

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JOHNNY-JOE FIGUEROA-MANGUAL,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent

**ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

APPENDIX I

/s/ Rafael Anglada-López
Rafael Anglada-López, Esq.
U.S.D.C. - P.R. Bar No. 202508
P.O. Box 194886
San Juan, Puerto Rico 00919
Telephone Number: (787) 525-1981
Email: angladalr@yahoo.com

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UNITED STATES DISTRICT COURT

for the

District of Puerto Rico

United States of America

v.

Case No.

23-1155 (M)

Johnny Joe FIGUEROA-MANGUAL

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 25, 2023 in the county of — in the
District of Puerto Rico, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 922(g)(1)	Prohibited Person in Possession of a Firearm and Ammunition
21 U.S.C. § 841(a)(1)	Possession with Intent to Distribute
18 U.S.C. § 924(c)	Possession of a Firearm in Furtherance of a Drug Trafficking Crime

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT.

Reviewed by: AUSA Suárez

The United States requests temporary detention pending preliminary hearing and detention hearing.

 Continued on the attached sheet.


Complainant's signature

Ivys Rosado-Diaz, ATF Special Agent

Printed name and title



Judge's signature

Hon. Marshal D. Morgan, Magistrate Judge

Printed name and title

Sworn to me by phone in accordance with the requirements of

Fed. R. Crim. P. 4.1 at 9:51 AM onDate: 10/21/23City and state: San Juan, Puerto Rico

**AFFIDAVIT IN SUPPORT OF
A CRIMINAL COMPLAINT**

I, **Ivys Rosado-Diaz**, being first duly sworn, hereby depose and state as follows:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and have been so since May of 2015. I am a graduate of the Federal Law Enforcement Training Center, and the ATF National Academy in Glynco, GA. Prior to my employment with ATF, I was a Robbery Criminal Investigator for the Police of Puerto Rico, assigned to the ATF Task Force for approximately two years and six months. In total, I have approximately nineteen years of law enforcement experience, twelve as a Puerto Rico Police Agent and seven as an ATF Special Agent. I have received training in crime scene investigations, and the identification and management of evidence. I have a bachelor's degree and a master's degree in criminal justice. I also have a Ph.D in Public Service Leadership from Capella University in Minneapolis, MN.

2. Your affiant is an "an investigative or law enforcement officer of the United States" within the meaning of Section 2510 (7) of Title 18, United States Code. Your affiant is, therefore, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, the offenses enumerated in Section 2516 of Title 18, United States Code.

3. During my employment with the ATF, I have participated in weapons and narcotics investigations along with senior experienced SA's and Task Force Agents (TFAs). These investigations involved the unlawful possession of firearms, as well as importation, exportation, manufacture, possession with intent to distribute and distribution of narcotics (including cocaine, heroin, and crack cocaine, among other narcotics), and conspiracies associated with narcotics

offenses. I also have vast experience in violent crime investigations, to include homicides, robberies, home invasions, and carjackings.

4. Based on the facts below, the undersigned affiant believes there is probable cause to charge **Johnny Joe FIGUEROA-MANGUAL** with violations of 18 U.S.C. § 922(g)(1) (prohibited person in possession of a firearm and ammunition), 21 U.S.C. § 841(a)(1) (possession with intent to distribute), and 18 U.S.C. § 924(c)(1)(A)(i) (possession of firearm in furtherance of drug trafficking crime).

5. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all my knowledge about this matter.

FACTS IN SUPPORT OF PROBABLE CAUSE

6. On September 25, 2023, Puerto Rico Police Bureau (PRPB) Agents assigned to the ShotSpotter Unit in San Juan were patrolling on Aldea St. in Santurce, Puerto Rico. Agents observed a red Nissan Kick, bearing Puerto Rico license plate JBE-205 with an expired registration parked on the side of the road. PRPB Agents approached the vehicle and observed in plain view what appeared to be drug paraphernalia and a plastic vial with white powder that appeared to be cocaine.

7. PRPB Agents stated that while they were near the vehicle, a male subject approached the Nissan Kick and during a brief conversation, the male subject claimed ownership of the Nissan Kick. However, the male subject did not give his personal information to the PRPB Agents and left the area in another car. PRPB Agents then queried the license plate and learned

that the vehicle was registered to **Johnny Joe FIGUEROA-MANGUAL**, resident of Bayamon, Puerto Rico.

8. PRPB K-9 Blizzard responded to the scene, alerting positive to the presence of narcotics inside the vehicle. PRPB Agents sealed the vehicle and towed it to a secure location. On September 26, 2023, PRPD Agents executed the search warrant and seized the following from the vehicle, but not limited to:

- a. One (1) Glock pistol, model 17, 9mm caliber, serial number BPSC804, with automatic conversion device installed "Chip"
- b. One (1) Glock pistol, model 23, .40-caliber, serial number TDU264 with automatic conversion device installed "Chip".
- c. One (1) Glock pistol, model 30, .45-caliber, serial number UWN772.
- d. Thirty (30) rounds of .45-caliber ammunition.
- e. Thirty-Three (33) rounds of 9mm caliber ammunition.
- f. Ninety-Six rounds of .40-caliber ammunition.
- g. Twenty (20) rounds of 7.62x39 caliber ammunition.
- h. Seven (7) pistol magazines.
- i. Nine Hundred Four (904) decks of substance that field tested positive to heroin.
- j. One Hundred Twenty-Eight (128) vials with white powdery substance that field tested positive to cocaine.
- k. Four (4) plastic vials with green leaf substance that field tested positive to marijuana.

9. PRPB Agents continued the investigation and visited the address of **Johnny Joe FIGUEROA-MANGUAL** in Bayamon, where Agents identified **FIGUEROA-MANGUAL** as the same person that they encountered the previous day and spoke to the morning of September 25, and who claimed to be the owner of the vehicle. **FIGUEROA-MANGUAL** was summoned to appear at the local prosecutors office on October 20, 2023, and he appeared with his legal counsel. No statements were given by **FIGUEROA-MANGUAL** to Agents.

10. ATF Agents reviewed criminal justice database documents that revealed that **Johnny Joe FIGUEROA-MANGUAL** has been convicted of crimes punishable by more than one year of imprisonment and was sentenced to prison terms in excess of one year. Moreover, he served a five-year term of probation at the Puerto Rico state level for a firearms offense.

11. Furthermore, an ATF Special Agent preliminary determined that the firearm and ammunition seized affected, and/or, traveled in interstate or foreign commerce.

