

No. _____

In The
Supreme Court of the United States

CARLOS LAUREANO,

Petitioner,

v.

UNITED STATES,

Respondent.

On Petition for a Writ of Certiorari
to the United States Court of Appeals for the Second Circuit

PETITION FOR A WRIT OF CERTIORARI

MICHAEL K. BACHRACH, ESQ.
Counsel of Record
224 West 30th Street, Suite 302
New York, New York 10001
(212) 929-0592
michael@mbachlaw.com

QUESTION PRESENTED

Whether a Fifth Amendment Due Process violation occurs when a sentencing court disregards the intended benefits gained through plea negotiations when issuing a United States Sentence Guidelines upward variance that is twice as high as the Guidelines range that had been stipulated between the parties?

PARTIES TO THE PROCEEDING

Petitioner Carlos Laureano was the Defendant-Appellant in the courts below.

Respondent United States was Appellee in the courts below.

Nnandi Ben-Jochannan was the Co-Defendant-Co-Appellant in the courts below but has no interest in the outcome of this Petition.

DIRECTLY RELATED PROCEEDINGS

This petition is directly related to the following:

- United States v. Laureano, Docket No. 22 Cr. 058 (LJL), U.S. District Court for the Southern District of New York. Judgment entered May 23, 2024 (posted on ECF, June 3, 2024).
- United States v. Ben-Jochannan, Laureano, Docket Nos. 24-1573 (L), 24-1586 (Con), U.S. Court of Appeals for the Second Circuit. Opinion entered October 23, 2025.
- United States v. Ben-Jochannan, Laureano, Nos. 24-1573 (L), 24-1586 (Con), U.S. Court of Appeals for the Second Circuit. Order entered January 7, 2026.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Carlos Laureano respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case.

OPINIONS BELOW

The judgment of the United States Court of Appeals for the Second Circuit in United States v. Ben-Jochannan, Laureano, Slip Op., Docket Nos. 24-1573 (L), 24-1586 (Con) (2d Cir. October 23, 2025), is available in an unpublished opinion at 2025 WL 2985745 (2d Cir. October 23, 2025), and at Pet.App.1-Pet.App.8; the decision denying Petitioner's motion for rehearing is available in an unpublished order, dated, January 7, 2026, at Pet.App.9; and the Judgment of the United States District Court for the Southern District of New York is at Pet.App.10-Pet.App.16.

BASIS FOR JURISDICTION

The judgment of the Court of Appeals was entered on October 23, 2025, and an order denying Petitioner's motion for rehearing and/or rehearing *en banc* was denied on January 7, 2026.

On March 20, 2026, the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court of the United States, granted Petitioner an extension of time to file the instant petition for a writ of certiorari, extending Petitioner's deadline from April 7, 2026, to May 7, 2026.

This Court has jurisdiction to review the judgment below on a writ of certiorari pursuant to 28 U.S.C. § 1254(1).

APPLICABLE PROVISIONS

The Due Process Clause of the Fifth Amendment to the United States

Constitution:

No person shall be ... deprived of life, liberty, or property,
without due process of law[.]

Title 18, United States Code, Section 3553(a):

Factors to be considered in imposing a sentence.--

The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider--

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed—

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for--

(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines—

(i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or

(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28);

(5) any pertinent policy statement--

(A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

STATEMENT

This case presents an issue of exceptional importance. Whether a Fifth Amendment Due Process violation occurs when a sentencing court disregards the intended benefits gained through plea negotiations when issuing a United States Sentence Guidelines upward variance that is twice as high as the Guidelines range that had been stipulated between the parties?

Petitioner Carlos Laureano (hereinafter, “Petitioner”), pleaded guilty, pursuant to a plea agreement and Superseding Information, to two counts of possession of a firearm: one count in violation of 18 U.S.C. §§ 924(c)(1)(A)(i),(ii),(iii) and 2, and one count in violation of 18 U.S.C. §§ 924(c)(1)(A)(i) and 2. The first count carried a mandatory minimum sentence of 10 years’ imprisonment, and the second count carried a mandatory *consecutive* sentence of an additional 5 years. Pursuant to U.S.S.G. § 2K2.4, Petitioner’s “Stipulated Guidelines Sentence” was 180 months’ imprisonment (i.e., 15 years).

