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DAMACIO DIAZ

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE EASTERN DISTRICT of CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAMACIO DIAZ,

Defendant

) Case No.: 15-CR-00326 LJO SKO

)  
)  
) **DEFENDANTS SENTENCING**  
) **MEMORANDUM**

) Date: October 3, 2016

) Time: 10:45 a.m.

) Honorable Lawrence O'Neill

TABLE OF CONTENTS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I. INTRODUCTION.....2

II. DAMACIO’S STATEMENT.....5

    A. Childhood in McFarland.....5

    B. High School/Cross Country.....8

    C. College/ROTC.....10

    D. Early Years as a Police Officer.....10

    E. BPD Undercover Operations.....13

    F. My Eventual Downfall.....15

    G. Accepting the Consequences.....18

    H. Art Imitating Life.....19

        I. Turning a Bad Choice into an Opportunity.....20

        J. Final Chapter.....23





Coach Damacio Diaz with his son's Nicholas and Christopher

**Persevere: to persist in anything undertaken; maintain a purpose in spite of difficulty, obstacles, or discouragement; continue steadfastly.**

***“If you are going through hell, keep going.”***  
**Winston Churchill**

## **I. INTRODUCTION**

Seventy-six years ago, Leopoldo Diaz was born in La Sara, Texas, to parents who came to the United States from Mexico, like many, in search of a better life. Leopold was the first of 14 siblings to be born in the Rio Grande Valley of Texas. Their family struggled to survive harvesting cotton in the blistering hot fields and working for cents on the dollar in any manual labor job available at that time. Regrettably, overcome by the burdens of stress and inability to

1 feed and maintain fourteen children, Leopoldo's father abandoned his wife and children. On that  
2 day, Leopoldo became a man. After his father left, Leopoldo and his mother decided to pack  
3 everyone and their meager family belongings into their car and drive west. By this time,  
4 Leopoldo was forced to drop out of school in the eighth grade to help support the family.  
5

6 The family ultimately ended up in the township of McFarland, California, where Leo and  
7 his mother were offered work in the nearby potato fields. I am told that all of Leopoldo's  
8 siblings view him more as a father figure than as a brother. Having to labor in the San Joaquin  
9 Valley harvesting its abundant fields of fruits and vegetables alongside his mother and siblings  
10 was a necessity to survive. Because he took his role as a father figure seriously, Leopoldo set  
11 aside the ritualistic teenager lifestyle of dating and hanging out with his friends. Waking up  
12 early each morning to work all day was the only lifestyle that he was determined to undertake.  
13

14 This could have been a tragic story. Instead, his is a story of perseverance, drive and  
15 determination. Leopoldo Diaz began his childhood with a tremendous amount of grief and  
16 personal hardship, but through it all, he triumphed and overcame all obstacles that he confronted.  
17 This is the type of man Leopoldo Diaz is.  
18

19 It wasn't until the age of 24 when Leopoldo met a stunning young lady by name of  
20 Juanita. Not only was Juanita a beautiful woman, but like him, hard headed and hard working.  
21 He saw past her outer beauty and had the prescience of mind to know that she would be a  
22 wonderful bride and an even better mother.  
23

24 Together, Juanita and Leopoldo raised seven children. Their personal drive and  
25 determination was instilled in each of their children. All seven children have earned their  
26 Bachelor of Arts Degrees, some have earned their Master's, all of their children reside in  
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1 McFarland, and all are either school principals or teachers. They built a strong close knit family  
2 that they are proud of.



9 Last year, in the city of McFarland, the name family Diaz immediately evoked thoughts of  
10 consecutive state cross country championships, city pride, a Disney movie and yes, Kevin  
11 Costner (who portrayed Coach Jim White). This might have been true one year ago. However,  
12 since that time, former BPD officer Damacio Diaz was Indicted by a federal grand jury for  
13 various charges to include a distribution count. This certainly dealt a heartfelt blow both Juanita  
14 and Leopoldo. That sense of small town pride has now been tarnished by the Damacio Diaz'  
15 indiscretions. Those of us who are parents can only imagine how deeply upset, heart broken,  
16 humiliated and embarrassed both Leopoldo and Juanita feel; especially now that each are now in  
17 the twilight of their lives.

20 The theme of this sentencing is one of perseverance. As noted from the Winston  
21 Churchill quote in the beginning of this memorandum, since his arrest, Damacio Diaz and his  
22 family, are certainly going through hell. However, the story of Damacio's father, Leopoldo, is  
23 truly one of perseverance. The obstacles overcome not only by Leopoldo, but his children as  
24 well, is an example of this family's steadfast approach to life. If Damacio has learned one thing  
25 throughout his life, it is indeed his innate stubbornness to fight and continue fighting until he's  
26 reached success. Damacio is now in the fight of his life. Not only is his liberty at stake, but also

1 the long term welfare of his children and the possibility of being raised in their formative years  
2 without a father.

3 As to the above, the antagonist would likely say, “he should have thought about this  
4 before he committed the crimes for which he is charged.” To the antagonist I respond, if our God  
5 were any more generous we would all have been given a crystal ball at birth. Instead, we were  
6 given the gift of hind sight as a learning tool to avoid committing similar mistakes in the future.  
7 Even good people make mistakes; this includes Damacio Diaz.

