURT: All right, Ms. Santos. Good afternoon to
20 you.

21 MR. GILIO: Good afternoon, your Honor. Justin Gilio,
22 standing in for Kate Schuh for the United States.

23 THE COURT: All right, Mr. Gilio. Good afternoon to
24 you.

25 All right. Both of you are charged in an indictment

1 in Count 1 with a violation of Title 21, United States Code,
2 Section 841(a)(1), manufacture of a thousand or more marijuana
3 plants. If convicted of this offense, you could be ordered to
4 serve up to a mandatory minimum of ten years imprisonment to a
5 maximum of life, pay a \$10 million fine, both fine and
6 imprisonment, mandatory minimum term of supervised release of
7 at least five years up to a maximum of life, and a \$100 special
8 assessment.

9 You also are charged in Count 2 with a violation of
10 Title 21, United States Code, Section 846 and 841(a)(1),
11 conspiracy to manufacture a thousand or more marijuana plants.
12 If convicted of these offenses, you could be ordered to serve
13 up to a mandatory minimum of ten years up to a maximum of life
14 imprisonment, a \$10 million fine, both fine and imprisonment,
15 mandatory minimum term of supervised release of five years to a
16 maximum of life, and a \$100 special assessment.

17 You're also both charged in Count 3 with a violation
18 of 18 United States Code, Section 1361, depredation of public
19 lands and resources. If convicted of this offense, you could
20 be ordered to serve up to ten years imprisonment, pay a
21 \$250,000 fine, up to three years of supervised release, and a
22 \$100 special assessment.

23 There is also a forfeiture allegation.

24 I'll remind each and every one of you that you have
25 the right to remain silent. Anything you say can and will be

1 used against you in a court of law.

2 Also, if you are not a United States citizen, you have
3 the right to have your consulate of your nationality advised of
4 your arrest.

5 Mr. Homola.

6 MR. HOMOLA: Yes, your Honor. Acknowledge receipt of
7 the indictment. Hector Manuel Gomez Rodriguez acknowledges
8 that's his true and correct name, acknowledges receipt of the
9 indictment, waive a further reading of the indictment,
10 advisement of statutory and constitutional rights, enter not
11 guilty pleas, denials of forfeiture.

12 We've received initial discovery. I've given a zip
13 drive to the Assistant U. S. Attorney -- there's massive
14 amounts of discovery in this case -- and acknowledge our
15 obligation under reciprocal discovery, ask for a status
16 conference Decem, Monday, December 9.

17 THE COURT: All right.

18 Ms. Santos.

19 MS. SANTOS: Your Honor, on behalf of Mr. Mucio
20 Alejandro Gomez, we acknowledge receipt of the indictment. His
21 name is correctly set forth thereon. We waive further, any
22 further reading of the indictment and advisement of his
23 constitutional and statutory rights, enter a plea of not guilty
24 as to all the charges and deny the forfeiture allegation.

25 We likewise request discovery and a status conference

1 on December 9th.

2 THE COURT: All right.

3 Mr. Gilio, is the Government requesting reciprocal
4 discovery?

5 MR. GILIO: Yes, your Honor.

6 THE COURT: Ms. Santos, do you have any objection to
7 the status conference being held on December 9th?

8 MS. SANTOS: No, your Honor.

9 THE COURT: All right.

10 Mr. Gilio?

11 MR. GILIO: That's fine, your Honor.

12 THE COURT: All right.

13 And are all of you requesting that time be excluded?

14 MR. HOMOLA: Yes, your Honor.

15 MS. SANTOS: Yes, your Honor.

16 THE COURT: From that date until December 9th.

17 All right. I will enter a not guilty plea as to each
18 defendant. I will note that each defendant's true name is
19 correctly set forth. I will enter denials as to the forfeiture
20 allegation as to each defendant. I will order initial
21 discovery as to each defendant and will order reciprocal
22 discovery as to each. I'm ordering that initial discovery --
23 that -- some of which has been provided today, or it may all be
24 provided today, but I will order that any additional initial
25 discovery be provided two weeks from today's date and that any

1 reciprocal discovery be provided within three weeks of today's
2 date.

3 I'll remind the parties of their continuing duty to
4 supplement the discovery pursuant to Local Rule 440 and Federal
5 Rule of Criminal Procedure 16.

6 I will set the matter for a status conference before
7 Judge McAuliffe on Monday, December 9, 2019, at 1:00 p.m.

8 I will exclude time from today's date until December
9 9, 2019 for the purpose of counsel reviewing the voluminous
10 discovery related to this case. I find good cause for the
11 exclusion of time under the Speedy Trial Act and the United
12 States Constitution and that the ends of justice are served and
13 that the granting of exclusion of time outweighs both the
14 defendant and public's interests in a speedy trial and,
15 therefore, exclude time from today's date until December 9,
16 2019.

17 Anything further?

18 MR. HOMOLA: No, thank you, your Honor.

19 MS. SANTOS: No, your Honor. Thank you.

20 THE COURT: Thank you.

21 MR. GILIO: Thank you, your Honor.

22 THE COURT: You're welcome.

23 (Proceedings concluded at 2:15 p.m.)

24

25

CERTIFICATE

2 I, court approved transcriber, certify that the
3 foregoing is a correct transcript from the official electronic
4 sound recording of the proceedings in the above-entitled
5 matter.

6 /s/ Janice Russell

November 1, 2022

7 | Janice Russell, Transcriber

Date

1 PHILLIP A. TALBERT
2 Acting United States Attorney
3 KATHERINE E. SCHUH
4 Assistant United States Attorney
5 2500 Tulare Street, Suite 4401
6 Fresno, CA 93721
7 Telephone: (559) 497-4000
8 Facsimile: (559) 497-4099

9
10 Attorneys for Plaintiff
11 United States of America

12
13 IN THE UNITED STATES DISTRICT COURT
14
15 EASTERN DISTRICT OF CALIFORNIA

16
17 UNITED STATES OF AMERICA,

18 Plaintiff,

19 v.

20 HECTOR GOMEZ-RODRIGUEZ,

21 Defendant.

22 CASE NO. 1:19-CR-00161-DAD-BAM

23 PLEA AGREEMENT

24 DATE:

25 TIME:

26 COURT: Hon. Dale A. Drozd

27
28 I. INTRODUCTION

29 A. Scope of Agreement

30 The indictment in this case charges the defendant with violations of 21 U.S.C. § 841(a)(1) –
31 Manufacture of Marijuana (“Count One”); 21 U.S.C. §§ 846, 841(a)(1) – Conspiracy to Manufacture
32 Marijuana (“Count Two”); 18 U.S.C. § 1361 – Depredation of Public Lands and Resources (“Count
33 Three”); and 21 U.S.C. § 853(a) – Criminal Forfeiture. This document contains the complete plea
34 agreement between the United States Attorney’s Office for the Eastern District of California (the
35 “government”) and the defendant regarding this case. This plea agreement is limited to the United
36 States Attorney’s Office for the Eastern District of California and cannot bind any other federal, state, or
37 local prosecuting, administrative, or regulatory authorities.

38 B. Court Not a Party

39 The Court is not a party to this plea agreement. Sentencing is a matter solely within the
40 App.149 ER55

1 discretion of the Court, and the Court may take into consideration any and all facts and circumstances
2 concerning the criminal activities of defendant, including activities that may not have been charged in
3 the indictment. The Court is under no obligation to accept any recommendations made by the
4 government, and the Court may in its discretion impose any sentence it deems appropriate up to and
5 including the statutory maximum stated in this plea agreement.

6 If the Court should impose any sentence up to the maximum established by the statute, the
7 defendant cannot, for that reason alone, withdraw his guilty plea, and he will remain bound to fulfill all
8 of the obligations under this plea agreement. The defendant understands that neither the prosecutor,
9 defense counsel, nor the Court can make a binding prediction or promise regarding the sentence he will
10 receive.

11 II. DEFENDANT'S OBLIGATIONS

12 A. Guilty Plea

13 The defendant will plead guilty to Count Two of the indictment. The defendant agrees that he is
14 in fact guilty of these charges and that the facts set forth in the Factual Basis For Plea attached hereto as
15 Exhibit A are accurate.

16 The defendant agrees that this plea agreement will be filed with the Court and become a part of
17 the record of the case. The defendant understands and agrees that he will not be allowed to withdraw his
18 plea should the Court not follow the government's sentencing recommendations.

19 The defendant agrees that the statements made by him in signing this Agreement, including the
20 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by
21 the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a
22 guilty plea pursuant to this Agreement. The defendant waives any rights under Rule 11(f) of the Federal
23 Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, to the extent that these
24 rules are inconsistent with this paragraph or with this Agreement generally.

25 The defendant acknowledges that the crime to which he is pleading guilty is listed in 18 U.S.C.
26 § 3143(a)(2), and agrees that he will be remanded into custody upon the entry of his plea.

27 B. Sentencing Recommendation

28 The defendant and his counsel may recommend whatever sentence they deem appropriate.

1 **C. Special Assessment**

2 The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering
3 a check or money order payable to the United States District Court to the United States Probation Office
4 immediately before the sentencing hearing.

5 **D. Defendant's Violation of Plea Agreement or Withdrawal of Plea**

6 If the defendant, violates this plea agreement in any way, withdraws his plea, or tries to withdraw
7 his plea, this plea agreement is voidable at the option of the government. The government will no longer
8 be bound by its representations to the defendant concerning the limits on criminal prosecution and
9 sentencing as set forth herein. One way a defendant violates the plea agreement is to commit any crime
10 or provide any statement or testimony which proves to be knowingly false, misleading, or materially
11 incomplete. Any post-plea conduct by a defendant constituting obstruction of justice will also be a
12 violation of the agreement. The determination whether the defendant has violated the plea agreement
13 shall be decided under a probable cause standard.

14 If the defendant violates the plea agreement, withdraws his plea, or tries to withdraw his plea, the
15 government shall have the right: (1) to prosecute the defendant on any of the counts to which he pleaded
16 guilty; (2) to reinstate any counts that may be dismissed pursuant to this plea agreement; and (3) to file
17 any new charges that would otherwise be barred by this plea agreement. The defendant shall thereafter
18 be subject to prosecution for any federal criminal violation of which the government has knowledge,
19 including perjury, false statements, and obstruction of justice. The decision to pursue any or all of these
20 options is solely in the discretion of the United States Attorney's Office.

21 By signing this plea agreement, the defendant agrees to waive any objections, motions, and
22 defenses that the defendant might have to the government's decision to exercise the options stated in the
23 previous paragraph. Any prosecutions that are not time-barred by the applicable statute of limitations as
24 of the date of this plea agreement may be commenced in accordance with this paragraph,
25 notwithstanding the expiration of the statute of limitations between the signing of this plea agreement
26 and the commencement of any such prosecutions. The defendant agrees not to raise any objections
27 based on the passage of time with respect to such counts including, but not limited to, any statutes of
28 limitation or any objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth

1 Amendment to any counts that were not time-barred as of the date of this plea agreement.

2 In addition: (1) all statements made by the defendant to the government or other designated law
3 enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal,
4 whether before or after this plea agreement, shall be admissible in evidence in any criminal, civil, or
5 administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no
6 claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal
7 Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by
8 the defendant before or after this plea agreement, or any leads derived therefrom, should be suppressed.
9 By signing this plea agreement, the defendant waives any and all rights in the foregoing respects.

10 **E. Restitution**

11 The defendant agrees to pay restitution to the U.S. Forest Service, pursuant to 18 U.S.C. §
12 3663(a)(3), in the amount of 38,746.80, for the damage sustained to the environment as a result of the
13 marijuana cultivation activities in the Cascadel area in the Sierra National Forest. The restitution is to be
14 paid jointly and severally with co-defendant MUCIO GOMEZ-RODRIGUEZ, payment to begin
15 immediately. Restitution is to be sent to the Clerk of Court, who shall forward it to the U.S. Forest
16 Service, Albuquerque Service Center, Claims Management, 101B Sun Avenue NE, Albuquerque, New
17 Mexico 87109.

18 If incarcerated, payment of restitution (without interest) is due during imprisonment at the rate of
19 not less than \$25 per quarter and payment shall be through the Bureau of Prisons Inmate Financial
20 Responsibility Program.

21 **F. Forfeiture**

22 The defendant agrees to abandon and forfeit to the United States voluntarily and immediately all
23 of his right title and interest to any and all assets subject to forfeiture pursuant to 21 U.S.C. 853.

24 The defendant waives oral pronouncement of forfeiture at the time of sentencing, and any
25 defenses or defects that may pertain to the forfeiture.

26 **III. THE GOVERNMENT'S OBLIGATIONS**

27 **A. Dismissals**

28 The government agrees to move, at the time of sentencing, to dismiss without prejudice the

1 remaining counts in the pending indictment. The government also agrees not to reinstate any dismissed
2 count except if this agreement is voided as set forth herein, or as provided in II.E (Defendant's Violation
3 of Plea Agreement), VI.B (Guidelines Calculations), and VII.B (Waiver of Appeal) herein.

