

1 SANDRA BROWN  
 Acting United States Attorney  
 2 LAWRENCE S. MIDDLETON  
 Assistant United States Attorney  
 3 Chief, Criminal Division  
 WILLIAM M. ROLLINS (Cal. Bar No. 287007)  
 4 Assistant United States Attorney  
 General Crimes Section  
 5 1200 United States Courthouse  
 312 North Spring Street  
 6 Los Angeles, California 90012  
 Telephone: (213) 894-7407  
 7 Facsimile: (213) 894-0141  
 E-mail: william.rollins@usdoj.gov

8 Attorneys for Plaintiff  
 9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 MARIO MOYA JR.,  
 16 OMAR FLORES, and  
 JEZRAHEL MERCADO PEREZ,

17 Defendant.

No. CR 16-165-JGB

PLEA AGREEMENT FOR DEFENDANT  
OMAR FLORES

18  
 19 1. This constitutes the plea agreement between OMAR FLORES  
 20 ("defendant") and the United States Attorney's Office for the Central  
 21 District of California (the "USAO") in the above-captioned case.  
 22 This agreement is limited to the USAO and cannot bind any other  
 23 federal, state, local, or foreign prosecuting, enforcement,  
 24 administrative, or regulatory authorities.

25 DEFENDANT'S OBLIGATIONS

26 2. Defendant agrees to:

27 a. Give up the right to indictment by a grand jury and,  
 28 at the earliest opportunity requested by the USAO and provided by the

1 Court, appear and plead guilty to a 1-count information in the form  
2 attached to this agreement as Exhibit A or a substantially similar  
3 form, which charges defendant with possession with intent to  
4 distribute methamphetamine in violation of 21 U.S.C. §§ 841(a)(1),  
5 (b)(1)(C).

6 b. Not contest facts agreed to in this agreement.

7 c. Abide by all agreements regarding sentencing contained  
8 in this agreement.

9 d. Appear for all court appearances, surrender as ordered  
10 for service of sentence, obey all conditions of any bond, and obey  
11 any other ongoing court order in this matter.

12 e. Not commit any crime; however, offenses that would be  
13 excluded for sentencing purposes under United States Sentencing  
14 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not  
15 within the scope of this agreement.

16 f. Be truthful at all times with Pretrial Services, the  
17 United States Probation Office, and the Court.

18 g. Pay the applicable special assessment at or before the  
19 time of sentencing unless defendant lacks the ability to pay and  
20 prior to sentencing submits a completed financial statement on a form  
21 to be provided by the USAO.

22 THE USAO'S OBLIGATIONS

23 3. The USAO agrees to:

24 a. Not contest facts agreed to in this agreement.

25 b. Abide by all agreements regarding sentencing contained  
26 in this agreement.

27 c. At the time of sentencing, move to dismiss the  
28 underlying indictment as against defendant. Defendant agrees,

1 however, that at the time of sentencing the Court may consider any  
2 dismissed charges in determining the applicable Sentencing Guidelines  
3 range, the propriety and extent of any departure from that range, and  
4 the sentence to be imposed.

5 d. At the time of sentencing, provided that defendant  
6 demonstrates an acceptance of responsibility for the offense up to  
7 and including the time of sentencing, recommend a two-level reduction  
8 in the applicable Sentencing Guidelines offense level, pursuant to  
9 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an  
10 additional one-level reduction if available under that section.

11 e. Recommend that defendant be sentenced to a term of  
12 imprisonment no higher than the low end of the applicable Sentencing  
13 Guidelines range.

14 NATURE OF THE OFFENSE

15 4. Defendant understands that for defendant to be guilty of  
16 the crime charged in the First Superseding Information, that is,  
17 possession with intent to distribute methamphetamine, in violation of  
18 Title 21, United States Code, Sections 841(a)(1), (b)(1)(C), the  
19 following must be true: First, defendant knowingly possessed  
20 methamphetamine; and second, defendant possessed it with the intent  
21 to distribute it to another person.

