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U.S. v. Abimael Narvaez-Rosa, 17-622 (FAB)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,
Plaintiff,

CRIMINAL NO. 17-622 (FAB)

v.

[46] ABIMAEI NARVAEZ-ROSA,
AKA "APU",
Defendant.

PLEA AND FORFEITURE AGREEMENT

TO THE HONORABLE COURT:

The United States of America, Defendant, [46] Abimael Narvaez-Rosa and Defendant's counsel, Lydia Lizarribar, Esq., pursuant to Federal Rule of Criminal Procedure 11, state that they have reached a Plea Agreement, the terms and conditions of which are as follows:

1. Charges to which Defendant will Plead Guilty

Defendant agrees to plead guilty to Count One and Count Two of the Indictment.

Count One: Count One of the Indictment charges, in sum and substance, that beginning on a date unknown, but no later than in or about the year 2010, and continuing up to and until the return of the instant Indictment, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant [46] Abimael Narvaez-Rosa, did knowingly and intentionally, combine, conspire and agree with diverse other persons known and unknown to the Grand Jury, to commit an offense against the

United States, that is, to knowingly and intentionally possess with intent to distribute and to distribute controlled substances, to wit: in excess of two hundred and eighty (280) grams of a mixture or substance containing a detectable amount of cocaine base (crack), a Schedule II Narcotic Drug Controlled Substance; in excess of one (1) kilogram of a mixture or substance containing a detectable amount of heroin, a Schedule I, Narcotic Drug Controlled Substance; in excess of five (5) kilograms of a mixture or substance containing a detectable amount of cocaine, a Schedule II, Narcotic Drug Controlled Substance; in excess of one hundred (100) kilograms of a mixture or substance containing a detectable amount of marijuana, a Schedule I, Controlled Substance; within one thousand (1,000) feet of a real property comprising housing facilities owned by a public housing authority, to wit: Virgilio Davila Public Housing Project, Rafael Falin Torrech Public Housing Project, Brisas de Bayamon Public Housing Project, Jardines de Caparra Public Housing Project, Las Gardenias Public Housing Project, La Alambra Public Housing Project, Jose Celso Barbosa Public Housing Project, Los Jeannie Public Housing Project, Alegria Norte Public Housing Project, Jardines de Cataño Public Housing Project, Sierra Linda Public Housing Project, Los Laureles Public Housing Project, Los Dominicos Public Housing Project, Villa Olga Ward, Rio Plantation Ward and El Polvorin Ward and other areas nearby, within the Municipalities of Bayamon, Toa Baja, Cataño, Naranjito, Comerio and Corozal, Puerto Rico, in violation of 21 U.S.C. § 841(a)(1). All in violation of 21 U.S.C. §§ 846 and 860.

Count Two: Count Two of the Indictment charges that beginning on a date unknown, but no later than in or about the year 2010, and continuing up to and until the return of the instant Indictment, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant [46] Abimael Narvaez-Rosa and others, aiding and abetting each other, did knowingly and unlawfully use and carry firearms as that term is defined in 18 U.S.C. § 921(a)(3), during and in relation to a drug trafficking crime as charged in Count One of the instant Indictment. All in violation of 18 U.S.C. § 924(c)(1)(A).

2. Maximum Penalties

Count One: The maximum statutory penalty for the offense charged in Count One of the Indictment, is a term of imprisonment of not less than 10 years and up to 2 terms of life in prison; a fine not to exceed twenty million dollars; and a supervised release term of not less than ten years, pursuant to 21 U.S.C. §§ 841(b)(1)(A), 846, and 860.

Count Two: The defendant acknowledges that the penalties for the offense charged in Count Two of the Indictment, a class A felony under 18 U.S.C. §3559(a)(1) are: pursuant to 18 U.S.C. §924(c), a consecutive term of imprisonment of not less than 5 years and up to life in prison; pursuant to 18 U.S.C. §3571(b)(3) a fine not to exceed \$250,000.00; pursuant to 18 U.S.C. §3583(b)(1) a supervised release term of not more than 5 years.

3. Sentencing Guidelines Applicability

Defendant understands that the sentence will be imposed by the Court in accordance with 18 U.S.C. §§ 3551-86, and the United States Sentencing Guidelines (hereinafter “Guidelines”), which are advisory pursuant to the United States Supreme Court decision in *United States v. Booker*, 543 U.S. 220 (2005). Further, Defendant acknowledges that parole has been abolished, and that the imposition of Defendant’s sentence may not be suspended.

