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ESTEBAN LOAIZA

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
(HON. JANIS L. SAMMARTINO)

UNITED STATES OF AMERICA,) Case No. 18CR1743
)
Plaintiff,)
v.) **DEFENDANT’S SENTENCING**
) **MEMORANDUM**
ESTEBAN LOAIZA-VEYNA,)
) Date: March 8, 2019
_____) Time: 9:00 a.m.

TO: ROBERT S. BREWER, JR., United States Attorney,
and to LAWRENCE A. CASPAR, Assistant United States Attorney:

Defendant, Esteban Loaiza, respectfully submits his Sentencing
Memorandum and exhibits for the Court’s consideration.

INTRODUCTION

Esteban Loaiza Veyna is before the court having pleaded guilty to Title 21
USC §841(a)(1), possession of cocaine with intent to distribute. He was arrested
on February 9, 2018, and was released on bond on May 11, 2018. He was initially
released on house arrest and after several compliant months, Mr. Loaiza’s bond
conditions were expanded to allow him to work. He got a job at Corner Bakery

1 in Fashion Valley, and has been working the sunrise shift starting at 5:30 a.m.
2 since October, 2018.

3 **Who is Esteban Loaiza?**

4 Mr. Loaiza is a retired Major League baseball player who was living in the
5 Tijuana/San Diego region at the time of his arrest. Mr. Loaiza's history reveals a
6 very respectful man, loyal to family and friends, and whose life-long generosity
7 of spirit and resources has positively impacted individuals and entire communities
8 alike.¹

9
10 Following his retirement in 2008, Mr. Loaiza moved to back home to San
11 Diego. He has been living in the Tijuana/San Diego region where his siblings and
12 parents live. For Mr. Loaiza, family has always been the most important part of
13 his life-even more than baseball. Indeed, when he made the All-Stars in 2004, a
14 reporter asked, "Who will be at the game rooting you on?" Mr. Loaiza replied,
15 "[m]y mom, my dad, my sister, my brother with their families. An uncle and his
16 family. [Girlfriend] Ashley [Esposito], my son Sage, Ashley's mom, her dad, her
17 brother, her stepmother. A couple of cousins coming in from California. Actually
18 there are six of them. And then another cousin coming from Florida. And a couple
19 of friends from Texas. And my agents, John Boggs and Tony Cabral."²

20
21
22 Mr. Loaiza is single, and has three children. Alejandra is twenty-two, Sage
23 is seventeen, and Andreas is three. Mr. Loaiza pays or paid child support for all
24 three children. He saw Alejandra on the weekends while she was growing up
25 when he could, and still maintains a relationship with her. When Alejandra
26

27 _____
28 ¹ Mr. Loaiza attaches selected photographs with explanations about the charities
he has supported over the years.

29 ² "A Pleasant Surprise," Chicago Tribune, July 9, 2003. Can be viewed at:
30 [https://www.chicagotribune.com/news/ct-xpm-2003-07-09-0307090259-
story.html](https://www.chicagotribune.com/news/ct-xpm-2003-07-09-0307090259-story.html)

1 turned eighteen, Mr. Loaiza gave her access to the account he had opened in her
2 name and transferred a large sum of money to her. Mr. Loaiza has no
3 communication with Alejandra's mother, Nancy.
4

5 Likewise, Mr. Loaiza has been paying child support for three-year-old
6 Andreas, whose mother lives in El Paso, TX. Andreas's mother, Christina
7 Eustace, has unfortunately used Mr. Loaiza's celebrity and arrest to her
8 advantage by granting paid interviews to magazines, television and publications
9 such as "Gordo y Flaca," and "Telemundo." Mr. Loaiza has stopped
10 communication with Ms. Eustace, as it is especially unhelpful during the
11 pendency of this case. He certainly hopes to build a relationship with Andreas
12 upon his release from custody. This should be feasible, especially since Mrs.
13 Socorro Loaiza (Mr. Loaiza's mother) maintains contact with Ms. Eustace and
14 Andreas.
15

