UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA v. FERMIN CASTILLO, Defendant	CRIMINAL No. 21-cr-10120-WGY

GOVERNMENT'S SENTENCING MEMORANDUM

The United States of America, by and through Assistant United States Attorneys Leah B. Foley and Stephen Hassink, hereby respectfully submits this sentencing memorandum in connection with the sentencing of defendant Fermin Castillo (hereinafter, the "Defendant" or "CASTILLO"). The Defendant is charged with conspiracy to possession with intent to distribute 400 grams or more of fentanyl and cocaine, in violation of 21 U.S.C. § 846 (Count One) and conspiracy to launder money, in violation of 18 U.S.C. §1956(h) (Count Two). After trial, a juror convicted the Defendant on both counts.

As set forth herein, and for the reasons to be stated at the sentencing hearing, the government recommends that the Court sentence the Defendant to 300 months' incarceration, followed by 60 months of supervised release, a $200 special assessment, and forfeiture as alleged in the Indictment.

Defendant's Role in the Offenses of Conviction

The background of the investigation and the roles of the charged defendants are detailed in the presentence report ("PSR") and not repeated in full herein. At trial, the government presented evidence of the drug and money laundering conspiracies through multiple law enforcement witnesses and the testimony of co-defendant Cesar CASTRO Pujols. The evidence established that

CASTILLO organized shipments of fentanyl into the United States on behalf of a Mexico-based drug trafficking organization ("DTO"), which was then distributed by members of his Massachusetts-based DTO, and coordinated money pickups of drug proceeds for the purposes of laundering. CASTILLO was intercepted over a phone used by CASTRO and over a phone used by the target of a New York money laundering investigation coordinating money pickups and discussing the amounts of the pickups. In December 2020, CASTILLO also directly coordinated the delivery of $100,000 to an undercover agent.[1]

During the investigation, investigators identified 800 Hyde Park Avenue in Hyde Park, Massachusetts ("800 Hyde Park") as a drug and money stash location. CASTRO testified at trial that the apartment was rented by CASTILLO to be used by the DTO to store and package drugs. Toll records for a phone used by CASTILLO also tied him to the location. At the conclusion of the investigation, investigators searched numerous locations, including 800 Hyde Park, where they recovered over 10 kilograms of fentanyl, cutting agents, drug ledgers, kilogram presses, respirators, and packaging materials.

During the course of the investigation, members of the DTO delivered $966,030 in drug proceeds to either money launderers or undercover agents. Six of those deliveries were to undercover agents, for a combined total of $616,030, and four of those six deliveries occurred outside of the La Bamba Market. CASTILLO directly coordinated the delivery of $100,000 with an undercover agent, which co-defendant Kevin CARMONA delivered. An additional $150,000 was seized from co-defendant Andre HERAUX Martinez while he was enroute to deliver the money to an undercover agent. Prior to that seizure, CASTILLO was intercepted discussing the

[1] In January 2019, CASTILLO also delivered $123,000 to an undercover agent in Chicago, Illinois. This conduct was not charged in the Indictment but the information is being provided as relevant conduct.

amount of that money drop with CASTRO. In August 2020, CASTILLO coordinated the delivery of $200,000 to an Asian money laundering courier, and the exchange took place in the vicinity of 800 Hyde Park and was surveilled by investigators. CASTRO testified at trial that all of these money deliveries, totaling $966,030, were at the direction of CASTILLO.

At trial, CASTRO testified that he distributed fentanyl and laundered money on behalf of CASTILLO. Although CASTILLO resided in Mexico, he was in constant contact with CASTRO via the encrypted mobile application WhatsApp. CASTILLO personally came to Massachusetts at critical times to oversee the delivery of fentanyl shipments and to launder drug proceeds before returning to Mexico.

The guilty verdicts handed down by the jury indicate they found CASTRO's trial testimony to be credible. The jury found that CASTILLO was the leader of the DTO and that 800 Hyde Park was maintained by him. The evidence gathered throughout the investigation -- including fentanyl seized from members of the DTO and from 800 Hyde Park and drug proceeds seized from members of the DTO -- combined with the evidence presented at trial fully supports the PSR's attribution of 19.59 kilograms of fentanyl to CASTILLO.