4. Special Monetary Assessment

Defendant agrees to pay a special monetary assessment (“SMA”) of one hundred dollars (\$100.00) per count of conviction. The SMA will be deposited in the Crime Victim Fund, pursuant to 18 U.S.C. § 3013 (a)(2)(A).

5. Fines and Restitution

The Court may, pursuant to Section 5E1.2 of the Guidelines order Defendant to pay a fine. The Court may also impose restitution. Defendant agrees to execute and make available, prior to sentencing, a standardized financial statement (OBD Form 500). The United States will advocate on behalf of any identified victim, and comply with its obligations under the Mandatory Victim Restitution Act of 1996.

6. Sentence to be Determined by the Court

Defendant understands that the sentence to be imposed will be determined solely by the United States District Judge. The United States cannot make and has not made any promise or representation as to what sentence Defendant will receive. Any

discussions that the parties might have had about possible sentences are not binding in any way on the Court, and do not constitute representations about what the parties will seek, or what the actual sentence will be.

7. Recommended Sentencing Guidelines Calculations

After due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), the United States and Defendant submit that the advisory Guidelines calculations listed below apply to Defendant. However, Defendant acknowledges that the Court is not required to accept those recommended Guidelines calculations.

| SENTENCING GUIDELINES CALCULATIONS COUNT ONE 17-622 (FAB) 21 U.S.C. §§841, 846, 860 | | | | | |
|--|------------|-------------|------------|-----------|------------|
| Base Offense Level pursuant to U.S.S.G. §§ 2A1.1(a), 2D1.1(d)(1) | | | | | 43 |
| Acceptance of Responsibility pursuant to U.S.S.G. §3E1.1 | | | | | -3 |
| TOTAL ADJUSTED OFFENSE LEVEL | | | | | 40 |
| CH Cat. I | CH Cat. II | CH Cat. III | CH Cat. IV | CH Cat. V | CH Cat. VI |
| 292-365 | 324-405 | 360-life | 360-life | 360-life | 360-life |

As to Count Two of the Indictment, and pursuant to the United States Sentencing Guidelines §2K2.4(b), a defendant that is convicted of violating 18 U.S.C. §924(c)(1)(A)(i), has a guideline sentence equal to the minimum term of imprisonment required by statute. In the present case, pursuant to 18 U.S.C. §924(c)(1)(A)(i), there is a minimum term of imprisonment of sixty (60) months to be served consecutively to any other sentence.

8. Sentence Recommendation

After due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), the parties agree:

to recommend a sentence of imprisonment of 120 months as to Count One of the Indictment;

to recommend a sentence of imprisonment of 96 months as to Count Two of the Indictment to be served consecutively to any other sentence imposed, for a total sentence in criminal case 17-622 (FAB) of 216 months of imprisonment.

The parties agree that the defendant's sentencing recommendation constitutes a variance sentence.

9. No Stipulation as to Criminal History Category

The parties do not stipulate as to any Criminal History Category for Defendant.

10. Waiver of Appeal

Defendant knowingly and voluntarily agrees that, if the imprisonment sentence imposed by the Court is 216 months or less, Defendant waives the right to appeal any aspect of this case's judgment and sentence, including, but not limited to the term of imprisonment or probation, restitution, fines, forfeiture, and the term and conditions of supervised release.

11. No Further Adjustments or Departures

The United States and Defendant agree that no further adjustments or departures to Defendant's total adjusted base offense level and no variant sentence under 18

U.S.C. § 3553—other than any explicitly provided for in this Plea Agreement—shall be sought by Defendant. The parties agree that any request by Defendant for an adjustment or departure that is not explicitly provided for in this Plea Agreement will be considered a material breach of this Plea Agreement, and the United States will be free to ask for any sentence, either guideline or statutory.

12. Satisfaction with Counsel

Defendant is satisfied with counsel, Lydia Lizarribar, Esq., and asserts that counsel has rendered effective legal assistance.