[INTENTIONALLY LEFT BLANK]

CONCLUSION

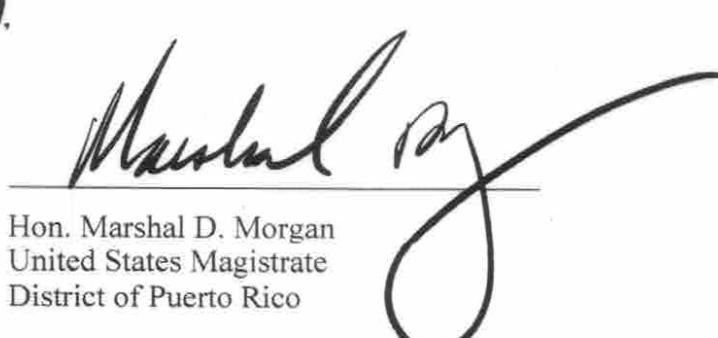
12. Based on the above facts, the undersigned affiant believes there is probable cause to charge **Johnny Joe FIGUEROA-MANGUAL** with violations of 18 U.S.C. § 922(g)(1) (prohibited person in possession of a firearm and ammunition), 21 U.S.C. § 841(a)(1) (possession with intent to distribute), and 18 U.S.C. § 924(c)(1)(A)(i) (possession of firearm in furtherance of drug trafficking crime).

Affiant hereby declares that the foregoing is true and correct to the best of Affiant's knowledge pursuant to the investigation conducted in this matter.

Ivys J. Rosado-Diaz

Ivys J. Rosado-Diaz
Special Agent
Bureau of Alcohol, Tobacco,
Firearms and Explosives (ATF)

Sworn in accordance with FRCP 4.1 by telephone in San Juan, Puerto Rico on the 21st day of
October of 2023 @ 9:51 AM.


Hon. Marshal D. Morgan
United States Magistrate
District of Puerto Rico

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US DISTRICT COURT
SAN JUAN, PR
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,
Plaintiff

v.

Johnny Joe FIGUEROA-MANGUAL,
Defendant.

INDICTMENT

CRIMINAL NO. 23-390 (FAB)

VIOLATIONS:

18 U.S.C. § 924(c)(1)(A)(i)
21 U.S.C. § 841(a)(1)
18 U.S.C. § 922(g)(1)

FORFEITURE

18 U.S.C. § 924(d)(1)
28 U.S.C. § 2461(c)

FIVE COUNTS

THE GRAND JURY CHARGES:

COUNT ONE

Possession of a Firearm in Furtherance of a Drug-trafficking Crime
(18 U.S.C. § 924(c)(1)(A)(i))

On or about September 25, 2023, in the District of Puerto Rico, and within the jurisdiction
of this Court, the defendant,

Johnny Joe FIGUEROA-MANGUAL,

did knowingly possess a firearm -- to wit: (1) a 9mm caliber Glock pistol model 17 bearing serial
number BPSC804, (2) a .40 caliber Glock pistol model 23 bearing serial number TDU264, and
(3) a .45 caliber Glock pistol model 30 bearing serial number UWN772 -- in furtherance of a
drug-trafficking crime for which he may be prosecuted in a court of the United States, that is, --
possession with intent to distribute controlled substances, contrary to Title 21, United States Code,
Section 841(a)(1). All in violation of Title 18, United States Code, Section 924(c)(1)(A)(i).

*United States v. Johnny Joe Figueroa-Mangual
Indictment*

COUNT TWO

Possession with intent to distribute heroin
(21 U.S.C. § 841(a)(1), (b)(1)(C))

On or about September 25, 2023, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant,

Johnny Joe FIGUEROA-MANGUAL,

did knowingly and intentionally possess with intent to distribute a measurable amount of a mixture or substance containing a detectable amount of heroin, a Schedule I narcotic controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C).

COUNT THREE

Possession with intent to distribute cocaine
(21 U.S.C. § 841(a)(1), (b)(1)(C))

On or about September 25, 2023, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant,

Johnny Joe FIGUEROA-MANGUAL,

did knowingly and intentionally possess with intent to distribute a measurable amount of a mixture or substance containing a detectable amount of cocaine, a Schedule II narcotic controlled substance. All in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C).

*United States v. Johnny Joe Figueroa-Mangual
Indictment*

COUNT FOUR

Possession with intent to distribute marihuana
(21 U.S.C. §§ 841(a)(1), (b)(1)(D))

On or about September 25, 2023, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant,

Johnny Joe FIGUEROA-MANGUAL,

did knowingly and intentionally possess with intent to distribute a measurable amount of a mixture or substance containing a detectable amount of marihuana, a Schedule I controlled substance. All in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(D).

COUNT FIVE

Prohibited Person in Possession of a Firearm and Ammunition: Felon
(18 U.S.C. § 922(g)(1))

On or about September 25, 2023, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant,

Johnny Joe FIGUEROA-MANGUAL,

knowing he had been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess in or affecting commerce a firearm and ammunition -- to wit: (1) a 9mm caliber Glock pistol model 17 bearing serial number BPSC804, (2) a .40 caliber Glock pistol model 23 bearing serial number TDU264, (3) a .45 caliber Glock pistol model 30 bearing serial number UWN772, (4) 30 rounds of .45 caliber ammunition, (5) 33 rounds of 9mm caliber ammunition, (6) 96 rounds of .40 caliber ammunition, and (7) 20 rounds of 7.62x39mm caliber ammunition -- said firearm and ammunition having been shipped and transported in interstate and

United States v. Johnny Joe Figueroa-Mangual
Indictment
foreign commerce. All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(8).

FIREARMS FORFEITURE ALLEGATION
(18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c))

The allegations contained in Count One and Count Five of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c).

Upon conviction of one or more of the offenses alleged in Count One and Count Five of this Indictment, defendant **Johnny Joe FIGUEROA-MANGUAL** shall forfeit to the United States pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), any firearms and ammunition involved or used in the commission of those offenses and any firearms, ammunition, and ammunition magazines seized in this case, including but not limited to (1) a 9mm caliber Glock pistol model 17 bearing serial number BPSC804, (2) a .40 caliber Glock pistol model 23 bearing serial number TDU264, (3) a .45 caliber Glock pistol model 30 bearing serial number UWN772, (4) 30 rounds of .45 caliber ammunition, (5) 33 rounds of 9mm caliber ammunition, (6) 96 rounds of .40 caliber ammunition, (7) 20 rounds of 7.62x39mm caliber ammunition, and (8) seven pistol ammunition magazines. All pursuant to Title 18, United States Code, Section 924(d)(1), and Title 28, United States Code, Section 2461(c).

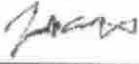
United States v. Johnny Joe Figueroa-Mangual
Indictment

TRUE BILL.

