

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 21-CR-20005-DPG-1

UNITED STATES OF AMERICA,)	Pages 1-48
vs.)	Miami, Florida
ALBERICO AHIAS CRESPO,)	January 24, 2024
Defendant.)	1:44 P.M.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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(Call to order of the Court at 1:44 P.M.)

THE COURTROOM DEPUTY: Calling Case No. 21-CR-20005,
United States of America vs. Alberico Ahias Crespo.

Counsel, please state your appearance, starting with the
government.

MR. MCLAUGHLIN: Good afternoon, Your Honor. Sean
McLaughlin on behalf of the United States. Also with me at
counsel table, my cocounsel, AUSA Chris Clark, and also the case
agent, FBI Special Agent Heidi Ford.

THE COURT: All right.

MR. QUINON: Jose Quinon on behalf of Alberico Crespo,
who is to my right here today. Also to my right sitting at
counsel's table is my investigator/paralegal Jose Gonzalez. Thank
you, sir.

THE COURT: All right. Good afternoon. Sorry we're
starting a few minutes late. We had a meeting and it got me
behind schedule.

Oh, and from probation.

MS. GALVEZ: Good afternoon, Your Honor. Stephanie
Galvez, U.S. Probation.

THE COURT: All right. Good afternoon.

All right. We are here for Mr. Crespo's sentencing. I
reviewed the presentence report, as well as the objections filed
by both sides in this case.

I guess to some degree some of the guidelines issues are

01:45PM 1 overlapping. We'll take them one by one, starting with the
01:46PM 2 government.

01:46PM 3 MR. MCLAUGHLIN: Your Honor, our first objection is to
01:46PM 4 the offense level. In the government's opinion, and the case law
01:46PM 5 is very clear on that, in a plain text reading of the guideline is
01:46PM 6 very clear that the offense level should be a 34, which captures a
01:46PM 7 drug weight of between 10,000 and 30,000 kilograms of converted
01:46PM 8 drug weight. I have laid out our position very clearly in my
01:46PM 9 opinion in our objections. If the Court has any questions, I'm
01:46PM 10 happy to answer them.

01:46PM 11 But our opinion is, Judge, the guideline is very clear.
01:46PM 12 The offense level for an obstruction case is the guideline of the
01:46PM 13 underlying crime. The underlying crime here is the conspiracy to
01:46PM 14 traffic in oxycodone from November of 2016 up until his arrest in
01:46PM 15 July of 2020. That's it. I think to hold him accountable as the
01:46PM 16 revised PSI does only for the Gonzalez era not only ignores the
01:46PM 17 facts, it ignores the law.

01:47PM 18 The Court sat here in trial. For three weeks we
01:47PM 19 presented damning evidence, clear evidence, that not only did Mr.
01:47PM 20 Crespo know about Diaz's oxy trafficking during the Gonzalez era,
01:47PM 21 he knew about it thereafter and he reasonably should have known
01:47PM 22 about it. I would draw the Court's attention to specifically the
01:47PM 23 events of July 17th where Crespo is specifically told by Diaz: I
01:47PM 24 am engaged in oxycodone trafficking. I have bought some pills
01:47PM 25 from one of my patients, Mercedes Perez. And lo and behold, the

01:47PM 1 FBI has gone and talked to her and implicated me. So the idea
01:47PM 2 that he doesn't know that Diaz is still oxy trafficking even after
01:47PM 3 the Gonzalez era just doesn't fly with the facts, Your Honor.

01:47PM 4 That's our position. We have laid it out again in our
01:47PM 5 written response. If the Court has any questions, I'm happy to
01:47PM 6 answer them.

01:47PM 7 THE COURT: Okay. And your response. I understand you
01:47PM 8 have your own idea what the calculation should be.

01:48PM 9 MR. QUINON: Judge, may I come up to the podium?

01:48PM 10 THE COURT: Yes, sir.

01:48PM 11 MR. QUINON: Thank you.

01:48PM 12 Judge, kind of an unusual case and circumstances.
01:48PM 13 Concerning the -- where we all end up in the PSI in this case,
01:48PM 14 it's unusual to have all of us end up at a different location, so
01:48PM 15 to speak, or a different conclusion. That is to say, probation
01:48PM 16 ends up with their calculations; I ended up with different
01:48PM 17 calculations, and based upon objections that I filed, as you know;
01:48PM 18 and also the government ends up at a different level altogether.
01:48PM 19 So everybody ended up at a different level.

01:48PM 20 I think it is important to just go back and just give a
01:48PM 21 brief review of how we got here. Okay.

01:48PM 22 The first thing that happened was probation filed the
01:48PM 23 initial draft of a PSI, which is normally the case. And in doing
01:49PM 24 that, probation came up and concluded that the right way to
01:49PM 25 compute the guidelines in this case is to take the patients that

1 were named in the indictment, and actually patients that were the
2 core of this case. Those were the patients who were visited by
3 the FBI agent, if you recall the testimony when we had the trial.
4 So there are six patients that were critical in connection with
5 the case, and really the whole trial revolved around, for the most
6 part, around those patients. Okay.

7 And so probation came up with, based upon the evidence
8 that was given to probation by the government, not by the defense,
9 they gave them the reports, probation read all the reports, and
10 probation came up with the conclusion that the proper converted
11 drug weight under the guideline formulas was 1,802 kilograms.
12 Okay. And based upon that, the base offense level, I believe, was
13 24, if I recall correctly. Okay. And came up with a total
14 offense level of 26, but recognized in paragraph 96 of the PSI
15 that Mr. Crespo was entitled to get that 4C1.1 reduction.

16 Anyways, the point being that at the end of the day the
17 first PSI probation concluded that the proper level here was
18 Level 24, which yielded 51 to 63 months of incarceration. That
19 was probation's conclusions.

20 I filed my objections saying: No, I think that's not the
21 way to compute the guidelines. I object. The reason that I
22 objected is because I brought up the fact that under the
23 guidelines when you have a conspiracy, it is not an individual
24 crime; it's a crime of joint criminal conduct. And, therefore,
25 you have to go to a provision in the guidelines, which is

01:51PM 1 Section 1B1.3, to factor in the crossover in this case.

01:51PM 2 Under this section of the guidelines it tells you that
01:51PM 3 whenever you're going to attribute, as in this case, the amount of
01:51PM 4 drugs to determine punishment under the guidelines, there are
01:51PM 5 three things that you need to satisfy in order to hold the
01:51PM 6 defendant accountable to that.

01:51PM 7 Number one is that the joint criminal activity is within
01:51PM 8 the scope. In other words, that what happened is within the scope
01:51PM 9 of the jointly undertaken criminal activity. What that means is
01:51PM 10 the defendant gets punished not for the whole scope of the
01:52PM 11 conspiracy, and that's important. That's where we part ways here.
01:52PM 12 I part ways with probation and the government here. Okay.

01:52PM 13 If you read the commentary to this section, it tells you
01:52PM 14 that when you have joint criminal activity such as a conspiracy,
01:52PM 15 which is what we have here, okay, you don't attribute to the
01:52PM 16 defendant the entire scope of the conspiracy; you must attribute
01:52PM 17 only that conduct that is within the scope of the jointly
01:52PM 18 undertaken criminal activity. That is to say, what the defendant
01:52PM 19 agreed to do within the scope of what he agreed to do within the
01:52PM 20 conspiracy is what he gets punished for, which is less typically
01:52PM 21 than the whole scope of the conspiracy.

01:52PM 22 And when you read the commentary of this particular
01:52PM 23 section, it tells you precisely that, in those words: That the
01:52PM 24 scope of the conspiracy and the scope of jointly undertaken
01:52PM 25 criminal activities are two different concepts. And the court,

1 according to the guidelines, must make a finding to what was the
2 jointly undertaken criminal activity in this case. Okay. So
3 that's the first element of that section.

4 The second element is that the criminal activity has to
5 be undertaken by -- other than the defendant has to be in
6 furtherance of the conspiracy, in furtherance of the criminal
7 activity.

8 And the last thing, the third element is that it has to
9 be reasonably foreseeable in connection with that criminal
10 activity.

11 My main objection was on the first element of those three
12 things that the guidelines require. If any of those three
13 elements is missing, then the defendant cannot be held accountable
14 in this case, as has been done.