13. Rights Surrendered by Defendant Through Guilty Plea

Defendant understands that by entering into this Plea Agreement, Defendant surrenders and waives certain rights as detailed in this agreement. Defendant understands that the rights of criminal defendants include the following:

- a. If Defendant had persisted in a plea of not guilty to the charges, Defendant would have had the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if Defendant, the United States and the judge agree.
- b. If a jury trial is conducted, the jury would be composed of twelve lay persons selected at random. Defendant and Defendant's attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree, unanimously, before it could return a verdict of either guilty or not guilty. The jury would be instructed that Defendant is presumed innocent, that it could not convict Defendant unless, after hearing all the evidence, it was persuaded of Defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately.
- c. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately,

determine whether or not the evidence established Defendant's guilt beyond a reasonable doubt.

- d. At a trial, the United States would be required to present its witnesses and other evidence against Defendant. Defendant would be able to confront those witnesses and Defendant's attorney would be able to cross-examine them. In turn, Defendant could present witnesses and other evidence on Defendant's own behalf. If the witnesses for Defendant would not appear voluntarily, Defendant could require their attendance through the subpoena power of the Court.
- e. At a trial, Defendant could rely on the privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from Defendant's refusal to testify. If Defendant desired to do so, Defendant could testify on Defendant's own behalf.

14. Stipulation of Facts

The accompanying Stipulation of Facts signed by Defendant is hereby incorporated into this Plea Agreement. Defendant adopts the Stipulation of Facts and agrees that the facts therein are accurate in every respect. Defendant agrees and accepts that had the matter proceeded to trial, the United States would have proven those facts beyond a reasonable doubt.

15. Limitations of Plea Agreement

This Plea Agreement binds only the United States Attorney's Office for the District of Puerto Rico and Defendant. It does not bind any other federal district, state, or local authorities.

16. Entirety of Plea Agreement

This written agreement constitutes the complete Plea Agreement between the United States, Defendant, and Defendant's counsel. The United States has made no

promises or representations except as set forth in writing in this Plea Agreement and denies the existence of any other terms and conditions not stated herein.

17. Amendments to Plea Agreement

No other promises, terms or conditions will be entered into between the parties unless they are in writing and signed by all parties.

18. Dismissal of Remaining Counts

At sentencing should there be any pending counts and should the Defendant comply with the terms of this Plea Agreement, the United States will move to dismiss the remaining counts of the Indictment pending against Defendant in this case.

19. Voluntariness of Plea Agreement

Defendant acknowledges that no threats have been made against Defendant and that Defendant is pleading guilty freely and voluntarily because Defendant is guilty.

20. Breach and Waiver

Defendant agrees that defendant will have breached this Plea Agreement if, after entering into this Plea Agreement, Defendant: (a) fails to perform or to fulfill completely each and every one of Defendant's obligations under this Plea Agreement; (b) engages in any criminal activity prior to sentencing; or (c) attempts to withdraw Defendant's guilty plea. In the event of such a breach, the United States will be free from its obligation under this Plea Agreement and Defendant will not have the right to withdraw the guilty plea. Moreover, Defendant agrees that if Defendant is in breach of the Plea Agreement, Defendant is deemed to have waived any objection to the

reinstatement of any charges under the Indictment, Information, or complaint which may have previously been dismissed or which may have not been previously prosecuted.

21. Potential Impact on Immigration Status

Pursuant to Federal Rule of Criminal Procedure 11(b)(1)(O), Defendant hereby agrees and recognizes that if convicted, a Defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

22. Felony Conviction

Defendant hereby agrees and recognizes that the plea of guilty in this case will be recognized as a felony conviction, which will result in the loss of certain rights, including but not limited to the right to vote in a federal election, to serve as a juror, to hold public office, and to lawfully possess a firearm.

23. Firearms and Ammunition Forfeiture

Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), Defendant agrees to forfeit Defendant's rights and interest any firearms and ammunition involved or used in the commission of the offense.

24. Forfeiture Provision

Defendant agrees to waive and forgo any interests or claims over any drug proceeds or substitute assets for that amount, which constitutes or is derived from proceeds

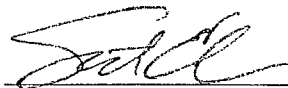
generated or traceable to the drug trafficking offense in violation of 21 U.S.C. §§841, 846 and 860.

Defendant further agrees to waive all interest in any such asset in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. Defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Defendant acknowledges that the forfeiture of assets is part of the sentence that may be imposed in this case and waives any failure by the court to advise Defendant of this, pursuant to Rule 11(b)(1)(J), at the time Defendant's guilty plea is accepted.