8  
9 In preparing this sentencing statement, it was important that the court develop an  
10 understanding of Damacio’s life from birth to the present. After discussing the purpose of a  
11 sentencing statement to Damacio it became apparent to me that his life experiences are best  
12 explained by him. The following paragraphs were written by Damacio per his belief that this  
13 court should know his story first hand from his mind and his heart, from pen to paper. These are  
14 Damacio’s words.  
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17  
18 **II.**  
**DAMACIO’S STATEMENT**  
19  
20 **CHILDHOOD IN McFARLAND**

21 My name is Damacio Diaz and the following is a short biography of my life and the  
22 circumstances which have led me to where I am today I am one of seven children born into the  
23 Diaz family and we are all one year apart from each other. I was born and raised in McFarland,  
24 California and that is where I currently reside. My five brothers, one sister, and I were raised by  
25 two wonderful, God fearing parents, who instilled in us the values of loving God, family, and  
26 education. My parents were field laborers most of their lives and struggled to meet the financial  
27 needs of raising seven children. Even though we didn’t have much during our childhood, we  
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1 always had parents who were involved in our daily activities and never hesitated to discipline us  
2 when we went astray. We didn't have what most kids consider to be normal things and we  
3 weren't raised like most other kids. I don't remember ever having a store bought toy or game  
4 when I was little. My father purchased our first television (19" black and white) when I was 12  
5 years old.  
6

7 Even though we weren't able to have the material things other kids our age had, we had a  
8 great upbringing and leaned on each other for support. Because our parents were field workers,  
9 we learned to value their time and gained much respect for them from an early age. My dad  
10 became the foreman of a farming company and because of his position, he was able to acquire  
11 jobs for us, his children. I began working in the fields at the age of 8 years old. Every single  
12 summer, Christmas break, Easter break, Thanksgiving break and weekend was spent working in  
13 the fields. My mom and dad always had us working in the fields. That was the norm for us. We  
14 worked before school and after school. We were known, by our friends and other kids at school,  
15 as the Diaz field workers.  
16  
17

18 Back in the 80's, our school district called a lot of Fog Delays in the winter time due to  
19 the foggy conditions in our area. School wouldn't begin until 10am. Most kids loved the foggy  
20 delay schedules because they could sleep in. We hated them. My mother would wake us up at  
21 5am and check to see if a fog delay had been called by the school district. If so, she would yell  
22 at us to get ready and we would leave to work at 5:30am. We would work in freezing conditions  
23 until about 9:45am. She would then take us to school and drop us off in the same clothes we  
24 wore to the fields. Sometimes we were wet and muddy. Everyone knew we had been working  
25 in the fields. As you can probably imagine, it was a little embarrassing for us during our teenage  
26 years. In the afternoon, as soon as school was out, my mom would pick us up at the front of the  
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1 school and we'd drive back out to the fields. My siblings and I worked until sundown. We did  
2 anything and everything that was available to us. We picked just about every fruit available in  
3 the Central Valley. (Peaches, Nectarines, Kiwi's, Apricot, Plums, Grapes, Watermelons, Melons,  
4 etc.) We pruned everything from nut trees, to grape vines, to fruit trees. We learned how to  
5 maintain and sustain an orchard or field and how to properly train the tree or vine to produce the  
6 most amount of fruit or nut possible. After work, we would run to our coach's house for our  
7 evening practice. On days we had to work after school, Coach Jim White would hold a second  
8 practice for the Diaz brothers. He would get on his bike and take us out for our 7 to 9-mile  
9 workout.  
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12 My parents were just as hard on us at home. We each had designated chores in the home  
13 that were expected to be completed every day. My Mom was, and still is, a clean freak so she  
14 would constantly conduct inspections on our chores to make sure we were doing them to her  
15 standard. After working in the fields and making sure our chores were completed to her  
16 satisfaction, my mom would have us complete our homework. Neither of my parents had the  
17 privilege of finishing school. My dad made it to 7th grade and my mom only made it to 3rd  
18 grade. Because of their family's financial limitations growing up, they both dropped out of  
19 school and spent their lives working alongside their families. Even though they did not receive  
20 an academic education, my parents, especially my dad, truly valued education. Dad always  
21 insisted we take full advantage of receiving a good education. He constantly preached that the  
22 way for us to break the cycle of poverty and to make it out of the fields would be by receiving a  
23 good education. Having personally experienced working in blistering hot conditions during the  
24 summer time or sometimes in freezing conditions during the winter, for minimal pay, was  
25 probably one of the best things that ever happened to me and my siblings. Every single one of us  
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1 graduated high school with honors and attended a university. All seven of us Diaz children  
2 earned our Bachelor of Arts Degrees, and four of us have since received a Master's Degree or  
3 higher. We never hesitate in giving our parents all the credit because they were the ones who  
4 taught us the value of education and who instilled in us the value of having a strong work ethic.  
5

6 During my 5th grade year, I began following my older brother's footsteps and joined the  
7 McFarland Cross Country and Track Team. I was not very fast but quickly learned to love  
8 running, especially longer distances. By the following year, 6th grade, I had significantly  
9 improved and began having some success. Winning races became contagious and I worked  
10 harder and harder to be the best. I eventually was part of the 4-man team that won the California  
11 State Track Meet. We qualified to the National Track Championships in Eugene, Oregon. My  
12 three teammates and I ended up running the best races of our lives and we became National  
13 Champions in Track. We were honored by the National Track Committee and were allowed to  
14 meet and run with the Olympians who were carrying the Olympic Torch for the 1986 Summer  
15 Olympic Games.  
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### **HIGH SCHOOL / CROSS COUNTRY**

By the time I reached High School, running was definitely a priority in my life but as required by my parents, I was still very active in our church and in school. My parents wouldn't accept anything less than all of us doing our very best in school. Even though my mother didn't speak English proficiently, she never hesitated in contacting our teachers if one of us wasn't performing as expected. We all constantly maintained high GPA's and were consistently on the Honor Roll. My love for running trumped everything else though. I made the High School Cross Country Varsity Team on my first race as a freshman. I was running and competing against kids much older than me. That only gave me a greater desire to become faster and stronger.