16
17 Mr. Loaiza also has a seventeen-year-old son, Sage, who lives with Ashley
18 Esposito. Sage and Mr. Loaiza have always had a close relationship. Sage travels
19 with Mr. Loaiza on some of his charitable trips (see attached photos with
20 depictions). Sage and Ashley Esposito have been to San Diego at least four times
21 since Mr. Loaiza's arrest. They attended Mr. Loaiza's guilty plea and will attend
22 his sentencing hearing. Of course, Mr. Loaiza pays child support for Sage, and
23 he also purchased Ms. Esposito a house when they separated after eight years.
24 Ms. Esposito and Mr. Loaiza remain very close friends, and Ms. Esposito is the
25 surety in this case.
26

27 Ms. Esposito's Tumor

28 When Sage was born in 2001, Ms. Esposito was paralyzed because of a
29 benign tumor near her spine (T2-T7), discovered during childbirth. Mr. Loaiza
30 had just been signed for the Toronto Blue Jays, and Mr. Esposito and Sage were

1 living in Houston, TX. He played poorly that season, as he was distracted and
2 worried about his family in Houston. He was so focused on Ms. Esposito and
3 Sage that his teammates began criticizing him behind his back. He missed the
4 Toronto Blue Jays's home opening game so he could fly home to be with Ms.
5 Esposito.

6 Because Ms. Esposito could not walk, Mr. Loaiza was Sage's primary
7 caregiver for the first years of his life, along with Sage's maternal grandmother.
8 When he was not physically present in Houston, Mr. Loaiza kept in close touch
9 via telephone and other methods. A *Chicago Tribune* article describes the stress
10 Mr. Loaiza underwent while Ms. Esposito was recovering from paralysis.

12 "With a risk of permanent paralysis, Esposito spent much of the
13 next year in a hospital and a rehabilitation center. 'She had to
14 learn how to walk again,' [Loaiza agent] Boggs said.

15 Loaiza wanted frequent updates, so he bought her a computer for
16 all the times they couldn't be together. 'That was the only way we
17 could communicate because she couldn't use her cell phone in the
18 hospital,' Loaiza said. 'There were other times she couldn't
19 move.'

20 Esposito was confined to a wheelchair as she fought to get the
21 feeling back in her legs. It was a year before she began walking
22 again.

23 'She's not 100 percent,' Loaiza said. 'But she's doing much better.
24 Our son's growing and brings a smile to our face. It's unbelievable.
25 'Thank God everything is good. For a while I had too much stuff
26 in my head. Now I can concentrate on my game.'"³

27 And concentrate on his game he did, although not without bringing his family
28 with him to his games. After Ms. Esposito began to walk again, Mr. Loaiza's
29 game improved and he was selected as the All-Star starting pitcher for the White

30 ³A *Starter Gets a New Start*, Chicago Tribune, 5/28/2003. Seen at
[https://www.chicagotribune.com/news/ct-xpm-2003-05-28-0305280293-
story.html](https://www.chicagotribune.com/news/ct-xpm-2003-05-28-0305280293-story.html)

1 Sox in 2004. Another article, this time from the Hartford Curreant in August, 2004,
2 described how Ms. Esposito's paralysis impacted Mr. Loaiza and his game. His
3 game suffered and he had to make a comeback just as Ms. Esposito had made a
4 comeback. By the winter of 2002, "as Ashley's rehabilitation brought her closer
5 to walking again, Loaiza shopped for a job. All he could get was a spring training
6 invitation from the White Sox, offering \$500,000 if he made the team. This wasn't
7 what anyone had expected for Loaiza, who had been a top prospect with the
8 Pirates but was 69-73 after eight seasons."⁴ The article goes on to describe Mr.
9 Loaiza's signing with the Yankees, and his bringing 3 ½ year-old Sage to the
10 dugout with him. He brought his family with him whenever he could. When his
11 coach selected him for the All-Stars, he commented, "a lot of guys would rather
12 have the weekend off. ... This guy had his whole family there with him."
13

14
15 Although no longer a couple, Mr. Loaiza and Ms. Esposito remain dear
16 friends and mutually committed to Sage.