Defendant further agrees to waive all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. Defendant agrees to take all steps as requested by the United States to pass clear title to forfeitable assets to the United States, and to testify truthfully in any judicial forfeiture proceeding. Defendant acknowledges that all property covered by this agreement is subject to forfeiture as proceeds of illegal conduct, giving rise to forfeiture and/or substitute assets for property otherwise subject to forfeiture.

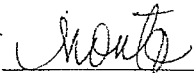
Defendant, by agreeing to the forfeiture stated above, acknowledges that such forfeiture is not grossly disproportionate to the gravity of the offense conduct to which Defendant is pleading guilty. Defendant agrees that the forfeiture provisions of this Plea Agreement are intended to and will survive Defendant, notwithstanding the abatement of any underlying criminal conviction after the execution of this agreement. The forfeitability of any particular property pursuant to this agreement shall be determined as if Defendant had survived, and that determination shall be binding upon Defendant's heirs, successors and assignees until the agreed forfeiture, including any agreed money judgment, is collected in full.

W. STEPHEN MULDROW
United States Attorney



Seth A. Erbe
Assistant U.S. Attorney
Chief, Financial Fraud &
Public Corruption Section
Dated: 5/10/2021

Lydia Lizarribar, Esq.
Counsel for Defendant
Dated: _____



María L. Montañez-Concepción
Assistant U.S. Attorney
Dated: May. 7. 2021

Abimael Narvaez-Rosa
Defendant
Dated: _____

TRH

UNDERSTANDING OF RIGHTS

I have consulted with counsel and fully understand all of my rights as to the charges pending against me. Further, I have consulted with my attorney and fully understand my rights as to the provisions of the Guidelines that may apply in my case. I have read this Plea Agreement and carefully reviewed every part of it with my attorney. My counsel has translated the Plea Agreement to me in the Spanish language and I have no doubts as to the contents of the agreement. I fully understand this agreement and voluntarily agree to it.

Date: _____

Abimael Narvaez-Rosa
Defendant

I am the attorney for Defendant. I have fully explained Defendant's rights to Defendant with respect to the pending charges. Further, I have reviewed the applicable provisions of the Guidelines and I have fully explained to Defendant the provisions of those Guidelines that may apply in this case. I have carefully reviewed every part of this Plea Agreement with Defendant. I have translated the Plea Agreement and explained it in the Spanish language to the Defendant who has expressed having no doubts as to the contents of the agreement. To my knowledge, Defendant is entering into this Plea Agreement voluntarily, intelligently, and with full knowledge of all consequences of Defendant's plea of guilty.

Date: _____

Lydia Lizarribar
Counsel for Defendant

STIPULATION OF FACTS

In conjunction with the submission of the accompanying Plea Agreement in this case, the Defendant [46] Abimael Narvaez-Rosa admits that Defendant is guilty as charged in the Indictment and admits the following:

Beginning on a date unknown, but no later than in or about the year 2010, and continuing up to and until the return of the instant Indictment, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant herein, did knowingly and intentionally, combine, conspire and agree with diverse other persons known and unknown to the Grand Jury, to commit an offense against the United States, that is, to knowingly and intentionally possess with intent to distribute and to distribute controlled substances, to wit: in excess of two hundred and eighty (280) grams of a mixture or substance containing a detectable amount of cocaine base (crack), a Schedule II Narcotic Drug Controlled Substance; in excess of one (1) kilogram of a mixture or substance containing a detectable amount of heroin, a Schedule I, Narcotic Drug Controlled Substance; in excess of five (5) kilograms of a mixture or substance containing a detectable amount of cocaine, a Schedule II, Narcotic Drug Controlled Substance; in excess of one hundred (100) kilograms of a mixture or substance containing a detectable amount of marijuana, a Schedule I, Controlled Substance; within one thousand (1,000) feet of a real property comprising housing facilities owned by a public housing authority, to wit: Virgilio Davila Public Housing Project, Rafael Falin Torrech Public Housing Project, Brisas de Bayamon Public Housing Project, Jardines de Caparra Public Housing Project, Las Gardenias Public Housing Project,

La Alambra Public Housing Project, Jose Celso Barbosa Public Housing Project, Los Jeannie Public Housing Project, Alegria Norte Public Housing Project, Jardines de Cataño Public Housing Project, Sierra Linda Public Housing Project, Los Laureles Public Housing Project, Los Dominicos Public Housing Project, Villa Olga Ward, Rio Plantation Ward and El Polvorin Ward and other areas nearby, within the Municipalities of Bayamon, Toa Baja, Cataño, Naranjito, Comerio and Corozal, Puerto Rico, in violation of 21 U.S.C. § 841(a)(1). All in violation of 21 U.S.C. §§846 and 860.