15 So the issue here is then: What is the jointly
16 undertaken criminal activity on the part of Mr. Crespo? And my
17 position is that it is not the totality of the scope of
18 conspiracy. Probation finds that it should be the scope of the
19 Gonzalez conspiracy. Okay. Initially they didn't come out to
20 that conclusion. They came to that conclusion in the revised PSI,
21 the second one that we got. Okay. And so probation concluded,
22 once they read the government's objections that: Okay. We're
23 going to hold Mr. Crespo responsible for the totality of the
24 Gonzalez conspiracy. Okay. I objected to that.

25 The government also objected because the government said:

01:54PM 1 No, you've got to hold him accountable also for that part that
01:54PM 2 deals with Dr. Carpman, a different doctor, and also a Dr.
01:55PM 3 Espinosa, a doctor up in Boca Raton. Okay. And probation said:
01:55PM 4 No, it should only be Dr. Gonzalez. And I'm saying it should be
01:55PM 5 only Dr. Gonzalez's conspiracy but not the entire scope of the
01:55PM 6 conspiracy; it should be only that part that Mr. Crespo agreed to
01:55PM 7 undertake criminal activity.

01:55PM 8 So that's the difference between all three parties here,
01:55PM 9 okay. And this is one of those cases that, ironically, Mr.
01:55PM 10 Crespo's punishment is based upon the amount of oxycodone pills.
01:55PM 11 The higher the pills, the higher the accountable punishment under
01:55PM 12 the guidelines. But what makes this ironic is that Mr. Crespo got
01:55PM 13 acquitted of Count 1. As you know, Judge, the jury found him not
01:55PM 14 guilty of being involved in the trafficking aspect of Mr. Diaz,
01:56PM 15 the codefendant who testified.

01:56PM 16 So what is happening here is -- essentially is that now
01:56PM 17 Mr. Crespo gets acquitted of conduct in Count 1, and essentially
01:56PM 18 the way that this is working out if you listen to the government,
01:56PM 19 they want to punish him as if he had been found guilty of Count 1
01:56PM 20 essentially because of the number of pills that Mr. Diaz was
01:56PM 21 involved in.

01:56PM 22 Now, as I said before, the Court must make a finding of
01:56PM 23 the jointly undertaken criminal activity. Mr. McLaughlin
01:56PM 24 mentioned this woman, Mercedes Perez, I mentioned her as well in
01:56PM 25 my pleadings. And I pretty much put it out there that, yes, as to

1 the amount of pills that were dispensed to her, because Mr. Crespo
2 was communicating with Mr. Diaz about Mercedes Perez, and there
3 was conversation that could be, and obviously the jury took it to
4 mean, that there was obstruction there. I can see where -- and I
5 put that in my pleadings -- I can see where that particular type
6 of conduct and pills could be taken into account. And I used that
7 to come out to a Level 18 under my calculations. Under the base
8 offense level and the total offense level, I came out to Level 18
9 in this case, which is 27 to 33 months.

10 Now, again, in assessing to what is Mr. Crespo going to
11 be held accountable, there are a couple of things that happened in
12 this unusual case during the trial that merit for us to review at
13 this point, particularly the Court, since you've got to make a
14 finding of what the undertaking by Mr. Crespo of what he
15 supposedly undertook from a criminal point of view as to joint
16 criminal activity in this case.

17 In this case we know that Mr. Crespo on October the 2nd
18 of 2019 calls Orlando, a coworker, to ask, and Orlando happened to
19 be -- Alvarez happened to be the lead agent in the case that
20 supposedly has been obstructed of Dr. Gonzalez. And this lead
21 agent tells Mr. Crespo on October 2nd, when Mr. Crespo asked: Are
22 you looking for this individual, Mr. Diaz, Jorge Diaz? Is he
23 somebody you're looking for in connection with this investigation?
24 Orlando Alvarez said: No. The investigation is closed. That is
25 October 2nd.

Now, that is important because Mr. Diaz kept selling drugs or trafficking in oxycodone thereafter. Mr. Crespo, with all due respect, cannot be held accountable for obstructing an investigation that in his mind doesn't exist. Okay. So that's a factor that I wanted to bring up to the Court.

And also a second factor that I think is to be considered by the Court is the fact that Mr. Diaz, the main witness for the government, says in his testimony before the Court that it is only essentially a few months before the arrest went down in this case. Mr. Diaz and Mr. Crespo were arrested in this case July 21, 2020. And Mr. Diaz testified that he moved into the house of Mr. Crespo sometime at the very end of December of 2019 or early January. And it is only a month after that, according to the codefendant's testimony, that he tells Mr. Crespo that he, Mr. Diaz, was involved in the trafficking or he was selling pills; he was selling oxycodone pills.

So this is not a case where Mr. Crespo should be saddled with all kinds of pills that he didn't sell, he didn't traffic. We know he didn't profit because even the codefendant, the main government witness, said he never got a penny out of this. And we also know that even the codefendant says he doesn't tell Diaz -- I'm sorry. He doesn't tell Crespo until the very end that he was selling these pills.

So that is what we have here. And so I submit to you that the proper level is as we have set forth in our pleadings,

02:01PM 1 which is a Level 18, which I believe comes to 27 to 33 months in
02:01PM 2 this case.

02:01PM 3 Now, that deals only with the base offense level that we
02:01PM 4 have been discussing. There are other matters that are
02:01PM 5 objectionable. You asked the government for their objections. I
02:01PM 6 do have an objection to the two-level enhancement for obstruction
02:01PM 7 of justice.

02:01PM 8 THE COURT: Well, we're going to get to that next.

02:01PM 9 MR. QUINON: All right. So I'm going to sit down, and
02:01PM 10 that's it for me for the time being. Thank you, sir.

02:01PM 11 THE COURT: All right. So I will ask the government.

02:01PM 12 So the defendant was acquitted of the drug charge. And,
02:01PM 13 look, I understand relevant conduct and that the standard here is
02:01PM 14 less than proof beyond a reasonable doubt, but how do you suggest
02:01PM 15 I should consider the acquittal in this determination?

02:02PM 16 MR. MCLAUGHLIN: It's irrelevant, Your Honor, to speak
02:02PM 17 bluntly.

02:02PM 18 All due respect to Mr. Quinon, but his attempt to sort of
02:02PM 19 carve out accountability for this defendant just ignores the
02:02PM 20 truth. And the truth is very simple, Your Honor. This defendant
02:02PM 21 engaged in a long-running -- years-long obstruction conspiracy
02:02PM 22 with Jorge Diaz to protect his oxycodone trafficking. And we have
02:02PM 23 proved that at our trial with all the exhibits -- with all due
02:02PM 24 respect to probation, they did not sit in on the trial --
02:02PM 25 overwhelming, and the basic facts tell you that.

02:02PM 1 So during that, as you heard Diaz testify at trial, that
02:02PM 2 of course Crespo warns him to get out of there, because of course
02:02PM 3 Crespo was on the strike force, the healthcare fraud strike force,
02:02PM 4 and they're investigating Gonzalez.

02:02PM 5 Why would Crespo need to warn Diaz to get out of there if
02:02PM 6 Crespo didn't know that Diaz was a drug trafficker? Why would all
02:02PM 7 of the calls be happening on the day of the takedown in advance of
02:02PM 8 the search warrant? Why would that happen? Why did this happen,
02:03PM 9 Judge? Because he knows he's a drug trafficker. The attempts to
02:03PM 10 run his NCIC, reading up on reports, reporting back to Diaz.

02:03PM 11 They would talk six, seven times a day, Your Honor. Is
02:03PM 12 it reasonably foreseeable for Crespo to believe that once he left
02:03PM 13 the Gonzalez office, he would continue trafficking? Of course it
02:03PM 14 is. Is it reasonable to assume when he invites him to move into
02:03PM 15 his house in late 2019 that he's still trafficking? Of course it
02:03PM 16 is. And, in fact, Diaz confirms to him that he still is.

02:03PM 17 And then we get to January 17th where it's crystal clear
02:03PM 18 that Crespo knows again. And he also knows that Diaz is a
02:03PM 19 trafficker because, as we showed at trial, there was the e-mail in
02:03PM 20 June that Crespo receives, he tells Diaz to run home. He shows
02:03PM 21 that FBI e-mail to Diaz; they have a conversation. Crespo says:
02:03PM 22 I'm not worried about you. Continue on with the Uber, just
02:04PM 23 continue trafficking.

02:04PM 24 The 17th it's crystal clear where Diaz and Crespo are
02:04PM 25 talking about Diaz's trafficking that specific day. And I would

1 direct your attention, Your Honor, to our response, which I'm
2 pulling verbatim from the trial where Crespo is telling Diaz:
3 I've been warning you for a year that Lorenzo and Pozo are going
4 to sell you out. A year prior to 2020.