Sentencing Guidelines

The government agrees with the final Pretrial Sentencing Report ("PSR") that CASTILLO's total offense level is 42, that his criminal history category is III, and that his guideline sentencing range ("GSR") is 360 months to life. As detailed above and in the PSR, the Defendant was the leader of a massive DTO that distributed well over a million dollars-worth of fentanyl and laundered drug proceeds for purposes of repatriating the money to Mexico-based suppliers. The Defendant directed the distribution his Massachusetts-based network from Mexico and on behalf of the Mexico based suppliers with whom he worked. The evidence supports the

PSR's finding that CASTILLO is accountable for at least 12 kilograms but less than 36 kilograms of fentanyl.

The trial evidence supports the finding that CASTILLO is accountable for at least 12 but less than 36 kilograms of fentanyl.

To start, the jury clearly found that CASTILLO was guilty of conspiracy to distribute and possess with intent to distribute 400 grams or more of fentanyl and that he was accountable for over 400 grams of fentanyl, which means a 10-year mandatory minimum sentence applies. Although the jury's verdict slip found CASTILLO accountable for at least 1.2 kilograms but less than 4 kilograms of fentanyl, the evidence presented at trial proves by a preponderance of the evidence that he was indeed accountable for the 19.59 kilograms of fentanyl attributed to him by the PSR. Even though the jury did not attribute a higher drug quantity to CASTILLO, this Court should accept the GSR calculated by the United States Probation Office ("USPO") if the evidence supports the calculation by a preponderance of the evidence. The prosecution must only prove facts upon which it relies at sentencing by a preponderance of the evidence. *United States v. Wright*, 873 F.2d 437, 441 (1st Cir. 1989) ("Case law clearly establishes that the government need not prove the facts used for sentencing beyond a reasonable doubt. The Supreme Court has held that the preponderance standard satisfies due process.") (internal quotation marks omitted).

Sentencing courts regularly use their broad discretion to consider multiple factors at sentencing, including uncharged or acquitted conduct, without violating a defendant's constitutional rights. The relevant statute states that "*[n]o limitation shall be placed* on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence." 18 U.S.C. § 3661 (emphasis added). Thus, courts have widely "held that

at sentencing, a court . . . may take into account any information that has sufficient indicia of reliability." *United States v. Rodriguez-Reyes*, 925 F.3d 558, 563 (1st Cir. 2019) (internal formatting and citations omitted). Commenting on the balance between a sentencing court's discretion and a defendant's constitutional rights, the First Circuit explained:

> The Supreme Court has held that the guidelines' grant of discretion to sentencing judges to consider a defendant's other relevant conduct, including uncharged or unconvicted conduct, is consistent with both the Sentencing Reform Act *and principles of due process*, provided that the underlying facts are found by a preponderance of the evidence.

United States v. Gaffney-Kessell, 772 F.3d 97, 101 (1st Cir. 2014) (emphasis added).

The fact that the jury declined to hold CASTILLO accountable for more than four kilograms of fentanyl is akin to acquitted conduct, which is a factor amenable to consideration at sentencing. *See, e.g., United States v. Alejandro-Montanez*, 778 F.3d 352, 355 (1st Cir. 2015) ("As the law now plainly stands, acquitted conduct, if proved by a preponderance of the evidence, may form the basis for a sentencing enhancement.") (internal quotation marks and alterations omitted); *United States v. Anonymous Defendant*, 629 F.3d 68, 76 (1st Cir. 2010) ("[A] sentencing court is not bound by the face of a record in a different criminal proceeding; indeed, *a sentencing court may even consider acquitted conduct*, if proved by a preponderance of the evidence.") (emphasis added); *United States v. Bentley*, 756 F. App'x. 957, 963 (11th Cir. 2018) ("[S]entencing courts may consider both uncharged and acquitted conduct in determining the appropriate sentence.") (citation omitted); *United States v. Garrison*, No. 20-1168, 2022 WL 402371, at *3 (10th Cir. Feb. 10, 2022) ("[T]he district court maintained the power to consider the broad context of [the defendant's acquitted] conduct, even when its view of the conduct conflicted with the jury's verdict.") (internal formatting and citation omitted); *United States v. Boney*, 977 F.2d 624, 636 (D.C. Cir. 1992) (rejecting the defendant's argument that a sentence enhancement based on the

consideration of acquitted conduct violated his constitutional rights and ruling that the defendant "misperceives the distinction between a sentence and a sentence enhancement") (quoting *United States v. Mocciola*, 891 F.2d 13, 17 (1st Cir. 1989)).