22 PENALTIES

23 5. Defendant understands that the statutory maximum sentence  
24 that the Court can impose for a violation of Title 21, United States  
25 Code, Sections 841(a)(1), (b)(1)(C), is: 20 years' imprisonment; a  
26 lifetime period of supervised release; a fine not to exceed the  
27 greater of that authorized in accordance with the provisions of Title  
28 18, or \$1,000,000; and a mandatory special assessment of \$100.

1           6. Defendant understands that under 21 U.S.C. § 862a,  
2 defendant will not be eligible for assistance under state programs  
3 funded under the Social Security Act or Federal Food Stamp Act or for  
4 federal food stamp program benefits, and that any such benefits or  
5 assistance received by defendant's family members will be reduced to  
6 reflect defendant's ineligibility.

7           7. Defendant understands that supervised release is a period  
8 of time following imprisonment during which defendant will be subject  
9 to various restrictions and requirements. Defendant understands that  
10 if defendant violates one or more of the conditions of any supervised  
11 release imposed, defendant may be returned to prison for all or part  
12 of the term of supervised release authorized by statute for the  
13 offense that resulted in the term of supervised release, which could  
14 result in defendant serving a total term of imprisonment greater than  
15 the statutory maximum stated above.

16           8. Defendant understands that, by pleading guilty, defendant  
17 may be giving up valuable government benefits and valuable civic  
18 rights, such as the right to vote, the right to possess a firearm,  
19 the right to hold office, and the right to serve on a jury.  
20 Defendant understands that once the court accepts defendant's guilty  
21 plea, it will be a federal felony for defendant to possess a firearm  
22 or ammunition. Defendant understands that the conviction in this  
23 case may also subject defendant to various other collateral  
24 consequences, including but not limited to revocation of probation,  
25 parole, or supervised release in another case and suspension or  
26 revocation of a professional license. Defendant understands that  
27 unanticipated collateral consequences will not serve as grounds to  
28 withdraw defendant's guilty plea.



1 driven by PEREZ and in which defendant was a passenger. In exchange  
2 for participating in the drug deal, PEREZ was compensated with a  
3 small bag of methamphetamine. Defendant also received a bag of  
4 methamphetamine for his role in the transaction. Defendant knew that  
5 MOYA was supposed to receive \$4,200 from the C.S. in exchange for the  
6 methamphetamine.

7 After obtaining the methamphetamine from MOYA, defendant and  
8 PEREZ drove to another gas station in Cabazon, California. MOYA  
9 drove to the same location in a separate car, a white Ford F-150.  
10 When defendant, PEREZ, and MOYA arrived, the C.S. was already sitting  
11 in the gas station's parking lot, inside a rental car. While  
12 defendant and PEREZ initiated the drug transaction, MOYA kept watch  
13 by circling the block and driving back around towards the gas  
14 station. In the parking lot, defendant exited the Jeep Cherokee,  
15 approached the C.S., and asked if the C.S. had the money. PEREZ, who  
16 had been driving the Jeep Cherokee, remained in the driver's seat.  
17 Eventually, defendant and PEREZ caused the bag of methamphetamine to  
18 be removed from the Jeep Cherokee and given to the C.S. Defendant  
19 and PEREZ were arrested shortly thereafter. MOYA, meanwhile, was  
20 conducting surveillance by driving past the gas station, and when he  
21 saw that PEREZ and defendant had been detained, he quickly  
22 accelerated his truck and sped away from the police on the freeway.

23 Accordingly, defendant, MOYA, and PEREZ each knowingly and  
24 intentionally possessed with intent to distribute at least 500 grams,  
25 that is, approximately 885.2 grams, of methamphetamine, a Schedule II  
26 controlled substance.

27  
28



1 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),  
2 (a)(2), (a)(3), (a)(6), and (a)(7).

3 WAIVER OF CONSTITUTIONAL RIGHTS

4 15. Defendant understands that by pleading guilty, defendant  
5 gives up the following rights:

6 a. The right to persist in a plea of not guilty.