5 From the government's point of view, Your Honor, this
6 defendant has known about Diaz's oxycodone trafficking from the
7 word go. Should he be held accountable for it? Absolutely. And
8 it is very clear in our response too. There is a policy reason
9 for that: The bigger -- the more serious crime you obstruct, the
10 bigger hit you get at sentencing, and I've laid out the cases for
11 that.

12 And he's not accountable for the entire drug conspiracy.
13 He gets a six-level reduction. The defense knows that.

14 Do you have any other questions, Judge?

15 But it is a basic truth of what this case is about. This
16 is about a corrupt agent who was protecting a drug trafficker
17 being investigated, by the way, by his colleagues that he worked
18 with every day for years; not a couple days, not a couple months,
19 for years. Should he be accountable for the entire conspiracy?
20 Absolutely.

21 THE COURT: All right. Well, considering --

22 Well, first it's the government's objection. I am going
23 to overrule the objection, and I guess I'll be overruling the
24 objection as well as to the defense calculation, as I find that
25 probation properly calculated the defendant's base offense level.

02:05PM 1 MR. MCLAUGHLIN: Your Honor, if I may?

02:05PM 2 How is the Court not finding him accountable for --

02:05PM 3 THE COURT: You're going to sit here and argue with me
02:05PM 4 when I'm making a finding?

02:05PM 5 MR. MCLAUGHLIN: I'm just asking.

02:05PM 6 THE COURT: You can object. Have a seat.

02:05PM 7 I find that probation has made a reasonable determination
02:05PM 8 regarding the base offense level. Of course the Court is
02:06PM 9 considering the base offense level based on conduct for which the
02:06PM 10 defendant was acquitted. However, that does not end the
02:06PM 11 calculation.

02:06PM 12 I still consider his relevant conduct and his jointly
02:06PM 13 undertaken criminal activity, along with his co-conspirators,
02:06PM 14 understanding the standard is less than beyond a reasonable doubt,
02:06PM 15 which is the standard the jury considered.

02:06PM 16 The evidence is strongest with regard to the defendant's
02:06PM 17 knowledge regarding the criminal activity involving Dr.
02:06PM 18 Gonzalez's clinic. While there may be some evidence to suggest
02:06PM 19 his knowledge regarding the other two doctors, Espinosa or
02:06PM 20 Carpman, under these circumstances I do find that probation made a
02:07PM 21 reasonable calculation; and therefore, I will overrule both
02:07PM 22 objections.

02:07PM 23 The next objection from the government.

02:07PM 24 MR. MCLAUGHLIN: Your Honor, I think our next objection
02:07PM 25 -- and I apologize for interrupting -- is the zero point offender.

1 I think defense has other objections, but that's our last
2 objection.

3 THE COURT: Any further argument on that?

4 MR. MCLAUGHLIN: I don't see how on earth probation is
5 awarding zero to this offender, Your Honor. We have a series of
6 very credible direct threats to kill possible cooperators. I have
7 laid out in our response the law; you don't have to communicate
8 that directly to the person themselves. Again, probation was not
9 at the trial, has not listened to the calls, the Court has.

10 It's very clear from the government that these were
11 threats, they were very credible threats, and for that reason he
12 is not a zero point offender, Your Honor.

13 THE COURT: All right. And your response.

14 MR. QUINON: Your Honor, I need to remind counsel, who
15 was at trial and I certainly was and so was the Court, when his
16 own witness -- main witness in the case testified that he did not
17 believe that those threats that Mr. Crespo was going to hurt
18 anybody with those threats.

19 In addition to that, he testified that Mr. Crespo, he can
20 hear from the voice and the recordings in the courtroom that Mr.
21 Crespo was drunk on that night of July 17th of 2020. That's the
22 testimony of the government's own witness. He testified that Mr.
23 Crespo was drunk at the time, and that he didn't think that that
24 was something that he was going to act on.

25 Mr. Crespo never acted upon any of that. What the man

02:08PM 1 was -- Mr. Crespo was, unfortunately, very drunk that night and
02:08PM 2 talked a lot of things that he really shouldn't have, you know.
02:09PM 3 And that happens sometimes when we drink excessively, as he did
02:09PM 4 that night. And the testimony was from Agent Henry Luna, who
02:09PM 5 testified that there were a number of bottles of wine that were
02:09PM 6 consumed in a very short period of time.

02:09PM 7 There was no credible threat in this case; and therefore,
02:09PM 8 I think that -- that was the testimony that was here at trial.

02:09PM 9 THE COURT: With regard to the zero point offender
02:09PM 10 objection, I am going to sustain that objection, as based on this
02:09PM 11 record and the totality of the evidence, I can't find that those
02:09PM 12 threats were not credible. I don't think that it's appropriate,
02:09PM 13 even considering the 3553(a) factors, so I will sustain that
02:09PM 14 objection.

02:09PM 15 Any other objections from the government?

02:09PM 16 MR. MCLAUGHLIN: No, not from the government, Your Honor.

02:10PM 17 THE COURT: All right.

02:10PM 18 From the defense, your additional objections.

02:10PM 19 MR. QUINON: Yes, sir. We do object to the two-level
02:10PM 20 adjustment for obstruction of justice. This was awarded because
02:10PM 21 of supposedly a contact with this individual who --

02:10PM 22 Just give me a second here, Judge. Let me just get my
02:10PM 23 documentation. I just want to make sure that I'm accurate.

02:11PM 24 So this was supposedly -- the evidence regarding this is
02:11PM 25 supposedly a statement made by Mr. Crespo to an individual named

02:11PM 1 Valodia Aguilera according to the assertions in this case, and
02:11PM 2 they were supposedly aimed to intimidate or to silence Mr. Diaz.
02:11PM 3 Okay.

02:11PM 4 The problem here is, A, those assertions weren't made. I
02:11PM 5 made an objection to that effect, stating that our position is
02:11PM 6 that the statements were not made.

02:11PM 7 Second of all and importantly, the notification to Mr.
02:11PM 8 Crespo was never given that he's not supposed to have contact with
02:12PM 9 Mr. Valoria. If the Court wishes, I have an e-mail here from
02:12PM 10 Mr. Seitles' office confirming that he never gave the list of no
02:12PM 11 contact. It was a list that was made by the government and sent
02:12PM 12 to different individuals, including Mr. Seitles. But Mr. Seitles
02:12PM 13 never -- as the attorney never gave the list to his client, Mr.
02:12PM 14 Crespo. That's acknowledged by his office here.

02:12PM 15 I also have Mr. Crespo's fiancée or wife here today,
02:12PM 16 Samantha, who can testify that she was in contact with
02:12PM 17 Mr. Seitles' office at one point asking whether they had ever sent
02:12PM 18 that no contact list to Mr. Crespo, and the answer is no, they
02:13PM 19 never sent the list. I would like to make this a part of the
02:13PM 20 record, an exhibit to today's sentencing hearing. I gave a copy
02:13PM 21 to the government before we started today. I have the fiancée
02:13PM 22 here who can testify to that under oath if the Court desires that.
02:13PM 23 But at this point I will move in this particular e-mail between --

02:13PM 24 (Door alarm sounding.)

02:13PM 25 -- with Mr. Seitles' office, Judge.

02:13PM 1 THE COURT: So are you suggesting that there had to be a
02:13PM 2 communication from Mr. Seitles to the defendant for this witness
02:13PM 3 list to apply?

02:13PM 4 MR. QUINON: Well, I basically raised four grounds why it
02:13PM 5 shouldn't apply.

02:13PM 6 One, the statement wasn't made. We deny that.

02:13PM 7 Two, Mr. Crespo was never notified.

02:13PM 8 Three, if the government knew of this, which apparently
02:14PM 9 they said that they did, they never communicated that to me at the
02:14PM 10 time when this supposedly happened. They never moved to revoke
02:14PM 11 Mr. Crespo's bond. They never called me and said: Hey, what's
02:14PM 12 going on with your guy? He's not supposed to be contacting
02:14PM 13 witnesses. Besides, Mr. Valoria never testified, was never a
02:14PM 14 witness here to my knowledge. But I was never notified. The
02:14PM 15 government never did anything with this information.

02:14PM 16 And, four, this is rank hearsay from an individual, Mr.
02:14PM 17 Valoria. There is a reason why he may want to do something like
02:14PM 18 this, if he did that, if he made the statement to the agents,
02:14PM 19 which we don't know, there is a reason for that. Mr. Valoria, the
02:14PM 20 line sheets in the wire tap in this case, the Title 3 in this
02:14PM 21 case, shows that Mr. Valoria may have been doing some of that drug
02:15PM 22 business with Mr. Diaz; and he has a reason, therefore, to try to
02:15PM 23 please the agents in this case, Judge.