In *United States v. Grover*, the district court upwardly departed from the guidelines in fashioning the defendant's sentence for drug distribution based on the court's finding that the defendant's drug dealing resulted in the victim's death. 486 F. Supp. 2d 868, 874, 888 (N.D. Iowa 2007), *aff'd by* 511 F.3d 779 (8th Cir. 2007). The court made this finding by a preponderance of the evidence, even though the jury hung on the crucial question of whether the defendant's actions resulted in the victim's death. *Id.* at 872 & n.2 ("The court is not bound by the jury's inability to find, beyond a reasonable doubt, that Defendant's heroin distribution was the cause of [the victim's] death."). The court noted that "USSG § 5K2.1 clearly authorizes courts to increase the sentence above the authorized guideline range up to the statutory maximum for the offense of conviction." *Id.* at 886 (alterations and internal quotation marks omitted). In its analysis, the court addressed the same constitutional argument the Defendant argues here: "[A] constitutional violation only occurs when the court makes a factual finding by a preponderance of the evidence to authorize a sentence in excess of what otherwise allowed for the underlying offense." *Id.* at 872, n.2 (internal formatting omitted) (citing *Blakely v. Washington*, 542 U.S. 296, 304 (2004)).

The government is asking this Court to find by a preponderance of the evidence that CASTILLO is accountable for at least 12 kilograms but less than 36 kilograms of fentanyl. This finding is consistent with the evidence presented at trial. Based on the overwhelming weight of precedent, this Court is permitted to do just that. It is not disrespectful to the jury's determination to do so. The jury was asked to make this determination beyond a reasonable doubt and the government is not challenging their verdict. The government is asking this Court to take into

account all factors appropriate for sentencing and impose a sentence within the statutory framework, and well below the statutory maximum of life imprisonment.

The Defendant is Not Entitled to an Offense-Level Reduction for Acceptance of Responsibility.

a. The Defendant Maintained his Factual Innocence Throughout a Full Trial on the Merits, and therefore, § 3E1.1 Does not Apply.

The defendant is not entitled to a reduction in his total offense level under U.S.S.G. § 3E1.1 (or the equivalent downward variance), because he has not accepted responsibility for his crimes. The acceptance of responsibility adjustment "is not intended to apply to a defendant who puts the government to its burden of proof at trial by denying the essential factual elements of guilt, is convicted, and only then admits guilt and expresses remorse." U.S.S.G. § 3E1.1, app. n.2. Therefore, a defendant who "elected to stand trial usually will not be able to meet this standard when he admits wrongdoing only after the jury has spoken." *United States v. Franky-Ortiz*, 230 F.3d 405, 408 (1st Cir. 2000) (finding that § 3E1.1 application note two "aptly describes this case: the appellant tested the prosecution's mettle in a five-week trial, staunchly denied the essential facts upon which his ultimate conviction rested, and expressed remorse only after he stood on the brink of a life sentence"). Application of acceptance of responsibility reductions for defendants who choose to exercise their constitutional right to trial will be "rare situations;" for example, "where a defendant goes to trial to assert and preserve issues that *do not relate to factual guilt*." U.S.S.G. § 3E1.1, app. n.2 (emphasis added). Even where a defendant chooses to proceed to trial, "a determination that a defendant has accepted responsibility will be based primarily upon pre-trial statements and conduct." *Id*. Here, the defendant did not accept responsibility through words or actions before trial. Therefore, a reduction under this section is not warranted.

In *United States v. Gorsuch*, the First Circuit agreed with the government's argument that "binding circuit precedent precludes a decrease [for acceptance of responsibility] where the defendant goes to trial to assert a recognized defense to criminal charges but fails to persuade the jury." 404 F.3d 543, 546 (1st Cir. 2005). As such, the First Circuit has upheld denials of acceptance of responsibility adjustments in cases where a defendant continues to contest essential elements of the crimes charged at trial. *See, e.g.*, *United States v. Rodriguez-Duran*, 507 F.3d 749, 774 n.34 (1st Cir. 2007) (affirming district court's finding that defendants' trial defense of duress demonstrated they had not accepted responsibility for their participation in the crime); *see also United States v. Bello*, 194 F.3d 18, 28 (1st Cir. 1999) (affirming district court's denial of acceptance of responsibility adjustment because "[a]n assertion of self-defense is a denial of an essential factual element of guilt for the purposes of this guideline section").[2] Here, the defendant contested his *factual* guilt throughout the government's investigation of his criminal conduct and continued to vigorously contest his *factual* guilt throughout trial, making him ineligible for § 3E1.1 credit. *See Gorsuch*, 404 F.3d at 546; *Rodriguez-Duran*, 507 F.3d at 774 n.34; *Bello*, 194 F.3d at 28.