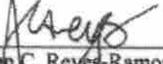
[Redacted]
FOREPERSON

Date: 10/25/23

W. STEPHEN MULDROW
United States Attorney



Jonathan L. Gottfried
Assistant United States Attorney
Chief, Violent Crimes and
National Security Division



Juan C. Reyes-Ramos
Assistant United States Attorney

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

UNITED STATES OF AMERICA,
Plaintiff,

CRIMINAL NO. 23-390 (FAB)

v.

Johnny Joe FIGUEROA-MANGUAL,
Defendant.

PLEA AGREEMENT

TO THE HONORABLE COURT:

The United States of America, Defendant, Johnny Joe Figueroa-Mangual, and Defendant's counsel, Samuel P. Carrión, Esq., pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A) and (B), 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 Three of the Indictment, which charge as follows:

Count One:

On or about September 25, 2023, in the District of Puerto Rico, and within the jurisdiction of this Court, the defendant, Johnny Joe FIGUEROA-MANGUAL, did knowingly possess a firearm -- to wit: (1) a 9mm caliber Glock pistol model 17 bearing serial number BPSC804, (2) a .40 caliber Glock pistol model 23 bearing serial number TDU264, and (3) a .45 caliber Glock pistol model 30 bearing serial number UWN772 -- in furtherance of a drug trafficking crime for which he may be prosecuted in a court of the United States, that is, possession with intent to distribute controlled substances, contrary to Title 21, United

States Code, Section 841(a)(1). All in violation of Title 18, United States Code, Section 924(c)(1)(A)(i).

Count Three:

On or about September 25, 2023, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant, Johnny Joe FIGUEROA-MANGUAL, did knowingly and intentionally possess with intent to distribute a measurable amount of a mixture or substance containing a detectable amount of cocaine, a Schedule II narcotic controlled substance. All in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C).

2. Maximum Penalties

Count One: The statutory penalties for the offense charged in Count One of the Indictment are a term of imprisonment of not less than five years and not more than life, pursuant to 18 U.S.C. § 924(c)(1)(A)(i); a fine not to exceed two hundred and fifty thousand dollars, pursuant to 18 U.S.C. § 3571(b)(3); and a supervised-release term of not more than five years, pursuant to 18 U.S.C. § 3583(b)(1).

Count Three: The statutory penalties for the offense charged in Count Three of the Indictment are a term of imprisonment of not more than twenty years, pursuant to 21 U.S.C. § 841(b)(1)(C); a fine not to exceed one million dollars, pursuant to 21 U.S.C. § 841(b)(1)(C); and a supervised-release term of at least three years, pursuant to 21 U.S.C. § 841(b)(1)(C).

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

SPL

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 prior to the date of sentencing. Prior to the date set for the sentencing hearing, the SMA will be deposited in the Crime Victim Fund, pursuant to 18 U.S.C. § 3013(a)(2)(A). The Defendant will provide proof of the deposit at the sentencing hearing.

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 any applicable restitution laws.

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 Calculation Table Count Three															
Base Offense Level	Base offense level under USSG § 2D1.1(c) 12														
Total Offense Level	Reduction for timely acceptance of responsibility, USSG § 3E1.1. -2 10														
Sentencing Ranges for Count Three (in months)	<table> <thead> <tr> <th>TOL</th> <th>CHC I</th> <th>CHC II</th> <th>CHC III</th> <th>CHC IV</th> <th>CHC V</th> <th>CHC VI</th> </tr> </thead> <tbody> <tr> <td>10</td> <td>006-012</td> <td>008-014</td> <td>010-016</td> <td>015-021</td> <td>021-027</td> <td>024-030</td> </tr> </tbody> </table>	TOL	CHC I	CHC II	CHC III	CHC IV	CHC V	CHC VI	10	006-012	008-014	010-016	015-021	021-027	024-030
TOL	CHC I	CHC II	CHC III	CHC IV	CHC V	CHC VI									
10	006-012	008-014	010-016	015-021	021-027	024-030									

Count One: With respect to Count One, USSG. § 2K2.4(b) establishes that the advisory Guidelines sentence is the minimum term of imprisonment required by statute, that is, five years, pursuant to 18 U.S.C. § 924(c)(1)(A)(i).

8. Sentence Recommendation

After due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), the parties agree to make the following sentencing recommendations.

Count One: With respect to Count One, the parties agree to jointly recommend five years (i.e., 60 months) of imprisonment, to be served consecutively with any other sentence.

Count Three: As to Count Three, the parties will jointly recommend an imprisonment sentence at the high end of the applicable Guidelines range derived from a total offense level of 10 and the criminal history category determined by the Court.

The parties agree that any recommendation by either party for a term of imprisonment below or above the stipulated sentence recommendation will constitute a material breach of the Plea Agreement.

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 for Count One is five years or less and the imprisonment sentence imposed by the Court for Count Three is within or below the guideline range for a total offense level of 10 when combined with the defendant's criminal history category as determined by the Court, the 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, Samuel P. Carrión, 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.

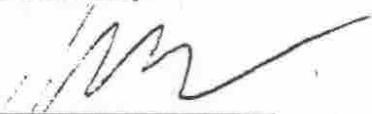
22. Firearms and Ammunition Forfeiture

Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), Defendant agrees to forfeit Defendant's rights and interest in any firearms and ammunition involved or used in the commission of the offense and any firearms and ammunition seized in this case, including but not limited to: (1) a 9mm caliber Glock pistol model 17 bearing serial number BPSC804 , (2) a .40 caliber Glock pistol model 23 bearing serial number TDU264, (3) a .45 caliber Glock pistol model 30 bearing serial number UWN772, (4) 30 rounds of .45 caliber ammunition, (5) 33 rounds of 9mm caliber ammunition, (6) 96 rounds of .40 caliber ammunition, (7) 20 rounds of 7.62x39mm caliber ammunition, and (8) seven pistol ammunition magazines.

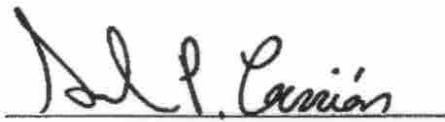
23. Felony Conviction

Defendant hereby agrees and recognizes that the plea of guilty in this case will be recognized as a felony conviction, which may 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.