7 b. The right to a speedy and public trial by jury.

8 c. The right to be represented by counsel -- and if  
9 necessary have the court appoint counsel -- at trial. Defendant  
10 understands, however, that, defendant retains the right to be  
11 represented by counsel -- and if necessary have the court appoint  
12 counsel -- at every other stage of the proceeding.

13 d. The right to be presumed innocent and to have the  
14 burden of proof placed on the government to prove defendant guilty  
15 beyond a reasonable doubt.

16 e. The right to confront and cross-examine witnesses  
17 against defendant.

18 f. The right to testify and to present evidence in  
19 opposition to the charges, including the right to compel the  
20 attendance of witnesses to testify.

21 g. The right not to be compelled to testify, and, if  
22 defendant chose not to testify or present evidence, to have that  
23 choice not be used against defendant.

24 h. Any and all rights to pursue any affirmative defenses,  
25 Fourth Amendment or Fifth Amendment claims, and other pretrial  
26 motions that have been filed or could be filed.

27

28



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

WAIVER OF APPEAL OF CONVICTION

16. Defendant understands that, with the exception of an appeal based on a claim that defendant's guilty plea was involuntary, by pleading guilty defendant is waiving and giving up any right to appeal defendant's conviction on the offense to which defendant is pleading guilty.

LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

17. Defendant agrees that, provided the Court imposes a term of imprisonment within or below the range corresponding to an offense level of 31 and the criminal history category calculated by the Court, defendant gives up the right to appeal all of the following: (a) the procedures and calculations used to determine and impose any portion of the sentence; (b) the term of imprisonment imposed by the Court; (c) the fine imposed by the court, provided it is within the statutory maximum; (d) the term of probation or supervised release imposed by the Court, provided it is within the statutory maximum; and (e) any of the following conditions of probation or supervised release imposed by the Court: the conditions set forth in General Orders 318, 01-05, and/or 05-02 of this Court; the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

18. The USAO agrees that, provided (a) all portions of the sentence are at or below the statutory maximum specified above and (b) the Court imposes a term of imprisonment within or above the range corresponding to an offense level of 31 and the criminal history category calculated by the Court, the USAO gives up its right to appeal any portion of the sentence.



1 USAO to declare a breach, and defendant shall not be deemed to have  
2 cured a breach without the express agreement of the USAO in writing.  
3 If the USAO declares this agreement breached, and the Court finds  
4 such a breach to have occurred, then: (a) if defendant has previously  
5 entered a guilty plea pursuant to this agreement, defendant will not  
6 be able to withdraw the guilty plea, and (b) the USAO will be  
7 relieved of all its obligations under this agreement.

8 22. Following the Court's finding of a knowing breach of this  
9 agreement by defendant, should the USAO choose to pursue any charge  
10 that was either dismissed or not filed as a result of this agreement,  
11 then:

12 a. Defendant agrees that any applicable statute of  
13 limitations is tolled between the date of defendant's signing of this  
14 agreement and the filing commencing any such action.

15 b. Defendant waives and gives up all defenses based on  
16 the statute of limitations, any claim of pre-indictment delay, or any  
17 speedy trial claim with respect to any such action, except to the  
18 extent that such defenses existed as of the date of defendant's  
19 signing this agreement.

20 c. Defendant agrees that: (i) any statements made by  
21 defendant, under oath, at the guilty plea hearing (if such a hearing  
22 occurred prior to the breach); (ii) the agreed to factual basis  
23 statement in this agreement; and (iii) any evidence derived from such  
24 statements, shall be admissible against defendant in any such action  
25 against defendant, and defendant waives and gives up any claim under  
26 the United States Constitution, any statute, Rule 410 of the Federal  
27 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal  
28 Procedure, or any other federal rule, that the statements or any

1 evidence derived from the statements should be suppressed or are  
2 inadmissible.

