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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

9 United States America,
10
11 Plaintiff,
12
13 vs.
14 Jocelyn Lopez-Sanchez,
Defendant.

CR No. 19-01166-TUC-JAS (LAB)

PLEA AGREEMENT

15 The United States of America and the defendant agree to the following disposition
16 of this matter:

17 PLEA

18 1. The defendant agrees to plead guilty to an Information charging the
19 defendant with felony violations of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), Distribution of
20 Fentanyl; and 21 U.S.C. §§ 952 and 960, Importation of Fentanyl. The Indictment will be
21 dismissed at sentencing.

22 Elements of the Offenses

23 2. The elements of Distribution of Fentanyl are as follows:

- 24 a. The defendant knowingly distributed fentanyl; and
- 25 b. The defendant knew that it was fentanyl or some other federal
26 controlled substance.

27 3. The elements of Importation of Fentanyl are as follows:
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1 that the defendant will be removed or deported from the United States. The defendant
 2 agrees that he/she has discussed this eventuality with his/her attorney. The defendant
 3 nevertheless affirms that he/she wants to plead guilty regardless of any immigration
 4 consequences that this plea entails, even if the consequence is the defendant's automatic
 5 removal from the United States.

6 **STIPULATIONS, TERMS AND AGREEMENTS**

7 **Agreements Regarding Sentencing**

8 8. **Guideline Calculations:** The parties understand that the United States
 9 Sentencing Guidelines (U.S.S.G) are only advisory and just one of the factors the Court
 10 will consider under 18 U.S.C. § 3553(a) in imposing a sentence. Pursuant to Rule
 11 11(c)(1)(C), Fed. R. Crim. P., and U.S.S.G. § 2D1.1(a)(2), the parties stipulate and agree
 12 that the base offense level is 38. The defendant stipulates that for purposes of calculating
 13 the appropriate U.S.S.G. Base Offense Level the facts show that the death of A.C. and the
 14 serious bodily injury of H.E. resulted from the use of the fentanyl the defendant distributed
 15 in the offenses of conviction. Therefore, the following guideline calculations are
 16 appropriate for the charge to which the defendant is pleading guilty:

17	Base Offense Level	2D1.1(a)(2)	38
18	Acceptance of Responsibility	3E1.1(a) & (b)	<u>-3</u>
19	Total Adjusted Offense Level:		35

20 9. **Sentencing Agreement:** The parties agree that no other specific offense
 21 characteristics or other adjustments apply. Pursuant to Fed. R. Crim. P., Rule 11(c)(1)(C),
 22 the government and the defendant stipulate and agree to recommend a sentence of
 23 imprisonment per count between 144 and 240 months, with sentences to run concurrent.

24 10. The defendant may withdraw from the plea agreement if he/she receives a
 25 sentence in excess of the stipulated range listed above.

26 11. If the defendant moves for any adjustments in Chapters Two, Three or Four
 27 of the Sentencing Guidelines or any "departures" from the Sentencing Guidelines, or
 28 variance pursuant to 18 U.S.C. § 3553, the government may withdraw from this agreement.

1 information; and (2) any right to file an appeal, any collateral attack, and any other writ or
2 motion that challenges the conviction, an order of restitution or forfeiture, the entry of
3 judgment against the defendant, or any aspect of the defendant's sentence-including the
4 manner in which the sentence is determined and any sentencing guideline determinations.
5 The sentence is in accordance with this agreement if the sentence imposed does not exceed
6 240 months imprisonment. The defendant further waives: (1) any right to appeal the
7 Court's entry of judgment against defendant; (2) any right to appeal the imposition of
8 sentence upon defendant under Title 18, United States Code, Section 3742 (sentence
9 appeals); (3) any right to collaterally attack defendant's conviction and sentence under Title
10 28, United States Code, Section 2255, or any other collateral attack; and (4) any right to
11 file a motion for modification of sentence, including under Title 18, United States Code,
12 Section 3582(c). The defendant acknowledges that this waiver shall result in the dismissal
13 of any appeal or collateral attack the defendant might file challenging his/her conviction or
14 sentence in this case. If the defendant files a notice of appeal or a habeas petition,
15 notwithstanding this agreement, defendant agrees that this case shall, upon motion of the
16 government, be remanded to the district court to determine whether defendant is in breach
17 of this agreement and, if so, to permit the government to withdraw from the plea agreement.
18 This waiver shall not be construed to bar an otherwise-preserved claim of ineffective
19 assistance of counsel or of "prosecutorial misconduct" (as that term is defined by Section
20 II.B of Ariz. Ethics Op. 15-01 (2015)).