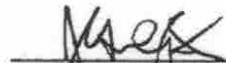
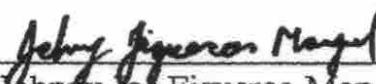
W. STEPHEN MULDROW
United States Attorney



Jonathan L. Gottfried
Assistant U.S. Attorney
Chief, Violent Crimes and
National Security Division
Dated: 1/19/23

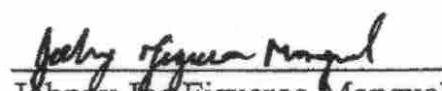


Samuel P. Carrión, Esq.
Counsel for Defendant
Dated: 1/4/2024


Juan Carlos Reyes-Ramos
Assistant U.S. Attorney
Dated: 11/28/2023
Johnny Joe Figueroa-Mangual
Defendant
Dated: 1/4/2024

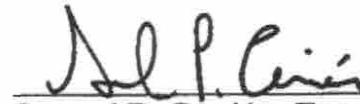
UNDERSTANDING OF RIGHTS

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: 1/4/2024

Johnny Joe Figueroa-Mangual
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: 1/4/2024

Samuel P. Carrión, Esq.
Counsel for Defendant

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STIPULATION OF FACTS

In conjunction with the submission of the accompanying Plea Agreement in this case, defendant Johnny Joe Figueroa-Mangual ("Defendant") admits that Defendant is guilty as charged in the Indictment and admits the following:

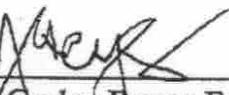
On September 25, 2023, Puerto Rico police officers observed a red-colored Nissan Kick motor vehicle bearing license plate JBE-205 parked on the side of a street in Santurce, Puerto Rico. Agents noticed that the vehicle had an expired registration. Agents further observed inside the vehicle what appeared to be drug paraphernalia and a plastic vial with suspected cocaine. At some point, an individual, later identified as Defendant, approached the Nissan Kick. During a brief conversation with police, Defendant claimed ownership of the Nissan Kick. Defendant, however, subsequently left the scene in another car. Police continued to investigate the Nissan Kick and ran a drug-sniffing canine around the vehicle. The canine alerted positive to the presence of narcotics inside the Nissan Kick. Police sealed the Nissan Kick and transported it to a secure location.

On September 26, 2023, police executed a state-issued search warrant on the Nissan Kick and found inside the vehicle, among other things, (1) a 9mm caliber Glock pistol model 17 bearing serial number BPSC804, (2) a .40 caliber Glock pistol model 23 bearing serial number TDU264, (3) a .45 caliber Glock pistol model 30 bearing serial number UWN772, (4) 30 rounds of .45 caliber ammunition, (5) 33 rounds of 9mm caliber ammunition, (6) 96 rounds of .40 caliber ammunition,

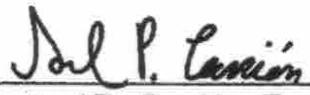
(7) 20 rounds of 7.62x39mm caliber ammunition, (8) seven pistol ammunition magazines, and (9) distribution quantities of controlled substances, including cocaine.

Defendant acknowledges that he knowingly possessed the aforementioned controlled substances with intent to distribute them. Defendant further acknowledges that he knowingly possessed the aforementioned firearms in furtherance of a drug-trafficking crime for which he may be prosecuted in a court of the United States, namely, possession with intent to distribute controlled substances.

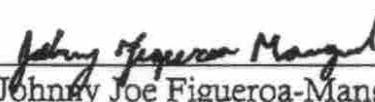
At trial, the United States would have proven beyond a reasonable doubt that Defendant is guilty as charged in Count One and Count Three of the Indictment. Discovery was timely made available to Defendant for review.



Juan Carlos Reyes-Ramos
Assistant U.S. Attorney
Dated: 11/28/2023



Samuel P. Carrión, Esq.
Counsel for Defendant
Dated: 11/4/2024



Johnny Joe Figueroa-Mangual
Defendant
Dated: 11/4/2024

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

-○○○-

6 THE UNITED STATES OF AMERICA,)
7 Plaintiff,) Case No. 3:23-CR-00390-FAB
8 -vs-)
9)
10 JOHNNY JOE FIGUEROA-MANGUAL,)
11 Defendant.)
12 _____)

TRANSCRIPT OF SENTENCING HEARING
HELD BEFORE THE HONORABLE FRANCISCO A. BESOSA
UNITED STATES COURTHOUSE, OLD SAN JUAN, PUERTO RICO
MONDAY, MAY 13, 2024

APP E A R A N C E S

FOR THE UNITED STATES OF AMERICA:

AUSA Juan C. Reyes-Ramos

FOR THE DEFENDANT:

AFPPD Samuel P. Carrion

UNITED STATES PROBATION OFFICER:

Camille Machado

STAFF INTERPRETER:

50

— 10 —

1 (Proceedings commenced at 9:39 a.m.)

2 -00o-

3 THE COURT: Next case, please.

4 THE COURTROOM DEPUTY CLERK: Criminal Case Number
5 23-390, the United States against Johnny Joe Figueroa-Mangual,
6 for sentencing hearing. On behalf of the government is AUSA
7 Juan Carlos Reyes. On behalf of the defendant is AFPD Samuel
8 Carrion. The defendant is present in the courtroom under
9 custody and assisted by a certified court interpreter.

10 MR. REYES-RAMOS: Good morning, Your Honor. AUSA
11 Juan Carlos Reyes on behalf of the United States. The
12 government is ready to proceed.

13 MR. CARRION: Good morning, Your Honor. AFPD Samuel
14 Carrion on behalf of Johnny Joe Figueroa-Mangual. The defense
15 is, likewise, ready.

16 THE COURT: Mr. Carrion, is there anything you would
17 like to say on behalf of Mr. Figueroa before I pronounce
18 sentence?

19 MR. CARRION: Yes, Your Honor, and thank you.

20 THE COURT: Please go ahead.

21 MR. CARRION: Your Honor, I spoke about various
22 themes and topics in the sentencing memorandum, and I just want
23 to highlight some of those that I think are most important for
24 the Court's consideration this morning. Yesterday was Mother's
25 Day, and rightfully so, many of us paid respect to our mothers.

1 And mothers serve an important role in a young person's life,
2 actually, through any child's life, up until adulthood and
3 throughout.

4 But a father is, likewise, important, and sometimes,
5 when it comes to young men in particular, that could be more so
6 the case. Now, Mr. Figueroa never got to meet his father
7 because his father was murdered when he was an infant. And the
8 consequences of something like that happening when a young man
9 --

10 THE COURT: How old was he?

11 MR. CARRION: I believe he was eight months old, Your
12 Honor. Never met his father or doesn't have a recollection of
13 meeting his father.

14 He really had no male presence in his life until he
15 was already an adolescent. At 15, I believe, is when his
16 mother finally became involved with another man, who served a
17 little bit as a stepfather. But by that time, Your Honor, I
18 submit, 15 years old, much of Mr. Figueroa's adolescence had
19 already been -- had already passed.

20 There is a plethora of social science literature out
21 there that shows the effects of growing up in a fatherless
22 household. Not only is there the economic impact of not having
23 a breadwinner there, or co-breadwinner there, there is also the
24 social interfaces with the criminal justice system.