At sentencing, however, the District Court sentenced Petitioner to an aggregate term of imprisonment of 360 months (i.e., 30 years) – 300 months (i.e., 25 years) on the first count followed by a consecutive 60-month (i.e., 5 year) term of imprisonment on the second count.

The Panel recognized at oral argument that on its face Petitioner’s sentence did appear to be shockingly high. See Oral Argument, dated, October 20, 2025, at 15:38-15:50 (Judge Merriam noting that she was initially “shocked” when she saw the extent of the variance and thought “wow”).¹ On closer consideration, however, the Panel concluded that Petitioner’s sentence was not “so ‘shockingly high’ to fall outside the range of permissible decisions,” Slip. Op. at 7, citing, United States v. Muzio, 966 F.3d 61, 64 (2d Cir. 2020). The change in position reflected consideration of “what *other* Guidelines provisions might suggest as an appropriate sentence for the same conduct.” Slip. Op. at 6.

Based upon consideration of those *other* Guidelines, the Panel found Petitioner’s sentence to be reasonable. Doing so, however, completely discounted the principal benefit negotiated between the parties through plea negotiations, i.e., that all counts of the Indictment charging Petitioner with crimes with higher Guidelines’ ranges would be dismissed so that Petitioner could be sentenced with a lower “starting point” to the Court’s consideration of Petitioner’s sentence. In turn, sentencing Petitioner in this manner violated Petitioner’s Due Process rights at sentencing by rendering plea negotiations and the stipulated Guidelines range effectively meaningless. Thereafter, the Court of Appeals declined to correct this Due Process violation, and through its declination cemented the propriety of the District Court’s disregard.

¹ The recording of the October 20, 2025 oral argument in this case is available at <https://ww3.ca2.uscourts.gov/decisions/isysquery/c2a06d7d-9b82-4bff-8148-795f6f24119e/161-170/list/> (last accessed, April 1, 2026).

For these reasons, Petitioner seeks certiorari so that this Court may address this issue head on.

REASONS FOR GRANTING THE PETITION

The proceeding involved a question of exceptional importance: Whether it is ever reasonable to wholly disregard the intended benefits gained through plea negotiations to justify an upward variance from a stipulated Guidelines range?

Prosecutors hold all the cards when drafting a plea agreement. What little negotiating room actually exists in any given case is controlled by the willingness of the prosecutor to offer favorable terms. Indeed, court have held on countless occasions that the Government has “awesome advantages in bargaining power.” United States v. Mergen, 764 F.3d 199, 208 (2d Cir. 2014), quoting, United States v. Ready, 82 F.3d 551, 559 (2d Cir. 1996); accord United States v. Cimino, 381 F.3d 124, 127 (2d Cir. 2004); United States v. Aleman, 286 F.3d 86, 90 (2d Cir. 2002); United States v. Dykes, 724 Fed.App’x 39, 42 (2d Cir. 2018).

For this reason, when defense counsel is able to negotiate favorable terms, which result in the Government offering a plea agreement providing a more favorable result than would otherwise be available absent such agreement, the existence and terms of the agreement *must* carry significant weight with the sentencing court. To rule otherwise, renders plea negotiations and defense advocacy in those negotiations effectively meaningless. See United States v. Papke, 149 F.4th 1169, 1188 (10th Cir. 2025) (“[D]istrict courts must display deference when analyzing a charge bargain,” because such “bargains represent an exercise of prosecutorial discretion,” and courts

should display “hesitancy before second-guessing prosecutorial choices.”), quoting, United States v. Robertson, 45 F.3d 1423, 1437, 1438 (10th Cir. 1995); accord In re United States, 32 F.4th 584, 594 (6th Cir. 2022) (“A court considering a charge bargain must, therefore, exercise its discretion with due regard to prosecutorial prerogatives.”); In re Vasquez-Ramirez, 443 F.3d 692, 698 (9th Cir. 2006) (holding that a District Court’s discretion over sentencing is “cabined ... by the prosecutor’s decision regarding which charges to pursue”); United States v. Walker, 922 F.3d 239, 250 (4th Cir. 2019) (requiring District Court’s evaluation plea bargains to “accord due respect to the prosecutorial prerogatives involved in charging decisions, thus ensuring that the separation of executive and judicial powers is not infringed”), rev’d on other grounds, 589 U.S. 1042 (2019).