Under the guidance and leadership of our coach, Mr. Jim White, and the mentorship of my older brother, David Diaz, I never competed in the underclassmen races. I always ran against

1 the strongest and the best. In 1987, the State of California had its first ever High School Cross  
2 Country meet. McFarland High School, which is primarily composed of children born to  
3 immigrants and farm laborers, was not considered to have any chance of competing against the  
4 much larger and much more affluent teams throughout the state. We didn't even have the proper  
5 racing shoes or uniforms and definitely didn't have some of the luxuries some of the other teams  
6 had. But what we did have, that most other kids didn't, was the knowledge that no one had  
7 outworked us. We trained longer and harder than anyone else. We were well disciplined and  
8 had a genuine desire to win for our coach and for each other. All of us were born into poverty  
9 and things didn't come easy for us. Having to sacrifice some of the things other kids did for fun  
10 because we had to work in the fields to help our families gave us a competitive edge over other  
11 runners. On that day, in 1987, against all the odds, we the McFarland High School Cross  
12 Country Team, beat all the other much more accomplished teams and won the California State  
13 Title. We were the underdogs that no one had given a chance. We were the poor Mexican kids  
14 who didn't have matching racing shoes or warm ups. But, after that day, we were State  
15 Champions.  
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19 Mr. White had always taught us "It's all in the Attitude." He spent countless hours often  
20 talking about how we could not control circumstances and things around us. We couldn't control  
21 the fact that we were born poor, or that some of us didn't have a father in the home, or a bed to  
22 sleep on. But what we could control, and no one could ever take from us, was our attitude. How  
23 we reacted to our circumstances and how we performed based on our situation solely rested on  
24 our shoulders. That was true then and is still true today. My life and how I live it is greatly  
25 affected by My Attitude.  
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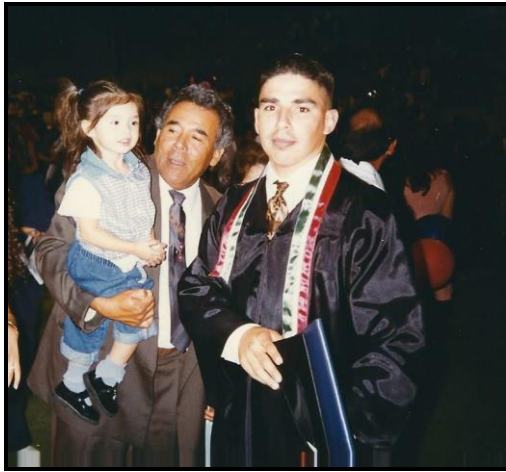
1 My senior year in high school, Mr. White was selected as the National High School Boys  
2 Cross Country coach and was able to take a team of runners, from all over the country, to race in  
3 Germany. I was fortunate in being part of the USA high school national cross country team. My  
4 family, my church, and my town were all so proud. Me, a poor young boy who was known as a  
5 field worker, was boarding an airplane and flying to the other side of the world, representing the  
6 United States in an international Cross Country race.  
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17 **COLLEGE / ROTC**

18 After graduating high school, I attended College of the Sequoias and ran Cross Country  
19 and Track. Two years later, I transferred to Fresno State. That same year, at 20 years old, I got  
20 married. Having to juggle marriage, college studies, running, and a part time job proved to be  
21 too much to handle. I definitely was not quitting school and couldn't quit my part time job  
22 because we were now expecting a baby. I decided running would have to take a back seat for the  
23 moment. As I continued my studies, I enrolled in the Fresno State Army Reserve Officer  
24 Training Candidate (ROTC) program. In 1996, I graduated from Fresno State with a Bachelor of  
25 Arts degree in Criminology with a minor in Military Science. The day after my graduation, I  
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1 was commissioned as a 2nd Lieutenant in the United States Army Reserve and was assigned to a  
2 Military Police Unit where I served as a platoon leader.



12 **EARLY YEARS AS A POLICE OFFICER**

13 In August of 1996, I was hired by the Tulare Police Department and began the  
14 Tulare/Kings County Police Academy. At the police academy graduation, in December 1996, I  
15 received the physical fitness award and the report writing award. I became a fully sworn police  
16 officer and began my career in Law Enforcement.

17  
18 Being a police officer was more than I could ever have expected. I absolutely loved my  
19 job and never thought I would do anything else for the rest of my life. Because I was raised in a  
20 Christian home with parents who were very strict and expected us to always do the right thing, I  
21 never was exposed to bad elements. I never used foul language growing up. I never stole from  
22 anyone or any place. I did not get involved in causing trouble. I never consumed alcohol,  
23 tobacco, or drugs, nor did I hang out with bad elements. Between the watchful eye of my  
24 parents, my coach, and my close circle of friends and teammates, I didn't have the typical  
25 temptations or exposure that other kids might have had to deal with. Especially having been  
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1 raised in a small rural town like McFarland where gangs and juvenile delinquency was rampant.  
2 It wasn't until I became a police officer that I truly began seeing what the real world was like.

3  
4 I had never seen my parents argue, let alone fight. Both my parents were involved in our  
5 daily lives. My dad was as close to perfect as a man could be. I wouldn't be exaggerating if I  
6 told you I was totally shocked as to how people treated each other and how they acted towards  
7 police officers. It was an eye opener for me.