25 Mr. Figueroa, unfortunately, bears that out. At 17,

1 he was involved in a, essentially, I believe it was like a
2 larceny. And then at 19, he was involved in another larceny.
3 Eight months later, he was involved in a robbery.

4 Those two incidents, Your Honor, at 19 years old, had
5 a ripple effect on this man's life. For that second offense
6 when he was 19, he was sentenced to seven years in state
7 prison. So at 19 years old, as a teenager, he goes into
8 prison.

9 He leaves prison seven years later, at 27. He's a
10 convicted felon. His first months, he's wearing an ankle
11 monitor. He goes to various places. He tries to get a job.
12 The doors close. Sometimes they never call him back. Most of
13 the time, they never call him back. He starts working at a
14 carwash making minimum wage.

15 Your Honor, this man grew up in the public housing
16 projects in Bayamon. His mother, who is in the courtroom
17 today, and I would like to bring the Court's attention to the
18 fact that Mr. Figueroa's family is in the first two rows. On
19 the Court's right side, his mother is there; his aunt is there,
20 various female cousins; and his best friend is there.

21 Noticeably absent is a father. Noticeably absent is,
22 really, an elderly male presence among those supporters. He's
23 grateful for them, but the impact of that lack of that presence
24 has really negatively affected his life.

25 So now, Your Honor, he gets out of prison, at state

1 prison, and he's out there. He's having difficulties finding a
2 living wage and sustaining employment, so he works at a
3 carwash, a carwash that him and his brother, essentially,
4 founded, a small business.

5 At some point, Your Honor, he makes the fateful
6 decision to get involved in the offense conduct at issue today.
7 Sometimes we, as individuals, do things with the misguided hope
8 that they might help people in our lives, but this, obviously,
9 was the wrong decision. And Mr. Mangual stands here today, Mr.
10 Figueroa-Mangual stands here today ready to pay the
11 consequences of that decision.

12 Your Honor, I quoted the *Book of Samuel* on the first
13 page of the memo: He, likewise -- he fell, likewise, upon his
14 sword. And I say that because, I quoted that because Mr.
15 Figueroa, from the very beginning of this case, was not in a
16 posture to litigate.

17 In fact, Your Honor, if the Court looks at the
18 offense conduct, the night of the offense, when police had
19 surrounded his car, his unoccupied car, it was Mr. Figueroa who
20 went up to them. It was Mr. Figueroa who identified himself as
21 the car's owner.

22 Later on, he ended up leaving that night because he
23 wasn't in custody. A search warrant was executed, and the
24 items in the car, the contraband, was recovered. Later on, the
25 police went to his house. They told him: Mr. Figueroa, you

1 need to show up on X date at X court. Mr. Figueroa shows up.
2 He's arrested. He's taken into custody.

3 From the very beginning, he was very serious about
4 resolving this case. The Court will note that he was indicted,
5 I believe he was indicted on October 25th, 2023. 32 days
6 later, he filed his change of plea motion.

7 He didn't file any motions to suppress. He didn't
8 file -- he didn't ask for bond. He wanted to resolve this
9 case. There is -- this was, this was almost, I venture to say,
10 a very enhanced acceptance of responsibility here.

11 So with that, Your Honor, I would like to just point
12 out that this case wasn't a case where Mr. Figueroa was
13 observed in the car. He was never -- he never made admissions
14 to the police that what was in the car was his. Those are some
15 things that were taken into consideration during negotiations
16 with the United States Attorney's Office and how we were able
17 to come to that joint agreement, based on his criminal history,
18 of 76 months imprisonment.

19 And lastly, Your Honor, I will note that Mr. Figueroa
20 has no drug profile. This is his first offense with narcotics.
21 He is not a drug-user. And so this really was an unfortunate
22 lack of judgment, but by no means is he a career narcotics
23 trafficker. And I'd ask that the Court consider that as well
24 when fashioning sentence this morning.

25 So with that, Your Honor, I won't belabor the point

1 any further. I thank you for your time. And I do believe that
2 Mr. Figueroa has some comments that he wants to address to the
3 Court.

4 THE COURT: First I'd like to hear from Mr. Reyes.

5 MR. REYES-RAMOS: Thank you, Your Honor.

6 The government stands by the plea agreement in this
7 case, and accordingly, the government recommends a sentence on
8 Count One of 60 months of imprisonment. And as to Count Three,
9 the drug-trafficking count, the government requests a sentence
10 at the high end of the applicable guideline range, which is 16
11 months. So the government is recommending a total of 76 months
12 of imprisonment.

13 We acknowledge and recognize that this is a serious
14 offense involving three firearms and numerous rounds of
15 ammunition. We also took into consideration in this case what
16 was a very early acceptance of responsibility in this case that
17 certainly made it more efficient for the investigative agencies
18 so that they could invest their investigative resources in
19 other cases.

20 The fact is that the defendant filed a change of plea
21 motion in this case before the first status conference. So we
22 took everything into consideration. And we stand by the plea
23 agreement, and accordingly, recommend a total imprisonment of
24 76 months.

25 THE COURT: Mr. Figueroa, is there anything you would

1 like to say?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Please go ahead.

4 Place the microphone next to --

5 Go ahead, please.

6 Are you going to read something, Mr. Figueroa?

7 THE DEFENDANT: Yes, I am.

8 THE COURT: Do you have a copy?

9 THE INTERPRETER: Yes, Your Honor.

10 THE COURT: Okay. Go ahead. Read the entire thing,
11 please, in Spanish.

12 MR. CARRION: If we could have just a quick moment.

13 THE DEFENDANT: Good morning to everyone. First of
14 all, I want to thank God for another day of life, for my health
15 and the great family that I have. I would also ask to -- I
16 would also like to apologize to my relatives for the emotional
17 and sentimental damage that I have caused them throughout this
18 situation, and also, to the people of Puerto Rico for the
19 damage that I have caused for my bad actions and bad decisions.

20 Honestly, my life has not been easy. Growing up
21 without a dad to guide me as a strong hold led me to commit
22 many errors of which I am very repentant. In spite of the fact
23 that my upbringing with my mother was a very good one of lots
24 of love, of principles and values, it was very difficult
25 financially for us. I would say that was one of the reasons

1 that led me to take the wrong path, to be able to obtain some
2 money and be able to help my family.

3 I know I have made a mistake. I'm wrong. But from
4 mistakes one can also learn. And I know that at the end of
5 this sentence, a new person will arise much more mature,
6 positive and productive, with new goals and lots of desire to
7 move on forward.

8 One of my goals is to be able to take a cooking
9 course and have my own food business. Another of my goals is
10 to take English classes and be able to learn that additional
11 language for my future plans and have more options to be able
12 to get a job, for example, a food business or become a personal
13 trainer, because it's never late to begin anew and do things
14 right.