4 **B. Recommendations**

5 1. **Incarceration Range**

6 The government will recommend that the defendant be sentenced to the low end of the
7 applicable guideline range for his offense, including the application of the mandatory statutory minimum
8 term, as determined by the Court. The government may recommend whatever it deems appropriate as to
9 all other aspects of sentencing.

10 2. **Acceptance of responsibility**

11 The government will recommend a two-level reduction (if the offense level is less than 16) or a
12 three-level reduction (if the offense level reaches 16) in the computation of defendant's offense level if
13 he clearly demonstrates acceptance of responsibility for his conduct as defined in U.S.S.G. § 3E1.1.
14 This includes the defendant meeting with and assisting the probation officer in the preparation of the
15 pre-sentence report, being truthful and candid with the probation officer, and not otherwise engaging in
16 conduct that constitutes obstruction of justice within the meaning of U.S.S.G. § 3C1.1, either in the
17 preparation of the pre-sentence report or during the sentencing proceeding.

18 **C. Use of Information for Sentencing**

19 The government is free to provide full and accurate information to the Court and the United
20 States Probation Office ("Probation"), including answering any inquiries made by the Court and/or
21 Probation, and rebutting any inaccurate statements or arguments by the defendant, his attorney,
22 Probation, or the Court. The defendant also understands and agrees that nothing in this Plea Agreement
23 bars the government from defending on appeal or collateral review any sentence that the Court may
24 impose.

25 **IV. ELEMENTS OF THE OFFENSE**

26 At a trial, the government would have to prove beyond a reasonable doubt the following
27 elements of the offense(s) to which the defendant is pleading guilty:

28 As to Count Two, Conspiracy to Manufacture Marijuana in violation of 21 U.S.C. §§ 846, ER59
App.153

1 841(a)(1):

2 1. Beginning on a date not later than July 16, 2019, there was an agreement between two or
3 more persons to manufacture marijuana; and
4 2. Second, the defendant joined in the agreement knowing of its purpose and intending to
5 help accomplish that purpose.

6 The defendant fully understands the nature and elements of the crimes charged in the indictment
7 to which he is pleading guilty, together with the possible defenses thereto, and has discussed them with
8 his attorney.

9 V. MAXIMUM SENTENCE

10 A. Maximum penalty

11 The maximum sentence that the Court can impose is life in prison, a fine of \$10 million a five-
12 year period of supervised release up to life, and a special assessment of \$100. The charge to which
13 defendant is pleading guilty carries a ten-year mandatory minimum sentence, absent a motion by the
14 government for reduction pursuant to 18 U.S.C. § 3553(e). In addition, the defendant may be ineligible
15 for certain federal and/or state assistance and/or benefits, pursuant to 21 U.S.C. § 862. By signing this
16 plea agreement, the defendant also agrees that the Court can order the payment of restitution for the full
17 loss caused by the defendant's wrongful conduct. The defendant agrees that the restitution order is not
18 restricted to the amounts alleged in the specific counts to which the defendant is pleading guilty. The
19 defendant further agrees, as noted above, that he will not attempt to discharge in any present or future
20 bankruptcy proceeding any restitution imposed by the Court.

21 B. Violations of Supervised Release

22 The defendant understands that if he violates a condition of supervised release at any time during
23 the term of supervised release, the Court may revoke the term of supervised release and require the
24 defendant to serve up to three years of additional imprisonment.

25 VI. SENTENCING DETERMINATION

26 A. Statutory Authority

27 The defendant understands that the Court must consult the Federal Sentencing Guidelines and
28 must take them into account when determining a final sentence. The defendant understands that the

1 Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the
2 Sentencing Guidelines and must take them into account when determining a final sentence. The
3 defendant further understands that the Court will consider whether there is a basis for departure from the
4 guideline sentencing range (either above or below the guideline sentencing range) because there exists
5 an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into
6 consideration by the Sentencing Commission in formulating the Guidelines. The defendant further
7 understands that the Court, after consultation and consideration of the Sentencing Guidelines, must
8 impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

9 Notwithstanding the applicable Guidelines range, a mandatory minimum sentence of ten years
10 applies to the offense charged in Count Two, unless the Court concludes that the defendant is safety-
11 valve eligible pursuant to U.S.S.G. § 2D1.1(b)(16) and 5C1.2. The defendant is free to argue that he
12 qualifies for safety-valve relief, while the government may argue that the defendant does not satisfy the
13 requirements of that section.

14 **VII. WAIVERS**

15 **A. Waiver of Constitutional Rights**

16 The defendant understands that by pleading guilty he is waiving the following constitutional
17 rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to
18 be assisted at trial by an attorney, who would be appointed if necessary; (d) to pursue any affirmative
19 defenses, Fourth Amendment or Fifth Amendment claims, constitutional challenges to the statutes of
20 conviction, and other pretrial motions that have been filed or could be filed; (e) to subpoena witnesses to
21 testify on his behalf; (f) to confront and cross-examine witnesses against him; and (g) not to be
22 compelled to incriminate himself.

23 **B. Waiver of Appeal and Collateral Attack**

24 The defendant understands that the law gives the defendant a right to appeal his guilty plea,
25 conviction, and sentence. The defendant agrees as part of his plea/pleas, however, to give up the right to
26 appeal the guilty plea, conviction, and the sentence imposed in this case as long as the sentence does not
27 exceed the statutory maximum. The defendant understands that this waiver includes, but is not limited
28 to, any and all constitutional and/or legal challenges to the defendant's conviction and guilty plea,

ER61

1 including arguments that the statutes to which defendant is pleading guilty are unconstitutional, and any
2 and all claims that the statement of facts attached to this agreement is insufficient to support the
3 defendant's plea of guilty. The defendant specifically gives up the right to appeal any order of
4 restitution the Court may impose.

5 Notwithstanding the defendant's waiver of appeal, the defendant will retain the right to appeal if
6 one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the
7 statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant
8 understands that these circumstances occur infrequently and that in almost all cases this Agreement
9 constitutes a complete waiver of all appellate rights.

10 In addition, regardless of the sentence the defendant receives, the defendant also gives up any
11 right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any
12 aspect of the guilty plea, conviction, or sentence, except for non-waivable claims.

13 Notwithstanding the agreement in paragraph III.A (Dismissals) above that the government will
14 move to dismiss counts against the defendant, if the defendant ever attempts to vacate his plea, dismiss
15 the underlying charges, or modify or set aside his sentence on any of the counts to which he is pleading
16 guilty, the government shall have the rights set forth in paragraph II.E (Defendant's Violation of Plea
17 Agreement) herein.

18 **C. Impact of Plea on Defendant's Immigration Status**

19 Defendant recognizes that pleading guilty may have consequences with respect to his
20 immigration status if he is not a citizen of the United States. Under federal law, a broad range of crimes
21 are removable offenses, including offense(s) to which the defendant is pleading guilty. The defendant
22 and his counsel have discussed the fact that the charge to which the defendant is pleading guilty is an
23 aggravated felony, or a crime that is likely to be determined to be an aggravated felony under 8 USC §
24 1101(a)(43), and that while there may be arguments that defendant can raise in immigration proceedings
25 to avoid or delay removal, it is virtually certain that defendant will be removed. Indeed, because
26 defendant is pleading guilty to drug trafficking charges, removal is presumptively mandatory. Removal
27 and other immigration consequences are the subject of a separate proceeding, however, and defendant
28 understands that no one, including his attorney or the district court, can predict to a certainty the effect

1 of his conviction on his immigration status. Defendant nevertheless affirms that he wants to plead guilty
2 regardless of any immigration consequences that his plea may entail, even if the consequence is his
3 automatic removal from the United States.

4 **VIII. ENTIRE PLEA AGREEMENT**

5 Other than this plea agreement, no agreement, understanding, promise, or condition between the
6 government and the defendant exists, nor will such agreement, understanding, promise, or condition
7 exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and
8 counsel for the United States.

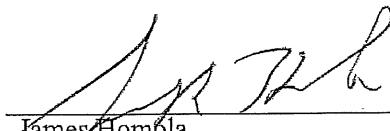
9
10
11
12
13

14 **IX. APPROVALS AND SIGNATURES**

15 **A. Defense Counsel**

16 I have read this plea agreement and have discussed it fully with my client. The plea agreement
17 accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to
18 plead guilty as set forth in this plea agreement.

19 Dated: 1-6-22

20 
21 James Hombla
22 Counsel for Defendant

23 **B. Defendant**

24 I have read this plea agreement and carefully reviewed every part of it with my attorney. I
25 understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully
26 understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my
27 case. No other promises or inducements have been made to me, other than those contained in this plea
agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement.
Finally, I am satisfied with the representation of my attorney in this case.

28

ER63

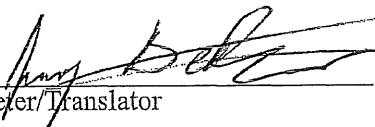
1 Dated: 0-1-5 2022 HGR

2 Hector Gomez Rodriguez
3 HECTOR GOMEZ-RODRIGUEZ,
Defendant

4 **C. Court Certified Interpreter/Translator**

5 I declare that I am a court-certified Spanish-English interpreter/translator. On
6 01/05/2022, I read the entire contents of the foregoing plea agreement to HECTOR GOMEZ-
7 RODRIGUEZ, translating the document from English to Spanish.

8 Dated: 0/05/2022

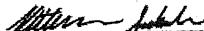
9 
Interpreter/Translator

10 **D. Attorney for the United States**

11 I accept and agree to this plea agreement on behalf of the government.

12 Dated: February 4, 2022

13 PHILLIP A. TALBERT
14 Acting United States Attorney

15 By: 

16 KATHERINE E. SCHUH
17 Assistant United States Attorney

18 ER64

EXHIBIT "A"
Factual Basis for Plea

If this matter proceeded to trial, the United States would establish the following facts beyond a reasonable doubt:

On or about July 16, 2019, officers and agents conducted a raid operation and search warrant execution of the Cascadel marijuana cultivation site, an illegal marijuana cultivation site in the Sierra National Forest, County of Madera, Eastern District of California. The defendant, Hector Manuel Gomez-Rodriguez was located in the camp area of the marijuana cultivation site when he was encountered by law enforcement, directly adjacent to a plot of live marijuana plants. When officers were approximately fifteen to twenty feet from the defendant, they announced their presence as police officers and ordered him, in Spanish, to put his hands up. The defendant put his hands up momentarily, then began running away. He was pursued by law enforcement officers and taken into custody. Officers observed a loaded pistol in the camp area where the defendant was originally contacted. The defendant admitted that he had been at the site for three days. A total of 4,494 live marijuana plants were eradicated from the Cascadel cultivation site.

The defendant admits that he knowingly and intentionally conspired and agreed with his brother, Mucio Gomez-Rodriguez, and others unknown, to manufacture marijuana, a Schedule I controlled substance. The agreement included the manufacture of more than 1,000 marijuana plants. This conduct was all in violation of Title 21, United States Code, Sections 846, 841(a)(1), and 841(b)(1)(A).

Dated: 10/19/20

HECTOR GOMEZ RODRIGUEZ, GOMEZ
HECTOR GOMEZ-RODRIGUEZ,
Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
HON. DALE A. DROZD, JUDGE

UNITED STATES OF AMERICA,)
Plaintiff,) No. 19-CR-161-DAD
vs.) CHANGE OF PLEA
HECTOR MANUEL GOMEZ RODRIGUEZ,)
Defendant.)

Fresno, California

Tuesday, February 22, 2022

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES OF COUNSEL:

For the Plaintiff: United States Attorney's Office
BY: KATHERINE ENGLANDER SCHUH
2500 Tulare Street
Suite 4401
Fresno, California 93721

For the Defendant: **JAMES HOMOLA**
Attorney at Law
2950 Mariposa Street
Suite 250
Fresno, California 93721

REPORTED BY: KAREN HOOVEN, RMR, CRR, Official Court Reporter

Proceedings recorded by mechanical stenography, transcript produced by computer aided transcription.

3 (The following proceedings were had by Zoom with the aid
4 of Certified Spanish Court Interpreter Anna Watrous, oath
5 on file.)

6 THE CLERK: The Court calls 19-CR-161. United States
7 versus Hector Manuel Gomez Rodriguez. Scheduled for change of
8 plea hearing.

9 THE COURT: Please state your appearances, beginning
10 with counsel for the government.

11 MS. SCHUH: Good morning, Your Honor, Kate Schuh for
12 the United States.

13 MR. HOMOLA: Good morning, Your Honor, James Homola,
14 appointed counsel for Hector Gomez Rodriguez.

15 THE INTERPRETER: Your Honor, the interpreter believes
16 that Mr. Gomez Rodriguez is not on the Spanish channel or he's
17 not hearing me because he doesn't have earphones on.

18 THE COURT: Marshal, can we get word to somebody
19 there at the jail to make sure he's on a Spanish channel?

20 THE MARSHAL: I'm calling them right now, sir.

21 THE COURT: Are we good to go?

22 MR. HOMOLA: For the defense.

23 | THE INTERPRETER: Yes, Your Honor.