17 If Mr. Loaiza lived a lavish lifestyle while playing baseball, he is not living
18 like that now. He lives a simple life, content to be with his family and go to work.
19 During the home assessment for the PSR, Probation Officer Zimmerman noted he
20 saw nothing lavish or luxurious, and assessed Mr. Loaiza to be "genuine" in his
21 communications. Mr. Zimmerman noticed and commented on Mr. Loaiza's polite
22 and respectful demeanor throughout the sentence investigation process. Counsel
23 for Mr. Loaiza has also been in close touch with Vanessa Andrews, Mr. Loaiza's
24 pretrial services officer. Mr. Loaiza was fully compliant and polite during each
25 of the three pretrial home visits, and Ms. Andrews has been very supportive of
26 Mr. Loaiza in attending to this case.
27

28
29 ⁴ *Loaiza's Life Gets All-star Makeover*. Hartford Curreant, 8/3/2004, seen at
30 <https://www.courant.com/news/connecticut/hc-xpm-2004-08-03-0408030676-story.html>

1 **MR. LOAIZA’S EXCEPTIONAL CHARITABLE WORKS AND GOOD**
2 **DEEDS MERIT CONSIDERATION**

3 *“Esteban used his platform to help many of those in need, and I can only*
4 *pray that it comes back to him in his time of need.”*

5 -Eduardo Salcedo, family friend who has known Mr. Loaiza for thirty years.

6 Mr. Loaiza has given mightily to his family, community, and beyond. He
7 has been involved in charitable work since he became a baseball player, and his
8 charity is not only extended in public. In private, where there are no cameras and
9 no reporters, Mr. Loaiza is equally kind.

11 The letters to the Court are from people who have known Mr. Loaiza all his
12 life, and from others who have known him as an adult. Without exception, all the
13 letters describe Mr. Loaiza as a giver, a generous man with a huge heart. Many
14 of the writers believe Mr. Loaiza’s generosity may have contributed to his
15 involvement in this case. His charitable and good works include:

16 Funding baseball fields and equipment for young boys and girls, and spending
17 time with them. Sports Agent Anthony Cabral writes, “Esteban has a reputation
18 as a giver and has always been willing to go above and beyond to help many
19 causes that are important to him. One example would be back when Esteban was
20 still an active Major League player and the San Diego Padres approached him
21 about donating \$50,000 to help build a baseball field for underprivileged children.
22 Of course, Esteban did not hesitate for a moment.” (Cabral letter) Agent John
23 Boggs reiterates the same in his letter. (Boggs letter)

26 Mr. Loaiza attended all types of charitable functions where he not only
27 donated financially but also donated his time. He has traveled throughout Mexico
28 to visit underprivileged children who are orphaned and/or who cannot afford
29 baseball because of the equipment, and donated their equipment. After donating
30 the baseball equipment, Mr. Loaiza gave motivational talks to encourage them to

1 finish school and work hard, signed autographs, and even played baseball with
2 the children. He went to sports centers to spend time with orphaned children, and
3 opened new baseball academies around the country. The attached photographs
4 have captions to explain what is depicted and are a small selection of the
5 photographs provided to counsel. (The descriptions are also on the exhibits
6 themselves.)

7
8 **Exhibits A1-A3:** Mr. Loaiza (and his son Sage) traveled to Culiacan
9 Sinaloa, to donate baseball equipment to the Little League team. Mr. Loaiza spent
10 time with the players, coaching, signing autographs, and motivating the children
11 to work hard and finish school.

12 **Exhibits B1-B3:** Mr. Loaiza traveled to the southern Mexican state of
13 Oaxaca, where he donated equipment and spent time with the underprivileged
14 children there.

15 **Exhibit C:** Mr. Loaiza went to Ensenada, Baja California in approximately
16 2015 to raise funds and awareness for a public sports gym for youth.

17
18 **Exhibit D:** Mr. Loaiza traveled to Chihuahua, Mexico to spend time with
19 orphaned children at a sports center.

20 **Exhibit E:** Mr. Loaiza went to Mexico City with his son Sage, to raise
21 money in the Homerun Derby. Homerun Derby is a charitable foundation to
22 attract kids to baseball to keep them off the streets.