02:15PM 24 Judge, the bottom line is, it really is very, very thin
02:15PM 25 and, quite frankly, very unfair to take that type of statement

without this individual ever coming into court to give now an adjustment -- an upward adjustment that will put this man in prison for an additional period of time with this type of evidence, with an individual of this character, who may have been involved in the drug business himself and had a reason to try to ingratiate himself with the agents in this case.

And so those are the four reasons. And I think that, quite frankly, you shouldn't really award such an adjustment in this case, Judge.

THE COURT: All right. Give me a moment before I hear from the government.

All right. The government's response.

MR. MCLAUGHLIN: Your Honor, as set forth in our first sentencing exhibit, this list was communicated not only to Mr. Seitles but to a series of people in probation. It's irrelevant from the government's point of view whether or not Mr. Seitles communicates that, but it was provided to probation. Logically we would assume that that was communicated to the defendant from his probation officer because it was provided to probation.

THE COURT: This enhancement is solely based on the contact with Mr. Aguilara?

MR. MCLAUGHLIN: It's also with Mr. Diaz, because Mr. Diaz was also on the no contact list. So he's going through Mr. Valoria to get to Diaz, so it's two parts to it.

MR. QUINON: Well, the part of Mr. Diaz was discounted by

02:17PM 1 probation. That's why I only addressed Valoria, Your Honor.

02:17PM 2 MR. MCLAUGHLIN: And again we object to that discount;
02:17PM 3 discounting by probation, but.

02:17PM 4 THE COURT: Okay. Hold on for a second.

02:17PM 5 There are two people allegedly contacted; Mr. Diaz and
02:17PM 6 Mr. Aguillara. And your argument was focused on Mr. Aguillara.

02:17PM 7 MR. QUINON: That's correct, because that's the one that
02:17PM 8 probation used to enhance in this case. Probation analyzed the
02:17PM 9 Diaz situation and they decided that that was not sufficient to
02:17PM 10 add or to take into account in trying to give Mr. Crespo this
02:18PM 11 adjustment, so I only addressed Aguillara because that's the one
02:18PM 12 that probation used.

02:18PM 13 And again, Aguillara never has been a witness in this
02:18PM 14 case and, again, not in court. I mean if you're going to use him
02:18PM 15 to give this man what amounts to a period of time in prison, at
02:18PM 16 the very least we should have an opportunity to be able to
02:18PM 17 cross-examine him. Bring him to court, you know. This is really
02:18PM 18 almost like gossipy stuff. If there's really any essence to this,
02:18PM 19 it would have been used to violate the bond at the time when it
02:18PM 20 happened, because they had been, in my opinion, and this is again
02:18PM 21 conjecture again on my part, but they've been after Mr. Crespo,
02:18PM 22 you know, from the very beginning. If there was an opportunity to
02:19PM 23 put him in, they would have put him in, bottom line.

02:19PM 24 And I have never heard of this thing about Aguillara
02:19PM 25 until we get to now, at the very end.

02:19PM 1 THE COURT: All right. Let me hear from the government.

02:19PM 2 MR. MCLAUGHLIN: Your Honor, it is our position that Mr.

02:19PM 3 Crespo was not allowed to have contact with the codefendant Diaz

02:19PM 4 or Mr. Aguillara. Like I noted in our response, although the bond

02:19PM 5 paperwork -- the box wasn't checked, it was very clear in the

02:19PM 6 joint motion that they were not allowed to have contact. And the

02:19PM 7 evidence will show you that they're not allowed, because that's

02:19PM 8 why he reaches out to not only Diaz's son but also Valaria to pass

02:19PM 9 the message to Diaz to stop talking.

02:19PM 10 In terms of whether or not we sought to revoke his bond

02:19PM 11 is irrelevant for the determination of why Crespo is reaching out

02:19PM 12 to these people and saying what he's saying. It's very clear why

02:19PM 13 he's reaching out to the son to deliver a message to Diaz, which

02:19PM 14 is to: Keep your mouth shut.

02:19PM 15 It's very clear why he's reaching out to Valoria and

02:19PM 16 communicating to Valoria to keep his mouth shut.

02:20PM 17 And the timing of it is especially relevant from the

02:20PM 18 government's point of view because it comes at the time of

02:20PM 19 disclosures about Diaz's cooperation. So from our point of view,

02:20PM 20 the only reason Crespo is reaching out to either of these people

02:20PM 21 is to silence Diaz, and that's why the enhancement applies.

02:20PM 22 One last thing, Your Honor. In our objections there is

02:20PM 23 an alternative grounds to apply this enhancement; those are

02:20PM 24 Crespo's materially false statements regarding his military

02:20PM 25 service. We have laid out the details of that. So if the Court

1 does not want to apply it regarding the Valaria and Diaz's son
2 prong, it is very clear that he has obstructed justice regarding
3 his materially false statements regarding his military service as
4 to the other prong.

5 THE COURT: Let's unpack these one by one.

6 So with regard to Mr. Valodia Aguilera, that person did
7 not testify; is that correct?

8 MR. MCLAUGHLIN: That's correct, Your Honor.

9 THE COURT: So I do agree with defense counsel; that for
10 me to make this finding, I have to hear some testimony.

11 Does the government have a witness?

12 MR. MCLAUGHLIN: We do not, Judge. We just have the 302.

13 THE COURT: So I don't find that the contact with Valodia
14 Aguilera can be a basis for this enhancement.

15 So regarding your alternative argument regarding
16 statements about the defendant's military service or what you
17 allege to be false statements, let me hear from you on that issue.

18 MR. MCLAUGHLIN: Your Honor, in our objections we have
19 laid out a series of materially false statements that Crespo made
20 regarding his service, regarding his alleged combat service. I
21 would note to the Court in preparing our objection and for court
22 today, I have consulted with Air Force personnel who are currently
23 serving, and those that served at the time of Crespo's service. I
24 myself served in the military, so I am very familiar with what a
25 DD214 is. As I stated in our response, there is nothing to

02:22PM 1 suggest at all that Mr. Crespo is a military combat veteran, let
02:22PM 2 alone serving in the jungles of Peru, Brazil, and Colombia during
02:22PM 3 that time. There is nothing in his DD214. Certainly there would
02:22PM 4 be medals and awards to that effect. We provided under seal his
02:22PM 5 DOD records. There are no orders. Again, there are no awards,
02:22PM 6 commendations, medals to that effect.

02:22PM 7 If you look at his resume, which he submits to DEA and, I
02:22PM 8 believe, HHOIG, which is part of our trial exhibits, there is no
02:22PM 9 mention of any combat experience, overseas combat experience. All
02:22PM 10 he listed in his resume is that he was stationed at MacDill, he
02:22PM 11 guarded the perimeter of the installation and some airplanes.

02:22PM 12 So the key from the government's point of view is why
02:22PM 13 he's doing this. He's essentially doing this to get a variance
02:22PM 14 under 3553 or get a departure under the guidelines. There is no
02:22PM 15 reason to lie about your military record, unless you're trying to
02:23PM 16 get sympathy from the Court. Given those that have actually
02:23PM 17 served, Your Honor, faced combat, to have a former special agent
02:23PM 18 with years of experience, who is very familiar by the way with the
02:23PM 19 PSI process, his years as a special agent, he has participated in
02:23PM 20 the indictments of multiple defendants, the multiple sentencing of
02:23PM 21 defendants, he is very aware of what the PSI process is, what it
02:23PM 22 entails, to lie egregiously about his military service is
02:23PM 23 appalling, and he should be held accountable for it.

02:23PM 24 THE COURT: All right.

02:23PM 25 MR. QUINON: Judge, this is a particularly sensitive

02:23PM 1 matter, because it is offensive to hear the prosecutor get up in
02:23PM 2 court and do exactly what he just did. To call the man a liar
02:23PM 3 when he served, it's particularly offensive. Mr. Diaz -- I'm
02:23PM 4 sorry.

02:23PM 5 Mr. Crespo in this case will go under oath if you want
02:23PM 6 him now about what he served. But I asked him: What do you have
02:23PM 7 by way of anything at all from way back then? Here is his Air
02:24PM 8 Force uniform at the time with his name tag. Here is the medal
02:24PM 9 that Mr. McLaughlin just called Mr. Crespo a liar about. This is
02:24PM 10 the uniform. This is the medal that he's got. Okay.