Here, the parties negotiated a plea agreement wherein Petitioner’s Stipulated Guidelines range was 180 months’ imprisonment, and his counts of conviction were limited to firearms offenses *not Federal murder offenses*. While the terms of the plea agreement did require Petitioner to allocute to having caused the death of Luiz Perez, and the agreement did *not* prohibit the Government from seeking an upward variance based upon that fact, the agreement required the Government to dismiss Counts 1 and 2 of his Indictment, i.e., the *murder* of Mr. Perez charged in violation of 18 U.S.C. § 924(j) (Count 1 of the Indictment) and in violation of 21 U.S.C. § 848(e) (Count 2 of the Indictment).² The core of the agreement, therefore, was that Petitioner would be

² One count of narcotics conspiracy in violation of 18 U.S.C. § 846 was also dismissed pursuant to the terms of Petitioner’s plea agreement.

sentenced for having committed two § 924(c) crimes, *not* for having violated 18 U.S.C. § 924(j) or 21 U.S.C. § 848(e) – the offenses dismissed pursuant to the terms of the plea agreement.

This is not to say that the underlying conduct cannot be considered as a basis for an upward variance, but in doing so the “starting point and initial benchmark” of the sentencing analysis must remain the Stipulated Guidelines range. See Gall v. United States, 128 S.Ct. 586, 596 & 596 n.6 (2007) (the Guidelines are “the starting point and initial benchmark’ for sentencing, and district courts must ‘remain cognizant of them throughout the sentencing process.’”); see also Gall, 128 S.Ct. at 596 (“As a matter of administration and to secure nationwide consistency, the Guidelines should be the starting point and the initial benchmark.”).

A variance that doubles the Stipulated Guidelines Sentence represents a particularly significant deviation that requires exceptional justification. Such variance effectively nullified the primary benefit Petitioner sought through plea negotiations – certainty regarding the recommended sentencing range, which here was also the sentence recommended by the Probation Department. See Pre-Sentence Report (“PSR”), dated, December 29, 2023, at 23-24 (recommending a sentence of 180 months’ imprisonment after balancing the Petitioner’s mitigation with the severity of the offense).³

³ “The defendant’s difficult upbringing is undeniable. Laureano’s parents reportedly separated when he was three or four years old, and he did not have contact with his father for the next 14 years. At age 12, the defendant learned that his mother had cancer, and he likely witnessed his mother’s health deteriorate until her passing on June 11, 2006, 17 days before Laureano’s 18th birthday. Through his childhood,

Thus, while it cannot be disputed that Petitioner would have faced a recommended aggregate Guideline range of at least 322 to 387 months' imprisonment, had he been convicted of Federal murder plus a single gun count, see Slip. Op. at 6-7, evaluating the reasonableness of Petitioner's sentence in this way, as the Court of Appeals did, wholly discounted the principal benefit negotiated between the parties, namely, *that he wouldn't be sentenced based upon the recommended Guideline ranges for the dismissed counts*. See Oral Argument, dated, October 20, 2025, at 24:07-24:28 (the Government conceding that "the terms of these plea agreements were specifically structured so that ... ***the Guidelines' starting point was lowered***, which is a major benefit, equipping the defendants to be able to argue" for a lower sentence "***benefited by the fact that the starting point was also lower***"). Finding otherwise, Petitioner submits, was unreasonable and a violation of his right to Due Process at sentencing.