23
24 Other notable events include Juarez, Chihuahua, where Mr. Loaiza flew out
25 for the inauguration of their league, signed autographs, and used his celebrity to
26 raise awareness for the game. The goal was to get children to play and stay out
27 off the streets. He flew to Puebla to throw the first pitch at a game in
28 Tecamalchaco, Puebla, Mexico. Basically, if Mr. Loaiza was available on the
29 dates needed, he rarely said no to a request for his presence, which always raised
30 attendance and awareness of the charitable events he attended and contributed to.

1 Participated in American Charities and Raised Funds for them

2 Mr. Loaiza participated in Garth Brooke’s Charity Teammates For Kids from
3 2004-2008, donating \$1,000 per strikeout each year. He participated in many
4 charity baseball games, golf tournaments and even charity video game
5 tournaments.

6 While Mr. Loaiza’s financial generosity has been extraordinary, his
7 generosity of spirit is even more so. He has a reputation as a giver and as
8 someone who can always be counted on to show up to help. When he attended
9 to fundraising events with other professional athletes, Mr. Loaiza frequently
10 showed up first, signing autographs and engaging the children in conversation.

11 Friends and Family

12
13 Mr. Loaiza’s conduct in private is as generous as it is under the public gaze.
14 For example, Mr. Loaiza supported the entire family of his maternal aunt after her
15 divorce, including maintaining his cousins’ expenses. His cousin, Hector Vargas
16 Loaiza, writes that Mr. Loaiza purchased a home for his family close to Mr.
17 Loaiza’s parents, paid for Mr. Vargas’s school, and provided for his family in
18 every way. Mr. Loaiza was always “there” for Mr. Vargas and his family for the
19 good and bad times. He tells the Court, “I have so much to thank him for. I know
20 I will never be able to give back to him all that he has done for my life. For me,
21 he is an admirable man and most importantly has the biggest heart. He would lend
22 his helping hand when you needed him most. And I am not the only one who says
23 this but all the people that really know him know what I am talking about. He
24 helped and supported many people, friends and family, and this is why he has
25 always been so loved wherever he’s lived.” (Letter, Hector Vargas Loaiza)

26
27 As stated above, Mr. Loaiza treats people privately with the same
28 generosity he treats charities and groups in public. For example, Mr. Loaiza
29
30

1 would give someone the shirt off his back and did just that, according to Ed
2 Cassim, the Director of Team travel for the Chicago White Sox. In his letter to
3 the Court, Mr. Cassim tells of the time Mr. Loaiza wore a Hawaiian shirt to the
4 field and one of the clubhouse employees told Mr. Loaiza he liked the shirt.⁵ Mr.
5 Loaiza gave him the shirt at the end of the game. Mr. Cassim also tells the Court
6 what type of father Mr. Loaiza was to Sage at the time he played for the White
7 Sox. Mr. Loaiza took Sage with him whenever he could.
8

9 This Court may weigh Mr. Loaiza's good deeds against the offense conduct
10 in this case to reach a just sentence. *United States v. Cooper*, 394 F.3d 172 (3rd
11 Cir. 2005) (in securities fraud and tax evasion case, with sentence range of 14-21
12 months, four-level departure for "good works" and sentence of probation was
13 warranted for defendant's "exceptional" good works who did not simply donate
14 money to charity but also organized and ran youth football team in depressed area,
15 mentored its members, and helped several members attend better high schools or
16 go to college, which qualified as exceptional because they entail "hands on
17 personal sacrifices which have a dramatic and positive impact on the lives of
18 others.")
19

20 Indeed, if ever there were an appropriate time to weigh an individual's good
21 deeds against unlawful ones, his or her sentencing hearing is that time. As the
22 court eloquently stated in *United States v. Adelson*, 441 F. Supp.2d 506 (SDNY
23 2006), "[b]ut, surely, if ever a man is to receive credit for the good he has done,
24 and his immediate misconduct assessed in the context of his overall life hitherto,
25 it should be at the moment of his sentencing, when his very future hangs in the
26 balance. *This elementary principle of weighing the good with the bad, which is*
27
28

29
30 ⁵ The "clubhouse guys" are the people charged with ordering all the equipment
for the players on a baseball team.