02:24PM 11 Here is kind of a jumpsuit that he still has -- Mr.
02:24PM 12 Crespo has from the time that he served in Colombia with Grupo de
02:24PM 13 Combate 31, that's Combat Group 31, Colombia. These are things
02:24PM 14 that he has, okay, from that time. He will go under oath, I
02:24PM 15 mentioned that in my pleadings, if you want him to testify to that
02:24PM 16 he, in fact, was where he said he was to probation, and he did
02:24PM 17 serve in that capacity.

02:24PM 18 Now, to make sure that you understand that this is no
02:24PM 19 accident, it just so happens that he has a friend who also served
02:24PM 20 in the military who is here today, Gabriel Garcia, who I spoke to
02:25PM 21 a few minutes ago before we started court. Mr. Garcia is a
02:25PM 22 retired U.S. Army captain who served in Kuwait, and he will tell
02:25PM 23 you that if you take a look at his military records, it will not
02:25PM 24 appear that he served in Kuwait. If you want me to, I will call
02:25PM 25 Mr. Garcia at this time.

02:25PM 1 THE COURT: No, I don't think it's necessary.

02:25PM 2 MR. QUINON: And he is a captain. Again, a captain in
02:25PM 3 the service.

02:25PM 4 THE COURT: Gentlemen, it goes for both of you. When I
02:25PM 5 start talking, I want you to stop talking.

02:25PM 6 MR. QUINON: I apologize. I apologize.

02:25PM 7 THE COURT: It's not necessary because I don't find that
02:25PM 8 the enhancement would apply on this basis. It doesn't affect the
02:25PM 9 guidelines, although certainly both sides can argue whatever they
02:25PM 10 want with regard to an appropriate sentence. So with regard to
02:25PM 11 your objection for adjustment, the adjustment for obstruction of
02:26PM 12 justice, I will sustain that objection, and that enhancement will
02:26PM 13 not apply.

02:26PM 14 What other objections do you have?

02:26PM 15 MR. QUINON: I believe that those were the only
02:26PM 16 objections that we had.

02:26PM 17 The base offense level, the total offense obviously, and
02:26PM 18 the obstruction enhancement. Judge, if I could have a second
02:26PM 19 here.

02:26PM 20 MR. MCLAUGHLIN: And, Your Honor, if I may.

02:26PM 21 Based on the Court's ruling --

02:26PM 22 THE COURT: Hold that. I want to make sure he's done
02:26PM 23 with his objections, then I'm going to go to probation, and then
02:26PM 24 I'm going to turn back to you. Okay.

02:26PM 25 MR. QUINON: Judge, I'm done. Thank you.

02:26PM 1 THE COURT: So for probation, if you can walk us back
02:26PM 2 through the guidelines calculations. Okay.

02:26PM 3 MS. GALVEZ: Okay. So the base offense level remains a
02:27PM 4 26. The defendant got a plus-2 for abuse of position of public
02:27PM 5 trust, 3B1.3, resulting in an adjusted offense level of 28, and an
02:27PM 6 advisory guideline range of 78 to 97 months.

02:27PM 7 THE COURT: All right. And that also the Court removed
02:27PM 8 the adjustment for obstruction of justice.

02:27PM 9 MR. QUINON: Judge, after you're finished, I do have
02:27PM 10 something.

02:27PM 11 THE COURT: You both are going to have plenty of time to
02:27PM 12 talk.

02:27PM 13 MR. QUINON: No, no. I apologize, but something just
02:27PM 14 occurred to me.

02:27PM 15 THE COURT: Regarding the calculation?

02:27PM 16 MR. QUINON: No, about 4C1.1. I had not objected because
02:27PM 17 it was on my side of the table so to speak. In other words, I
02:27PM 18 should have. You took it away when the government objected to it,
02:27PM 19 and I should -- and I have an objection to that.

02:28PM 20 I had not objected formally before because I had no need
02:28PM 21 to object because it wasn't on the table, so to speak, to object.
02:28PM 22 It was on my side of the ledger, so to speak. Do you get what I'm
02:28PM 23 saying?

02:28PM 24 THE COURT: Yes. So go ahead.

02:28PM 25 MR. QUINON: All right.

02:28PM 1 I object on the grounds that the government is --
02:28PM 2 essentially the government is saying that this is based upon
02:28PM 3 credible threats. But again, Judge, I think if I'm correct, and
02:28PM 4 you heard the trial, if I'm correct, their own witness said that
02:28PM 5 he did not believe that these were credible threats, and he said
02:28PM 6 he was not afraid of Mr. Crespo.

02:28PM 7 And again, he admitted that he knew Mr. Crespo. And
02:28PM 8 based upon the voice of Mr. Crespo over those recordings, it was
02:28PM 9 patently obvious to him that Mr. Crespo was drunk when the
02:29PM 10 so-called threats were made.

02:29PM 11 In addition to that, we know that the agents -- an agent
02:29PM 12 that testified, they had the house of Mr. Crespo under
02:29PM 13 surveillance that night. Mr. Crespo went to sleep, obviously.
02:29PM 14 Nothing happened. Those were not -- there is nothing at all
02:29PM 15 indicating, I submit, that those were credible threats, okay.

02:29PM 16 And so I really ask you to really consider that. It
02:29PM 17 makes a difference here. And, you know, there has to be -- to be
02:29PM 18 credible, you have to take some action other than to talk while
02:29PM 19 you're drunk about: I'm going to feed you. And this was the kind
02:29PM 20 of threats that we're talking about: I'm going to -- I'm going to
02:29PM 21 feed her to the alligators because I kill somebody every day. I
02:29PM 22 am tired of killing people. That's what he was saying on that
02:29PM 23 tape. Think about that.

02:29PM 24 This is not a -- this is not a serial killer that I'm
02:30PM 25 sitting next to. Okay? But if you're going to find those

1 credible -- those threats credible, then you have to believe that
2 Mr. Crespo is a serial killer who is tired of killing people,
3 because that's what -- that's the garbage -- the alcohol-fueled
4 garbage that he was talking about that night. And even the
5 government's main witness said: I don't believe it, and I'm not
6 afraid of him; even though he came in here and unloaded on Mr.
7 Crespo, his so-called son and all that. But he said as to that:
8 I don't believe it.

9 So, please, there has to be more credible than that.
10 That's just incredible threats. Quite frankly, I even argued in
11 my closing argument to the jury, I used that to my advantage
12 actually in this case, in arguing to the jury that you couldn't
13 believe some of the evidence here because of what happened; the
14 fact that those were not credible, that Mr. Crespo wouldn't kill
15 people every day and feed them to the alligators.

16 So I ask you please to reconsider that and not to grant
17 that, Judge. It's just -- it isn't warranted in this case. It's
18 not a credible threat.

19 THE COURT: All right.

20 Well, considering all of the evidence, including that the
21 jury did find the defendant guilty of the remaining counts, right,
22 beyond a reasonable doubt, I've ruled. I don't see any reason to
23 revisit it.

24 So that calculation, my ruling will stay the same.

25 The calculation remains the same. A total offense level

of 28, a criminal history category of I, placing the defendant's advisory guideline range between 78 and 97 months.

What is the government's recommendation as to an appropriate sentence?

MR. MCLAUGHLIN: Your Honor, we recommend 97 months. And specifically under the 3553 factors, as we proved at trial, this was a multi-year conspiracy to obstruct justice by a defendant, who was working at the time with the healthcare fraud strike force, charged with investigating and taking down the very criminals and the very crimes that he was protecting.

This is not a case which -- I'm about to go to trial in one where you have an undercover and a CI, you have a couple recorded meetings over the course of a couple weeks or a couple months and there's a takedown. There is years, Your Honor; years of conduct.

And it's especially galling given Mr. Crespo's position on the strike force, and especially galling given what the opioid crisis has done to this country, which the Court is very well aware of. And I think especially in terms of deterrence, a sentence of 97 months is important, Your Honor.

The world is watching. The country is watching. The community is watching. What is this Court going to give an agent who for years, sitting next to his colleagues day in and day out, lying to them about what he knows about Diaz and his activities, and actually invites him and has him live at his home, and is only

1 caught via a wire tap where you get to hear unvarnished, as the
2 Court did at trial, who this person is and what he's all about.
3 He's all about himself and what he can do to get ahead and who he
4 can protect.

5 Thankfully, Judge, we still live in a democracy right
6 now. We are a country of laws, not men or women. He does not --
7 he does not get to choose who he protects when and why. It is a
8 violation of his oath, it is a violation of the oath that all of
9 us in law enforcement take.