15 Thank you to all of my relatives for your
16 unconditional support. I love you dearly.

17 And thanks to this Honorable Court for the
18 opportunity to express myself.

19 THE COURT: On January 4, 2024, Defendant Johnny Joe
20 Figueroa-Mangual pled guilty to Counts One and Three of the
21 Indictment in Criminal Case Number 23-390, which charges him
22 with violations of Title 18, United States Code, Section
23 924(c) (1) (A) (i), possession of firearms in furtherance of a
24 drug-trafficking crime, which is a Class A felony, and 21
25 United States Code, Section 841(a) (1) and 841(b) (1) (C),

1 possession with intent to distribute a detectable amount of
2 cocaine, which is a Class C felony.

3 The November 1, 2023, edition of the Sentencing
4 Guidelines Manual has been used to calculate the guideline
5 adjustments, pursuant to the provisions of Guideline Section
6 1B1.11(a).

7 As to Count One, the guideline for a violation of
8 Title 18, United States Code, Section 924(c)(1)(A)(i) is the
9 term of imprisonment required by statute, which in this case is
10 60 months, pursuant to Sentencing Guideline Section 2K2.4(b).

11 As to Count Three, based on the provisions of
12 Guideline Section 2D1.1(a)(5) and Section 2D1.1(c)(14), a base
13 offense level of 12 has been determined because Mr. Figueroa
14 has been convicted of possessing with intent to distribute less
15 than 50 grams of cocaine. Because Mr. Figueroa timely accepted
16 responsibility for his offense, however, his offense level for
17 Count Three is reduced by two levels, pursuant to Sentencing
18 Guideline Section 3E1.1(a).

19 There are no other applicable guideline adjustments
20 for Count Three. His total offense level for that count is 10.

21 Because Mr. Figueroa has been previously convicted of
22 attempted larceny in Criminal Case Number JBD2013G0058 by the
23 Commonwealth Superior Court, Ponce division; and larceny in
24 Criminal Case Number KDB2013G0705; and unlawful possession of
25 firearms, in Criminal Numbers KLA2013G0398 and '0399 and '0400,

1 by the Commonwealth Superior Court, San Juan division, six
2 criminal history points resulted, which places him in Criminal
3 History Category III.

4 Based on a total offense level of 10 and a Criminal
5 History Category of III, the guideline imprisonment range for
6 Mr. Figueroa's offense charged in Count Three is from 10 to 16
7 months. There is a fine range of \$4,000 to \$1 million for that
8 count, plus a supervised release term of at least three years.

9 The probation officer has correctly adjusted the
10 guideline computations. And the presentence investigation
11 report satisfactory reflects the components of Mr. Figueroa's
12 offenses by considering their nature and circumstances.

13 The Court has also considered the other sentencing
14 factors set forth in Title 18, United States Code, Section
15 3553(a), the presentence investigation report, the plea
16 agreement, the sentencing memorandum filed on behalf of Mr.
17 Figueroa, arguments by counsel and the government, and Mr.
18 Figueroa's allocution.

19 Mr. Figueroa is 30 years old. He has a high school
20 diploma obtained through a GED program and was employed washing
21 cars prior to his arrest for his offenses.

22 On September 25, 2023, Puerto Rico police officers
23 observed a Nissan Kick vehicle parked on the side of a street
24 in Santurce. Agents noticed that the vehicle had an expired
25 registration. They then observed what appeared to be drug

1 paraphernalia and a plastic vial, with suspected cocaine,
2 inside the vehicle.

3 The next day, police executed a state-issued search
4 warrant on the vehicle, a Nissan Kick, and found a nine
5 millimeter caliber Glock pistol, model 17; a .40 caliber Glock
6 pistol, model 23; a .45 caliber Glock pistol, model 30; 30
7 rounds of .45 caliber ammunition; 33 rounds of nine millimeter
8 caliber ammunition; 96 rounds of .40 caliber ammunition; and 20
9 rounds of 7.62 times 39 caliber ammunition, for a total of 189
10 rounds of different caliber ammunition; seven pistol magazines;
11 and controlled substances, including 904 decks of a substance
12 that tested positive to heroin; 128 vials of a powdery
13 substance that tested positive to cocaine; and four plastic
14 vials with a green leafy substance that tested positive to
15 marijuana.

16 The parties agreed on a sentence of 60 months as to
17 Count One, and the high end of guideline range on Count Three,
18 at a total offense level of 10 and the criminal history
19 determined by the Court. Because Defendant criminal history is
20 III, the high end is 16 months.

21 Based on the three pistols found in the Nissan Kick,
22 the 189 rounds of ammunition of different calibers, the seven
23 magazines of which five were high-capacity, and the amount of
24 drugs also found in the Nissan Kick, and Mr. Figueroa's prior
25 firearms conviction during which he aimed a loaded firearm at a

1 victim and took from him a firearm, a magazine, and a cell
2 phone, the Court finds that the sentence recommended by the
3 parties does not reflect the seriousness of Mr. Figueroa's
4 offenses, does not promote respect for the law, does not
5 protect the public from additional crimes by Mr. Figueroa, and
6 does not address the issues of deterrence and punishment. I am
7 also taking into consideration the fact that Mr. Figueroa filed
8 a motion to change his plea even before the first status
9 conference in this case.

10 Accordingly, it's the judgment of the Court that
11 Johnny Joe Figueroa-Mangual is committed to the custody of the
12 United States Bureau of Prisons to be imprisoned for a term of
13 78 months as to Count One, and 18 months as to Count Three, for
14 a total term of imprisonment of 96 months. Upon release from
15 confinement, Mr. Figueroa shall be placed on supervised release
16 for a term of five years as to Count One, and three years as to
17 Count Three, to be served concurrently with each other, under
18 the following terms and conditions:

19 He shall observe the standard conditions of
20 supervised release recommended by the United States Sentencing
21 Commission and adopted by this Court;

22 He shall participate in vocational training and a job
23 placement program, as recommended by the probation officer;

24 He shall not possess or use controlled substances
25 unlawfully and shall submit to a drug test within 15 days of

1 MR. LOPEZ-ROCAFORT: We submit to the Court that is
2 not the acceptance of responsibility that the case law
3 established. The point for acceptance, when you go to trial,
4 considering --

5 THE COURT: Wait a minute. One thing is to admitting
6 selling drugs to provide for his family. Another thing is
7 saying that he's sorry that he sold drugs to provide for his
8 family.

9 Go ahead, Mr. Lopez.

10 MR. LOPEZ-ROCAFORT: What the case law establishes is
11 that the Court has ample discretion to consider acceptance of
12 responsibility, even when the defendant proceeded to trial.