1 *basic to all the great religions, moral philosophies, and systems of justice, was*
2 *plainly part of what Congress had in mind when it directed courts to consider, as*
3 *a necessary sentencing factor, ‘the history and characteristics of the defendant.’”*
4 *United States v. Adelson, 441 F. Supp.2d 506, 513-514 (2006) (emphasis added).*
5 (In securities fraud case, where guidelines call for life sentence, court imposes 42
6 month sentence in part because of the defendant’s past integrity and many good
7 deeds.) As Mr. Salcedo says in his letter to the Court, Mr. Loaiza has used his
8 celebrity to give to others, and now and he can “*only pray that it comes back to*
9 *him in his time of need.*”
10

11 **THIS COURT SHOULD GRANT A VARIANCE BASED ON MR.**
12 **LOAIZA’S RECENT DIAGNOSIS OF DIABETES**

13
14 Mr. Loaiza is a soft-spoken man, and tries to keep his stress about this case
15 to himself. Unfortunately, he has lost over twenty-five pounds, (from
16 approximately 200 pounds to 175 pounds), and he just learned he has diabetes on
17 February 26, 2019. (See Exhibit H, attached.)

18 At the probation interview, Mr. Loaiza told Probation Officer Zimmerman
19 he was in good health, except for numbness in his lower body and feet since 2015.
20 (PSR ¶57.) This condition has deteriorated, so Mr. Loaiza went for a consultation
21 because of his weight loss and numbness/pain in his lower body. The doctor
22 determined Mr. Loaiza suffers from H.pylori (ulcer-causing bacterial infection)
23 and diabetes, for which he prescribed medications and diet change. (Exhibit H)
24 The doctor set a follow-up appointment four weeks out (March 26, 2019) to check
25 on Mr. Loaiza’s progress.
26

27 Mr. Loaiza’s diagnosis of diabetes was a surprise for Mr. Loaiza and his
28 family. Now, he will need a special diet while in custody, and he will need to be
29 monitored and provided medication.
30

1 The Court can consider Mr. Loaiza's health in imposing sentence. *United*
2 *States v. Edwards*, 595 F.3d 1004, 1011 (9th Cir. 2010) In *Edwards*, the sixty-
3 three-year-old defendant suffered from diabetes and related complications. The
4 guideline range was twenty-seven to thirty-three months, and the court imposed a
5 probationary sentence. ("Considering the diabetes and related medical
6 complications, the district court reasoned that imprisoning Edwards would simply
7 pass the cost of medical care on to taxpayers. While the district court agreed with
8 the Government that the Bureau of Prisons was capable of providing for
9 Edwards's medical care, it found that a sentence of probation would satisfy the
10 requirement of providing needed care in the most effective manner. 18 U.S.C. §
11 3553(a)(2)(D)." *United States v. Edwards*, 595 F.3d at 1011.)

12
13 Mr. Loaiza requests this Court consider his newly-discovered serious
14 medical condition in imposing sentence. He also requests a self-surrender date in
15 the normal course, to allow him to go to his follow up appointment on March 26,
16 2019, and make other adjustments as needed prior to his incarceration. This
17 would include getting a solid foundation with medication (dosage, etc.) and diet
18 changes before going into custody.
19

20 **MR. LOAIZA'S PLANS FOR THE FUTURE**

21 Mr. Loaiza plans to return to baseball in Mexico upon his release from
22 prison. He hopes to coach professionally, perhaps at a university or for a
23 professional team in Mexico. Of course, his reputation and future earnings have
24 been negatively impacted by this offense. Mr. Loaiza is going to have to earn
25 back his reputation in order to make a living in Mexico.
26

27 **MR. LOAIZA'S VARIANCE REQUESTS BASED ON THE 3553 (a)** 28 **FACTORS**

29 The offense conduct is described in the PSR, and Mr. Loaiza's history and
30 characteristics are discussed above (See §3553(a)(1).) The remaining variance

1 requests are best organized under the §3553(a) factors. As Justice Stevens wrote
2 in *Rita v. United States*, the Sentencing Commission “has not developed any
3 standards or recommendations” for many individual characteristics, but “[t]hese
4 are . . . matters that § 3553(a) authorizes the sentencing judge to consider,” even
5 though they are “not ordinarily considered” under the guidelines. *Rita v. United*
6 *States*, 127 S. Ct. 2456, 2473 (2007) (Stevens, J., concurring). Of course, the
7 “overarching statutory charge” for a sentencing court is to “impose a sentence
8 sufficient, but not greater than necessary” to serve the statutory sentencing goals.
9 *United States v. Carty*, 520 F.3d at 984, 991 (9th Cir. 2008).