3 COURT AND PROBATION OFFICE NOT PARTIES

4 23. Defendant understands that the Court and the United States  
5 Probation Office are not parties to this agreement and need not  
6 accept any of the USAO's sentencing recommendations or the parties'  
7 agreements to facts or sentencing factors.

8 24. Defendant understands that both defendant and the USAO are  
9 free to: (a) supplement the facts by supplying relevant information  
10 to the United States Probation Office and the Court, (b) correct any  
11 and all factual misstatements relating to the Court's Sentencing  
12 Guidelines calculations and determination of sentence, and (c) argue  
13 on appeal and collateral review that the Court's Sentencing  
14 Guidelines calculations and the sentence it chooses to impose are not  
15 error, although each party agrees to maintain its view that the  
16 calculations in paragraph 12 are consistent with the facts of this  
17 case. While this paragraph permits both the USAO and defendant to  
18 submit full and complete factual information to the United States  
19 Probation Office and the Court, even if that factual information may  
20 be viewed as inconsistent with the facts agreed to in this agreement,  
21 this paragraph does not affect defendant's and the USAO's obligations  
22 not to contest the facts agreed to in this agreement.

23 25. Defendant understands that even if the Court ignores any  
24 sentencing recommendation, finds facts or reaches conclusions  
25 different from those agreed to, and/or imposes any sentence up to the  
26 maximum established by statute, defendant cannot, for that reason,  
27 withdraw defendant's guilty plea, and defendant will remain bound to  
28 fulfill all defendant's obligations under this agreement. Defendant

1 understands that no one -- not the prosecutor, defendant's attorney,  
2 or the Court -- can make a binding prediction or promise regarding  
3 the sentence defendant will receive, except that it will be within  
4 the statutory maximum.

5 NO ADDITIONAL AGREEMENTS

6 26. Defendant understands that, except as set forth herein,  
7 there are no promises, understandings, or agreements between the USAO  
8 and defendant or defendant's attorney, and that no additional  
9 promise, understanding, or agreement may be entered into unless in a  
10 writing signed by all parties or on the record in court.


11 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

12 27. The parties agree that this agreement will be considered  
13 part of the record of defendant's guilty plea hearing as if the  
14 entire agreement had been read into the record of the proceeding.

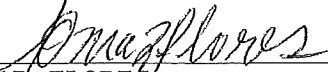
15  
16 AGREED AND ACCEPTED

17 UNITED STATES ATTORNEY'S OFFICE  
18 FOR THE CENTRAL DISTRICT OF  
19 CALIFORNIA

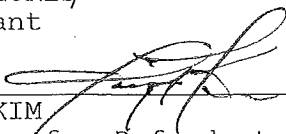
19 SANDRA BROWN  
20 Acting United States Attorney

21   
22 WILLIAM M. ROLLINS  
23 Assistant United States Attorney

5/23/17  
Date

23   
24 OMAR FLORES  
25 Defendant

5/19/2017  
Date

25   
26 YOUNG KIM  
27 Attorney for Defendant OMAR FLORES

5/19/17  
Date

27  
28

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

CERTIFICATION OF DEFENDANT

This agreement has been read to me in Spanish, the language I understand best. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

  
\_\_\_\_\_  
OMAR FLORES  
Defendant

05/17/2017  
Date

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

CERTIFICATION OF INTERPRETER

I, Carina Arriola, am fluent in the written and spoken English and Spanish languages. I accurately translated this entire agreement from English into Spanish to defendant OMAR FLORES on this date.



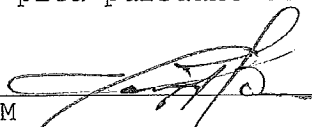
5/19/17

\_\_\_\_\_  
INTERPRETER

\_\_\_\_\_  
Date

CERTIFICATION OF DEFENDANT'S ATTORNEY

I am OMAR FLORES's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of a guilty plea pursuant to this agreement.



5/19/17

\_\_\_\_\_  
YOUNG KIM  
Attorney for Defendant OMAR FLORES

\_\_\_\_\_  
Date