Importantly, the violation of a defendant's right to Due Process at sentencing is not a matter solely impacting or of concern to Petitioner. Prosecutors hold significant discretionary power in plea negotiations, stemming largely from their authority over charging decisions—whether to prosecute, what charges to file, and the timing of such decisions. Just as prosecutors are expected to honor their agreements, so too must courts give great deference to such agreements to avoid a chilling impact on the ability of prosecutors to reach pretrial dispositions with

he and his family struggled financially as his father did not provide child support and his mother had to rely primarily on public assistance benefits." PSR at 24.

criminal defendants. Stated another way: What incentive would a defendant have to enter into a favorable plea agreement if knowledgeable of the fact that the sentencing court could so blatantly disregard the recommendation of the United States Sentencing Guidelines and vary so far upwards, as was the case here?

While the Guidelines are of course merely advisory, and should remain so, such judicial discretion should not be so broad as to permit courts to wholly ignore the intended benefits gained by defendants through plea negotiations. The Government obtains a conviction. In exchange, the defendant is entitled to a sentence that bears some reasonable relation to the recommended Sentencing Guideline range, particularly when, as here, that recommended range has been stipulated to by both parties. A three-time increase over the stipulated Guidelines range is beyond the pale and sets the wrong precedent for all future prosecutions.

CONCLUSION

The petition for a writ of certiorari should be granted.

Dated: New York, New York
April 7, 2026

Respectfully submitted,



MICHAEL K. BACHRACH, ESQ.
Counsel of Record
224 West 30th Street, Suite 302
New York, New York 10001
(212) 929-0592
michael@mbachlaw.com

APPENDIX

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24-1573-cr(L)

United States v. Ben-Jochannan, et al.

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 23rd day of October, two thousand twenty-five.

PRESENT: RICHARD C. WESLEY,
 SARAH A. L. MERRIAM,
 MARIA ARAÚJO KAHN,
 Circuit Judges.

UNITED STATES OF AMERICA,

Appellee,

v.

24-1573-cr(L),
24-1586-cr(Con.)

NNANDI BEN-JOCHANNAN; CARLOS
LAUREANO,

Defendants-Appellants.

FOR APPELLEE:

JACOB R. FIDDELMAN, Assistant United States
Attorney (Rushmi Bhaskaran, Assistant United

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States Attorney, *on the brief*), for Matthew Podolsky, Acting United States Attorney for the Southern District of New York, New York, NY.

FOR DEFENDANT-APPELLANT
NNANDI BEN-JOCHANNAN:

DONALD YANNELLA, Donald Yannella, P.C.,
New York, NY.

FOR DEFENDANT-APPELLANT
CARLOS LAUREANO:

MICHAEL K. BACHRACH, Law Office of Michael
K. Bachrach, New York, NY.

Appeal from the judgments of the United States District Court for the Southern District of New York (Liman, *J.*).

UPON DUE CONSIDERATION, the judgments of the District Court entered on May 23, 2024, and May 29, 2024, are **AFFIRMED**.

Defendants-appellants Carlos Laureano and Nnandi Ben-Jochannan appeal from the judgments of the District Court entered on May 23, 2024, and May 29, 2024, respectively, following their guilty pleas to firearms offenses. Laureano pled guilty to a superseding information charging him with two counts: Count One, discharging a firearm during and in relation to a drug trafficking offense in violation of 18 U.S.C. §924(c)(1)(A)(i), (ii), and (iii) and 18 U.S.C. §2; and Count Two, possessing a firearm during and in relation to a drug trafficking offense in violation of 18 U.S.C. §924(c)(1)(A)(i) and 18 U.S.C. §2. These charges collectively carried a mandatory minimum sentence of 15 years in prison and a maximum of life in prison. Laureano was sentenced principally to 300 months of imprisonment on Count One, and 60 months of imprisonment, consecutive, on Count Two. *See* Laureano App'x at 102-03.

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Ben-Jochannan pled guilty to a superseding information charging him with one count of aiding and abetting the brandishing of a firearm during and in relation to a drug trafficking offense, in violation of 18 U.S.C. §924(c)(1)(A)(i) and (ii) and 18 U.S.C. §2. This charge carried a mandatory minimum of seven years in prison and a maximum of life in prison. Ben-Jochannan was sentenced principally to 120 months of imprisonment. *See* Ben-Jochannan App’x at 126.