24 THE COURT: And Mr. Gomez Rodriguez, can you hear us
25 all right?

1 THE DEFENDANT: Yes. I can hear everything very
2 well.

3 THE COURT: All right. And I understand, from a plea
4 agreement, that Mr. Gomez Rodriguez wishes to enter a plea of
5 guilty to Count Two of the indictment in which he's charged
6 with conspiracy to manufacture 1,000 or more marijuana plants
7 in violation of 21 USC Section 846 and 841(a)(1) and that he
8 wishes to do so waiving any right that he may have to an
9 in-person appearance before the Court for that purpose and
10 agreeing instead to proceed by way of this video conference
11 with his change of plea.

12 Is all that correct, Mr. Homola?

13 MR. HOMOLA: Yes, Your Honor. I've discussed it with
14 my client, we waive personal appearance and proceed by Zoom
15 video conference.

16 THE COURT: And Mr. Gomez Rodriguez, is that what you
17 wish to do?

18 THE DEFENDANT: Yes, yes.

19 THE COURT: I find that a national state of emergency
20 has been declared in response to the spread of the
21 Coronavirus. For everyone's health and safety, the general
22 population of California had been under a gubernatorial order
23 to shelter in place and remains under emergency order.
24 Detention facilities have imposed quarantines or restrictions
25 on access to detainees for the health of the detainees and

1 staff.

2 The Judicial Conference of the United States has
3 found that conditions due to the national emergency are
4 materially affecting the functioning of the federal courts.
5 And the Judicial Council of the Ninth Circuit has certified
6 that emergency conditions existing in the Eastern District of
7 California justify the temporary suspension of the 70-day
8 period to bring defendants to trial.

9 Public health recommendations and restrictions have
10 impacted this Court's ability to function as it usually does
11 to conduct in person proceedings and has impaired the
12 availability of counsel, the parties and court staff to be
13 present in the courtroom.

14 I therefore find, pursuant to the CARES Act, that the
15 use of video conferencing to conduct these change of plea
16 proceedings with the consent of the defendant Hector Manuel
17 Gomez Rodriguez is in the interest of justice and that
18 utilization of such a procedure may prevent the defendant from
19 remaining incarcerated longer than is necessary and will
20 satisfy the objectives of sentencing under the US Sentencing
21 Guidelines and 18 USC Section 3553. I also find this change
22 of plea proceeding cannot be further delayed without doing
23 possible serious harm to the interest of justice.

24 And Mr. Gomez Rodriguez, before accepting your change
25 of plea there are a number of questions I must ask you. If at

1 any time you don't understand one of my questions or if you
2 wish to consult with your attorney for any reason, please let
3 me know because it's very important that you understand each
4 of my questions before answering.

5 Madam clerk, please swear the defendant.

6 (Defendant sworn.)

7 THE COURT: And Mr. Gomez Rodriguez, do you
8 understand that, having been sworn, your answers to my
9 questions may be used against you in a prosecution for perjury
10 or making a false statement if you do not answer truthfully?

11 THE DEFENDANT: Yes. Yes, I am understanding
12 everything.

13 THE COURT: How old are you, sir?

14 THE DEFENDANT: 48 years old.

15 THE COURT: What is the highest level of education
16 you've obtained?

17 THE DEFENDANT: Second grade elementary school.

18 THE COURT: What is your most recent occupation?

19 THE DEFENDANT: I was living in Mexico City. I was a
20 farm worker. Farm labor.

21 THE COURT: Have you ever been treated for mental
22 illness, sir?

23 THE DEFENDANT: No.

24 THE COURT: Have you ever been treated for addiction
25 to drugs?

1 THE DEFENDANT: No.

2 THE COURT: As you sit here right now, are you
3 presently under the influence of alcohol or drugs of any kind?

4 THE DEFENDANT: No.

5 THE COURT: Do you understand what's happening here
6 this morning?

7 THE DEFENDANT: Yes.

8 THE COURT: Counsel, do either of you have any doubt
9 as to Mr. Gomez Rodriguez' competence to enter his plea at
10 this time?

11 MR. HOMOLA: Not by the defense, Your Honor.

12 MS. SCHUH: No, Your Honor.

13 THE COURT: I find the defendant competent to enter
14 his plea at this time. Mr. Gomez Rodriguez, have you had
15 enough time to discuss your case, any defenses that you might
16 have and your decision to enter a plea of guilty with your
17 attorney?

18 THE DEFENDANT: Yes. Yes, I did speak to him. He
19 came to visit me one time.

20 THE COURT: My question is: Have you had enough time
21 to discuss your case, any defenses that you might have to the
22 charges against you and your decision to enter a plea of
23 guilty? Have you had enough time to discuss all those things
24 with your attorney?

25 THE DEFENDANT: Yes.

1 THE COURT: Are you satisfied with Mr. Homola's
2 representation of you?

3 THE DEFENDANT: Yes. Very much so.

4 THE COURT: Is it your understanding that your
5 attorney and the attorney for the government have had
6 discussions regarding your case and with respect to your
7 change of plea and that those discussions have resulted in
8 this plea agreement which you have signed?

9 THE DEFENDANT: Yes.

10 THE COURT: And are you entering your plea of guilty
11 to Count Two of the indictment pursuant to that plea agreement
12 voluntarily and because you are, in fact, guilty of the charge
13 set out in Count Two of the indictment?

14 THE DEFENDANT: Yes, yes, I am guilty.

15 THE COURT: Have you reviewed your plea agreement in
16 detail with your attorney?

17 THE DEFENDANT: Yes.

18 THE COURT: And do you understand each and every one
19 of the terms of your plea agreement?

20 THE DEFENDANT: Yes.

21 THE COURT: The offense to which you're offering to
22 plead guilty is a felony offense. If your plea is accepted,
23 you'll be found guilty of that offense. And that finding may
24 deprive you of valuable civil rights, such as the right to
25 vote, the right to serve on a jury and the right to possess

1 firearms and ammunition of any kind. Do you understand?

2 THE DEFENDANT: Yes. Yes.

3 THE COURT: In addition, if an economic loss has been
4 suffered by any victim as a result of your criminal conduct,
5 the Court, in accordance with the Sentencing Reform Act, will
6 order you to make restitution unless the Court were to find
7 that, under the applicable statute, restitution is not
8 appropriate in this case.

9 And I note that, as part of your plea agreement at
10 page four, there is an agreed upon restitution amount of
11 \$38,746.80. Do you understand?

12 THE DEFENDANT: Yes. Yes.

13 THE COURT: Under the Sentencing Reform Act of 1984,
14 the US Sentencing Commission has issued advisory sentencing
15 guidelines for federal judges to consider in determining the
16 appropriate sentence to be imposed in all federal criminal
17 cases. Have you and your attorney talked about how those
18 advisory sentencing guidelines might apply in your case?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that the Court won't be
21 able to determine the advisory sentencing guideline range in
22 your case until after a presentence report has been completed
23 and after your attorney and the attorney for the government
24 have had the opportunity to object to any of the findings of
25 that report?

1 THE DEFENDANT: Yes. Yes.

2 THE COURT: Do you also understand that, although the
3 government may have agreed to make certain recommendations in
4 their plea agreement with you, those recommendations are not
5 binding on the Court and if the Court does not follow them,
6 you'll still be bound by your plea and will have no right to
7 withdraw it?

8 THE DEFENDANT: Yes. Yes. Everything's fine.

9 THE COURT: Do you also understand that after it's
10 been determined what the applicable sentencing guideline range
11 is in your case, the sentencing judge may have the authority
12 to impose a sentence that's either more severe or less severe
13 than that called for by those guidelines?

14 THE DEFENDANT: Yes. Yes.

15 THE COURT: Do you understand that parole has been
16 abolished in the federal criminal justice system and if you're
17 sentenced to a term of imprisonment in this case, you will not
18 be released on parole?

19 THE DEFENDANT: Yes. Yes.

20 THE COURT: I note that, as part of your plea
21 agreement, you've waived both the right to appeal as well as
22 to collaterally attack any part of your plea and sentence so
23 long as the sentence imposed does not exceed the statutory
24 maximum, so long as the government does not appeal from the
25 sentence that is imposed and so long as any issue you wish to

1 raise is not a non-waivable issue.

2 With those exceptions, do you understand you've
3 waived both the right to appeal as well as to collaterally
4 attack any part of your plea and sentence in this case?

5 THE DEFENDANT: Yes, yes.

6 THE COURT: And Mr. Homola, are you satisfied there's
7 been a knowing and voluntary waiver by Mr. Gomez Rodriguez of
8 his appellate and collateral attack rights but for the
9 exceptions that I've noted?

10 MR. HOMOLA: Yes, Your Honor.

11 THE COURT: Mr. Gomez Rodriguez, you've been charged
12 in Count Two of the indictment with conspiracy to manufacture
13 1,000 or more marijuana plants in violation of 21 USC Sections
14 846 and 841(a)(1). Do you understand the nature of that
15 charge, the essential elements of that offense, which are set
16 forth in writing at pages 5 and 6 of your plea agreement, and
17 what the government would be required to prove in order to
18 convict you of that crime?

19 THE DEFENDANT: Yes. Yes.

20 THE COURT: Have you seen a copy of the indictment,
21 the document setting forth in writing that charge?

22 THE DEFENDANT: Yes.

23 THE COURT: The maximum possible punishment for that
24 offense, absent government motion or safety valve relief, is a
25 mandatory minimum 10 year term of imprisonment up to a maximum

1 of life in prison, a fine of up to ten million dollars or both
2 fine and imprisonment, a five year term of supervised release
3 and a mandatory \$100 special assessment. In addition, you may
4 be ordered to pay restitution to any victim of the offense.
5 In this case, that restitution being contemplated by the
6 parties' plea agreement is \$38,746.80.

7 Sir, do you understand the maximum possible penalty?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand what supervised release
10 is?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that if you are not a
13 citizen of the United States, that by entering your plea of
14 guilty to this charge here this morning, it could result in
15 your deportation, denial of naturalization or exclusion from
16 the United States?

17 THE DEFENDANT: Yes. Yes.

18 THE COURT: Are you presently on parole or probation
19 for any other offense?

20 THE DEFENDANT: No.

21 THE COURT: Are you currently facing any other
22 criminal charges in this Court or in any other court?

23 THE DEFENDANT: No. No.

24 THE COURT: You have a right to stand by your
25 previously entered plea of not guilty to the charge in Count

1 Two of the indictment if you desire to do so. Do you
2 understand that right?

3 THE DEFENDANT: Yes.

4 THE COURT: You also have a right to a jury trial on
5 that charge. Do you understand that right?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that at that trial
8 you'd be presumed innocent, the government would have the
9 burden of proving you guilty of the charge by competent
10 evidence and beyond a reasonable doubt?

11 THE DEFENDANT: Yes. Yes.

12 THE COURT: At that trial you'd have the right to be
13 assisted by counsel, the right to see, hear and question the
14 witnesses for the government through your attorney. You'd
15 also have the right to object to evidence offered by the
16 government and to offer evidence on your own behalf.

17 Do you understand each of these rights?

18 THE DEFENDANT: Well, I didn't understand too much of
19 that, but I know that I don't want to go to trial.

20 THE COURT: All right. Let me take it a little bit
21 more slowly. You do have the right to go to trial if you
22 wish. And at that trial -- and at that trial you would have
23 the right to be assisted by counsel, to have an attorney
24 present to represent you. You understand?

25 THE DEFENDANT: Yes, yes, yes.

1 THE COURT: And at that trial you would also have the
2 right to see, hear and question any witnesses for the
3 government through your attorney. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: You would also have the right, through
6 your attorney, to object to any evidence offered by the
7 government. Do you understand that?

8 THE DEFENDANT: Yes, yes.

9 THE COURT: And finally, through your attorney at
10 trial, you would have the right to offer evidence on your own
11 behalf. Do you understand that as well?

12 THE DEFENDANT: Yes, yes.

13 THE COURT: And do you understand that at a trial,
14 you would have the right to testify in your own defense but
15 that if you chose not to testify at your trial, no inference
16 of guilt could be drawn from the fact that you chose not to
17 testify.

18 THE DEFENDANT: Yes.

19 THE COURT: And do you understand that by entering a
20 plea of guilty here this morning to Count Two of the
21 indictment, you'll be giving up all of these rights as to that
22 charge because there will be no trial, you'll no longer be
23 presumed innocent because you'll be telling me that you are,
24 in fact, guilty of the charge in Count Two of the indictment?

25 THE DEFENDANT: Yes.

1 THE COURT: And is that what you wish to do, plead
2 guilty to Count Two of the indictment?

3 THE DEFENDANT: Yes, yes.

4 THE COURT: And Mr. Homola, join in that waiver?

5 MR. HOMOLA: Yes, Your Honor.

6 THE COURT: Now, Mr. Gomez Rodriguez, you told me
7 that you understand each of the terms of your plea agreement.
8 Other than what's been promised to you in that plea agreement,
9 has anyone made any other promises to you in order to get you
10 to plead guilty?