Further, even if the defendant were entitled to a two-point reduction under § 3E1.1(a), which he is not, he is certainly not entitled to an additional one-point reduction under § 3E1.1(b). Both the plain text of § 3E1.1(b) and First Circuit precedent dictate that such an adjustment may

[2] Additionally, the First Circuit has reversed district court decisions applying § 3E1.1 adjustments when the defendants contested their factual guilt at trial. *See, e.g.*, *Gorsuch*, 404 F.3d at 546-47 (ordering resentencing due to district court's application of § 3E1.1 adjustment for defendant who "denied an essential factual element of guilt when she asserted at trial that she lacked the capacity to form the mens rea (and thus lacked the mens rea) necessary for the imposition of criminal responsibility"); *United States v. Bennett*, 37 F.3d 687, 698 (1st Cir. 1994) (finding district court's application of a two-level reduction for acceptance of responsibility was clearly erroneous because defendant had paid restitution as part of a civil lawsuit settlement, not as voluntary restitution prior to adjudication of guilt; therefore restitution did not demonstrate acceptance of responsibility).

only be made "upon motion of the government," absent special circumstances. Here, the government has not moved for a reduction under § 3E1.1(b).

In *United States v. Beatty*, the First Circuit surveyed numerous other circuits' holdings on this matter, and, finding that every other circuit to consider the question found the § 3E1.1(b) adjustment to be contingent on the government's decision to file a motion requesting such adjustment, held likewise. 538 F.3d 8, 14 (1st Cir. 2008) (citing case law in the Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Circuits). To challenge a prosecutor's decision not to file such a motion, the First Circuit held that the defendant would have to demonstrate that the refusal "was based on an unconstitutional motive" or "was not rationally related to any legitimate Government end." *Id*. Next, in *United States v. Melendez-Rivera*, the First Circuit directly addressed the question of "the extent (if at all) to which the sentencing court retains discretion to grant the additional one-level adjustment under section 3E1.1(b) without a government motion." 782 F.3d 26, 30 (1st Cir. 2015). The court concluded that where a defendant raises a claim that the government withheld its motion under § 3E1.1(b) for an improper reason, the district court had discretion to resolve this point of contention. *Id*. at 31. Improper reasons for the government's denial are defined by *Beatty*: whether the refusal "was based on an unconstitutional motive" or "was not rationally related to any legitimate Government end." *Id*. at 30.

There is no allegation or reasonable argument to be made in this case that the government withheld a § 3E1.1(b) motion based on an unconstitutional or irrational motive. The defendant did not assist authorities in the investigation or prosecution of his crimes, did not enter a guilty plea, let alone a timely guilty plea, and did not save the government the time and expense of preparing for trial. Rather, the defendant continued to contest his guilt throughout his trial. While the defendant was within his constitutional rights to proceed to trial, the government is similarly within

its rights not to move for a § 3E1.1(b) adjustment. Under *Beatty* and *Melendez-Rivera*, the district court should not substitute its own judgement for that of the government's absent a showing of improper motive. Based on the defendant's refusal to accept responsibility for his crimes, he is not entitled to *any* reduction under § 3E1.1.

b. Denial of the Section 3E1.1 Reduction is not a Trial Penalty

Denying a defendant the acceptance of responsibility reduction under § 3E1.1 is not a penalty for exercising his constitutional right to a jury trial. The First Circuit, "in holding that the guidelines' provision for reduction of the offense level based on acceptance of responsibility is not unconstitutional," noted that "the Supreme Court has clearly held that not every burden on a right or encouragement to waive a right is invalid." *United States v. Paz Uribe*, 891 F.2d 396, 400 (1st Cir. 1989) (citing *Corbitt v. New Jersey*, 439 U.S. 212, 219 (1978) (the possibility of a lesser sentence for acceptance of a plea bargain is not an unconstitutional burden)); *see also Brady v. United States*, 397 U.S. 742, 753 (1970) (a state may extend a benefit to a defendant who shows a willingness to accept responsibility). The guidelines "merely codify a tradition of leniency [for guilty pleas] and are not an impermissible burden on the exercise of constitutional rights." *United States v. Munoz*, 36 F.3d 1229, 1237 (1st Cir. 1994) (quoting *Uribe*, 891 F.2d at 400).