10 And from our perspective, his conduct in this case is
11 galling to the extreme. And it is for those reasons, Your Honor,
12 a sentence of 97 months is appropriate to send a message to
13 everyone in this community that such conduct will not be
14 tolerated.

15 I will say in terms of the other codefendants' sentences,
16 Diaz was given 76 months, so I don't think a sentence of 97 is
17 that much of a disparity, Judge, and especially given the conduct
18 and the violence he threatened against potential cooperators,
19 which is just galling and appalling. From our point of view,
20 97 months is appropriate, Judge.

21 THE COURT: All right.

22 I should note before you begin your presentation, I did
23 also review the character letters that were submitted at Docket
24 Entry 311, which contained several letters from family members,
25 friends, and a former law enforcement coworker.

MR. QUINON: Yes, Your Honor. Thank you.

Judge, I also -- we filed a motion for a downward departure or in the alternative a variance as well, and I'd like to address that as well.

THE COURT: Okay.

MR. QUINON: And so in relation to what the proper sentence should be, that's how I will argue it. Okay.

And so very important, this is one of those cases that you heard the evidence and you had the benefit of seeing Mr. Diaz testify and also Ms. Lorenzo in this case. Mr. Diaz, according to Anais Lorenzo, the other codefendant who testified, is an accomplished manipulator according to her. Remember that.

Ms. Lorenzo was at one time -- when she met Mr. Diaz, she was employed at Jackson Memorial Hospital as a medical technician, had a good job, worked like the rest of us; a working stiff who works from 9:00 to 5:00 every day and had a normal life, until she got involved with Mr. Diaz, who she sees as, again, her word, master manipulator. That's what she called him during the course of the trial.

And that man got her involved essentially in drugs; and eventually not only got her involved in drugs, she became a rabid drug addict. But also he had her be his right-hand person in the drug distribution. Ms. Lorenzo at one time took the place of this individual Pozo, who was the right-hand man of Mr. Diaz in his business.

02:36PM 1 So Mr. Diaz, who is a master manipulator, for years --
02:36PM 2 the first three years or so, two years or so, I asked him on
02:36PM 3 cross-examination whether he had any conversations with Mr. Crespo
02:36PM 4 other than religion. And the answer was no, during those early
02:37PM 5 years of his relation with Mr. Crespo, it was all about religion.

02:37PM 6 This Santeria religion to me anyways, I'm not a believer
02:37PM 7 in it and so I can say this, I just find it a troubling religion
02:37PM 8 that makes people believe that you can talk to your loved ones,
02:37PM 9 even though they passed away, and ask them counseling in your
02:37PM 10 everyday life problems. It's kind of a -- to me, that's kind of a
02:37PM 11 scary religion; but for whatever, Mr. Crespo was a devotee of the
02:37PM 12 religion. And Mr. Diaz happened to be a high priest of the
02:37PM 13 religion, which means that he had a lot of credibility and a lot
02:37PM 14 of respect and reverence coming to him from Mr. Crespo. In fact,
02:37PM 15 Mr. Crespo used to call him father. If you recall, that's the
02:37PM 16 testimony in this case.

02:37PM 17 And Mr. Diaz saw an opportunity to use Mr. Crespo, who
02:38PM 18 was a federal agent, to his advantage and did. Now, very clear
02:38PM 19 Mr. Diaz testified that even though he -- Mr. Diaz was involved in
02:38PM 20 the trafficking or selling of this oxycodone, he never, ever was
02:38PM 21 in a situation where Mr. Crespo was with him engaged in that
02:38PM 22 activity, or that he gave a single penny to Mr. Crespo because of
02:38PM 23 Mr. Crespo helping him or being involved with him in the drug
02:38PM 24 business, not at all. Mr. Crespo was not at all involved in that,
02:38PM 25 and that's why the jury found him not guilty in this case.

02:38PM 1 Now, the guidelines in this case, again, the thinking,
02:38PM 2 the rationale behind the guidelines is the higher you are in the
02:39PM 3 hierarchy of drugs, the more the punishment; the more pills, the
02:39PM 4 higher the punishment. But Mr. Crespo didn't sell any pills, even
02:39PM 5 though -- and this --

02:39PM 6 Bear this in mind, Judge, in the criminal complaint, they
02:39PM 7 had a witness named SotoLongo, who said that he, SotoLongo, has
02:39PM 8 seen Mr. Crespo with Mr. Diaz selling drugs. Mr. Diaz,
02:39PM 9 fortunately, at least as to this that, told the truth. He said
02:39PM 10 that's not true.

02:39PM 11 But when Mr. Crespo got arrested in this case, the
02:39PM 12 government arrested him with the idea that they had a witness in
02:39PM 13 their camp who was going to say that Mr. Crespo was out in the
02:39PM 14 street selling drugs, which is absolutely not true. That's part
02:39PM 15 of the reason why we went to trial. And Mr. Diaz gave it up in
02:40PM 16 this trial and said: That's not true. Mr. Crespo was not ever in
02:40PM 17 my presence whenever I did my business of drugs, and I didn't give
02:40PM 18 him a penny of whatever profit I made.

02:40PM 19 And the evidence that we heard at trial concerning the
02:40PM 20 profit of Mr. Diaz was absolutely daunting. He was making about
02:40PM 21 \$14,000 a month he said at times, but not a penny to Mr. Crespo.
02:40PM 22 And under the guidelines, Judge, again, 5K2.0, if this case falls
02:40PM 23 outside of the normal case and the guidelines, something that was
02:40PM 24 not contemplated by the commission, then the Court can give a
02:40PM 25 downward departure.

1 This is one of those cases. The only reason why you get
2 involved in trafficking in drugs is to make money. Nobody else --
3 nobody goes into business -- in the drug business other than to
4 make money. Mr. Crespo didn't make any money. He was not in the
5 drug business, but yet his punishment has gone up and up because
6 pills were distributed to people that he did not know.

7 During the trial the government had a chart with a number
8 of people, and the overwhelming majority of them were not known to
9 Mr. Crespo. Mr. Crespo didn't know most of those people, and now
10 he's going to get punished for that; for the distribution of pills
11 to people he didn't know, deals that he didn't make, profit that
12 he didn't make. And so I submit to you that this is a case that
13 is ripe for a downward departure under that basis.

14 There is an additional basis for a downward departure,
15 and that is Section 5H1.11 of the guidelines, which again allows
16 for that type of departure to someone who served our country in
17 the military, and Mr. Crespo did that. He did that honorably for
18 four years. And when he was serving, he did serve overseas. He
19 has not lied to probation, on the contrary. And he served in the
20 places that he told probation that he did serve.

21 I attached to my pleadings an article that at around the
22 time that Mr. Crespo was serving overseas there were skirmishes
23 and our armed forces were in South America serving to prevent drug
24 trafficking, and they were, indeed, battling in the jungles with
25 the individuals who were there; the FARC and the other militants

who were in the jungle. The article is there. It is documented. This is not something that I made up. I went into the Internet, I got it, I put it there.

So Mr. Crespo is deserving as well of a downward departure because he honorably served us, he served our country; not to mention that for many years he served as a federal agent, as a police officer for over 20 years; 27 years.

In addition to that and alternatively, the Court can grant him a variance. When you take a look at his history, he doesn't even have a ticket, never had any prior contact with the criminal justice system at all. First time here.

Always the history of this man has been public service since he was young. He served in the military, he served as a Hialeah police officer, he served the DEA, he served with HHS, he's always been a public servant. And when you consider what you're going to do with this case and how you're going to punish him, he's been punished. He suffered tremendously so far. We know that he has gone from what was then a prestigious, honorable position to a point in his life where he is publicly humiliated.

He has become a pariah within his community; the people that he has known for all these years. He has lost his career; something that he has devoted more than half of his life to in this case. He's lost his savings. He's had to pay lawyers like me to come in and to represent him in court. Bond, all the other issues, not working for years because he was suspended without pay

02:45PM 1 waiting. He served over 12 months of home confinement in this
02:45PM 2 case when you put it all together.

02:45PM 3 He suffers from PTSD. It's documented. He's gotten
02:45PM 4 treatment for that. Now he doesn't even have health insurance,
02:45PM 5 and he will not have health insurance when he gets out as well
02:45PM 6 because once you're a convicted felon, which he is now, he can
02:46PM 7 kiss goodbye the idea that he is going to have a decent job where
02:46PM 8 he's going to have the benefit of healthcare. And so he's going
02:46PM 9 to have to suffer through his PTSD however he can, but he won't
02:46PM 10 have the healthcare to attend to that.