8  
9 I had a great 2 years at the Tulare Police Department. During that time, my wife and I  
10 had our second child. Looking to work in a bigger city with more action and better pay, I  
11 applied with the Bakersfield Police Department. I was hired by the Bakersfield Police  
12 Department in July, 1998. Within a year and a half at BPD, I was selected to the Gang Unit. It  
13 was called the Special Enforcement Unit at that time. In 1998 – 1999, there was a large spike in  
14 gang related homicides and the city administration wanted the gang unit to make an impact. Our  
15 objective was to simply attack the various gangs and arrest as many gang members and gang  
16 associates as possible for whatever crimes we discovered. I spent several years in the gang unit  
17 and enjoyed that type of work. My wife and I had our third child during that time. We were the  
18 parents of 3 young daughters now.  
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1 During my time as a gang officer, my marriage began to crumble and my wife and I  
2 decided to divorce. That was one of the hardest decisions I had to make because I recognized  
3 our decision to end our marriage would greatly affect our 3 young daughters. Looking to change  
4 the non-stop pace, inconsistent work schedules, and long work hours of a gang officer, I chose to  
5 transfer back to patrol to work a more stable and consistent shift. Our daughters lived with me  
6 during the daytime and with their mother during the evening and night. Being home during the  
7 daytime allowed me to be able to take the girls to daycare and pre-school and then to pick them  
8 up when they were out. For the next few years, I strictly worked midnights until I was selected  
9 to become the Police Activities League representative.  
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12 As the PAL representative, I supervised 11 other civilian employees and organized all the  
13 activities PAL had to offer. We had numerous sports programs, after school tutoring programs,  
14 arts/crafts programs, dance, and community volunteer programs. I was able to interact with kids  
15 and families who normally didn't have positive relationships with police officers. I grew to  
16 appreciate and understand their perspective and provided them with an ulterior view of the police  
17 department.  
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Several years had passed since my divorce and during my time as the PAL officer, I met and fell in love with Courtney, my current wife. We dated for 2 years and then got married.

A little after a year at the Police Activities League, I promoted to Detective. I was still fairly young at that time and a lot of older police officers resented me getting promoted so young. I didn't let their negative comments affect me and kept my focus. I had a plan for my future and was on my way. I spent the next 10 years as a detective for the Bakersfield Police Department. I held various investigative assignments including: General Investigations, Sex Crimes, Burglary, Financial Crimes, Vice, Narcotics, DEA Task Force, HIDTA (High Intensity Drug Trafficking Area Task Force), Robbery, and Homicide. I also acted as the Police Information Officer (PIO) to all Spanish Language media outlets.

Courtney and I began to have children and are the proud parents of 2 boys and a girl. So in all, I have 4 daughters and 2 sons. Less than a year after Courtney and I married, my first 3 daughters, who were 5, 7, and 9 years old respectively, chose to live with me. Their mother wasn't in complete agreement but knew it was for their betterment. For the past 10 years, I have

1 raised and cared for them. They visited their mother periodically but I was their primary parent.  
2 Courtney and I have raised all 6 children.



17 My career in law enforcement was very positive for most of the 19 years 8 months I was  
18 a police officer. I was well liked, respected, and trusted by my peers, the administration, and the  
19 courts. I was asked by several police administrators to test for promotion several times during  
20 my tenure as a detective. I elected not to test at that time as I really enjoyed the various  
21 challenges of investigations.  
22

23 Some of the most gratifying cases I investigated were as a Sex Crimes Detective. Even  
24 though those type of investigations are extremely challenging and often times lack physical  
25 evidence or independent witness testimony, they gave me the most satisfaction as a police  
26 officer. I was fortunate in being able to help children and women who were sometimes viciously  
27 targeted and violated by perpetrators who took advantage of their trust. When an  
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1 innocent/helpless child or teenager is assaulted, usually by someone they know and trust, those  
2 scars can last a lifetime and cause drastic changes in that person. I especially enjoyed being  
3 there to help them deal with their circumstance and help prepare them for the hard battles ahead.  
4

### 5 **BPD UNDERCOVER OPERATIONS**

6 When I transferred to Vice, I had the opportunity to work undercover for the first time.  
7 Even though most Vice investigations are not considered high profile and usually not felonious  
8 cases, they are extremely important and necessary. The citizens who live in those communities  
9 and the businesses who provide services in those communities are greatly affected by the types  
10 of elements illegal prostitution and illegal gambling bring. The types of crimes, occurring in the  
11 streets and alleys of these neighborhoods significantly affects their standard of living.  
12