The object of the conspiracy was to distribute controlled substances at the Virgilio Davila Public Housing Project, Rafael Falin Torrech Public Housing Project, Brisas de Bayamon Public Housing Project, Jardines de Caparra Public Housing Project, La Gardenias Public Housing Project, La Alambra Public Housing Project, Jose Celso Barbosa Public Housing Project, Los Jeannie Public Housing Project, Alegria Norte Public Housing Project, Jardines de Cataño Public Housing Project, Sierra Linda Public Housing Project, Los Laureles Public Housing Project, Los Dominicos Public Housing Project, Villa Olga Ward, Rio Plantation Ward and El Polvorin Ward and other areas nearby, within the Municipalities of Bayamon, Toa Baja, Cataño, Naranjito, Comerio and Corozal, Puerto Rico, all for significant financial gain and profit.

Defendant [46] Abimael Narvaez-Rosa acted as a runner, enforcer and drug point owner for the drug trafficking organization of Los Menores. As a runner he was responsible for providing sufficient narcotics to the sellers for further distribution at the

drug points. He was also responsible for collecting the proceeds of the drug sales and paying the street sellers. The defendant would also supervise and make sure that there were street sellers for every shift of the drug points; made schedules and prepared ledgers to maintain accountability of the sales of the narcotics sold at the drug points. At various times, he would be responsible for recruiting street sellers and additional runners. The runners had a supervisory role within the conspiracy, as they would directly supervise, on a daily basis, the activities of multiple sellers and the daily activities of the drug points.


As a drug point owner, the defendant supervised the operations of the drug points located in the areas controlled by Los Menores. Defendant Abimael Narvaez-Rosa would also often act as an enforcer for Los Menores drug trafficking organization. As an enforcer, he would use and carry firearms during and in relation to the drug trafficking activities and would allow other members of the conspiracy to carry and use firearms during and in relation to the drug trafficking activities. He also participated in violent acts to further the drug trafficking activities. On or about March 2, 2015, the defendant along other persons, aiding and abetting each other, did knowingly use and carry a firearm with an unknown serial number, during and in relation to a drug trafficking crime for which they may be prosecuted in a Court of the United States, and in the course of that crime did cause the death of Nelson R. troche-Rivera, aka "Negro", through the use of a firearm, which killing is a murder as defined in 18 U.S.C. § 1111.

The defendant acknowledges that during the span of the conspiracy, he possessed

with intent to distribute in excess of two hundred and eighty (280) grams of cocaine base (crack), a Schedule II Narcotic Drug Controlled Substance; in excess of one (1) kilogram of heroin, a Schedule I, Narcotic Drug Controlled Substance; in excess of five (5) kilograms of cocaine, a Schedule II, Narcotic Drug Controlled Substance; in excess of one hundred (100) kilograms of marijuana, a Schedule I, Controlled Substance; within one thousand (1,000) of the aforementioned public housing projects.

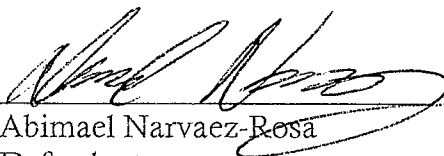
Had this matter proceeded to trial, the United States would have presented evidence through the testimony of witnesses as well as physical evidence and documentary evidence, which would have proven beyond a reasonable doubt Defendant's guilt as to Count One and Two of the Indictment.

Discovery was timely made available to Defendant for review.



María L. Montañez-Concepción
Assistant U.S. Attorney
Dated: May 7, 2021

Lydia Lizarribar, Esq.
Counsel for Defendant
Dated: _____



Abimael Narvaez-Rosa
Defendant
Dated: _____

APPENDIX "B"

United States Court of Appeals For the First Circuit

No. 22-1237

UNITED STATES,

Appellee,

v.

ABIMAEL NARVAEZ-ROSA, a/k/a Apu,

Defendant - Appellant.

Before

Barron, Chief Judge,
Kayatta and Montecalvo, Circuit Judges.