11 THE DEFENDANT: No, no. It was my fault. I'm doing
12 this out of my own will.

13 THE COURT: Has anyone threatened you or anyone close
14 to you in order to get you to plead guilty?

15 THE DEFENDANT: No, no, no.

16 THE COURT: Counsel, have I overlooked anything
17 required under Rule 11 up to this point?

18 MR. HOMOLA: No, Your Honor.

19 MS. SCHUH: No, Your Honor.

20 THE COURT: Mr. Gomez Rodriguez, what then is your
21 plea to the charge in Count Two of the indictment that
22 beginning not later than on or about July 16th, 2019 in the
23 Sierra National Forest, Madera County, State and Eastern
24 District of California, and elsewhere, you did knowingly and
25 intentionally conspire and agree with others to manufacture

1 1,000 or more marijuana plants, a Schedule I controlled
2 substance, all in violation of 21 United States Code, Sections
3 846 and 841(a)(1), guilty or not guilty, sir?

4 THE DEFENDANT: Yes. Guilty.

5 THE COURT: And Mr. Gomez Rodriguez, have you
6 reviewed the factual basis at page A-1 of your plea agreement?

7 THE DEFENDANT: Yes.

8 THE COURT: And is that an accurate statement as to
9 what it is you did in this case?

10 THE DEFENDANT: Yes.

11 THE COURT: I find that there is a factual basis for
12 Mr. Gomez Rodriguez' plea of guilty to Count Two. I find he
13 understands nature of that charge and the consequences of his
14 plea. I also find that he understands his constitutional
15 rights and his plea of guilty was freely and voluntarily made.
16 Accordingly, I accept his plea of guilty.

17 The matter will be referred to probation for
18 preparation of a presentence report. Sentencing will be set
19 for?

20 THE CLERK: May 16th, 2022 at 8:30.

21 THE COURT: Is that date agreeable, counsel?

22 MR. HOMOLA: For the defense.

23 MS. SCHUH: Yes, Your Honor.

24 THE COURT: That will be the date and time set for
25 sentencing. Anything more in this case today?

1 MR. HOMOLA: No. Thank you, Your Honor. Everyone
2 stay safe.

3 MS. SCHUH: Yes, Your Honor. I think we do have a
4 trial date set for this case. Just vacate it as to this
5 defendant only.

6 THE COURT: As to this defendant only, the trial
7 confirmation hearing set for March 14th and jury trial date of
8 March 29th is vacated as to this defendant only.

9 Anything further?

10 MR. HOMOLA: No. Thank you, Your Honor.

11 MS. SCHUH: No, Your Honor. Thank you.

12 THE COURT: Mr. Gomez Rodriguez, you can let the
13 guards there know that we are done with your case for this
14 morning.

15 THE DEFENDANT: Very good. Thank you very much and I
16 hope you have a nice day.

17 THE COURT: You too. We will take a ten minute
18 recess at this time.

19 (The proceedings were concluded at 10:58 a.m.)

21 I, KAREN HOOVEN, Official Reporter, do hereby certify
22 that the foregoing transcript as true and correct.

24 DATED: 17th of November, 2022 /s/ Karen Hooven
25 KAREN HOOVEN, RMR-CRR

Hector Gomez Rodriguez
Inmate # 78327097
Central valley Annex
254 Taylor ave.
Mc.Farland, CA 92350

FILED

Sep 30, 2022

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Judge: Dale A. Drozd

Sept. 27,2022

Good day judge Dale A Drozd

1:19-cr-00161-DAD-BAM

as you can see judge on sept. 26, 2022 ,i got sentence by you and the reason for my letter is to communicate with you and at the same time inform you that I am interested on appealing over my sentence and sooner will clarified many questions that I believe are still unresolved .

My name is Hector Manuel Gomez Rodriguez , docket no: case is 0972 1:19cr00161-1

1) In conduction with my case I was arrested with my brother Mucio Gomez we both got arrested with same charge and offer the same deal , my question is not that i don't joy for my brother is that I'm confuse why am I getting charge with 10 years

2.) For what I see it looks to me that my attorney didn't explain to me or counsel me the right way for example went I sign the deal the attorney explain to me that there wasn't going to be NO gun charge over my deal and went I got sentence I got a gun charge , this is my first offense ever first time in jail and I got 10 years ??????????????

3.) Another will be that went I sign I got mention that the charges where for 4800 hundred plants of marijuana and on 9/26/2022 that I got sentence I got mention in court.

that I was getting sentence for more of 5000 plants that also its another misinterpret communication towards me and now that I got sentence i been trying to communicate my attorney and I get no answer, how can I appeal in 14 or 15 days by the time that he answers it will be too late for me to appeal thats my reason writing to you thank you sir you have a bless day...

Yours sincerely,

HGR

Hector Gomez Rodriguez

RECEIVED

SEP 30 2022

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY *SM* DEPUTY CLERK
ER188

1 JAMES R. HOMOLA #60244
2 Attorney at Law
2 2950 Mariposa, Suite 250
3 Fresno, California 93721
3 Telephone: (559) 441-7111
4 FAX: (559) 441-7115
4
5 Attorney for Defendant
5 HECTOR GOMEZ-RODRIGUEZ

6
7 IN THE UNITED STATES DISTRICT COURT
8
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 * * * * *

11 UNITED STATES OF AMERICA | Case No. CR-F 19-0161 DAD-BAM
12 Plaintiff, |
13 vs | NOTICE OF APPEAL
14 HECTOR GOMEZ-RODRIGUEZ,
15 Defendant. |

16 NOTICE IS HEREBY GIVEN that, pursuant to the Criminal
17 Justice Act, defendant HECTOR GOMEZ-RODRIGUEZ appeals to the
18 United States Court of Appeals for the Ninth Circuit from the
19 judgment of conviction and sentence entered and filed in this
20 action on October 3, 2022, by the Honorable Dale A. Drozd, United
21 States District Court Judge.

22 Dated: October 5, 2022 Respectfully submitted,
23 /s/ James R. Homola
24 JAMES R. HOMOLA
25 Attorney for Defendant
HECTOR GOMEZ-RODRIGUEZ

James R. Homola
Attorney at Law
2950 Mariposa St
Suite 250
Fresno, CA 93721
(559) 441-7111

APPEAL,CLOSED,COLLATERAL,INTERPRETER
U.S. District Court
Eastern District of California – Live System (Fresno)
CRIMINAL DOCKET FOR CASE #: 1:19-cr-00161-DAD-BAM All Defendants

Case title: USA v. Rodriguez et al

Magistrate judge case number: 1:19-mj-00141-DAD-SKO

Date Filed: 07/25/2019

Date Terminated: 09/26/2022

Assigned to: District Judge Dale
A. Drozd

Referred to: Magistrate Judge
Barbara A. McAuliffe

Appeals court case number:
22-10250 U.S.C.A. Ninth Circuit

Defendant (1)

**Hector Manuel Gomez
Rodriguez**
TERMINATED: 09/26/2022

represented by **David Andrew Schlesinger**
Jacobs & Schlesinger LLP
1620 5th Avenue
Suite 750
San Diego, CA 92101-2751
(619) 230-0012
Fax: (619) 230-0044
Email: david@jsslegal.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

James Raymond Homola
James R. Homola, Attorney At Law
2950 Mariposa, Suite 250
Fresno, CA 93721
559-441-7111
Fax: 559-441-7115
Email: jrhomola@yahoo.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

21 U.S.C. 846, 841(a)(1) –
Conspiracy to Manufacture
Marijuana
(2)

Disposition

Custody: 120 months; Special Assessment: \$100;
Supervised Release: 60 months; Restitution:
\$38,746.80.

Highest Offense Level (Opening)

Felony

Terminated Counts

21 U.S.C. 841(a)(1) & (b)(1)(A) –
Manufacture of Marijuana
(1)

Disposition

Dismissed.

18 U.S.C. 1361 – Depredation of
Public Lands and Resources
(3)

Dismissed

Highest Offense Level
(Terminated)

Felony

Complaints

21 U.S.C. 841(a)(1) – Manufacture
Marijuana, a Schedule I Controlled
Substance; 21 U.S.C. 846 –
Conspiracy to Manufacture,
Distribute and Possess with Intent
to Distribute Marijuana, a
Schedule I Controlled Substance

Disposition

Assigned to: District Judge Dale
A. Drozd
Referred to: Magistrate Judge
Barbara A. McAuliffe

Defendant (2)

**Mucio Alejandro Gomez
Rodriguez**
TERMINATED: 08/01/2022
also known as
Musio Alejandro Gomez
Rodriguez
TERMINATED: 08/01/2022

represented by **David Arredondo**
Law Office Of David Arredondo
3232 Tyler Ave.
El Monte, CA 91731
626-825-0003
Fax: 626-461-7099
Email: darredondolaw@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Galatea DeLapp
Galatea Delapp Attorney at Law
1541 E Fairmont Ave.
#104
Fresno, CA 93704
559-803-0471
Email: delapplaw@gmail.com
TERMINATED: 12/09/2019
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

21 U.S.C. 846, 841(a)(1) –
Conspiracy to Manufacture
Marijuana
(2)

Disposition

CUSTODY: 41 MONTHS; SPECIAL
ASSESSMENT \$100.00; FINE WAIVED:
RESTITUTION IN THE AMOUNT OF \$38,746.80;
60 MONTHS SUPERVISED RELEASE
(UNSUPERVISED, IF DEPORTED)

Highest Offense Level
(Opening)

Felony

Terminated Counts

Disposition
App.179

ER201

21 U.S.C. 841(a)(1) & (b)(1)(A) –
Manufacture of Marijuana
(1)

DISMISSED

18 U.S.C. 1361 – Depredation of
Public Lands and Resources
(3)

DISMISSED

Highest Offense Level
(Terminated)

Felony

Complaints

21 U.S.C. 841(a)(1) –
Manufacture Marijuana, a
Schedule I Controlled Substance;
21 U.S.C. 846 – Conspiracy to
Manufacture, Distribute and
Possess with Intent to Distribute
Marijuana, a Schedule I
Controlled Substance

Disposition

Plaintiff

USA

represented by **Katherine Simpson Englander**
United States Attorney's Office
2500 Tulare Street
Suite 4401
Fresno, CA 93721
559-497-4098
Email: katherine.schuh@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Laurel Jackson Montoya
United States Attorney's Office, Fresno
2500 Tulare Street
Suite 4401
Fresno, CA 93721
(559) 497-4007
Fax: (559) 497-4099
Email: laurel.j.montoya@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Fresno Forfeiture Unit
United States Attorney's Office
2500 Tulare Street
Suite 4401
Fresno, CA 93721
559-497-4000
Email: usacae.ecffrsfor@usdoj.gov
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Joseph Barton
U.S. Attorney's Office
2500 Tulare Street, Suite 4401
Fresno, CA 93721
559-497-4000

Date Filed	#	Docket Text
07/17/2019	<u>1</u>	CRIMINAL COMPLAINT as to Hector Manuel Gomez Rodriguez (1), Musio Alejandro Gomez Rodriguez (2). (Jessen, A) [1:19-mj-00141-DAD-SKO] (Entered: 07/17/2019)
07/17/2019	<u>4</u>	MINUTES (Text Only) for proceedings before Magistrate Judge Sheila K. Oberto: INITIAL APPEARANCE as to Hector Manuel Gomez Rodriguez held on 7/17/2019. Financial affidavit submitted on behalf of defendant. The Court appoints a panel attorney to represent defendant. The defendant is advised of the charges, maximum penalties and rights. Defendant acknowledged receipt of complaint and waives formal reading. Denial of alleged accusations. True Name stated as charged; <u>Detention Hearing set for 7/19/2019 at 02:00 PM in Courtroom 10 (EPG) before Magistrate Judge Erica P. Grosjean</u> , Preliminary Examination set for 7/31/2019 at 02:00 PM in Courtroom 9 (SAB) before Magistrate Judge Stanley A. Boone., The Court has been notified that an interpreter is required in this action for Hector Manuel Gomez Rodriguez. It is counsel's responsibility to timely notify the Court Staff Interpreter when a hearing requiring an interpreter is scheduled, continued or cancelled. Failure to do so may result in sanctions. See <u>LR 403 – Court Interpreter Services in Criminal Actions</u> Government Counsel: Kate Schuh present. Defense Counsel: John Garland (Sp. Apr. Jim Homola) present. Custody Status: Custody – Fully Shackled. ECRO A. Gil–Garcia. Certified Court Interpreter: Anna Watrous, Language: SPANISH–Oath on File. (Kusamura, W) [1:19-mj-00141-DAD-SKO] (Entered: 07/17/2019)
07/17/2019	<u>5</u>	MINUTES (Text Only) for proceedings before Magistrate Judge Sheila K. Oberto: INITIAL APPEARANCE re CRIMINAL COMPLAINT as to Musio Alejandro Gomez Rodriguez held on 7/17/2019. The Federal Defender advised the court that the defendant wishes to retain counsel. The Federal Defendant will appear for today's hearing only. The defendant is advised of the charges, maximum penalties and rights. Defendants acknowledged receipt of the complaint and waives formal reading. NOT GUILTY PLEA ENTERED. True Name stated as MUCIO ALEJANDRO GOMEZ RODRIGUEZ ; The government moves for detention. Since the defendant is not currently represented the Court sets the <u>Detention Hearing set for 7/19/2019 at 02:00 PM in Courtroom 10 (EPG) before Magistrate Judge Erica P. Grosjean</u> . The new counsel may request a continuance if needed. Preliminary Examination set for 7/31/2019 at 02:00 PM in Courtroom 9 (SAB) before Magistrate Judge Stanley A. Boone. The Court has been notified that an interpreter is required in this action for Musio Alejandro Gomez Rodriguez. It is counsel's responsibility to timely notify the Court Staff Interpreter when a hearing requiring an interpreter is scheduled, continued or cancelled. Failure to do so may result in sanctions. See <u>LR 403 – Court Interpreter Services in Criminal Actions</u> Government Counsel: Kate Schuh present. Defense Counsel: Eric Kersten present. Custody Status: Custody – Fully Shackled. ECRO A. Gil–Garcia. Certified Court Interpreter: Anna Watrous, Language: SPANISH–Oath on File. (Kusamura, W) [1:19-mj-00141-DAD-SKO] (Entered: 07/18/2019)
07/18/2019	<u>6</u>	SHACKLING MINUTE ORDER signed by Magistrate Judge Sheila K. Oberto on 7/17/2019: Pursuant to Local Rule 401, the Court hereby determined that the appropriate restraint level for Hector Manuel Gomez Rodriguez is Fully Shackled (USM # 78327–097). (Kusamura, W) [1:19-mj-00141-DAD-SKO] (Entered: 07/18/2019)
07/18/2019	<u>10</u>	ARREST WARRANT RETURNED EXECUTED on 7/16/2019 as to Hector Manuel Gomez Rodriguez. (Jessen, A) [1:19-mj-00141-DAD-SKO] (Entered: 07/18/2019)
07/18/2019	<u>11</u>	CJA 20 APPOINTING ATTORNEY James Raymond Homola for Hector Manuel Gomez Rodriguez signed by Magistrate Judge Sheila K. Oberto on 7/18/2019, Nunc Pro Tunc 7/17/2019. (Jessen, A) [1:19-mj-00141-DAD-SKO] (Entered: 07/18/2019)