21 Reinstitution of Prosecution

22 18. Nothing in this agreement shall be construed to protect the defendant in any
23 way from prosecution for perjury, false declaration or false statement, or any other offense
24 committed by the defendant after the date of this agreement. In addition, if the defendant
25 commits any criminal offense between the date of this agreement and the date of
26 sentencing, the government will have the right to withdraw from this agreement. Any
27 information, statements, documents and evidence which the defendant provides to the
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1 United States pursuant to this agreement may be used against the defendant in all such
2 proceedings.

3 If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any
4 court in a later proceeding, the government will be free to prosecute the defendant for all
5 charges as to which it has knowledge, and any charges that were dismissed because of this
6 plea agreement will be automatically reinstated. In such event, the defendant waives any
7 objections, motions, or defenses based upon the Speedy Trial Act or the Sixth Amendment
8 to the Constitution as to the delay occasioned by the later proceedings. Defendant agrees
9 that the stipulated sentencing ranges set forth under "Agreements Regarding Sentence" will
10 not be offered if prosecution is re-instituted.

11 Plea Addendum

12 19. This written plea agreement, and any written addenda filed as attachments to
13 this plea agreement, contain all the terms and conditions of the plea. Any additional
14 agreements, if any such agreements exist, shall be recorded in a separate document and
15 may be filed with the Court under seal. Accordingly, additional agreements, if any, may
16 not be in the public record.

17 WAIVER OF DEFENDANT'S RIGHTS AND FACTUAL BASIS

18 Waiver of Rights

19 I have read each of the provisions of the entire plea agreement with the assistance
20 of counsel and understand its provisions. I have discussed the case and my constitutional
21 and other rights with my attorney. I understand that by entering my plea of guilty I will be
22 giving up my right to plead not guilty; to trial by jury; to confront, cross-examine, and
23 compel the attendance of witnesses; to present evidence in my defense; to remain silent
24 and refuse to be a witness against myself by asserting my privilege against self-
25 incrimination; all with the assistance of counsel; to be presumed innocent until proven
26 guilty beyond a reasonable doubt; and to appeal.

27 I agree to enter my guilty plea as indicated above on the terms and conditions set
28 forth in this agreement.

1 I have been advised by my attorney of the nature of the charge to which I am entering
2 my guilty plea. I have been advised by my attorney of the nature and range of the possible
3 sentence, and that I will not be able to withdraw my guilty plea if I am dissatisfied with the
4 sentence the court imposes.

5 My guilty plea is not the result of force, threats, assurances or promises other than
6 the promises contained in this agreement. I agree to the provisions of this agreement as a
7 voluntary act on my part, rather than at the direction of or because of the recommendation
8 of any other person, and I agree to be bound according to its provisions. I agree that any
9 Sentencing Guidelines range referred to herein or discussed with my attorney is not binding
10 on the Court and is merely an estimate.

11 I agree that this written plea agreement contains all the terms and conditions of my
12 plea and that promises made by anyone (including my attorney) that are not contained
13 within this written plea agreement are without force and effect and are null and void.

14 I am satisfied that my defense attorney has represented me in a competent manner.

15 I am not now on or under the influence of any drug, medication, liquor, or other
16 intoxicant or depressant, which would impair my ability to fully understand the terms and
17 conditions of this plea agreement.