In *Munoz*, the First Circuit rejected defendant's argument that § 3E1.1 unconstitutionally infringed on a defendant's Fifth Amendment rights. 36 F.3d at 1236–37. Defendant argued that the district court refused to grant him an adjustment under § 3E1.1 "solely as punishment for invoking his constitutional right to trial." *Id*. at 1236. The district court considered the defendant's failure to plead guilty to be "an important factor in the denial of credit," and the First Circuit found this to be consistent with the guidelines. *Id*. (citing to U.S.S.G. § 3E1.1, app. n.2). The First Circuit recognized that the result of this guideline was that "a defendant who declines to plead

guilty reduces the chance of a lightened sentence," and found this result consistent with Supreme Court holdings and with pre-guideline practice. *Id*. (citing *Uribe*, 891 F.2d at 400; *Corbitt*, 439 U.S. at 218). Similarly, in *United States v. Rosario-Peralta*, the First Circuit rejected defendant's claim that § 3E1.1 "prejudice[d] or penalize[d] a defendant for exercising his right to appeal." 199 F.3d 552, 570 (1st Cir. 1999).

Numerous other circuit courts have directly addressed and rejected the argument that the acceptance of responsibility reduction functions as an unconstitutional trial penalty for those who do not take a plea deal. *See, e.g.*, *United States v. Gittens*, 701 F. App'x 786, 789 (11th Cir. 2017) ("[A]s for [defendant's] argument that U.S.S.G. § 3E1.1 is unconstitutional because it pressures defendants to plead guilty, she has not raised a valid constitutional argument."); *United States v. Lee*, 634 F. App'x 862, 868 (3d Cir. 2015) ("Numerous courts, including this one, have explained that the § 3E1.1 adjustment is a benefit that courts can grant at their discretion to defendants who accept responsibility, and that it does not amount to punishment for exercising one's right to go to trial."); *United States v. Saunders*, 973 F.2d 1354, 1362 (7th Cir. 1992) ("We now hold the approach embodied in § 3E1.1 does not constitute a per se policy of punishing those who elect to stand trial, despite the fact that leniency is more often granted to defendants who accept responsibility by pleading guilty."); *United States v. Jones*, 934 F.2d 1199, 1200 (11th Cir. 1991) ("[T]he court's consideration, at sentencing, of the defendants' denial of culpability at trial does not impermissibly punish the defendant for exercising his constitutional right to stand trial."); *United States v. Parker*, 903 F.2d 91, 105 (2d Cir. 1990) ("We reject [defendant's] contention that the availability of a sentence reduction to one who clearly admits personal responsibility for the offense is the equivalent of an increase in sentence for one who does not."); *United States v. Boykins*, Nos. 89-3580, 89-3641 and 89-3798, 1990 WL 143559, at *10 (6th Cir. Oct. 2, 1990)

("Section 3E1.1 may add to the dilemmas facing criminal defendants, but no good reason exists to believe that 3E1.1 was intended to punish anyone for exercising rights. We are unprepared to equate the possibility of leniency with impermissible punishment."); *United States v. Reed*, 882 F.2d 147, 150 (5th Cir. 1989) ("The primary reason for the district court's downward departure appears to be its view that . . . failure to adjust his sentence downward would penalize him for pleading not guilty and for exercising his constitutional right to a jury trial. This is incorrect."); *United States v. White*, 869 F.2d 822, 826 (5th Cir. 1989), *cert. denied*, 490 U.S. 1112 (1989) ("The fact that a more lenient sentence is imposed upon a contrite defendant does not establish a corollary that those who elect to stand trial are penalized.").

Here, the cost and time of going to trial was not borne solely by the government and law enforcement agencies. To prove its case, the government called CASTRO to testify. He had to face the defendant in open court and suffer through the fear of testifying against a man who was part of a larger drug-trafficking organization. This experience was not easy or pleasant for Mr. CASTRO and he expressed his fears for his physical safety to the prosecutors and agents in this case. Because the Defendant has not accepted responsibility for his crimes and the refusal to grant a lower sentence under § 3E1.1 is not an unconstitutional trial penalty, the defendant is not entitled to such a reduction and the Court should adopt the GSR as calculated by the USPO.