13 However, when the defendant proceeded to trial, it has
14 to be as to there is a legal issue that he wants to preserve
15 for appeal. In this case, the defendant was claiming innocent.
16 He's still claiming innocent as to some of the charges.

17 So we submit to the Court, your Honor, that that is
18 not applicable here because the defendant has not accepted
19 responsibility. The case law is clear. The sentencing court
20 has great discretion in deciding whether to grant an adjustment
21 for acceptance of responsibility because the sentencing judge
22 is in a unique position to evaluate the defendant's acceptance
23 of responsibility.

24 THE COURT: Slowly. Start again.

25 MR. LOPEZ-ROCAFORT: The sentencing Court has great

1 Mr. Figueroa shall warn any other resident or occupant that his
2 premises and residence may be subject to searches pursuant to
3 this condition.

4 The DNA has already been collected.

5 After having considered Mr. Figueroa's financial
6 condition, a fine is not imposed. A special monetary
7 assessment in the amount of \$100 is imposed as to each count,
8 however, as required by law, for a total of \$200.

9 Pursuant to Title 18, United States Code, Section
10 924(d)(1), and 28 United States Code, Section 2461(c), Mr.
11 Figueroa shall forfeit to the United States a nine millimeter
12 caliber Glock pistol, model 17, serial number BPSC804, with an
13 automatic seer attached; a .40 Glock pistol, model 23, serial
14 number TDU264, with an automatic seer attached; a .45 caliber
15 Glock pistol, model 30, serial number UWN772; 189 rounds of
16 ammunition of different calibers; and seven magazines.

17 Mr. Figueroa, you have entered into a plea agreement
18 in which you waive your right to appeal your conviction and
19 sentence. That waiver is enforceable. But if your waiver is
20 not enforceable, you may present that argument to the appellate
21 court.

22 A notice of appeal must be filed in this court within
23 14 days of when the judgment will be entered. If you are
24 unable to pay the cost of an appeal, you may apply for leave to
25 appeal as an indigent. If you request it, the Clerk of the

1 Court will prepare and file a notice of appeal on your behalf.

2 Any particular institution you would like me to
3 recommend, Mr. Carrion?

4 MR. CARRION: Yes, Your Honor. It would be Coleman
5 as the primary, and if there is an opportunity to list a
6 second, it would be Fort Dix. And we'd also ask the Court to
7 recommend ESL classes as well.

8 THE COURT: I will recommend that Mr. Figueroa be
9 designated to the institution in Coleman, near Orlando, or Fort
10 Dix, in New Jersey; that he take vocational training in the
11 things that he indicated he was interested in: culinary arts
12 or personal training; and that he take courses in English as a
13 second language.

14 Anything else?

15 MR. CARRION: Yes, Your Honor. One thing I did
16 forget to mention during my presentation was that because of
17 this 924(c) conviction, it's my understanding that Mr. Figueroa
18 will not be eligible for certain earned time credit under the
19 First Step Act.

20 And so he can receive -- or had he not had the
21 924(c), he would be able to receive up to a year earned time
22 credit. So to the extent that the Court would be willing to
23 reconsider that as a factor in fashioning its sentence, I'd ask
24 that the Court reconsider the parties' recommended sentence of
25 78 months.

1 THE COURT: The reconsideration is denied. As I
2 said, I took into account all the weapons, high-capacity
3 magazines, an inordinate amount of ammunition, and the drugs
4 that were found: 904 decks of heroin and 128 vials of cocaine,
5 and four plastic vials of, with marijuana. I also took into
6 consideration, as I mentioned, the fact that Mr. Figueroa filed
7 a motion to change his plea early on in the proceedings, even
8 before the first status conference in the case.

9 So for those reasons, your reconsideration is denied.

10 MR. CARRION: Understood.

11 THE COURT: Mr. Reyes, any counts to dismiss?

12 MR. REYES-RAMOS: Yes, Your Honor. The government
13 moves to dismiss the remaining counts.

14 THE COURT: The remaining counts in Case Number
15 23-390 against Johnny Joe Figueroa-Mangual are dismissed.

16 You're excused.

17 MR. CARRION: Your Honor, before we close, just, the
18 defense just wants to lay the objections to the substantive and
19 procedural reasonableness of the sentence.

20 Thank you, Your Honor.

21 THE COURT: Well, I, for the reasons I gave
22 previously on your, on your request to, reconsideration, I'm
23 also noting your, your objection, but the sentence remains as,
24 as stated.

25 MR. CARRION: Understood.

1 THE COURT: Thank you.

2 (Proceedings concluded at 10:10 a.m.)

3 -00o-

Case 3:23-cr-00390-FAB Document 38 Filed 07/23/24 Page 19 of 19

1 UNITED STATES DISTRICT COURT)
2 DISTRICT OF PUERTO RICO) ss.
3

4 **REPORTER'S CERTIFICATE**

5
6 I, CINDY LEE BROWN, RPR, Federal Official Court
7 Reporter for the United States District Court for the District
8 of Puerto Rico, appointed pursuant to the provisions of Title
9 28, United States Code, Section 753, do hereby certify that the
10 foregoing is a true and correct computer-aided transcript of
11 proceedings had in the within-entitled and numbered cause on
12 the date herein set forth; and I do further certify that the
13 foregoing transcript has been prepared by me or under my
14 direction.

15

16 Dated this 23rd day of July, 2024.

17

18

19

/s/ Cindy Lee Brown

20

CINDY LEE BROWN, RPR, FCRR
Federal Official Court Reporter
150 Carlos Chardon
San Juan, PR 00918
(787) 772-3478

21

22

23

24

UNITED STATES DISTRICT COURT

District of Puerto Rico

UNITED STATES OF AMERICA) **JUDGMENT IN A CRIMINAL CASE**
 v.)
 Johnny Joe FIGUEROA-MANGUAL (1))
) Case Number: 3:23-CR-00390-01 (FAB)
)
) USM Number: 83258-510
)
) AFPD Samuel P. Carrion
) Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) Count One (1) and Count Three (3) of the Indictment on 1/4/2024.

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>
18 USC § 924(c)(1)(A)(i)	Possession of Firearms in Furtherance of a Drug Trafficking Crime	9/25/2023	One (1)
21 USC § 841(a)(1) and (b)(1)(C)	Possession with Intent to Distribute Controlled Substances	9/25/2023	Three (3)

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) all remaining 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.