07/18/2019	<u>7</u>	SHACKLING MINUTE ORDER signed by Magistrate Judge Sheila K. Oberto on 7/17/2019: Pursuant to Local Rule 401, the Court hereby determined that the appropriate restraint level for Mucio Alejandro Gomez Rodriguez is Fully Shackled (USM # 78328-097). (Kusamura, W) [1:19-mj-00141-DAD-SKO] (Entered: 07/18/2019)
07/18/2019	<u>9</u>	ARREST WARRANT RETURNED EXECUTED on 7/16/2019 as to Mucio Alejandro Gomez Rodriguez. (Jessen, A) [1:19-mj-00141-DAD-SKO] (Entered: 07/18/2019)
07/19/2019	<u>12</u>	NOTICE of ATTORNEY APPEARANCE: James Raymond Homola appearing for Hector Manuel Gomez Rodriguez. (Homola, James) [1:19-mj-00141-DAD-SKO] (Entered: 07/19/2019)
07/19/2019	<u>13</u>	MINUTES (Text Only) for proceedings before Magistrate Judge Erica P. Grosjean: DETENTION HEARING as to Hector Manuel Gomez Rodriguez held on 7/19/2019. As the matter of detention was submitted, the Court ORDERED DEFENDANT DETAINED. Government Counsel: Katherine Schuh present. Defense Counsel: James Homola present. Custody Status: Custody – fully shackled. Court Reporter/CD Number: ECRO – Otilia Rosales. Certified Court Interpreter: Becky Rubenstein, Language: Spanish–Oath on File. (Rooney, M) [1:19-mj-00141-DAD-SKO] (Entered: 07/19/2019)
07/19/2019	<u>14</u>	DETENTION ORDER signed by Magistrate Judge Erica P. Grosjean on 7/19/2019 as to Hector Manuel Gomez Rodriguez. (Rooney, M) [1:19-mj-00141-DAD-SKO] (Entered: 07/19/2019)
07/19/2019	<u>15</u>	MINUTES (Text Only) for proceedings before Magistrate Judge Erica P. Grosjean: DETENTION HEARING as to Mucio Alejandro Gomez Rodriguez held on 7/19/2019. A financial affidavit was submitted by defendant and, after review of same, the Office of the Federal Defender was appointed. Defense counsel requested a continuance – so ordered. <u>DETENTION HEARING CONTINUED to 7/24/2019 at 02:00 PM in Courtroom 10 (EPG) before Magistrate Judge Erica P. Grosjean (defendant ordered temporarily detained pending said hearing)</u> . Government Counsel: Katherine Schuh present. Defense Counsel: Eric Kersten present. Custody Status: Custody – fully shackled. Court Reporter/CD Number: ECRO – Otilia Rosales. Certified Court Interpreter: Becky Rubenstein, Language: Spanish–Oath on File. (Rooney, M) [1:19-mj-00141-DAD-SKO] (Entered: 07/19/2019)
07/23/2019	<u>17</u>	CJA 20 APPOINTING ATTORNEY Galatea DeLapp for Mucio Alejandro Gomez Rodriguez signed by Magistrate Judge Erica P. Grosjean on 7/23/2019, Nunc Pro Tunc 7/17/2019. (Jessen, A) [1:19-mj-00141-DAD-SKO] (Entered: 07/23/2019)
07/24/2019	<u>18</u>	MINUTES (Text Only) for proceedings before Magistrate Judge Erica P. Grosjean: DETENTION HEARING as to Mucio Alejandro Gomez Rodriguez held on 7/24/2019. The parties argued the matter of detention with the Court ORDERING DEFENDANT RELEASE AS FOLLOWS: \$5,000.00 cash bond, third-party custody, surrender Mexican passport and do not obtain another during the pendency of these proceedings (passport to be surrendered to the Clerk's Office by 4:00 pm on 7/29/2019), and on all other pretrial conditions as read into the record. Defendant's release is delayed until 8:00 am on the following working day after the posting of the \$5,000.00 cash bond. Government Counsel: Joe Barton (special appearance) present. Defense Counsel: Galatea DeLapp present. Custody Status: Custody – fully shackled. Court Reporter/CD Number: ECRO – Otilia Rosales. Certified Court Interpreter: Becky Rubenstein, Language: Spanish–Oath on File. (Rooney, M) [1:19-mj-00141-DAD-SKO] (Entered: 07/24/2019)
07/24/2019	<u>19</u>	MOTION to REVOKE Order of Release <i>And STAY ORDER PENDING RESOLUTION OF MOTION</i> by USA as to Mucio Alejandro Gomez Rodriguez. Attorney Barton, Joseph added. (Barton, Joseph) [1:19-mj-00141-DAD-SKO] (Entered: 07/24/2019)
07/24/2019	<u>20</u>	PROPOSED ORDER re PRE-TRIAL RELEASE ORDER BE STAYED PENDING RESOLUTION OF THE UNITED STATES MOTION TO REVOKE THE RELEASE ORDER. by USA as to Mucio Alejandro Gomez Rodriguez. (Barton, Joseph) [1:19-mj-00141-DAD-SKO] (Entered: 07/24/2019)

07/24/2019	<u>21</u>	MINUTE ORDER (TEXT ONLY) signed by Magistrate Judge Erica P. Grosjean on 7/24/2019. In light of the government's stated intention to file a motion to revoke the Magistrate Judge's release order, that order is stayed until 5:00 pm on 7/25/2019 to allow the government to file a motion to revoke and motion to stay with the District Judge. (Rooney, M) [1:19-mj-00141-DAD-SKO] (Entered: 07/24/2019)
07/24/2019	<u>22</u>	NOTICE of ATTORNEY APPEARANCE: Galatea DeLapp appearing for Mucio Alejandro Gomez Rodriguez. (Jessen, A) [1:19-mj-00141-DAD-SKO] (Entered: 07/25/2019)
07/25/2019	<u>23</u>	MINUTE ORDER (TEXT ONLY) as to Mucio Alejandro Gomez Rodriguez (2) signed by District Judge Dale A. Drozd on 7/25/2019. <u>19 Motion to Revoke Order of Release and Stay Order Pending Resolution of Motion Hearing is set for 8/5/2019 at 10:00 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd.</u> (Apodaca, P) [1:19-mj-00141-DAD-SKO] (Entered: 07/25/2019)
07/25/2019	<u>24</u>	INDICTMENT as to Hector Manuel Gomez Rodriguez (1) count(s) 1, 2, 3, Mucio Alejandro Gomez Rodriguez (2) count(s) 1, 2, 3. (Attachments: # <u>1</u> True Bill). (Jessen, A) (Entered: 07/25/2019)
07/26/2019	<u>25</u>	COLLATERAL RECEIVED as to Mucio Alejandro Gomez Rodriguez: Mexico Passport #G21824821 from Mucio Alejandro Gomez Rodriguez. (Sant Agata, S) (Entered: 07/26/2019)
07/26/2019	<u>32</u>	(<u>RESCINDED per order 31</u>) ORDER SETTING CONDITIONS of RELEASE signed by Magistrate Judge Erica P. Grosjean on 7/26/2019 as to Mucio Alejandro Gomez Rodriguez (2) 5,000 cash bond. (Martin-Gill, S) (Entered: 07/29/2019)
07/26/2019	<u>33</u>	APPEARANCE AND COMPLIANCE BOND/ORDER signed by Magistrate Judge Erica P. Grosjean on 7/26/2019 as to Mucio Alejandro Gomez Rodriguez. (Martin-Gill, S) (Entered: 07/29/2019)
07/26/2019		RECEIPT number CAE100043132 for \$5000.00 for Mucio Alejandro Gomez Rodriguez. (Nelson, J) (Entered: 08/13/2019)
07/29/2019	<u>27</u>	MOTION to WITHDRAW and PROPOSED ORDER TO REVOKE PRE-TRIAL RELEASE ORDER by USA as to Mucio Alejandro Gomez Rodriguez. Attorney Barton, Joseph added. (Barton, Joseph) (Entered: 07/29/2019)
07/29/2019	<u>28</u>	PROPOSED ORDER re WITHDRAWAL UNITED STATES MOTION AND PROPOSED ORDER TO REVOKE PRE-TRIAL RELEASE ORDER re <u>27</u> MOTION to WITHDRAW and PROPOSED ORDER TO REVOKE PRE-TRIAL RELEASE ORDER by USA as to Mucio Alejandro Gomez Rodriguez. (Barton, Joseph) (Entered: 07/29/2019)
07/29/2019	<u>29</u>	MINUTE ORDER (TEXT ONLY) signed by Magistrate Judge Erica P. Grosjean on 7/29/2019. The Court sets a CONFERENCE RE DEFENDANT MUCIO GOMEZ RODRIGUEZ' DETENTION STATUS for 7/29/2019 at 02:30 PM in Courtroom 10 (EPG) before Magistrate Judge Erica P. Grosjean. (Rooney, M) (Entered: 07/29/2019)
07/29/2019	<u>30</u>	ORDER WITHDRAWING UNITED STATES' MOTION TO REVOKE PRE-TRIAL RELEASE ORDER as to Mucio Alejandro Gomez Rodriguez. The August 5, 2019, hearing on the matter is taken off calendar. Order signed by District Judge Dale A. Drozd on 7/29/2019. (Timken, A) (Entered: 07/29/2019)
07/29/2019	<u>31</u>	MINUTES (Text Only) for proceedings before Magistrate Judge Erica P. Grosjean: CONFERENCE RE DETENTION STATUS as to Mucio Alejandro Gomez Rodriguez held on 7/29/2019. Pursuant to notification from defendant's pretrial service officer regarding concern about the third party custodian's ability to serve, the Court held a hearing to discuss same. After argument by the parties, the Court rescinded the order of release issued on 7/26/2019, document 26, with the Court ORDERING DEFENDANT DETAINED. Government Counsel: Katherine Schuh present. Defense Counsel: Galatea DeLapp present. Custody Status: Custody – fully shackled. Court Reporter/CD Number: ECRO. Certified Court Interpreter: Aimee Benavides, Language: Spanish–Oath on File. (Rooney, M) (Entered: 07/29/2019)
07/29/2019	<u>34</u>	DETENTION ORDER signed by Magistrate Judge Erica P. Grosjean on 7/29/2019 as to Mucio Alejandro Gomez Rodriguez. (Rooney, M) (Entered: 07/29/2019)