Sentencing Factors Under 18 U.S.C. § 3553(a)

Considering the § 3553(a) factors, a sentence of 300 months' incarceration is sufficient but not greater than necessary to achieve the goals of sentencing.

Nature of the Offense

This Court is well aware that fentanyl is a deadly drug that has wreaked havoc in the United States, and more specifically in Massachusetts, over the past several years. Fentanyl remains the

primary driver behind the ongoing opioid crisis, with fentanyl involved in more overdose deaths than any other illicit drug.[3] "Nearly 70 percent of all drug overdose deaths in the United States in 2018 involved an opioid. Deaths involving synthetic opioids other than methadone—the category which includes fentanyl—increased by 10 percent according to data provided by the Centers for Disease Control and Prevention (CDC)."[4] "Fentanyl use and overdose deaths are more widespread across the country as the opioid crisis continues. Overall, fentanyl-involved deaths are still the most concentrated in states in the Great Lakes and Northeast of the United States."[5]

Massachusetts has been one of the states hardest hit by the opioid crisis and was among the top five states with the most fentanyl reports in 2019.[6] These statistics are not hypothetical – they describe the opioid overdose crisis occurring right now in this district. The epidemic is real and being felt every day by families across Massachusetts and New England. As the leader of a powerful and sprawling Mexico-based DTO that was sending shipments of fentanyl to the United States, the Defendant played a knowing and intentional role in fueling this epidemic. The Defendant's leadership role is direct evidence that he had been involved in the distribution of significant quantities of fentanyl prior to his appearance in this investigation. The nature of this offense requires a significant sentence of imprisonment. Therefore, the government maintains that the drug weight calculation in the PSR is an accurate attribution.

Characteristics of the Defendant

The Defendant is a 43-year-old man who is a naturalized United States citizen. His criminal

[3] U.S. Department of Justice Drug Enforcement Administration, *2020 National Drug Threat Assessment*, available at https://www.dea.gov/documents/2021/03/02/2020-national-drug-threat-assessment#:~:text=The%202020%20National%20Drug%20Threat%20Assessment%20%28NDTA%29%20is,laundering%20of%20proceeds%20generated%20through%20illicit%20drug%20sales., at 7 (last visited November 13, 2022) (hereinafter "DEA 2020 Assessment").

[4] *Id.*

[5] *Id.* at 12.

[6] *Id.* at 8.

involvement in drug trafficking dates back to 2004. His prior convictions include a 2012 conviction for conspiracy to possess with intent to distribute five kilograms or more of cocaine. At the time of his arrest in that case, he was in possession of $213,159, which he brought with him expecting to purchase 10 kilograms of cocaine. His supervised release in that federal case was terminated early in February 2016. Two years later, he was again arrested in New Jersey while transporting $68,792 and fentanyl in a hidden compartment inside a Jeep. In 2006, he was convicted of possession with intent to distribute cocaine; that conviction was later vacated in 2012. In 2016, he was also arrested and charged with money laundering, although those charges were dismissed.

The Defendant reported experimenting with drugs, for which he received treatment during his prior term of federal imprisonment. However, his drug use did not cause him to become a drug trafficker and certainly does not excuse his actions. He was not selling drugs to support his addiction. His leadership role in this DTO was purely a profit making endeavor.

Need for the Sentence Imposed

A significant sentence of imprisonment is warranted to deter the Defendant specifically and others from becoming involved in any way, role, or capacity in the trafficking of fentanyl as the dangers associated with this deadly and poisonous drug cannot be overstated. CASTILLO's significant role in the DTO and history of drug trafficking belies any argument that his involvement was an anomaly. The fact that he could be kind to strangers and cared about his family is laudable. However, his callous disregard for the countless people who suffered from the drugs he was distributing is what needs to be addressed at sentencing. A person does not rise to the level of leadership that CASTILLO did in such a massive DTO without dedication to the mission of the organization, which is to sell as much drugs as possible for profit. The Defendant's recommended

sentence does not come close to addressing sufficiently the seriousness of the offenses of conviction and his leadership role.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants .

/s/ Leah B. Foley
Leah B. Foley
Assistant United States Attorney

Date: November 27, 2023