13 Several of the investigative positions I held were high profile assignments that required a  
14 great deal of knowledge, experience, and respect. Those positions were hard to come by and  
15 pursued by a great number of investigators throughout the various police departments in Kern  
16 County. The Bakersfield Police Department Administration as well as Administrators from the  
17 various Federal Agencies were in agreement that I was perfectly suited for those assignments. I  
18 was highly trusted to perform my duties with respect and integrity. I was chosen by DEA Special  
19 Agent in Charge Carl Beckett to be a member of the Drug Enforcement Administration Task  
20 Force. I transferred to the DEA Task Force in 2011 and immediately began making a positive  
21 impact. I was in charge of or played a primary role in several Organized Crime Drug  
22 Enforcement Task Force (OCDETF) cases which resulted in large quantities of illegal narcotics,  
23 weapons, and currency being seized as well as arresting and convicting key players in various  
24 Mexican drug trafficking organizations(M-DTO).  
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1 Just over a year later, I was selected to transfer to the Tri-County Drug Task Force known  
2 as HIDTA. HIDTA, which primarily operates under the jurisdiction and control of Homeland  
3 Security, gave us an opportunity to investigate cases throughout the United States that had some  
4 type of connection or relation to drug organizations in the Central Valley. I transferred to  
5 HIDTA in 2012 and having the most investigative experience and qualifications of all the  
6 members of the unit, was asked by the Unit Commander and Unit Sergeant to take a leadership  
7 role in the unit. I was specifically asked by Sergeant Greg Jehle to be the Agent in Charge of all  
8 large quantity narcotics cases. He also specifically asked me to be the direct handler of several  
9 valuable informants being utilized by the unit. Sergeant Jehle wanted me to lead the unit in a  
10 different direction specifically trying to connect some of the drug organizations we were  
11 investigating with organizations in the mid-west and east coast.  
12  
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14 I was fortunate in being able to work undercover, buying, selling, and arranging for the  
15 sale of large quantities of narcotics. We travelled up and down California and to several states  
16 including, Arizona, Texas, New Mexico, Nevada North Carolina and Washington. Sometimes  
17 we were accompanied by a supervisor and sometimes I was in charge. We had a lot of success  
18 and were often recognized by our superiors and various organizations for our work and the  
19 impact it had on disrupting drug organizations.  
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### 22 **MY EVENTUAL DOWNFALL**

23 One of my partners in the HIDTA unit became one of my closest friends and later also  
24 became my worst nightmare. He was very charismatic, charming, and savvy. He often talked  
25 about the amount of money our targeted drug dealers were making and the amount of money we  
26 were paying informants. His name is Patrick Mara. We spent hundreds and possibly thousands  
27 of hours together discussing everything from our personal to professional lives to future plans for  
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1 ourselves and families. He eventually told me about an agreement he had with an informant  
2 named Sergio Avalos. Pat Mara told me Sergio Avalos was giving him monetary gifts as part of  
3 their arrangement as Handler and Informant.  
4

5 During that time, I was the primary handler of a narcotics informant named Guillermo  
6 (Memo) Magallanes. Memo was very untrusting of other narcotics detectives. He had worked  
7 as an informant for other officers and agencies but was left with very negative feelings about  
8 how he was treated and handled. Memo grew to enjoy working with me and made it very clear  
9 to me and others that he would only work with me.  
10

11 Over time, Memo's personality and characteristics began to put me at ease and caused me  
12 to become complacent. That was my first mistake and the beginning of my downfall. I grew to  
13 like Memo and we developed a friendship that went beyond that of a police officer and  
14 informant. Memo would call me at all hours of the day and night and tell me about his drug  
15 dealing business, his marital/domestic issues, problems with several other girlfriends, etc. I  
16 would meet with him in designated areas by ourselves, without a secondary detective present.  
17 That was in clear violation of our unit's informant policy. At the time, I began to slowly cross  
18 the line without even realizing the danger I was approaching. I began to see Memo as "my  
19 friend" and not as "an informant". As the months progressed, Memo began to learn personal  
20 details about my life and my family. He often would talk about finances with me and promised  
21 to "take care of me" when he finally retired from drug dealing. He never was specific about  
22 what that meant but often joked about how he really appreciated the way I dealt with him and  
23 how I showed him respect. He said he would never forget the respect I showed him and would  
24 treat me right in the future, when he was finally done with the "dope game".  
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1 One hot afternoon, Memo and I were sitting in my car talking about potential drug  
2 organizations he could infiltrate. He had a very large wad of money in his shorts pocket and  
3 pulled it out to show me how much money he had made that morning. I estimate he had  
4 somewhere between 10 and 15 thousand dollars. I talked to him about being smarter and not  
5 carrying that amount of cash with him. At the end of our visit, after Memo had returned to his  
6 vehicle and left, I discovered he had left a small wad of cash in the passenger door side pocket. I  
7 reached over and counted it. It was just under a thousand dollars. I immediately called Memo to  
8 tell him he had left money behind. He laughed and said it was a gift to me. He told me to take  
9 my wife out on a date or buy my kids something. I softly and half-heartedly insisted he drive  
10 back to get his money but didn't argue with him too much when he insisted I keep it. I will  
11 never forget that day. It is a day I truly regret and a decision that has changed my entire life.

12  
13  
14 What happened in the following weeks and months is obvious. I allowed myself to be  
15 seduced and manipulated by a drug dealing, smooth talking, street smart individual that had me  
16 in the grip of his hand. I was totally at his mercy. I knew what I had done was wrong. There  
17 was no question about it. I had been raised by Christian parents who taught me to do the right  
18 thing, always. I had morals and integrity and was a Christian who had a personal relationship  
19 with God. I didn't do bad things, period. But here I was, a well-respected police officer who  
20 had crossed the line without realizing how far across I was. And to top it off, Memo, a drug  
21 informant had complete control of me because I knew he could hurt me, my career, and future at  
22 any given time.

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25 Memo, leaving money in my car became the norm. Every couple of weeks, during one of  
26 our meetings, he would leave a wad of cash in the passenger side door pocket or in the center  
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1 console of my vehicle. He never gave me the cash directly but always left it in the car before he  
2 exited. I never asked him for money; he simply left behind whatever he felt that day.