11 **18 U.S.C. §3553 Imposition Of A Sentence**

12 **(a) Factors To Be Considered in Imposing a Sentence.**

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

15
16 The offense is serious, to be sure. However, the offense committed by
17 Mr. Loaiza on February 9, 2018, does not cancel out the good life he has lived
18 his forty-seven years, his generous character, and the good deeds Mr. Loaiza has
19 done all his life.
20

21 Mr. Loaiza’s sports agent, John Boggs, said it succinctly: “I believe that
22 one of Esteban's best qualities as a person is that he is always there for his
23 friends and family and always offers unconditional support. Unfortunately, I
24 believe this character trait possibly led him to trust people who maybe don't
25 carry the same loyalty traits and before he knew it, found himself in a very bad
26 situation.” (Letter from John Boggs.)
27

28 ///

29 ///

30 ///

1 **(2) the need for the sentence imposed—**

2 **A. To reflect the seriousness of the offense, to promote respect**
3 **for the law, and to provide just punishment for the offense; To**
4 **reflect the seriousness of the offense, to promote respect for the**
5 **law, and to provide just punishment for the offense.**

6 Over the fourteen months since his arrest, Mr. Loaiza has endured the types
7 of hardships that are common for defendants but also has endured scrutiny above
8 the norm because of his celebrity. For example, after he pleaded guilty in April,
9 the San Diego Union Tribune incorrectly reported he had signed a plea agreement
10 that called for a *thirty* year sentence.⁶ Since this is more than even Benjamin
11 Arrellano-Felix received, the implication to the general public was that Mr.
12 Loaiza’s involvement must have been quite extensive. Nevertheless, Mr. Loaiza
13 continued to be cooperative and as upbeat as possible. He elected to fully accept
14 responsibility from the outset of this case and forego a potential Fourth
15 Amendment challenge because he knew he was guilty and wanted to put this
16 behind him as quickly as possible to begin to move forward.⁷

17
18 **B. To afford adequate deterrence to criminal conduct.**

19 Mr. Loaiza is a public figure, even more so in Mexico than in the United
20 States. As such, he has been scrutinized by the media and his reputation is forever
21 tarnished. The publicity alone around this case serves as a deterrent, but on top
22 of that, this is Mr. Loaiza’s first offense and he will be deported.
23

24 ///

25 _____
26 ⁶ <https://www.sandiegouniontribune.com/news/courts/sd-me-loaiza-cocaine-20180810-story.html>

27 ⁷ As indicated in his Motion for Departures, Mr. Loaiza has filed no substantive
28 motions in this case. The case did present some potential motions, including
29 Fourth Amendment search and seizure issues. As the Court knows, there can be
30 benefits short of “winning” a motion, but Mr. Loaiza elected to move forward on
his plea.

To protect the public from further crimes of the defendant.

Mr. Loaiza is forty-seven years old, and is in CH category I with no criminal history points. .”). A district court may properly consider a defendant’s age as it relates to the possibility of her committing crimes in the future. *See United States v. Holt*, 486 F.3d 997, 1004 (7th Cir. 2007). Recidivism risks decline with age, and as people approach the age of fifty, recidivism significantly declines.⁸

As stated in different papers including the PSR and Motion for Departure, Mr. Loaiza was on house arrest for several months and is now on a bail curfew. He has been fully compliant with all conditions on bond. Given his age, lack of prior offenses, and attitude since being released on bond, Mr. Loaiza is unlikely to offend. The likelihood of recidivism is a proper sentencing consideration.

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⁸ The Sentencing Commission has observed that “[r]ecidivism rates decline relatively consistently as age increases.” Further “Recent analysis from the Bureau of Justice Statistics considering the recidivism rates of released prisoners in 30 states from 2005 to 2010 supported the Commission’s conclusion, finding decreased recidivism rates as prisoners age....These statistics suggest that past fifty years old there is a significantly lower rate of recidivism.” United States Sentencing Commission, *Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines* 12 (2004) available at http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2004/200405_Recidivism_Criminal_History.pdf (“[r]ecidivism rates decline relatively consistently as age increases (“Recidivism rates decline relatively consistently as age increases,” from 35.5% under age 21 to 9.5% over 50).