07/31/2019	<u>35</u>	MINUTES (Text Only) for proceedings before Magistrate Judge Stanley A. Boone: ARRAIGNMENT AND PLEA RE INDICTMENT as to Hector Manuel Gomez Rodriguez (1) Count 1,2,3 and Mucio Alejandro Gomez Rodriguez (2) Count 1,2,3 held on 7/31/2019. Both defendants are advised of the charges and rights, waived reading, NOT GUILTY PLEA ENTERED and denied the forfeiture allegations. The Government provided initial discovery. Discovery shall be produced within 2 weeks from today's hearing. Reciprocal discovery due within 3 weeks from today's hearing. Status Conference set for 12/9/2019 at 01:00 PM in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe. XT Start: 7/31/2019 Stop: 12/9/2019, Time is to be excluded under the Speedy Trial Act in that good cause exists and that the ends of justice outweigh the interest of the public and the defendant in a speedy trial. For the reasons set forth on the record, the continuance requested is granted for good cause and the Court finds the ends of justice outweigh the interest of the public and the defendant in a speedy trial., Excludable started as to Hector Manuel Gomez Rodriguez, Mucio Alejandro Gomez Rodriguez: XT Start: 7/31/2019 Stop: 12/9/2019 Government Counsel: J Gilio for K Schuh present. Defense Counsel: James Homola and V Santos for G DeLapp present. Custody Status: (C) Fully Shackled. Court Reporter/CD Number: ECRO A Timken. Certified Court Interpreter: R Rubenstein, Language: Spanish–Oath on File. (Hernandez, M) (Entered: 08/01/2019)
12/09/2019	<u>36</u>	SUBSTITUTION of ATTORNEY – PROPOSED, submitted by Mucio Alejandro Gomez Rodriguez. (Arredondo, David) (Entered: 12/09/2019)
12/09/2019	<u>37</u>	ORDER GRANTING Substitution of Attorney, signed by Magistrate Judge Barbara A. McAuliffe on 12/9/19. David Arredondo for Mucio Alejandro Gomez Rodriguez (2) in place of attorney Galatea DeLapp. (Marrujo, C) (Entered: 12/09/2019)
12/09/2019	<u>38</u>	MINUTES (Text Only) for proceedings before Magistrate Judge Barbara A. McAuliffe: 1st STATUS CONFERENCE as to Hector Manuel Gomez Rodriguez (1), and Mucio Alejandro Gomez Rodriguez (2) held on 12/9/2019. Attorney Arredondo was retained as counsel for defendant Mucio Alejandro Gomez Rodriguez. Attorney DeLapp agreed to provided discovery. Attorney Homola advised he would be filing a request for Behind the Gavel. Attorney Schuh indicated there was voluminous discovery in the case including large amounts of data. The government provided initial discovery and supplemental discovery was mailed last week. Attorney Arredondo stated he would be filing a motion for bail review on behalf of his client. Parties requested another status conference in March and waived excludable time – So Ordered, 18 USC 3161. <u>2nd STATUS CONFERENCE set for 3/23/2020 at 01:00 PM in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe.</u> Excludable started as to Hector Manuel Gomez Rodriguez, Mucio Alejandro Gomez Rodriguez: XT Start: 12/9/2019 Stop: 3/23/2020. Time is to be excluded under the Speedy Trial Act in that good cause exists and that the ends of justice outweigh the interest of the public and the defendant in a speedy trial. For the reasons set forth on the record, the continuance requested is granted for good cause and the Court finds the ends of justice outweigh the interest of the public and the defendant in a speedy trial. Government Counsel: Katherine Schuh – present. Defense Counsel: James Homola for Dft 1; and Galatea DeLapp and David Arredondo for Dft 2 – present. Custody Status: in Custody (Both Dfts) – present. Court Reporter/CD Number: ECRO – Araceli Gil–Garcia. Certified Court Interpreter: Aimee Benavides, Language: SPANISH–Oath on File. (Valdez, E) (Entered: 12/10/2019)
01/15/2020	<u>39</u>	APPLICATION for Review/Reconsideration of Order Setting Conditions of Release/Detention and Request for Hearing by Mucio Alejandro Gomez Rodriguez (Arredondo, David) (Entered: 01/15/2020)
01/17/2020	<u>40</u>	MINUTE ORDER (TEXT ONLY) signed by Magistrate Judge Erica P. Grosjean on 1/17/2020. The hearing on defendant Mucio Alejandro Gomez Rodriguez' Application for Review/Reconsideration of Order Setting Conditions of Release/Detention, document <u>39</u> , currently noticed for hearing on 1/22/2020 before Magistrate Judge Barbara A. McAuliffe, <u>will now be held on the same day at 10:30 AM in Courtroom 10 (EPG) before Magistrate Judge Erica P. Grosjean.</u> (Rooney, M) (Entered: 01/17/2020)
01/23/2020	<u>41</u>	MINUTES (Text Only) for proceedings before Magistrate Judge Erica P. Grosjean: HEARING RE APPLICATION FOR REVIEW/RECONSIDERATION OF ORDER SETTING CONDITIONS OF RELEASE as to Mucio Alejandro Gomez Rodriguez

		held on 1/23/2020. After argument by the parties, the Court ORDERED DEFENDANT'S APPLICATION DENIED, document 39 . Government Counsel: Katherine Schuh present. Defense Counsel: David Arredondo present. Custody Status: Custody – fully shackled. Court Reporter/CD Number: ECRO – Alice Timken. Certified Court Interpreter: Javier Avelar, Language: Spanish–Oath on File. (Rooney, M) (Entered: 01/23/2020)
02/03/2020	42	STANDING ORDER in Light of Judicial Emergency in the Eastern District of California. (Gonzales, V) (Entered: 02/03/2020)
03/18/2020	43	MINUTE ORDER (TEXT ONLY) In light of the restrictions on entering the Courthouse, and General Orders 610 and 611, the parties are strongly encouraged to continue the status hearing. If not possible to continue, the government's attorney and the defense counsel are encouraged to appear by telephone for the hearing in this matter by calling: dial in number: 1-877-411-9748; access code 3219139. To the extent possible, defense counsel is encouraged to waive their client's appearance. The Court will allow in-court oral waiver of in-custody defendants provided counsel informs Esther Valdez at (559) 499-5788 no later than noon on Friday, March 20. Minute Order signed by Magistrate Judge Barbara A. McAuliffe on 3/18/2020. (Apodaca, P) (Entered: 03/18/2020)
03/18/2020	44	MINUTE ORDER (TEXT ONLY) In light of the restrictions on entering the Courthouse, and General Orders 610 and 611, the parties are strongly encouraged to continue the status hearing. If not possible to continue, the government's attorney and the defense counsel are encouraged to appear by telephone for the hearing in this matter by calling: dial in number: 1-877-411-9748; access code 3219139. To the extent possible, defense counsel is encouraged to waive their client's appearance. The Court will allow in-court oral waiver of in-custody defendants provided counsel informs Esther Valdez at (559) 499-5788 no later than noon on Friday, March 20, 2020. Minute Order signed by Magistrate Judge Barbara A. McAuliffe on 3/18/2020. (Apodaca, P) (Entered: 03/18/2020)
03/18/2020	45	STIPULATION and PROPOSED ORDER for Continuance by USA. (Schuh, Katherine) (Entered: 03/18/2020)
03/19/2020	46	Stipulation regarding excludable time periods under speedy trial act; and Order as to Hector Manuel Gomez Rodriguez (1) and Mucio Alejandro Gomez Rodriguez (2), signed by Magistrate Judge Barbara A. McAuliffe on 3/19/2020. (2nd Status Conference currently set for 3/23/2020 has been CONTINUED to 5/11/2020 at 01:00 PM in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe) Excludable started as to Hector Manuel Gomez Rodriguez and Mucio Alejandro Gomez Rodriguez: XT Start: 3/23/2020 Stop: 5/11/2020. (Rosales, O.) (Entered: 03/19/2020)
05/06/2020	47	STIPULATION and PROPOSED ORDER for Continuance by USA. (Schuh, Katherine) (Entered: 05/06/2020)
05/06/2020	48	STIPULATION and ORDER REGARDING EXCLUDABLE TIME PERIODS UNDER SPEEDY TRIAL ACT as to Hector Manuel Gomez Rodriguez and Mucio Alejandro Gomez Rodriguez. The Status Conference currently set for 5/11/2020 is CONTINUED to 10/13/2020, at 01:00 PM in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe . Time shall be excluded. Order signed by Magistrate Judge Barbara A. McAuliffe on 5/6/2020. (Timken, A) (Entered: 05/06/2020)
09/21/2020	49	MINUTE ORDER (TEXT ONLY): Due to the availability of the conference room at the Fresno County Jail, the status conferences currently held on Mondays at 1:00 pm will be reset to Wednesdays at 1:00 pm. This case is set for a status conference on October 13, 2020. The Court intends to continue the matter to Wednesday, October 14, 2020 at 1:00 pm. Alternatively, the parties may stipulate to a continuance of the status conference, with an appropriate exclusion of time, to a second or fourth Wednesday of the month at 1:00. The stipulation <u>must be filed no later than 5 court days</u> prior to the status conference. Minute order signed by Magistrate Judge Barbara A. McAuliffe on 9/21/2020. (Valdez, E) (Entered: 09/21/2020)
10/05/2020	50	PROPOSED ORDER re Continuance and Excludable Time by USA as to Hector Manuel Gomez Rodriguez, Mucio Alejandro Gomez Rodriguez. (Schuh, Katherine)

		(Entered: 10/05/2020)
10/05/2020	<u>51</u>	STIPULATION and ORDER Regarding Excludable Time Periods Under Speedy Trial Act, as to Hector Manuel Gomez Rodriguez (1), and Mucio Alejandro Gomez Rodriguez (2), signed by Magistrate Judge Barbara A. McAuliffe on 10/5/2020. It is so ordered that the Status Conference is continued from October 13, 2020 to January 13, 2021, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe . Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv). (Valdez, E) (Entered: 10/05/2020)
12/29/2020	<u>52</u>	MINUTE ORDER (TEXT ONLY): This case is set for a status conference on January 13, 2021. At least <u>one week</u> before the hearing the parties shall file a joint status report informing the court of the status of the case, including whether any change of plea is anticipated, a proposed next date for a status conference or change of plea, and whether defendants agree to exclude time to the next date. Alternatively, the parties may stipulate to a continuance of the status conference, with an appropriate exclusion of time. The stipulation must be filed no later than noon on Wednesday, January 6, 2021, so that the Court may have sufficient time to coordinate inmate movement in the jail(s). Minute order signed by Magistrate Judge Barbara A. McAuliffe on 12/29/2020. (Valdez, E) (Entered: 12/29/2020)
01/06/2021	<u>53</u>	STIPULATION and PROPOSED ORDER for Continuance and Excludable Time by USA. (Schuh, Katherine) (Entered: 01/06/2021)
01/06/2021	<u>54</u>	STIPULATION REGARDING EXCLUDABLE TIME PERIODS UNDER SPEEDY TRIAL ACT; FINDINGS AND ORDER signed by Magistrate Judge Barbara A. McAuliffe on 1/06/2021 as to Hector Manuel Gomez Rodriguez and Mucio Alejandro Gomez Rodriguez. IT IS SO ORDERED that the hearing status conference in the above-entitled case shall be continued from January 13, 2021, to April 28, at 1:00 p.m., before the Honorable Barbara A. McAuliffe , for further status conference. The time period through and including April 28, 2021, is deemed excludable pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(i) and (iv) because it results from a continuance granted by the Court at defendant's request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. (Gonzales, V) (Entered: 01/06/2021)
04/13/2021	<u>55</u>	MINUTE ORDER (TEXT ONLY): This case is set for a status conference on April 28, 2021. At least <u>one week</u> before the hearing the parties shall file a joint status report informing the court of the status of the case, including whether any change of plea is anticipated, a proposed next date for a status conference or change of plea, and whether defendants agree to exclude time to the next date. Alternatively, the parties may stipulate to a continuance of the status conference, with an appropriate exclusion of time. The stipulation must be filed no later than noon on Wednesday, April 21, 2021, so that the Court may have sufficient time to coordinate inmate movement in the jail(s). Minute order signed by Magistrate Judge Barbara A. McAuliffe on 4/13/2021. (Valdez, E) (Entered: 04/13/2021)
04/23/2021	<u>56</u>	STIPULATION and PROPOSED ORDER for Continuance and Excludable Time by USA. (Schuh, Katherine) (Entered: 04/23/2021)
04/23/2021	<u>57</u>	STIPULATION and ORDER Regarding Excludable Time Periods Under Speedy Trial Act, as to Hector Manuel Gomez Rodriguez (1), signed by Magistrate Judge Barbara A. McAuliffe on 4/23/2021. It is so ordered that the status conference is continued from April 28, 2021, to September 8, 2021, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe . Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv). (Valdez, E) (Entered: 04/23/2021)
04/23/2021	<u>58</u>	STATUS REPORT by USA as to Mucio Alejandro Gomez Rodriguez. (Schuh, Katherine) (Entered: 04/23/2021)
04/28/2021	<u>59</u>	MINUTES (Text Only) for proceedings held via video conference before Magistrate Judge Barbara A. McAuliffe: STATUS CONFERENCE as to Mucio Alejandro Gomez Rodriguez (2) held on 4/28/2021. The Court noted the hearing was being conducted via video conference pursuant to General Order 614, 620, 624, 628 & 630 and the CARES Act. Defendant and counsel consented to the appearance by video. The Court received and reviewed the status report. Defense counsel confirmed discovery and plea offer were received. Parties requested another status conference and waived excludable