Each defendant-appellant challenges the substantive reasonableness of his prison sentence.¹ We assume the parties’ familiarity with the remaining facts, procedural history, and issues on appeal, to which we refer only as necessary to explain our decision to affirm.

DISCUSSION

Laureano’s first count of conviction² and Ben-Jochannan’s conviction arise out of the killing of Luis Perez. “In August 2014, Laureano provided [Perez and another person] with money for the purpose of acquiring heroin. . . . Laureano never received the heroin . . . nor did [Perez and the other person] return Laureano’s money.” Laureano Pre-Sentence Report (“PSR”) ¶11; Ben-Jochannan PSR ¶9. On August 12, 2014, Ben-Jochannan drove Laureano and another man to West Harlem in search of Perez. When they found Perez, who was standing on the street with his girlfriend, Laureano got out of the car and approached him. Laureano brandished the firearm; shot Perez in the head

¹ Neither defendant challenges any other aspect of his sentence.

² Laureano’s second count of conviction was not connected to Perez’s murder; it related to his possession of firearms in connection with his drug trafficking activities in 2018 through 2022.

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twice, killing him; fired at least one additional shot at the girlfriend; and then returned to the car where Ben-Jochannan was waiting. With Ben-Jochannan driving, the group fled the scene.

Laureano and Ben-Jochannan were indicted on charges including causing the death of a person through use of a firearm, which carries a maximum penalty of life in prison, and murder in furtherance of a continuing criminal enterprise, which allows imposition of the death penalty. Each entered into an agreement with the government to plead guilty to a superseding information, described above, and the indictment was dismissed.

I. Standard of Review

We review a sentence “under a deferential abuse-of-discretion standard.” *Gall v. United States*, 552 U.S. 38, 41 (2007). “Thus, when conducting substantive review, we take into account the totality of the circumstances, giving due deference to the sentencing judge’s exercise of discretion, and bearing in mind the institutional advantages of district courts.” *United States v. Cavera*, 550 F.3d 180, 190 (2d Cir. 2008) (en banc) (citing *Rita v. United States*, 551 U.S. 338, 354 (2007)). An appellant challenging a sentence “bears a heavy burden because our review of a sentence for substantive reasonableness is particularly deferential.” *United States v. Broxmeyer*, 699 F.3d 265, 289 (2d Cir. 2012). “[O]nly those sentences that are so shockingly high, shockingly low, or otherwise unworkable as a matter of law that allowing them to stand would damage the administration of justice” will be set aside as substantively unreasonable. *United States v. Muzio*, 966 F.3d 61, 64 (2d Cir. 2020) (citation modified).

Pet.App.5**II. Laureano**

Laureano argues that his sentence is substantively unreasonable, primarily because it is double the sentence recommended by the Guidelines. While it is uncommon for a District Court to impose a sentence so far above the Guidelines recommendation, that does not render Laureano's 360-month sentence substantively unreasonable, particularly in light of the unusual nature of the Guidelines approach to convictions under Section 924(c) and Laureano's conduct.

The District Court examined the Section 3553(a) sentencing factors and the purposes of a criminal sentence and adequately justified the sentence imposed. The District Court placed heavy weight on the gravity of the offense, emphasizing that Laureano had "brutally murdered an innocent man who was 22 years old at the time." Laureano App'x at 90. "The crime was brazen and it was premeditated," the District Court opined. *Id.* The District Court also considered the needs for "general and specific deterrence," to send the message "to people who might consider premeditated murders that if they are caught, there will be serious repercussions that will follow." *Id.* at 93-94; *see* 18 U.S.C. §3553(a)(2)(B). The Court considered mitigating factors, including Laureano's expression of "compunction and regret," his acknowledgment of the "ripple effects" of his crime, the positive letters from his friends and family, the fact that he had never served a lengthy prison sentence before, and his efforts to improve his education. Laureano App'x at 90, 93, 94-95. Finally, the District Court stated that the need for incapacitation weighed heavily, in light of Laureano's lengthy criminal history. *See id.* at 94; 18 U.S.C. §3553(a)(2)(C).