3 By this time, I had already confided in my partner, Pat Mara, about Memo's gifts. Pat  
4 Mara also confided in me that he too was receiving regular monetary gifts from his informant,  
5 Sergio Avalos. As time went on, Pat Mara also told me about some connections he had with  
6 friends of his who sold drugs. He told me he and Sergio Avalos had already had several dealings  
7 with one of Pat Mara's friends. Instead of seizing and booking some drug seizures, he had  
8 instead taken the seized drugs to his friend who paid him for the drugs. It didn't take a lot of  
9 convincing by Pat Mara to get me to jump on board with his scheme. I agreed to assist him in  
10 not booking a seizure of narcotics and allowed Pat Mara to take it to his friend, who would later  
11 sell it. I was not involved in the dealings with Pat Mara's friend as Pat dealt with him directly.  
12 But I do acknowledge I played an important role in this scheme.

### 16 ACCEPTING THE CONSEQUENCES

17 **"It is possible to authentic, yet authentically flawed. That is what happened to Damacio**  
18 **Diaz....this might come with some degree of prejudice, but not blindness."**  
19 **Pastor Saul Gonzalez**

20 I don't want the above to seem as though I am passing the buck or putting all the blame  
21 on Pat Mara or Memo or anyone else. I am solely responsible for my actions and have no one to  
22 blame but myself for crossing the line, using poor judgement, and simply breaking the law. I  
23 allowed myself to lose focus and fell into a cycle of sin and greed that led me into the depths of  
24 the drug trafficking world.

25 This type of behavior, which happened in 2013 and 2014, went completely against who I  
26 am, who I was, and what I believe in. I don't have an excuse for the type of behavior I engaged  
27 in. I am in no way trying to minimize or justify my actions. I was wrong and am totally  
28

1 repentant about it. How I allowed myself to fall that deep is something I have been dealing with  
2 these past 2 years. I have sought counsel from my dad, who is very wise and widely respected in  
3 our community. I have spoken with my Pastor and with my former coach about my actions. My  
4 wife knows every detail of my transgressions. I have confessed to numerous people about what  
5 we did and how a person like me, with my upbringing and background, could stoop to that level.  
6

7 What I can say, with absolute certainty, is that I will never behave in that manner again. I  
8 had never become involved or engaged in any type of wrong doing or criminal behavior before  
9 this. That is not the type of man that I am, and I know I will never become involved in any  
10 wrongful behavior in the future. I can absolutely guarantee that. I love my wife, my children  
11 and my family more than anything and will never do something to jeopardize them or our time  
12 together.  
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### 15 **ART IMITATING LIFE**

17 About 10 years ago, my coach, several members of my family, and I were approached by  
18 several movie studios about possibly making a movie about our lives and about our Cross  
19 Country team accomplishments. We were unsure if this would ever happen but we agreed to sign  
20 a contract with a movie production studio and proceeded to undergo hundreds of hours of  
21 interviews by movie writers. As the years went by, the movie fell through for various reasons  
22 including bad script writing, financial concerns, and/or contract breaches with studio people.  
23 In 2010, Disney Studios purchased the rights to our story and came to McFarland to meet with  
24 my family, our coach, and several other runners. To make a very long story a little shorter,  
25 Disney hired a great sports writer who understood our true story. They hired a great director and  
26 producer along with actors like Kevin Costner, Maria Bello, and Diana Rivera. The movie  
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1 “McFarland USA” was made and has been played in 54 countries. This movie put the Diaz  
2 family on the map and the town of McFarland in the spot light.

3  
4 I was placed on Administrative Leave a few weeks after the movie was released. The  
5 fact that I was home, gave me the opportunity to travel with my coach and 2 brothers all over  
6 California and to many different parts of the country. When the movie came out, we were  
7 sought after by many schools, churches, community groups, and organizations. People from all  
8 over the world could relate to our story. They understood our story was similar to their story.  
9 We were born with limited means but never let that hinder us. With hard work, a steady focus,  
10 and perseverance we were able to overcome the obstacles and achieve success in the running  
11 world and also in life. These different organizations requested we be the keynote speakers at  
12 their schools or events. Since the release of McFarland USA, my brothers and I have traveled to  
13 over 50 locations to be motivational speakers. Some of the speaking engagements have been for  
14 audiences as small as 200 people and others have been for audiences over 3000 people. We have  
15 gone as a group (The Diaz Brothers) or have gone individually representing the whole team and  
16 family.  
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**TURNING A BAD CHOICE INTO A TEACHING OPPORTUNITY**

**“In life we learn about our mistakes. You can make a mistake and still recover.”  
Pastor Saul Gonzalez**

These speaking engagements have given me the opportunity to specifically address one’s behavior, actions, and choices. I often address how the choices we make, whether good or bad, will greatly affect our future. I have talked about how someone can fall from grace and make poor decisions knowing the wrongfulness of their behavior and knowing the consequences. I have talked a lot about peer pressure and how to avoid those people around you who often speak negatively or hint about doing things you know to be wrong. I have never hesitated to use my life and the consequences of my behavior as an example. I always emphasize that making a mistake or using poor judgement doesn’t have to be the end. Just because you have fallen does not mean it is over. There is always something you can do to reverse the path you’re on. I reiterate that “It’s all in your attitude.” Only you can change your future. But in order to change directions and proceed to a positive and productive life means you have to be willing to accept

1 where you're currently at and acknowledge that you are there because of your poor decisions and  
2 choices.