		<p>time – So Ordered, 18 USC 3161. <u>Status Conference set for 9/8/2021 at 01:00 PM in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe.</u> Excludable started as to Mucio Alejandro Gomez Rodriguez (2): XT Start: 4/28/2021 Stop: 9/8/2021. Time is to be excluded under the Speedy Trial Act in that good cause exists and that the ends of justice outweigh the interest of the public and the defendant in a speedy trial. For the reasons set forth on the record, the continuance requested is granted for good cause and the Court finds the ends of justice outweigh the interest of the public and the defendant in a speedy trial. Government Counsel: Justin Gilio for Katherine Schuh – present via zoom. Defense Counsel: David Arredondo – present via zoom. Custody Status: in Custody – present via zoom. Court Reporter/CD Number: Kimberly Bennett. Certified Court Interpreter: Carlos Radillo, Language: SPANISH–Oath on File. (Valdez, E) Modified on 4/28/2021 (Valdez, E). (Entered: 04/28/2021)</p>
08/23/2021	60	MINUTE ORDER (TEXT ONLY): This case is set for a status conference on September 8, 2021. At least <u>one week</u> before the hearing the parties shall file a joint status report informing the court of the status of the case, including whether any change of plea is anticipated, a proposed next date for a status conference or change of plea, and whether defendant agrees to exclude time to the next date. Alternatively, the parties may stipulate to a continuance of the status conference, with an appropriate exclusion of time. The stipulation must be filed no later than noon on Wednesday, September 1, 2021, so that the Court may have sufficient time to coordinate inmate movement in the jail(s). Minute order signed by Magistrate Judge Barbara A. McAuliffe on 8/23/2021. (Valdez, E) (Entered: 08/23/2021)
08/26/2021	61	STIPULATION and PROPOSED ORDER for Continuance and Excludable Time by USA. (Schuh, Katherine) (Entered: 08/26/2021)
08/26/2021	62	STIPULATION and ORDER Regarding Excludable Time Periods Under Speedy Trial Act, as to Hector Manuel Gomez Rodriguez (1), and Mucio Alejandro Gomez Rodriguez (2), signed by Magistrate Judge Barbara A. McAuliffe on 8/26/2021. It is so ordered that the status conference is continued from September 8, 2021, to December 8, 2021, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe. Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv). (Valdez, E) (Entered: 08/26/2021)
11/18/2021	63	MINUTE ORDER (TEXT ONLY): This case is set for a status conference on December 8, 2021. At least <u>one week</u> before the hearing the parties shall file a joint status report informing the court of the status of the case, including whether any change of plea is anticipated, a proposed next date for a status conference or change of plea, and whether defendant agrees to exclude time to the next date. Alternatively, the parties may stipulate to a continuance of the status conference, with an appropriate exclusion of time. However, in any request for a continuance, the parties shall explain when they will be ready to set a trial date. The stipulation must be filed no later than noon on Wednesday, December 1, 2021, so that the Court may have sufficient time to coordinate inmate movement in the jail(s). Minute order signed by Magistrate Judge Barbara A. McAuliffe on 11/18/2021. (Valdez, E) (Entered: 11/18/2021)
12/01/2021	64	STIPULATION and PROPOSED ORDER for Continuance and Excludable Time by USA. (Schuh, Katherine) (Entered: 12/01/2021)
12/02/2021	65	STIPULATION and ORDER Regarding Excludable Time Periods Under Speedy Trial Act, as to Hector Manuel Gomez Rodriguez (1), Mucio Alejandro Gomez Rodriguez (2), signed by Magistrate Judge Barbara A. McAuliffe on 12/1/2021. The request for a continuance is DENIED. The parties have failed to explain in their status report when they will be ready to set a trial date. Accordingly, the parties shall appear at the December 8, 2021 status conference at 1:00 p.m., for the purpose of picking a trial date, in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe with each party connecting remotely either via Zoom video conference or Zoom telephone number. The parties shall be provided with the Zoom ID and password by the Courtroom Deputy prior to the conference. The Zoom ID number and password are confidential and are not to be shared. Appropriate court attire required. Counsel are directed to meet and confer and select a mutually convenient date for trial to be discussed at the next hearing date. (Valdez, E) (Entered: 12/02/2021)

12/08/2021	<u>66</u>	MINUTES (Text Only) for proceedings held via video conference before Magistrate Judge Barbara A. McAuliffe: 2nd STATUS CONFERENCE as to Hector Manuel Gomez Rodriguez (1), and Mucio Alejandro Gomez Rodriguez (2) held on 12/8/2021. Parties made a joint request to set the matter for trial in March 2022. Parties requested a Trial date before Judge Drozd and waived excludable time through trial – So Ordered, 18 USC 3161. JURY TRIAL (5 days) set for 3/29/2022 at 08:30 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. TRIAL CONFIRMATION HEARING set for 3/14/2022 at 9:00 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. Excludable started as to Hector Manuel Gomez Rodriguez (1), and Mucio Alejandro Gomez Rodriguez (2): XT Start: 12/8/2021 Stop: 3/29/2021. Time is to be excluded under the Speedy Trial Act in that good cause exists and that the ends of justice outweigh the interest of the public and the defendant in a speedy trial. For the reasons set forth on the record, the continuance requested is granted for good cause and the Court finds the ends of justice outweigh the interest of the public and the defendant in a speedy trial. Government Counsel: Katherine Schuh – present via zoom. Defense Counsel: James Homola (Dft 1) and David Arredondo (Dft 2) – present via zoom. Custody Status: in Custody (Both Dfts) – present via zoom. Court Reporter/CD Number: Kacy Barajas. Certified Court Interpreter: Javier Avelar, Language: SPANISH (Both Dfts) –Oath on File. (Valdez, E) (Entered: 12/08/2021)
02/09/2022	<u>67</u>	STIPULATION and PROPOSED ORDER for Change of Plea by USA. (Schuh, Katherine) (Entered: 02/09/2022)
02/10/2022	<u>68</u>	STIPULATION and ORDER TO SET CHANGE OF PLEA HEARING as to Hector Manuel Gomez Rodriguez signed by District Judge Dale A. Drozd on 2/9/2022. Change of Plea Hearing set for 2/22/2022 at 09:00 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. (Hernandez, M) (Entered: 02/10/2022)
02/10/2022	<u>69</u>	PLEA AGREEMENT as to Hector Manuel Gomez Rodriguez. Attorney Schuh, Katherine Englander added. (Schuh, Katherine) (Entered: 02/10/2022)
02/22/2022	<u>70</u>	MINUTES (Text Only) for proceedings held via video conference before District Judge Dale A. Drozd: CHANGE of PLEA HEARING as to Hector Manuel Gomez Rodriguez held on 2/22/2022. Hector Manuel Gomez Rodriguez (1) entered GUILTY PLEA on Count 2 of the Indictment. Defendant sworn; advised of the charges, rights and maximum penalties. The matter is referred to probation for preparation of the presentence report. Sentencing set for 5/16/2022 at 08:30 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. Trial confirmation hearing set for 3/14/2022 and Jury trial set for 3/29/2022 as to defendant Hector Manuel Gomez Rodriguez only is VACATED. Government Counsel: Katherine Schuh present. Defense Counsel: James Homola present. Custody Status: (C) defendant present. Court Reporter/CD Number: Karen Hooven. Interpreter Anna Watrous present. (Hernandez, M) (Entered: 02/23/2022)
02/24/2022	<u>71</u>	STIPULATION and PROPOSED ORDER for Setting Change of Plea Hearing by USA. (Schuh, Katherine) (Entered: 02/24/2022)
02/25/2022	<u>72</u>	STIPULATION and ORDER TO SET CHANGE OF PLEA HEARING as to Mucio Alejandro Gomez Rodriguez signed by District Judge Dale A. Drozd on 2/24/2022. Change of Plea Hearing set for 3/14/2022 at 09:00 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. (Hernandez, M) (Entered: 02/25/2022)
03/02/2022	<u>73</u>	PLEA AGREEMENT as to Mucio Alejandro Gomez Rodriguez. This action involves victims and restitution. The US Attorney shall serve the victim restitution spreadsheet on Probation within 14 days of the entry of plea. Attorney Schuh, Katherine Englander added. (Schuh, Katherine) (Entered: 03/02/2022)
03/14/2022	<u>74</u>	MINUTES (Text Only) for proceedings held via video conference before District Judge Dale A. Drozd: CHANGE of PLEA HEARING as to Mucio Alejandro Gomez Rodriguez held on 3/14/2022. Mucio Alejandro Gomez Rodriguez (2). Defendant sworn, advised of the charges, rights and maximum penalties. Defendant pleads guilty to Count 2 of the Indictment. The matter is referred to probation for preparation of the presentence report. Sentencing set for 6/6/2022 at 08:30 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. Appeal rights given. Jury trial set for 3/29/2022 is VACATED. Government Counsel: K. Schuh present. Defense Counsel: David Arredondo present. Custody Status: (C) defendant present. Court Reporter/CD

		Number: Karen Hooven. Certified Court Interpreter: Javier Avelar, Language: Spanish—Oath on File. Probation Officer J. Mora present. (Hernandez, M) (Entered: 03/14/2022)
04/01/2022	<u>75</u>	(TO BE VIEWED BY ASSIGNED COUNSEL ONLY) DISCLOSED PRESENTENCE INVESTIGATION REPORT (DRAFT) as to Hector Manuel Gomez Rodriguez. Informal objections shall not be submitted via CM/ECF and shall be in compliance with the sentencing schedule and pursuant to Local Rule 460. (Nunes, J) (Entered: 04/01/2022)
04/18/2022	<u>76</u>	DESIGNATION of COUNSEL FOR SERVICE. (Montoya, Laurel) (Entered: 04/18/2022)
04/22/2022	<u>77</u>	(TO BE VIEWED BY ASSIGNED COUNSEL ONLY) DISCLOSED PRESENTENCE INVESTIGATION REPORT (DRAFT) as to Mucio Alejandro Gomez Rodriguez. Informal objections shall not be submitted via CM/ECF and shall be in compliance with the sentencing schedule and pursuant to Local Rule 460. (Nunes, J) (Entered: 04/22/2022)
04/22/2022	<u>78</u>	SENTENCING PRESENTENCE INVESTIGATION REPORT (FINAL) as to Hector Manuel Gomez Rodriguez. (Attachments: # <u>1</u> No Objection Letter)(Nunes, J) (Entered: 04/22/2022)
04/28/2022	<u>79</u>	MINUTE ORDER signed by District Judge Dale A. Drozd on 4/28/2022 as to Hector Manuel Gomez Rodriguez: (Text Only Entry) ***TIME CHANGE ONLY*** The Sentencing Hearing will be heard at 9:00 am before District Judge Dale A. Drozd. (Hernandez, M) (Entered: 04/28/2022)
04/28/2022	<u>80</u>	MINUTE ORDER signed by District Judge Dale A. Drozd on 4/28/2022 as to Hector Manuel Gomez Rodriguez: (Text Only Entry) Pursuant to the agreement by the parties the Sentencing hearing is continued from 5/16/2022 to 5/31/2022 at 09:00 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. (Hernandez, M) (Entered: 04/28/2022)
05/16/2022	<u>81</u>	SENTENCING PRESENTENCE INVESTIGATION REPORT (FINAL) as to Mucio Alejandro Gomez Rodriguez. (Attachments: # <u>1</u> No Objection Letter)(Nunes, J) (Entered: 05/16/2022)
05/20/2022	<u>82</u>	SENTENCING MEMORANDUM by Hector Manuel Gomez Rodriguez. (Homola, James) (Entered: 05/20/2022)
05/26/2022	<u>83</u>	SENTENCING MEMORANDUM by USA as to Hector Manuel Gomez Rodriguez. (Montoya, Laurel) (Entered: 05/26/2022)
05/31/2022	<u>84</u>	MINUTE ORDER signed by District Judge Dale A. Drozd on 5/31/2022 as to Mucio Alejandro Gomez Rodriguez: (Text Only Entry) Due to the Court's impacted calendar the Sentencing Hearing set for 6/6/2022 is continued to 6/21/2022 at 09:00 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. (Hernandez, M) (Entered: 05/31/2022)
05/31/2022	<u>85</u>	MINUTES (Text Only) for proceedings held via video conference before District Judge Dale A. Drozd: Sentencing Hearing as to Hector Manuel Gomez Rodriguez held on 5/31/2022. The Court continues the Sentencing hearing to 6/21/2022 at 09:00 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. Government Counsel: Laurel Montoya present. Defense Counsel: James Homola present. Custody Status: (C). Court Reporter/CD Number: Karen Hooven. Certified Court Interpreter: Gloria Hughes, Language: Spanish—Oath on File. (Hernandez, M) (Entered: 06/01/2022)
06/13/2022	<u>86</u>	SENTENCING MEMORANDUM by Hector Manuel Gomez Rodriguez. (Homola, James) (Entered: 06/13/2022)
06/15/2022	<u>87</u>	MINUTE ORDER signed by District Judge Dale A. Drozd on 6/15/2022 as to Mucio Alejandro Gomez Rodriguez: (Text Only Entry) Pursuant to the agreement by the parties the Sentencing hearing is continued from 6/21/2022 to 8/1/2022 at 09:00 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. (Hernandez, M) (Entered: 06/15/2022)

