

The Honorable Benjamin H. Settle

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff

v.

IMELDA GARCIA-LEON,

Defendant.

NO. CR14-5108 BHS

GOVERNMENT’S SENTENCING
MEMORANDUM

The United States of America, by Jenny A. Durkan, United States Attorney, and S. Kate Vaughan, Assistant United States Attorney for the Western District of Washington, file this sentencing memorandum.

Introduction

This matter is set for a sentencing hearing on August 25, 2014, 2014. The defendant is a 34-year old citizen and national of Mexico who entered a plea of guilty to a one-count Information charging her with the offense of Illegal Reentry in violation of 8 U.S.C. § 1326 (a). The maximum penalty is 10 years pursuant to § 1326(b)(1) (prior felony).

Defendant’s Criminal History and Advisory Guidelines Range

The base offense level for Illegal Reentry is eight pursuant to USSG (2013) § 2L1.2(a). The defendant was convicted in Chelan County Superior Court in

1 2007 of Vehicular Homicide. This felony requires the 4-level enhancement provision at
2 Section 2L1.2(b)(1)(D)(prior felony conviction). The defendant has three Theft in the
3 Third Degree convictions from 2010 to 2012 in the Federal Way Municipal Court and
4 Tukwila Municipal Court. The defendant's criminal history category is IV.

5 On August 27, 2013, the defendant was convicted in King County Superior Court
6 of DUI and sentenced to 13 months. The defendant was "found" as a result of this DUI
7 conviction when Immigration officers were informed on June 19, 2013, by the
8 Washington Department of Corrections (DOC) the defendant was in custody at the Gig
9 Harbor Center for Women.

10 The offense level is 10 after a two-level reduction for acceptance of responsibility.
11 The applicable Guidelines range is 15-21 months.

12 The defendant has been deported three times, in 2009, 2011, and 2012.

13 Government's Sentencing Recommendation

14 The government is recommending a sentence of 12 months and a day. This
15 recommendation reflects a Sentencing Guidelines recommendation which includes three
16 months of detainer credit of the nine months and 8 days a detainer was in place with the
17 DOC at the Gig Harbor Center for Women on June 19, 2013, until the current charges
18 were filed on March 6, 2014.

19 In 2007, the defendant was intoxicated when she ran a red light and broadsided
20 another car resulting in the death of the driver. The victim was a physician and died
21 within hours after the collision. The defendant received a 41 month sentence on her plea
22 to Vehicular Homicide. Undeterred by the 41 month sentence she received, she was
23 arrested and convicted of DUI in 2013 receiving a 13 month sentence.

24 The Supreme Court has observed that "[d]runk driving is an extremely
25 dangerous crime." *Begay v. United States*, 553 U.S. 137, 141 (2008); *See also Anaya-*
26 *Ortiz v. Mukasey*, 553 F.3d 1266, 1276-77 (9th Cir. 2009) (drunk driving is a
27 "particularly serious crime"). The defendant has demonstrated a reckless disregard for
28 the safety of other motorists, she has killed one person, and yet has decided to continue to

1 | drive while intoxicated. She is a danger to the community, and also has a long history of
2 | theft offenses. A 12 month and one day sentence is needed to protect the public from
3 | another one of her reckless DUI offenses and to make it clear that she cannot return to the
4 | United States again.

5 | As set forth in paragraph 14 of the Plea Agreement, the defendant has waived her
6 | right to appeal the sentence imposed in this case if the sentence does not exceed the
7 | applicable Guidelines range determined by the Court. If the Court imposes a sentence
8 | that does not exceed the applicable Guidelines range, the government respectfully
9 | requests the Court notify the defendant pursuant to Rule 32(j)(1)(B), that she has waived
10 | her appeal rights except as to the effectiveness of legal representation. Otherwise, the
11 | government requests the Court notify the defendant of her right to appeal the sentence as
12 | set forth in Title 18, United States Code, Section 3742.

13 | DATED this 29th day of July, 2014.

14 | Respectfully submitted,

15 | JENNY A. DURKAN
16 | United States Attorney

17 | s//S. Kate Vaughan
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CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney of record for the defendant.

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