JUDGMENT

Entered: June 12, 2024

Defendant-Appellant Abimael Narvaez-Rosa pleaded guilty to conspiracy to possess with intent to distribute and to distribute various controlled substances within 1,000 feet of a public housing facility in violation of 21 U.S.C. §§ 841(a)(1), 846, and 860 and to use and carry of firearms during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A). Narvaez-Rosa received prison terms of 180 months and a consecutive 80 months on the two counts, respectively. He now appeals his sentence. After careful review of the parties' briefs and the relevant portions of the record, we affirm. See United States v. Melendez-Hiraldo, 82 F.4th 48, 53 (1st Cir. 2023) (standard of review).

We first reject Narvaez-Rosa's claims of procedural sentencing error. Contrary to his intimation, the district court was not required either to accept the joint recommendation in the parties' plea agreement, see Fed. R. Crim. P. 11(c)(1)(B), or "to explain its decision not to adopt [the] joint recommendation," Melendez-Hiraldo, 82 F.4th at 55. Nor do we see any error in the court's weighing of the applicable sentencing factors in this case. See United States v. García-Pérez, 9 F.4th 48, 52 (1st Cir. 2021) (explaining that "the weighing of [18 U.S.C. § 3553(a)] factors is largely within the court's informed discretion" (quoting United States v. Clogston, 662 F.3d 588, 593 (1st Cir. 2011))).

Additionally, while the district court's explanation for its sentence was somewhat boilerplate, it was not plainly inadequate under the specific circumstances of this case. We can fairly infer that the upward variance on the firearms count reflected Narvaez-Rosa's involvement in a shooting that resulted in an individual's death, the aggregate 260-month sentence was a significant downward variance from even the guideline sentencing range for the drug trafficking count alone, and the parties jointly recommended a longer sentence on the firearms count than the court ultimately imposed. See United States v. Flores-Nater, 62 F.4th 652, 656-57 (1st Cir. 2023) (noting that "[t]here are some instances in which a court's rationale may be teased from the sentencing record" and that "[t]he defendant's agreement to" an above-guideline sentence "could be construed as an admission on his part that an upward variance of that length was appropriate").

We also conclude that the aggregate 260-month prison term is substantively reasonable. See United States v. Sansone, 90 F.4th 1, 9-10 (1st Cir.) (discussing substantive reasonableness principles), cert. denied, No. 23-7184 (U.S. May 13, 2024). Narvaez-Rosa played a supervisory role in a violent drug trafficking organization, used and carried firearms to further the organization's operations, and was involved in a murder in connection with his drug trafficking activities. The record reflects a plausible rationale for the sentence and, given these aspects of the offense conduct, the 260-month prison term is within the range of reasonable outcomes.

Lastly, the district court's typographical error regarding a USSG §5K2.23 downward departure in its statement of reasons does not throw any doubt on the basis for Narvaez-Rosa's sentence.

Affirmed. See 1st Cir. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

Jose Capo-Iriarte
Mariana E. Bauza Almonte
Teresa S. Zapata-Valladares
Maria L. Montanez-Concepcion
Vanessa Elsie Bonhomme
Maarja Tiganik Luhtaru
David Christian Bornstein
Lydia J. Lizarribar-Masini
Abimael Narvaez-Rosa

APPENDIX C

UNITED STATES DISTRICT COURT

District of Puerto Rico

UNITED STATES OF AMERICA

v.

Abimael NARVAEZ-ROSA

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:17-CR-0622-046 (FAB)

USM Number: 52812-069

Lydia Lizarribar, Esq.

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One (1) and Two (2) on October 26, 2021.☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| <u>Title & Section</u> | <u>Nature of Offense</u> | <u>Offense Ended</u> | <u>Count</u> |
|---------------------------------------|---|----------------------|--------------|
| 21 USC § 841(b)(1)(C), 846 and 860 | Conspiracy to possess with the intent to distribute controlled substances within 1,000 feet of a protected location. | 12/8/2017 | One (1) |
| 18 USC § 924(c)(1)(A)(i) | Using and Carrying a Firearm in Relation to a Drug Trafficking Crime. | 12/8/2017 | Two (2) |

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☒ Count(s) Six (6) ☒ is ☐ are dismissed on the motion of the United States.

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

3/3/2022

Date of Imposition of Judgment

/S/ FRANCISCO A. BESOSA

Signature of Judge

FRANCISCO A. BESOSA, U.S. DISTRICT JUDGE

Name and Title of Judge

3/3/2022

Date