5/13/2024

Date of Imposition of Judgment

/S/ FRANCISCO A. BESOSA

Signature of Judge

Francisco A. Besosa, Senior U.S. District Judge

Name and Title of Judge

5/13/2024

Date

DEFENDANT: Johnny Joe FIGUEROA-MANGUAL (1)
CASE NUMBER: 3:23-CR-00390-01 (FAB)Judgment — Page 2 of 7**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

Seventy-eight (78) months as to Count One, and eighteen (18) months as to Count Three, to be served consecutively to each other, for a total term of imprisonment of ninety-six (96) months.

- The court makes the following recommendations to the Bureau of Prisons:
Defendant be provided of any available vocational training courses, preferably in culinary arts, and English as second language courses.
The Court recommends the defendant be designated to Coleman FCI as primary option, or Fort Dix NJ.
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
- at _____ a.m. p.m. on _____
 as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- before 2 p.m. on _____
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

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

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Johnny Joe FIGUEROA-MANGUAL (1)
CASE NUMBER: 3:23-CR-00390-01 (FAB)

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Five (5) years as to Count One, and three (3) years as to Count Three, to be served concurrently with each other.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: Johnny Joe FIGUEROA-MANGUAL (1)
CASE NUMBER: 3:23-CR-00390-01 (FAB)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Johnny Joe FIGUEROA-MANGUAL (1)
CASE NUMBER: 3:23-CR-00390-01 (FAB)

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ADDITIONAL SUPERVISED RELEASE TERMS

1. He shall observe the standard conditions of supervised release recommended by the United States Sentencing Commission and adopted by this Court.
2. He shall participate in vocational training and a job placement program, as recommended by the Probation Officer.
3. He shall possess or use controlled substances unlawfully and shall submit to a drug test within fifteen (15) days of release from imprisonment; after his release, Mr. Figueroa shall submit to random drug testing, not less than three (3) samples during the supervision period, but not more than 104 samples each year, in accordance with the Drug Aftercare Program Policy of the United States Probation Office as has been approved by this Court. If the illegal use of controlled substances is detected in any sample, Mr. Figueroa shall participate in an inpatient or an outpatient substance abuse treatment program, for evaluation or treatment, as arranged by the probation officer; payment shall be based on his ability to pay or the availability of payments by third parties, as approved by the Court.
4. He shall submit himself and his property, house, residence, vehicles, papers and effects, computers and other electronic communication or data storage devices or media to a search, at any time, with or without a warrant, by the probation officer, and if necessary, with the assistance of any other law enforcement officer, but only in the lawful discharge of the supervision functions of the probation officer, who must have a reasonable suspicion of unlawful conduct or of a violation of a condition of supervision. The probation officer may seize any electronic communication or electronic device or medium which will be subject to additional forensic investigation or analysis. Failure to submit to a search or permit a seizure may be grounds for revocation of supervision. Mr. Figueroa shall warn any other resident or occupant that his premises and residence may be subject to searches pursuant to this condition.

**DNA was already collected.

DEFENDANT: Johnny Joe FIGUEROA-MANGUAL (1)
CASE NUMBER: 3:23-CR-00390-01 (FAB)

Judgment — Page 6 of 7

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

TOTALS	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
	\$ 200.00	\$	\$	\$	\$

- The determination of restitution is deferred until entered after such determination. An *Amended Judgment in a Criminal Case (AO 245C)* will be
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.
- If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ 0.00	\$ 0.00
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- Restitution amount ordered pursuant to plea agreement \$ _____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- the interest requirement is waived for the fine restitution.
- the interest requirement for the fine restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

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

DEFENDANT: Johnny Joe FIGUEROA-MANGUAL (1)
CASE NUMBER: 3:23-CR-00390-01 (FAB)

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A Lump sum payment of \$ 200.00 due immediately, balance due
 not later than _____ or
 in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal *(e.g., weekly, monthly, quarterly)* installments of \$ _____ over a period of *(e.g., months or years)*, to commence *(e.g., 30 or 60 days)* after the date of this judgment; or
- D Payment in equal *(e.g., weekly, monthly, quarterly)* installments of \$ _____ over a period of *(e.g., months or years)*, to commence *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within *(e.g., 30 or 60 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

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

- Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
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- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:
Pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c), Mr. Figueroa shall forfeit to the United States, a 9mm caliber Glock pistol model 17 bearing serial number BPSC804 with an ammunition sear attached, a .40 caliber Glock pistol model 23 bearing serial number TDU264 with an ammunition sear attached, and a .45 caliber Glock pistol model 30 bearing serial number UWN772, 189 rounds of ammunition of different caliber, and 7 magazines.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

United States Court of Appeals For the First Circuit

No. 24-1566

UNITED STATES,

Appellee,

v.

JOHNNY JOE FIGUEROA-MANGUAL,

Defendant - Appellant.

Before

Montecalvo, Rikelman, and Aframe,
Circuit Judges.

JUDGMENT

Entered: September 10, 2025

Johnny Joe Figueroa-Mangual ("Figueroa") appeals from a sentence imposed after he pled guilty to one count of possession of a firearm in furtherance of a drug-trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A)(i) and one count of possession with intent to distribute cocaine in violation of 21 U.S.C. § 841(a)(1). Figueroa challenges the substantive and procedural reasonableness of his above-guidelines sentence of 96 months' incarceration.

After carefully reviewing the record and the parties' arguments, we conclude that affirmance is in order. Even assuming in Figueroa's favor that he preserved his arguments for our review, the record provides no basis to conclude that the district court abused its discretion in sentencing Figueroa. See United States v. Ruperto-Rivera, 16 F.4th 1, 4-5 (1st Cir. 2021). Particular to Figueroa's arguments there is nothing in the record to suggest that the district court's explanation for the sentence was wanting, as it tied its upwardly varying sentence to the specific facts of the case, specifically relying on the number of firearms and amount of drugs involved. See United States v. Fuentes-Echevarria, 856 F.3d 22, 26 (1st Cir. 2017) ("When a court imposes a variant sentence, 'its reasons for doing so "should typically be rooted either in the nature and circumstances of the offense or the characteristics of the offender.'"") (quoting United States v. Flores-Machicote, 706 F.3d 16, 21 (1st Cir. 2013))). Additionally, there is nothing to suggest that the district court improperly weighed the 18 U.S.C. § 3553(a) factors or otherwise erred in

considering potentially mitigating facts. See United States v. Calderon-Zayas, 102 F.4th 28, 36 (1st Cir. 2024) ("Though consideration of the § 3553(a) factors is necessary, 'we do not require an express weighing of mitigating and aggravating factors or that each factor be individually mentioned.'" (quoting United States v. Lozada-Aponte, 689 F.3d 791, 793 (1st Cir. 2012))).

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

By the Court:

Anastasia Dubrovsky, Clerk

cc:

Rafael Anglada-López
Johnny Joe Figueroa-Mangual
Juan Carlos Reyes-Ramos
Jonathan L. Gottfried