18 Factual Basis and Relevant Conduct

19 I further agree that the following facts accurately describe my conduct in connection
20 with the offense to which I am pleading guilty and that if this matter were to proceed to
21 trial the government could prove the elements of the offense beyond a reasonable doubt:

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23 On November 1, 2018, in Tucson, Arizona, the defendant Jocelyn LOPEZ-
24 SANCHEZ provided small blue "M-30" pills containing fentanyl to several
25 individuals, including A.C. and H.E. On November 1, 2018, between 7:00
a.m. 12:00 noon, A.C. and H.E. ingested pills containing fentanyl they
received from LOPEZ-SANCHEZ. H.E. suffered serious bodily injury,
requiring medical intervention to resuscitate H.E. and A.C. died.

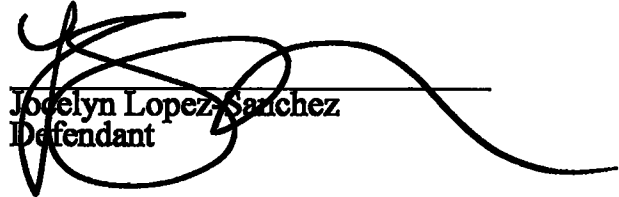
26 Detectives interviewed LOPEZ-SANCHEZ, and LOPEZ-SANCHEZ
27 admitted giving at least one pill to A.C. LOPEZ-SANCHEZ also admitted
28 to bringing 1,000 such pills into the United States from Mexico in exchange
for payment, and the pills she gave to A.C. were from that shipment.
Crossing records confirm that LOPEZ-SANCHEZ crossed from Mexico into

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the United States in the early morning hours of October 31, 2018. Officers also viewed text messages on LOPEZ-SANCHEZ's cellular telephone during their interview of LOPEZ-SANCHEZ that indicated LOPEZ-SANCHEZ had crossed drugs from Mexico into the United States on October 31, 2018.

Toxicology results from the November 2, 2018, autopsy of A.C. indicated the fentanyl concentration in A.C.'s blood sample was approximately five times higher than the therapeutic range for the drug. The medical examiner determined A.C.'s cause of death was fentanyl toxicity. Expert testimony at trial would have established that A.C. would not have died but for the ingestion of fentanyl.

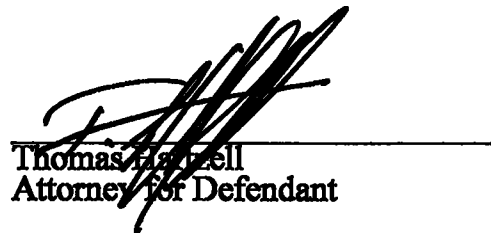
3-3-20
Date


Jocelyn Lopez Sanchez
Defendant

DEFENSE ATTORNEY'S APPROVAL

I have discussed this case and the plea agreement with my client in detail and have advised the defendant of all matters within the scope of Rule 11, Fed. R. Crim. P., the constitutional and other rights of an accused, the factual basis for and the nature of the offense to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea, including the defendant's waiver of the right to appeal. No assurances, promises, or representations have been given to me or to the defendant by the government or by any of its representatives which are not contained in this written agreement. I concur in the entry of the plea as indicated above and on the terms and conditions set forth in this agreement as in the best interests of my client. I agree to make a bona fide effort to ensure that the guilty plea is entered in accordance with all the requirements of Rule 11, Fed. R. Crim. P.

3/3/20
Date


Thomas Fitzgibbon
Attorney for Defendant

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GOVERNMENT'S APPROVAL

I have reviewed this matter and the plea agreement. I agree on behalf of the United States that the terms and conditions set forth are appropriate and are in the best interests of justice.

MICHAEL BAILEY
United States Attorney
District of Arizona

3/3/2020
Date


Stefani K. Hepford
Assistant U.S. Attorney