

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 4:25CR503 JMD
v.)	
)	
LESAM JEROAN RIVERA-VASQUEZ,)	
)	
Defendants.)	

**UNITED STATES' SENTENCING MEMORANDUM AND RESPONSE TO
COURT'S ORDER**

COMES NOW the United States of America, by and through United States Attorney Thomas C. Albus and offers the following sentencing memorandum which includes the government's response to the Court's order regarding sentencing of October 31, 2025.

The Defendant and offense conduct

The Defendant is a 22-year-old citizen of Honduras who has pleaded guilty to the unlawful possession of ammunition by an illegal alien. Presentence Report ("PSR") at ¶ 1. The Defendant was ordered removed from the United States in 2017 at the age of fourteen. *Id.* at ¶ 45. According to United States Customs and Border Protection and Homeland Security, an immigration hearing was held in February of 2019 for Rivera-Vasquez and a voluntary departure to Honduras was granted; however, on July 7, 2019, Rivera-Vasquez had not departed the United States as agreed, and the voluntary departure was converted to a Final Order of Removal. *Id.* at ¶ 17. Contrary to that order, the Defendant failed to exit the United States. Three days before this Final Order of Removal, Defendant received a traffic citation in St. Louis County, Missouri. *Id.* at ¶ 34. Five months after the order, Defendant again appeared in municipal court on the traffic matter and was admitted to probation. *Id.*

On August 9, 2025, the Defendant was involved in a car accident where he and others collided with a Warren County Sheriff's Department patrol vehicle. The subsequent investigation revealed that on August 8, 2025, the day prior to the accident, the Defendant exited a sporting goods store carrying and possessing ammunition that was purchased at the store. Id. at ¶¶ 12-15.

Defendant is not legally in the United States and meets the statutory definition of "illegal alien" under the statute of conviction. Title 18, United States Code § 922(g)(5)(A); PSR at ¶ 45.

The Defendant has minor criminal history, none of which are felony offenses. However, his history includes a juvenile adjudication when he was sixteen (16) years old. Id. at ¶¶ 34-41. Pursuant to the United States Sentencing Guideline calculations he has a criminal history category of I.; Id. ¶ 27

The Plea Agreement and the Court's Sentencing Order

Upon his arrest on August 9, 2025, an immigration hold was placed on Defendant by the United States immigration authorities. The Defendant remained in custody since the date of his arrest. At the conclusion of his sentence in the underlying case he will be removed and deported to his home country of Honduras. PSR at ¶ 45. Accordingly, the parties recommended the Defendant receive a sentence of time served which represents a variance below the applicable guideline range. PSR at ¶¶ 62-63.¹

¹ The Plea Agreement is inconsistent. In the Plea at page 2, the parties agree both that either may request a sentence above or below the US Sentencing Guidelines and for a sentence of time served. In this Memorandum, consistent with the latter provision and the understanding of the parties, the government recommends a sentence of time served. The government regrets the error.

On October 31, 2025, the Court issued an Order related to the sentencing in this case which gave the parties notice of the Court's consideration of a sentence harsher than the joint recommendation in this case. The Court also ordered the parties to address whether a variance up from the joint recommendation is necessary to achieve adequate deterrence under 18 United States Code Section 3553(a)(2)(B), giving consideration to the Federal Government's response to illegal immigration from 2021 to 2024.

The government acknowledges that it is the province of the Court to fashion a reasonable sentence, guided by the statute of conviction and the statutory sentencing factors. Title 18, United States Code § 922(g)(5), 924(a) and 3553(a). Gall v United States, 552 U.S. 38, 51 (2007). In its order, the Court specifically ordered the parties to consider the statutory factor of deterrence, which is appropriate. Title 18, United States Code § 3553(a)(2)(B). See, e.g. United States v. Medearis, 451 F.3d 918, 920-21 (8th Cir. 2006) ("General deterrence...is one of the key purposes of sentencing"); see also United States v. Zelaya, 397 Fed.Appx. 279 (8th Cir. 2010) (affirming sentencing on unlawful re-entry in which court "place[d] greater emphasis on deterrence based on criminal and immigration record").

In the current case, the Defendant's interaction with local police was swiftly charged by the Federal government, placed on a "fast track" administrative program adopted by this District, and the Defendant immediately pled guilty which will result in accountability for the instant offense and subsequently will result in the Defendant's deportation and removal from the United States. The government believes this process uses speed and certainty to serve the deterrence factor of the sentencing statute.

United States Attorney's Office experience with immigration offenses, 2020-2025

The Court's order required the parties to discuss relevant actions from 2021 to 2024. From 2021 to 2024 (inclusive), the United States Attorney's Office for the Eastern District of Missouri charged and prosecuted approximately 32 cases of unlawful re-entry of a previously deported alien.² To date, in 2025 alone, this office has prosecuted 60 cases, nearly twice as many cases than the previous four years combined. While specific numbers are not readily available, we believe this trend of increased enforcement is consistent with a nationwide increase in criminal and civil enforcement of immigration laws. The government suggests these statistics demonstrate the Government's desire to deter illegal immigration through swift and certain enforcement.

Moreover, considering the large increase in immigration cases, the U.S. Attorney's Office and the defense bar often enter into agreements such as the one before the Court which include a downward variance in consideration of the Defendant's prompt waiver of motions and guilty plea as was the case here. These expedited cases for illegal aliens also consider the Defendant's swift removal and deportation under the sentencing statute. See also United States v. Meta-Lopez, 808 F.3d 743, 746 (8th Cir. 2015); United States v. Molina, 563 F.3d 676, 678-79 (rejecting challenges to sentences that did not vary based on deportation status but discussing its relevance under the sentencing statute).

² These cases were prosecuted pursuant to Title 18, U.S.C. § 1326 (Illegal re-entry). Additionally, in the present case the Defendant was charged with, and pled guilty to, violating Title 18, U.C. § 922(g)(5) (alien in possession of firearm or ammunition). From 2021 to 2024 the office prosecuted approximately seven cases pursuant to Title 18, U.S.C. § 922(g)(5). To date, in 2025 alone, the office has prosecuted seven cases pursuant to Title 18, U.S.C. § 922(g)(5).

Conclusion

Wherefore for the foregoing reasons and with respect and deference to the Court's discretion in sentencing matters, the government requests the Court follow the parties' recommendation and sentence the Defendant to the time served in federal custody.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Thomas C. Albus