02:46PM 11 And most of all he's lost the ability to do something
02:46PM 12 that is very valuable to all of us, and that is to be able to in
02:46PM 13 the morning as we shave or we look ourselves in the mirror to feel
02:46PM 14 satisfied with ourselves. To be able to look at ourselves in the
02:46PM 15 mirror to say: Hey, you're a good guy. You're doing your damn
02:46PM 16 best, and you're okay. He's lost that. And now he is going to
02:46PM 17 also serve time in a prison system; something that was
02:46PM 18 unfathomable, that was unimaginable to him.

02:47PM 19 So, yeah, it's been something of a harsh journey for him,
02:47PM 20 but at trial you saw the character, the goodness in him too. I
02:47PM 21 don't want you to judge him basically based upon what the
02:47PM 22 prosecutor has highlighted; what amounts to a very short period of
02:47PM 23 his life. I think he showed a lot of character here.

02:47PM 24 You heard Orlando Alvarez, the lead in this investigation
02:47PM 25 that brought Mr. Crespo here, testify that Mr. Crespo volunteered

1 to go to Puerto Rico. He's not Puerto Rican. He volunteered
2 without pay after Hurricane Maria, a Category 5 hurricane that
3 destroyed that little beautiful island of Puerto Rico, and he did
4 it without getting paid, and went to an area that was infested
5 with mosquitoes, no electricity, nothing going, no food, and he
6 stayed there over a month helping people. And even Rolley Alvarez
7 who came in and testified said: Hey, I'm thankful that he did
8 that. That, I'm very grateful that he did that.

9 And then he also showed character when Henry Luna, an
10 agent that worked with him in HHS, Henry is a gay man who was
11 being bullied by three FBI agents at the job, and nobody really
12 stood up for Henry. And Henry was a really decent human being and
13 came in and testified in this case and told us about what
14 happened. Like Henry said, nobody stood up for Henry except Mr.
15 Crespo. He told the agents -- the FBI agents who were bullying
16 Henry: You better stop, or I'm going to kick your butt basically
17 in different language. And Henry has always been very thankful
18 that his friend, Mr. Crespo, had the character and the caring to
19 stand up to people at the job, FBI agents who were bullying Henry.

20 And Henry explained that to this day Al Crespo is one of
21 his dearest friends and he is very grateful to him. And when
22 Henry was going through his divorce, Henry has two little girls,
23 he would bring them over to Crespo's house. And that shows again
24 the kind of character. Not too many people stand up for other
25 people when they're being bullied. No, you're always thinking

1 about your own self; what's good for you.

2 It wasn't good for Crespo to confront three FBI agents
3 who are part of the same task force that he works. That's not the
4 way to get promoted. That's not the way to get kudos from the
5 gang so to speak, but it was the right thing to do. I think that
6 speaks very highly about him. It speaks very highly about his
7 character. And I think that those are the things in life that at
8 a time like today, a time of need, it's like a savings account
9 that you should be allowed to withdraw from that savings account
10 of all the good things and all the good character that you have
11 accumulated through life.

12 And, therefore, I think that you should give him a
13 reduction under either a downward departure or a variance.

14 And you asked what the recommendation is from our
15 position, I submit to you, Your Honor, that a sentence of
16 18 months in prison is more -- is sufficient in this case. It is
17 not -- more is not warranted. He's gone through a lot. He's been
18 on this ride for years now waiting for his trial because we had
19 the pandemic in between.

20 Again, he served 12 months home confinement, has been
21 absolutely devastated by what happened and all those things, and I
22 submit to you that a sentence of 18 months in prison should be
23 sufficient but not greater than necessary in this case. Thank
24 you.

25 THE COURT: Mr. Crespo, is there anything you want to say

02:51PM 1 before I impose your sentence?

02:51PM 2 You should stay there. That's fine. Just pull the
02:51PM 3 microphone close.

02:51PM 4 DEFENDANT CRESPO: If I may, Your Honor, first -- first
02:52PM 5 of all, Your Honor, under the eyes of God I'd like to apologize to
02:52PM 6 the beautiful people of the United States that allowed me to serve
02:52PM 7 all of my life, and I'll explain a little bit more about that.

02:52PM 8 I'd like to apologize to the United States government.

02:52PM 9 I'd like to apologize to some of my coworkers that are sitting
02:52PM 10 back there, and I saw them today and I shook their hand and I was
02:52PM 11 allowed to hug them, and I appreciated that from them, because
02:52PM 12 they were kind to me. Thank you. I appreciate it.

02:52PM 13 I'd like to apologize to my family, Your Honor, that I
02:52PM 14 have put through this terrible ordeal. And particularly I'd like
02:53PM 15 to apologize to my wife, who has had to deal with a sick man, Your
02:53PM 16 Honor. See, I came to this country as a young boy. I lost my
02:53PM 17 father to alcoholism shortly after. I hated alcohol; couldn't
02:53PM 18 smell it, couldn't see it. And I needed to know how could I say
02:53PM 19 thank you to the United States, and the only way I could was to
02:53PM 20 serve.

02:53PM 21 See, it may not be important to people; but from the age
02:53PM 22 of 16, the only thing I've ever done is serve. And I'll tell you
02:54PM 23 why I still hold my red beret. Some people that are from New York
02:54PM 24 will know the Guardian Angels. There's people back there that
02:54PM 25 know what I'm talking about, people who worked with me, because

1 they had -- this is a community service group. So when -- in high
2 school when kids were out partying and hanging out, the Guardian
3 Angels had a chapter in Miami. I was the vice president of the
4 chapter. I was the second in command. Every Friday night, every
5 Saturday night, and every Sunday midday we would patrol Miami
6 Beach, because at the time there were terrible injustices and hate
7 crimes that were happening to individuals in the LGBT community at
8 the time, so we did that type of community service work.

9 And from 16 to 18, that's what I did. I wasn't out
10 partying, I wasn't doing any of that. I was going to high school,
11 I was wrestling, and then I changed my red beret for my black one
12 for the Air Force.

13 I sit here and, you know, I am -- I am hurt that my
14 service has been called into question in that manner, because I
15 got to tell you, Your Honor, I'm a broken man and I'm no victim
16 but I'm a broken man from 30 years of service, because I've seen
17 the worst in humanity. And unfortunately through this process --

18 I was drunk, I was blacking out. There were things that
19 were happening to me that I couldn't explain it to you.

20 And, Your Honor, even through all my service --

21 And while in the government I got my master's degree in
22 psychology for licensure, and I became a master's level
23 psychologist or a licensed psychotherapist so I can help people
24 like myself.

25 Your Honor, for many years I had no will to live because

the only thing I knew how to do was serve others. I would never harm myself or harm anybody else. I'm a deeply religious man, and I said that to Ms. Galvez during my PSI.

Your Honor, I hope you can give me a second opportunity, because I'm going to start again, but I'm going to go back to helping people. I've made my mind up on that. I'm going to try to see how I can go back, and I'm going to try to help veterans just like I used to. I had this psychology practice that was just discussed.

Your Honor, I've got to be honest with you: I'm a terrible businessman. I was mostly pulling money out of my pocket because veterans would come see me and I was certified in hypnotherapy, and I would do hypnosis to help people like me. I suffer from PTSD, I suffer from clinical depression, I suffer from nightmares, tremors. My wife could tell you what she suffers through sometimes, me waking up fighting and the things that I've seen and I've been through.

I'm alive under the grace of God, because I've been through so many things. I -- I couldn't -- and just because I didn't put on a paper all the bad things that have ever happened to me, Your Honor, I want to forget them. Every day I want to forget them. I don't want to think about when I went through treatment and when I even went through the PSI, having to talk about those things, Your Honor, they put me in a dark place.

It was kind of like when I got arrested, they put me in

02:57PM 1 solitary confinement for almost four days and nobody would give me
02:57PM 2 medication. I was having convulsions, I was coming in and out of
02:58PM 3 tremors, cold sweat laying on the floor screaming for help, so
02:58PM 4 that's how I know that, you know.

02:58PM 5 I have a great friend who is back here who is the Army
02:58PM 6 captain who fought in Iraq, and him and I talk all the time of how
02:58PM 7 we deal with the demons. And they just don't go away, but it was
02:58PM 8 not just my military service. I saw some ugly things at the PD,
02:58PM 9 in DEA. I mean, just the things I've been through.