13 I have seen, first hand, how my words and comments have affected the audience and how  
14 they have reacted to my story. I don't know how many letters, emails, phone calls, or personal  
15 visits I have received by parents, coaches, business professionals, and kids who have told me  
16 how greatly impacted they were by my words and my willingness to talk about my downfall.  
17 Motivating and inspiring others to work hard, keep their focus, and take advantage of the doors  
18 that open for them is something I have grown to love. I plan to continue speaking to kids and  
19 young adults hoping to inspire them to achieve their goals and dreams.  
20  
21

22 The following are a few recognitions I have recently received. Attached to this narrative  
23 are additional photo copies of numerous other certificates, commendations and recognitions.

24 On March 8, 2015, I was recognized by the Mayor and City Council of McFarland for my  
25 continued dedication and commitment to the community and citizens of McFarland.  
26

27 On October 8, 2015, I was inducted into the College of Sequoias Hall of Fame. One of the many  
28 reasons the COS Foundation chose me as an inductee was because of my continual positive

1 impact on students, families, and communities through my motivational and inspirational  
2 speaking.

3  
4 On May 27, 2016, I was inducted into the Latin American International Sports Hall of  
5 Fame for my accomplishments as a Latino athlete and the impact my life story has had on  
6 countless Latino students.

7 In June 2016, I received a Certificate of Recognition from Devon Mathis, 26th Assembly  
8 District California State Legislature for my induction into the Hall of Fame.

9  
10 I am no longer a police officer. I am not angry or bitter about it at all. I still love the  
11 profession and have the highest respect for police officers and public servants. That will never  
12 change. I truly believe God has a greater plan for me and I plan to make the best out of my  
13 current predicament. No matter where I may be, I will always do everything in my power to  
14 positively influence those around me. In 1993, my dad was fortunate enough to start his own  
15 company, Rio Grande Farm FLC, Inc. He farms almonds and is a farm labor contractor. His  
16 company has been successful and has flourished but he has significantly taken steps to downsize  
17 over the past 5 years. Dad is almost 77 years old and is at the brink of retiring.

18  
19 The timing of my current situation is very interesting. I have been fortunate in being able  
20 to work alongside my dad and have learned a great deal about his business. I have met numerous  
21 farmers and consultants and have begun building relationships that I hope will propel me into the  
22 future as a farmer and farm labor contractor. My dad and I have had long talks and have agreed  
23 that I will continue with the company upon his retirement. He will continue working alongside  
24 me for the next year or so to make sure I fully understand the business.

25  
26 Unfortunately, my dad fell off of an 18-foot rooftop 6 weeks ago. He shattered his lower  
27 leg and foot in 9 pieces. Thank God he survived. He is now completely immobile. He has  
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1 numerous pins and rods sticking out of his foot and leg and needs to be wheeled around in a  
2 wheelchair. He also has a Staff Infection where one of the rods is sticking out and the doctors  
3 are attacking that infection aggressively. This injury has taken its toll on dad. He has never been  
4 sick or injured before and is having a very hard time being caged up in the home. As a result of  
5 his injury and the vast amounts of medication he is having to take, he has not been himself lately.  
6 He has been unable to go out to the orchards to meet with the numerous farmers and supervisors  
7 who have heavily relied on his tree expertise and knowledge.  
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9  
10 I have had to unexpectedly jump in with both feet and learn as I go. I am supervising  
11 several work crews who work in various areas throughout Tulare and Kern Counties. I am in  
12 charge of all payroll and timesheet concerns and workman's comp issues. I have basically taken  
13 over the business a year or more before I was ready to. But this is the hand we have been dealt  
14 and we will do everything in our power to make it a success.  
15

### 16 **FINAL CHAPTER**

17 **“True success is not derived by perfection, but how we correct ourselves and how we**  
18 **ourselves shape and mold us into better people.” Pastor Saul Gonzalez**

19 Despite what many believe about me, this is not the final chapter of my life. I realize that  
20 incarceration is likely and am aware that my wife and children will have to go through life  
21 without my presence, although I do hope our physical separation will be brief.

22 I have had an opportunity to read the Government's sentencing statement. I read with  
23 particular interest the portion which noted that I should not be given a reduced sentence based  
24 upon my cross country accomplishments of 25 years ago. What I have written here shows that I  
25 am not resting upon my laurels as an athlete during my youth. Instead, I have given the court a  
26 broad perspective of my life and what it took for me to get to where I was prior to making a  
27 terrible life changing decision. I have indeed turned my life around and swear that I will never  
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1 be that person that I was for nearly two years. Those two years as a bad police officer was an  
2 aberration for me. Those two years of bad choices erased an entire lifetime of living good and  
3 honorably. Even of more significance is that I feel the tremendous burden of shame and  
4 humiliation that I have brought upon the name of a great family. A family of leaders and  
5 educators.  
6

7 All in all, the next chapter in my life will be directed towards addressing the youth of our  
8 community and using myself as an example of what not to be. I want folks to think of me before  
9 they make a bad choice and realize that no one is above the law and that we are all accountable  
10 for our actions.  
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12  
13 Thank you, your Honor, for your patience and compassion in this matter.

14 Respectfully,

15 Damacio Diaz  
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**III.  
REPORT  
DR. GREG HIROKAWA  
CLINICAL PSYCHOLOGIST**

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Dr. Greg Hirokawa was retained to prepare a psychological evaluation and risk assessment on Damacio Diaz, (Exhibit A, Hirokawa Report). The purpose was to assist the court in providing additional information as to the reason behind Damacio's indiscretions. The idea is not to place any blame upon the Bakersfield Police Department because Damacio accepts full responsibility for his actions and his conduct. Dr. Greg Hirokawa is a well-respected clinical psychologist who has entered private practice after serving 22 years as Chief of Mental Health for the California Department of Corrections and Rehabilitation. Dr. Hirokawa has interviewed thousands of inmates as well as law enforcement officers via the Workers Compensation system.