06/21/2022	88	MINUTES (Text Only) for proceedings held via video conference before District Judge Dale A. Drozd: Sentencing Hearing as to Hector Manuel Gomez Rodriguez held on 6/21/2022. The Court continues the Sentencing Hearing for further review of the case. Sentencing is continued to 7/12/2022 at 9:00 am before District Judge Dale A. Drozd. Government Counsel: Laurel Montoya present. Defense Counsel: James Homola present. Custody Status: (C). Court Reporter/CD Number: R Lundy. Certified Court Interpreter: Aimee Benavides, Language: Spanish—Oath on File. (Hernandez, M) (Entered: 06/22/2022)
07/11/2022	89	MINUTE ORDER signed by District Judge Dale A. Drozd on 7/11/2022 as to Hector Manuel Gomez Rodriguez: (Text Only Entry) Sentencing hearing is RESET for 9/26/2022 at 09:00 AM in Courtroom 5 (DAD) before District Judge Dale A. Drozd. (Hernandez, M) (Entered: 07/11/2022)
07/27/2022	90	SENTENCING MEMORANDUM by USA as to Mucio Alejandro Gomez Rodriguez. (Montoya, Laurel) (Entered: 07/27/2022)
07/28/2022	91	SENTENCING MEMORANDUM by Mucio Alejandro Gomez Rodriguez. (Arredondo, David) (Entered: 07/28/2022)
08/01/2022	92	MINUTES (Text Only) for proceedings held via video conference before District Judge Dale A. Drozd: SENTENCING held on 8/1/2022 for Mucio Alejandro Gomez Rodriguez as Count 2, CUSTODY: 41 MONTHS; SPECIAL ASSESSMENT \$100.00; FINE WAIVED: RESTITUTION IN THE AMOUNT OF \$38,746.80; 60 MONTHS SUPERVISED RELEASE (UNSUPERVISED, IF DEPORTED). Notice of Appeal to be filed within 14 days. Appeal rights given. Government dismissed Counts 1 and 3 of the Indictment. DEFENDANT TERMINATED. Government Counsel: Joseph Barton present. Defense Counsel: David Arredondo present. Custody Status: (C). Court Reporter/CD Number: Rachael Lundy. Certified Court Interpreter: Rebecca O'Hanna, Language: Spanish—Oath on File. (Hernandez, M) (Entered: 08/04/2022)
08/05/2022	93	JUDGMENT and COMMITMENT signed by District Judge Dale A. Drozd on 8/5/2022 as to Mucio Alejandro Gomez Rodriguez. (Hernandez, M) (Entered: 08/05/2022)
09/19/2022	94	MINUTE ORDER signed by District Judge Dale A. Drozd on 9/19/2022 as to Hector Manuel Gomez Rodriguez: (Text Only Entry) Sentencing RESET for 9/26/2022 at 02:30 PM in Courtroom 4 (DAD) before District Judge Dale A. Drozd. The parties will be provided with the videoconference information in advanced of the hearing. (Hernandez, M) (Entered: 09/19/2022)
09/26/2022	95	EXHIBIT LIST by USA as to Hector Manuel Gomez Rodriguez. (Montoya, Laurel) (Entered: 09/26/2022)
09/26/2022	96	MINUTES (Text Only) for proceedings held via video conference before District Judge Dale A. Drozd: SENTENCING as to Hector Manuel Gomez Rodriguez (1) held on 9/26/2022. Government witness M. Grate & C. Fouch sworn and testified. Defendant was sworn and testified. Government Exhibits 1, 2, 3, 4, 5, 6, 6a, 6b, 7, 7a, 8, 9, & 9a ADMITTED into evidence. Court made findings and imposed the following sentence— Custody: 120 months as to Count 2; S/A: \$100.00. Fine waived. Restitution order in the amount of \$38,746.80 joint and several with co-defendant and interest waived. S/R: 60 months (unsupervised, if deported) with standard and special conditions as stated on the record. Court recommended an institution as near as possible to Maricopa, Arizona. The government's oral motion to dismiss Count 1 & 3 as to this defendant is granted. Appeal rights given. If already filed, the preliminary order of forfeiture is hereby made final as to this defendant and shall be incorporated into the judgment. DEFENDANT TERMINATED. CASE CLOSED. Government Counsel: Laurel Montoya present. Defense Counsel: James Homola present. U.S. Probation Officer: Jesse Mora. Custody Status: Custody. Court Reporter: Rachael Lundy. Certified Court Interpreter: Rebecca O'Hanna, Language: Spanish—Oath on File. (Rosales, O.) . (Entered: 09/27/2022)
09/30/2022	97	LETTER from Hector Gomez Rodriguez. (Rivera, O) (Entered: 09/30/2022)
10/03/2022	98	Judgment and Commitment as to Hector Manuel Gomez Rodriguez (1), signed by District Judge Dale A. Drozd on 10/3/2022. (Rosales, O.) (Entered: 10/03/2022)

10/05/2022	<u>99</u>	NOTICE of APPEAL by Hector Manuel Gomez Rodriguez. (Homola, James) (Entered: 10/05/2022)
10/05/2022	<u>100</u>	APPEAL PROCESSED to Ninth Circuit re <u>99</u> Notice of Appeal filed by Hector Manuel Gomez Rodriguez. Filed dates for Notice of Appeal *10/5/2022*, Complaint *7/17/2019* andAppealed Order / Judgment *10/3/2022*. ***Fee Status: CJA or IFP granted on 7/18/2019* (Attachments: # <u>1</u> Appeal Information) (Maldonado, C) (Entered: 10/05/2022)
10/05/2022	<u>101</u>	USCA CASE NUMBER 22-10250 for <u>99</u> Notice of Appeal filed by Hector Manuel Gomez Rodriguez. (Maldonado, C) (Entered: 10/05/2022)
10/07/2022	<u>102</u>	USCA ORDER as to <u>99</u> Notice of Appeal filed by Hector Manuel Gomez Rodriguez. <i>The motion of appellant's appointed counsel James R. Homola, Esq., to withdraw and to substitute counsel, is granted.</i> (Maldonado, C) (Entered: 10/07/2022)
10/12/2022	<u>103</u>	ORDER APPOINTING ATTORNEY signed by District Judge Ana de Alba on 10/12/2022 as to Hector Manuel Gomez Rodriguez. <i>Added Attorney David Andrew Schlesinger for Hector Manuel Gomez Rodriguez.</i> (Sant Agata, S) (Entered: 10/12/2022)
10/26/2022	<u>104</u>	TRANSCRIPT REQUEST for proceedings held on 07/17/2019, 07/19/2019, 07/31/2019, 12/09/2019, 12/08/2021, 02/22/2022, 05/31/2022, 06/21/2022, 09/26/2022 before Judge Oberto, Grosjean, Boone, McAuliffe, Drozd. MULTIPLE REPORTERS REQUESTED (Attachments: # <u>1</u> Supplement Attachment to Transcript Designation/Ordering Form)(Schlesinger, David) (Entered: 10/26/2022)
11/01/2022	<u>105</u>	TRANSCRIPT of Proceedings as to Hector Manuel Gomez Rodriguez (1) & Mucio Alejandro Gomez Rodriguez (2) held on <u>7/17/2019</u> , before Magistrate Judge Sheila K. Oberto. INITIAL APPEARANCE RE: CRIMINAL COMPLAINT filed by ECRO, Phone number 559-499-5928 or 559-499-5980, E-mail Fresno_ECRO@caed.uscourts.gov. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 11/28/2022. Redacted Transcript Deadline set for 12/2/2022. Release of Transcript Restriction set for 1/30/2023. (Rosales, O.) (Entered: 11/01/2022)
11/01/2022	<u>106</u>	TRANSCRIPT of Proceedings as to Hector Manuel Gomez Rodriguez (1) & Mucio Alejandro Gomez Rodriguez (2) held on <u>7/19/2019</u> , before Magistrate Judge Erica P. Grosjean. DETENTION HEARING filed by ECRO, Phone number 559-499-5928 or 559-499-5980, E-mail Fresno_ECRO@caed.uscourts.gov. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 11/28/2022. Redacted Transcript Deadline set for 12/2/2022. Release of Transcript Restriction set for 1/30/2023. (Rosales, O.) (Entered: 11/01/2022)
11/01/2022	<u>107</u>	TRANSCRIPT of Proceedings as to Hector Manuel Gomez Rodriguez (1) & Mucio Alejandro Gomez Rodriguez (2) held on <u>7/31/2019</u> , before Magistrate Judge Stanley A. Boone. ARRAIGNMENT AND PLEA RE: INDICTMENT filed by ECRO, Phone number 559-499-5928 or 559-499-5980, E-mail Fresno_ECRO@caed.uscourts.gov. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 11/28/2022. Redacted Transcript Deadline set for 12/2/2022. Release of Transcript Restriction set for 1/30/2023. (Rosales, O.) (Entered: 11/01/2022)
11/01/2022	<u>108</u>	TRANSCRIPT of Proceedings as to Hector Manuel Gomez Rodriguez (1) & Mucio Alejandro Gomez Rodriguez (2) held on <u>12/9/2019</u> , before Magistrate Judge Barbara A. McAuliffe. FIRST STATUS CONFERENCE filed by ECRO, Phone number 559-499-5928 or 559-499-5980, E-mail Fresno_ECRO@caed.uscourts.gov. Transcript may be viewed at the court public terminal or purchased through the Court

		Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 11/28/2022. Redacted Transcript Deadline set for 12/2/2022. Release of Transcript Restriction set for 1/30/2023. (Rosales, O.) (Entered: 11/01/2022)
11/04/2022	<u>109</u>	TRANSCRIPT REQUEST for proceedings held on 07/17/19 and 07/19/19 before Judge OBERTO & GROSJEAN. Court Reporter ECRO-Fresno. (Montoya, Laurel) (Entered: 11/04/2022)
11/17/2022	<u>110</u>	TRANSCRIPT of Proceedings as to Hector Manuel Gomez Rodriguez held on 2-22-22, CHANGE OF PLEA before District Judge Dale A. Drozd, filed by Court Reporter Karen Hooven, Phone number 559-264-0584 E-mail karenhooven@yahoo.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 12/8/2022. Redacted Transcript Deadline set for 12/19/2022. Release of Transcript Restriction set for 2/16/2023. (Hooven, Karen) (Entered: 11/17/2022)
11/17/2022	<u>111</u>	TRANSCRIPT of Proceedings as to Hector Manuel Gomez Rodriguez held on 5-31-22, PROCEEDINGS RE SENTENCING before District Judge Dale A. Drozd, filed by Court Reporter Karen Hooven, Phone number 559-264-0584 E-mail karenhooven@yahoo.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 12/8/2022. Redacted Transcript Deadline set for 12/19/2022. Release of Transcript Restriction set for 2/16/2023. (Hooven, Karen) (Entered: 11/17/2022)
11/23/2022	<u>112</u>	TRANSCRIPT of Proceedings as to Hector Manuel Gomez Rodriguez, Mucio Alejandro Gomez Rodriguez held on December 8, 2021, before Magistrate Judge Barbara A. McAuliffe, filed by Court Reporter Kacy Barajas, E-mail kbarajas.csr@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 12/15/2022. Redacted Transcript Deadline set for 12/27/2022. Release of Transcript Restriction set for 2/23/2023. (Barajas, Kacy) (Entered: 11/23/2022)
12/08/2022	<u>113</u>	TRANSCRIPT of Proceedings as to Hector Manuel Gomez Rodriguez held on 06-21-2022, Sentencing Hearing, before District Judge Dale A. Drozd, filed by Court Reporter Rachael Lundy, Phone number 559-207-1072 E-mail rlundy.csr@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 12/30/2022. Redacted Transcript Deadline set for 1/9/2023. Release of Transcript Restriction set for 3/9/2023. (Lundy, R) (Entered: 12/08/2022)
12/08/2022	<u>114</u>	TRANSCRIPT of Proceedings as to Hector Manuel Gomez Rodriguez held on 09-26-2022, Sentencing Hearing, before District Judge Dale A. Drozd, filed by Court Reporter Rachael Lundy, Phone number 559-207-1072 E-mail rlundy.csr@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction must be filed within 5 court days. Redaction Request due 12/30/2022. Redacted Transcript Deadline set for 1/9/2023. Release of Transcript Restriction set for 3/9/2023. (Lundy, R) (Entered: 12/08/2022)

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

HECTOR MANUEL GOMEZ RODRIGUEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for A Writ of *Certiorari* to The United States Court of Appeals for
the Ninth Circuit**

PROOF OF SERVICE

I, David A. Schlesinger, declare that on March 26, 2024, as required by Supreme Court Rule 29, I served Petitioner Hector Manuel Gomez Rodriguez's MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on counsel for Respondent by depositing an envelope containing the motion and the petition in the United States mail (Priority, first-class), properly addressed to her, and with first-class postage prepaid.

The name and address of counsel for Respondent is as follows:

The Honorable Elizabeth B. Prelogar, Esq.
Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Ave., N.W., Room 5614
Washington, DC 20530-0001
Counsel for Respondent

Additionally, I mailed a copy of the motion and the petition to my client, Petitioner Hector Manuel Gomez Rodriguez, by depositing an envelope containing the documents in the U.S. mail, first-class postage prepaid, and sending it to the following address:

Hector Manuel Gomez Rodriguez
Federal Inmate Register No. 78327-097
USP Lompoc
U.S. Penitentiary
3901 Klein Blvd.
Lompoc, CA 93436

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 26, 2024



DAVID A. SCHLESINGER
Declarant