02:58PM 10 I am an idiot. I am an idiot, sir, and I wish I could
02:58PM 11 have a do-over because I didn't ask for help. And I believed in
02:58PM 12 somebody that -- in a manner that I shouldn't. I know better and
02:58PM 13 I should have acted better. I let everybody down, most of them,
02:58PM 14 and I'm sorry.

02:59PM 15 But I've lost everything, I've lost my pensions, I lost
02:59PM 16 my life savings, I have nothing. I have to start from scratch.
02:59PM 17 I'm living out of the kindness of my fiancée, sir. Even my
02:59PM 18 medication, I've had to find a Good Rx card, and I have to find
02:59PM 19 coupons when it's prescribed to me. I have to bring coupons to
02:59PM 20 try to get my medication, Your Honor.

02:59PM 21 Alcohol, I started drinking alcohol in the jungles of
02:59PM 22 South America because that's how you calm down. That's what you
02:59PM 23 did in the military, because I never drank alcohol before that;
02:59PM 24 never during high school. I never did that. Service led me down
02:59PM 25 that path because that's what you did. That's what you do in the

02:59PM 1 military, and it just went on worse from there.

02:59PM 2 So I want you to know that the person you heard on that
02:59PM 3 fateful night, who was drunk, dark, and really didn't have the
02:59PM 4 will to live, is not the person that I am. I am not a terrible
03:00PM 5 person. I know at times I felt the government has been unfair to
03:00PM 6 me, been unfair. I wasn't the easiest guy to get along with, but
03:00PM 7 it was out of fear, Your Honor, and I realize that.

03:00PM 8 I was rough, I was hard. But I'll tell you every day,
03:00PM 9 every day I gave a hundred percent. I worked every single day of
03:00PM 10 the week. My boss, who is the big boss here in Florida now, is
03:00PM 11 back there. He used to yell at me because I was working
03:00PM 12 Saturdays, Sundays. This is what I did. This is who I was.

03:00PM 13 And, Your Honor, I accept the responsibility of my
03:00PM 14 mistakes. But I swear to you, Your Honor, I never had any
03:00PM 15 intention to violate the code, and I'm sorry that I did, because I
03:01PM 16 didn't even benefit from it. The total opposite. I've been
03:01PM 17 punished worse than everybody else because I've lost everything I
03:01PM 18 had. And I'm just riddled with debt and all kinds of issues, so I
03:01PM 19 hope you can find some clemency and leniency for this old
03:01PM 20 broken-down civil servant. Thank you, Your Honor.

03:01PM 21 THE COURT: All right. Thank you, sir.

03:01PM 22 I've considered the statements of the parties, the
03:01PM 23 presentence report, which contains the advisory guidelines and the
03:01PM 24 statutory factors set forth in Title 18, United States Code,
03:01PM 25 Section 3553(a).

03:01PM 1 It is the finding of the Court that the defendant is not
03:01PM 2 able to pay a fine.

03:01PM 3 Obviously, this was an unusual case, and Mr. Crespo
03:01PM 4 seemed to have led a law-abiding life until this situation arose.
03:02PM 5 He was a public servant until he was not.

03:02PM 6 And the thing that struck me during the trial was, I was
03:02PM 7 just wondering: How does someone like this fall under the
03:02PM 8 influence of Mr. Diaz? For the life of me, you know, I still to
03:02PM 9 this day don't understand it; and why Mr. Crespo would risk it at
03:02PM 10 all, literally, to help that man.

03:02PM 11 I think about, of course, the crimes for which the
03:02PM 12 defendant was convicted, the seriousness of those crimes. And it,
03:02PM 13 quite frankly, was, Mr. Crespo, your actions were a betrayal of
03:02PM 14 the public's trust, a betrayal of the trust of your fellow law
03:03PM 15 enforcement officers. And it wasn't passive, it wasn't isolated;
03:03PM 16 it happened over a pretty significant period of time. And, of
03:03PM 17 course, someone --

03:03PM 18 I mean it wasn't just your actions, the potential
03:03PM 19 jeopardizing or hindering the investigation, it could also
03:03PM 20 potentially endanger other law enforcement officers, because there
03:03PM 21 are people that had information about these investigations and the
03:03PM 22 intent of law enforcement who should not have had that
03:03PM 23 information. Of course, balance the fact, of course, that you
03:03PM 24 have no prior criminal history.

03:04PM 25 The government from their pleading sought something in

the range of 151 months, and the defense is seeking something much less than that.

But having considered everything, I do find that a sentence at the high end of the guideline range is appropriate and in line with what I was thinking is sufficient but not greater than necessary, in any event.

So it is the judgment of the Court that the defendant, Alberico Ahias Crespo, is committed to the Bureau of Prisons for a term of 97 months as to Counts 5 and 7 through 10. All such terms shall run concurrent with one another.

Upon his release from imprisonment, the defendant shall be placed on supervised release for a term of three years as to each of those counts, which shall run concurrent with one another.

Within 72 hours of the defendant's release, he shall report in person to the probation office in the district where he is released.

While on supervised release, the defendant shall comply with the mandatory and standard conditions of supervised release, as referenced in Part F of the presentence report -- the revised report.

The defendant shall also comply with the following special conditions: a permissible search, mental health treatment, substance abuse treatment, the association restriction, and he shall pay a special assessment in the amount of \$500, which shall be paid immediately to the United States, which reflects a

1 hundred dollars for each count of conviction. Those special
2 conditions are also noted in Part F of the report.

3 In sum, the defendant's total sentence is: 97 months of
4 imprisonment, to be followed by three years of supervised release,
5 with the mandatory, standard, and special conditions that I
6 previously mentioned, including a \$500 special assessment.

7 Forfeiture of the defendant's right, title, and interest
8 in certain property is hereby ordered consistent with the
9 indictment.

10 If the government is seeking forfeiture, you shall submit
11 a proposed order within three days of this proceeding.

12 Now that sentence has been imposed, does the defendant or
13 counsel object to the Court's findings of fact or the manner in
14 which sentence was pronounced?

15 MR. QUINON: Yes, Your Honor, we do.

16 I will restate the objections that I wrote in the
17 pleadings that were filed, as well as the objections that I have
18 raised here today.

19 And I would add that the findings as to the joint
20 criminal activity were insufficient by the Court. So those would
21 be my objections at this point as to the sentence imposed.

22 THE COURT: All right. Your objections are noted.

23 Mr. Crespo, you have the right to appeal your sentence
24 imposed. Any notice of appeal must be filed within 14 days of
25 entry of the formal judgment.

1 If you are unable to pay the cost of an appeal, you may
2 apply for leave to appeal in forma pauperis, meaning at no cost to
3 you.

4 Are there recommendations?

5 MR. QUINON: Yes. I would ask the Court to recommend the
6 RDAP program.

7 THE COURT: I will make that recommendation.

8 MR. QUINON: And I would ask the Court to recommend that
9 Mr. Crespo serve his sentence as close as possible to an
10 institution here in South Florida, Your Honor.

11 THE COURT: All right. I will make that recommendation
12 as well.

13 MR. QUINON: That's it, Judge. Thank you.

14 THE COURT: All right. The defendant shall be
15 surrendered here in court by the court security officers.

16 Is there anything else today on behalf of the government?

17 MR. MCLAUGHLIN: Not for the government, Your Honor.

18 THE COURT: All right.

19 Anything else on behalf of Mr. Crespo?

20 MR. QUINON: No, sir.

21 THE COURT: All right. If you want me to excuse the
22 audience while that happens, I will do that; or if you want that
23 to happen in open court, I will allow that to happen. I'm asking
24 you, counsel.

25 MR. QUINON: Me?

03:08PM 1 THE COURT: Yes. I don't know if his family and friends
03:08PM 2 want to be here, or if the defendant wants them there for this
03:08PM 3 part.

03:08PM 4 DEFENDANT CRESPO: Can I say bye to my family, Your
03:08PM 5 Honor?

03:08PM 6 THE COURT: Well, orally, I'm going to defer to the
03:08PM 7 marshals that there are to be no physical contact. All right.
03:08PM 8 So you will have a moment to say goodbye.
03:09PM 9 All right. We're in recess.

03:09PM 10 (Proceedings adjourned at 3:09 P.M.)

11 C E R T I F I C A T E

12 I, VERNITA ALLEN-WILLIAMS, do hereby certify that
13 the foregoing is a complete, true, and accurate transcript of
14 the proceedings had in the above-entitled case before the
15 Honorable DARRIN P. GAYLES, one of the judges of said Court,
16 at Miami, Florida, on January 24, 2024.

17
18 /s/Vernita Allen-Williams
19 Official Court Reporter
20 United States District Court
21 Southern District of Florida
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