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As the District Court explained, the Guidelines recommendation did not sufficiently account for Laureano’s actual conduct, placing his case “outside of the heartland for cases under [Guidelines Section] 2K2.4,” which applies to Section 924(c) offenses. Laureano App’x at 92; *see also* U.S.S.G. §2K2.4. The Guidelines do not provide for a base offense level for Section 924(c) offenses; rather, they simply recommend imposing the mandatory minimum term of imprisonment. There is therefore no difference between the recommended sentence for a defendant convicted of discharging a firearm by firing the weapon into the air, causing no injury, and the recommended sentence for a defendant like Laureano who discharged a firearm directly at a victim with the intent to kill him. Aggravating and mitigating factors are not considered in determining the Guidelines recommendation.

As a result, it is useful to consider what *other* Guidelines provisions might suggest as an appropriate sentence for the same conduct. Laureano pled guilty to the offense of discharging a firearm – for the purpose of murdering Perez. Indeed, as a part of his plea, he admitted that he “intentionally shot and killed Luis Perez . . . in furtherance of a narcotics conspiracy.” Laureano App’x at 25 n.1. The PSR’s description of the offense – to which Laureano did not object – makes clear that Laureano intentionally murdered Perez. Given that offense conduct, Laureano likely could have been convicted of First or Second Degree Murder. *See* 18 U.S.C. §1111; Laureano App’x at 90 (District Court describing the murder as “premeditated”). Had he been, Guidelines Section 2A1.1 or 2A1.2, which provide for base offense levels of 43 or 38, respectively, would apply. *See* U.S.S.G. §§2A1.1, 2A1.2. Assuming a reduction of three levels for acceptance of

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responsibility, at an adjusted offense level of 35 for Second Degree Murder and a Criminal History Category of V, *see* Laureano PSR ¶40, Laureano’s recommended sentence on Count One would have been 262 to 327 months. Count Two carries a recommended sentence of 60 months which “must run consecutively to any other sentences imposed.” *United States v. Barrett*, 102 F.4th 60, 90 (2d Cir. 2024); *see also* 18 U.S.C. §924(c)(1)(A). Thus, the Guidelines would have recommended a sentence in the range of 322 to 387 months. The District Court’s sentence of 360 months falls squarely within this range.

Considering the totality of the circumstances, a 360-month term of imprisonment is adequately supported by the Section 3553(a) factors and is not so “shockingly high” as to fall outside the range of permissible decisions. *Muzio*, 966 F.3d at 64 (citation modified).

III. Ben-Jochannan

Ben-Jochannan’s 120-month sentence, which was 36 months above the 84-month sentence recommended by the Guidelines, was also not substantively unreasonable. The statute of conviction provides for a mandatory minimum sentence of 84 months and a maximum of life in prison. *See* 18 U.S.C. §924(c)(1)(A)(ii). Again, because of the unusual nature of the Guidelines approach to Section 924(c) convictions, the recommended sentence does not account for the fact that the firearm brandished in this case *was used to murder someone*, supporting the District Court’s conclusion that “Ben-Jochannan’s conduct was more aggravated than the heartland.” Ben-Jochannan App’x at 116. Even if he did not know that Laureano planned to commit murder, Ben-Jochannan

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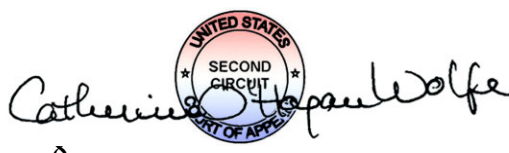
did know Laureano was armed, and Ben-Jochannan supplied the car, drove the shooter both to and away from the scene, and lied to the police when questioned.