1 **C. To provide the defendant with needed educational or vocational**
2 **training, medical care, or other correctional treatment in the**
3 **most effective manner.**

4 Mr. Loaiza was just diagnosed with diabetes on February 26, 2018. This
5 diagnosis complicates things for Mr. Loaiza, just as he prepares to go into custody.
6 Medical care while out of custody is always more patient-specific since the patient
7 is choosing the doctor and course of care. Obtaining medicine is much easier, and
8 getting the right diet is also much easier, when a person is not incarcerated. Mr.
9 Loaiza now needs a special diet and medication; both things he did not need
10 before. This factor weighs in favor of a shorter sentence.

11 **The kinds of sentences available**

12 The court may fashion any type of sentence it believes will satisfy §3553.

13 **D. The need to avoid unwarranted sentence disparities among**
14 **defendants with similar records who have been found guilty of**
15 **similar conduct.**

16 The offense conduct in this case is not atypical in this district. The offender,
17 however, is very *dissimilar* from the heartland of offenders. Mr. Loaiza has spent
18 much of his life giving back to communities in the United States and Mexico, and
19 making the lives of many others much better.
20

21 **CONCLUSION**

22 Mr. Loaiza requests a non-guideline sentence of eighteen to twenty-four
23 months, followed by three years of supervised release. He also requests a
24 placement to the Southwestern Region. Finally, because of the recent diabetes
25 diagnosis and the time needed to discern the proper diet and medication for Mr.
26 Loaiza, he respectfully requests a self-surrender date approximately five weeks
27 after the sentencing hearing.
28

SENTENCING RECOMMENDATION

1		
2	1. Base Offense Level (USSG §2D1.1)	32
3	2. USSG §2D (Stash house)	+2
4	3. Safety Valve (USSG §§2D1.1(b)(17) and 5C1.2)	-2
5	4. Acceptance of Responsibility, USSG §3E1.1(a) & (b)	-3
6	5. Departure for immigration consequences	-4
7	6. Departure for Combo of circumstances (prompt resolution, appellate waiver) USSG §5K3.1	-2
8	7. Variance loss of reputation and future income	-2
9	8. Variance Extraordinary Good and Charitable Deeds	-3
10	9. Newly discovered medical condition (diabetes)	-2

Total Offense level 16 (21-27 months)

Recommendation 18 months (Mr. Loaiza will not receive any of the benefits afforded United States citizens including early release to a halfway house.)

CONCLUSION

Mr. Loaiza made a huge error in judgement when he agreed to commit this crime. He has ruined his great reputation. Yet his respect for the law and decision to accept responsibility early on shows his true character. Despite all that occurred in state court with the constant moving from facility to facility, the detention in Federal Court on the day he was to be released in State Court, and the media scrutiny and other challenges, Mr. Loaiza pleaded guilty and has waived his appellate rights. He has lived in San Diego, California where his family lives, since he was six years old, and will now be deported for the rest of his life.

For the reasons stated in this memorandum, in the letters to be submitted, and the other exhibits, a sentence of 18 months is sufficient but not greater than necessary to satisfy the purposes of §3553(a).

Respectfully Submitted

Dated: March 1, 2019

/s/ Janice Deaton
 JANICE DEATON
 Attorney for Mr. Loaiza

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No. 17CR1743
)	
Plaintiff,)	
)	Certificate of
)	Service
v.)	
)	
ESTEBAN LOAIZA,)	
)	
Defendant.)	
_____)	

IT IS HEREBY CERTIFIED THAT:

I, Janice Deaton, am a citizen of the United States and am at least eighteen years of age. My business address is 444 West C Street Suite 340, San Diego, California 92101. I am not a party to the above-entitled action.

I have caused service of Sentencing Memorandum on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

LAWRENCE CASPAR, Assistant United States Attorneys.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on March 1, 2019, in San Diego, California.

s/Janice Deaton
JANICE DEATON