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**RISK ASSESSMENT**

The Level of Service Inventory-Revised (LSI-R) risk/need assessment instrument was chosen "because it yields a good assessment of risk for future criminal and hostile behavior." Mr. Diaz was administered this examination. As such, he scored "outside the areas of concern," meaning that he poses a "minimum risk to the community for future criminal behavior." Dr. Hirokawa further noted that Damacio has the necessary family support and motivators to maintain a positive lifestyle during and after incarceration.

**RECOMMENDATIONS**

Based upon his extensive face to face evaluation, and having reviewed the PSI, offense reports and statements by family members, Dr. Hirokawa has conveyed a sentence recommendation for "below minimum." His recommendation is further based upon his research on how good cops turn bad and the current law enforcement practices of narcotics that contribute to deviant behavior.

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**IV.  
POLICY VIOLATIONS  
RULE CHANGE RECOMMENDATIONS**

A large part of acknowledging wrongdoing apart from entering a plea of guilty to a charge(s), is also taking steps to deter future individuals from meeting a similar fate. Shortly after entering a plea in this case, Damacio sat down to prepare an extensive white paper describing various policies and rules which were routinely violated by members of Bakersfield Police Department special operations group members (Exhibit B, Policy Recommendations). Within the context of said document, Damacio discusses nine specific areas that were violated, presumably, by himself and other special operation members. He does not mention anyone specifically, although we do know that Patrick Mara was also complicit in these violations. After discussing the violations, Damacio then sets forth critical and vital recommendations to the BPD on how to curtail deviant behavior in order to prevent future officers from engaging in similar behavior in the future. Also, his recommendations are significant in that, if his recommendations are given serious consideration, these steps will instill and foster public trust in law enforcement.

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**V.  
CONCLUSION**

This court has been provided a significant amount of information to consider in rendering a fair and just sentence. The guideline recommendation in this case is 262 to 327 months. The PSI recommendation is 180 months, an 82 month downward variance. The Government filed a Sentencing Statement objecting to the PSI downward variance suggesting that the factors cited by the USPO in supporting the downward variance were factors which the Guidelines are reluctant to recognize as basis to depart. In turn, a reply was filed outlining legal reasons



1 supporting the downward variance, and then some. The purpose behind the extensive statement  
2 in mitigation is to demonstrate to the court the numerous reasons why a significant downward  
3 variance, even further down from the 180 months suggested by USPO, is warranted. Hence, the  
4 court is now aware of Damacio's history and characteristics and other factors within the purview  
5 of 18 USC §3553(a). Moreover, the court has been provided a psychological evaluation and risk  
6 assessment. As such, it is our request that the court carefully take all these factors into  
7 consideration when fashioning a just sentence under the Guidelines.  
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9  
10 The Supreme Court has made it clear that the Guidelines are to be the sentencing court's  
11 "starting point and ... initial benchmark." *Gall v. United States*, 552 U.S. 38, 49, 128 S.Ct. 586,  
12 169 L.Ed.2d 445 (2007). Federal courts understand that they "must begin their analysis with the  
13 Guidelines and remain cognizant of them throughout the sentencing process." *Peugh*, 133 S.Ct.,  
14 at 2083.

15  
16 The Guidelines are "the framework for sentencing" and "anchor ... the district court's  
17 discretion." *Id.*, at 133 S.Ct., at 2083, 2087 "Even if the sentencing judge sees a reason to vary  
18 from the Guidelines, 'if the judge uses the sentencing range as the beginning point to explain the  
19 decision to deviate from it, then the Guidelines are in a real sense the basis for the sentence.'" *Id.*,  
20 133 S.Ct., at 2083.

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22 Consistent with the principle that "the punishment should fit the offender and not merely  
23 the crime," *Williams v. New York*, 337 U.S. 241, 247, 69 S.Ct. 1079, 93 L.Ed. 1337, the  
24 sentencing guidelines provide the District Court policy "under which a sentencing judge could  
25 exercise a wide discretion in the sources and types of evidence used to assist him in determining  
26 the kind and extent of punishment to be imposed within limits fixed by law," *id.*, at 246, 69 S.Ct.  
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1 1079, particularly “the fullest information possible concerning the defendant's life and  
2 characteristics,” *id.*, at 247, 69 S.Ct. 1079.

3  
4 That principle is codified at 18 U.S.C. § 3661, which provides that “[n]o limitation shall  
5 be placed on the information” a sentencing court may consider “concerning the [defendant's]  
6 background, character, and conduct,” and at § 3553(a), which specifies that sentencing courts  
7 must consider, among other things, a defendant's “history and characteristics,” § 3553(a)(1). The  
8 Guidelines, which Booker made “effectively advisory,” 543 U.S., at 245, 125 S.Ct. 738, “should  
9 be the starting point and the initial benchmark,” but district courts may impose sentences within  
10 statutory limits based on appropriate consideration of all of the § 3553(a) factors, subject to  
11 appellate review for “reasonableness,” *Gall v. United States*, 552 U.S. 38, 49–51, 128 S.Ct. 586,  
12 169 L.Ed.2d 445.

13  
14 Based upon the foregoing, the court is asked to exercise its discretion and impose a  
15 minimal sentence.

16  
17 Dated: September 27, 2016

/s/ David A. Torres

David A. Torres  
Attorney for Damacio Diaz