In sentencing Ben-Jochannan, the District Court properly considered the relevant Section 3553(a) factors and the sentence recommended by the Guidelines. Specifically, the Court acknowledged the seriousness of the offense conduct and Ben-Jochannan’s role in the offense, observing that Ben-Jochannan “knowingly and voluntarily aided and abetted the possession and brandishing of a firearm that was used to shoot and kill Mr. Perez in furtherance of a narcotics conspiracy.” *Id.* at 115-16. The District Court considered general deterrence a significant purpose of the sentence, while incapacitation and specific deterrence were not significant needs for Ben-Jochannan. *See id.* at 118-19. The District Court addressed mitigating factors, including Ben-Jochannan’s limited role in the murder, his lack of subsequent criminal history, and his demonstrated “ability to be a productive and law-abiding member of society.” *Id.* at 119. While other sentences would also have been substantively reasonable based on all the circumstances, we find no abuse of discretion in the District Court’s weighing of the sentencing factors in this matter.

We have considered the parties’ remaining arguments and find them to be without merit. For the foregoing reasons, the judgments of the District Court are **AFFIRMED**.

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court

A circular official seal of the United States Second Circuit Court of Appeals is stamped over the signature. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS".

Pet.App.9

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 7th day of January, two thousand twenty-six.

United States of America,

Appellee,

v.

Nnandi Ben-Jochannan, Carlos Laureano,

Defendants – Appellants.

ORDER

Docket Nos: 24-1573 (Lead)


24-1586 (Con)

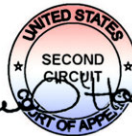
Appellant, Carlos Laureano, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk


Catherine O'Hagan Wolfe



UNITED STATES DISTRICT COURT

Southern District of New York

UNITED STATES OF AMERICA

v.

CARLOS LAUREANO

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:22-cr-00058-LJL-1

USM Number: 84272-509

Elizabeth Macedonio & Michael Bachrach

Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) 1 and 2 of the (S1) Superseding Information.

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 U.S.C. §924(c)(1)(A)(i), (ii) and (iii), and 2	Discharging a Firearm During and In Relation to a Drug Trafficking Offense	2/1/2022	1
18 U.S.C. §924(c)(1)(A)(i) and 2	Possessing a Firearm During and In Relation to a Drug Trafficking Offense	2/1/2022	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) all remaining open counts 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.

5/23/2024

Date of Imposition of Judgment



Signature of Judge

Lewis J. Liman, United States District Judge

Name and Title of Judge

5/23/2024

Date

DEFENDANT: CARLOS LAUREANO
CASE NUMBER: 1:22-cr-00058-LJL-1

IMPRISONMENT

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

Three hundred (300) months imprisonment on Count 1 and sixty (60) months imprisonment on Count 2, to run consecutively, for a total of three hundred sixty (360) months imprisonment.

The court makes the following recommendations to the Bureau of Prisons:

Defendant be designated to FCI Otisville in New York or another facility as close as possible to the NYC area.

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: CARLOS LAUREANO
CASE NUMBER: 1:22-cr-00058-LJL-1

SUPERVISED RELEASE

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

Four (4) years of supervised release on Count 1 and four (4) years of supervised release on Count 2, to run concurrently, for a total of four (4) years of supervised release.

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: CARLOS LAUREANO
CASE NUMBER: 1:22-cr-00058-LJL-1

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. 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: CARLOS LAUREANO
CASE NUMBER: 1:22-cr-00058-LJL-1

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit his person, and any property, residence, vehicle, papers, computer, other electronic communication, data storage devices, cloud storage or media, and effects to a search by any United States Probation Officer, and if needed, with the assistance of any law enforcement. The search is to be conducted when there is reasonable suspicion concerning violation of a condition of supervision or unlawful conduct by the defendant. Failure to submit to a search may be grounds for revocation of release. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. Any search shall be conducted at a reasonable time and in a reasonable manner.

The defendant shall be supervised by the district of residence.

DEFENDANT: CARLOS LAUREANO
 CASE NUMBER: 1:22-cr-00058-LJL-1

CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 200.00	\$ N/A	\$ 0.00	\$	\$

The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

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	\$	<u>0.00</u>	\$	<u>0.00</u>
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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: CARLOS LAUREANO
CASE NUMBER: 1:22-cr-00058-LJL-1

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:

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) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.