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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOE ROBERT RAEL, aka “Jojo,”

Defendant.

Case No. 2:21-CR-236 HCN

UNITED STATES’ POSITION ON
SENTENCING

Judge Howard C. Nielson

Sentencing Date: July 18, 2024

The United States of America, by and through Assistant United States Attorney Stewart M. Young, hereby files this Sentencing Memorandum for Defendant Joe Robert Rael (Defendant) in this case. As detailed below, based on the Defendant’s actions and his extensive criminal history, the United States recommends a sentence of 264 months’ (22 years) imprisonment. This is a variance from the advisory guidelines range of 360 months as outlined in the PSI.

I. RELEVANT FACTS

Case No. 2:21-CR-236 HCN (PSI at ¶¶ 9-32, 81. Role outlined in PSI at ¶ 81.

At least by July 2020 and up through May 2021, the numerous charged defendants engaged in a conspiracy to traffic in methamphetamine, heroin, fentanyl, and launder money.

On December 1, 2020, the United States began interceptions of wire and electronic communications for defendant Jerry Vigil. During the wiretap interception period, agents learned that co-defendant Joe Robert “JoJo” Rael was Jerry Vigil’s main supplier of heroin and methamphetamine. Agents further learned that Rael had several sources of supply for narcotics, including co-defendant Luis Cuna-Vigil and his associate (and co-defendant) Jennifer Lopez-Lopez. Cuna-Vigil obtained his narcotics from the Cartel Jalisco New Generation (CJNG). Agents also learned that Mr. Avila-Garcia was a “sometimes” supplier for Mr. Rael at various points. Specifically, based on wiretap intercepts, agents surmised that:

- On February 17, 2021, Mr. Rael provided Mr. Avila-Garcia with \$15,820.
- On February 18, 2021, Mr. Avila-Garcia provided Mr. Rael with 7 pounds of methamphetamine, 10 ounces of heroin, and 4 ounces of cocaine.
- On February 18, 2021, Mr. Avila-Garcia also provided Mr. Rael with 4 pounds of methamphetamine and 15 ounces of heroin.
- On February 19, 2021, Mr. Rael provided Mr. Avila-Garcia with \$11,700.
- On February 19, 2021, Mr. Rael provided Mr. Avila-Garcia with \$3,000.

During the conspiracy period, once Defendant obtained heroin and methamphetamine from his sources, including Luis Cuna-Vigil and Jesus Avila-Garcia, he distributed the heroin and/or methamphetamine to Jerry Vigil and several other co-conspirators. When Mr. Vigil obtained heroin and methamphetamine from Defendant, he had his own network to which he distributed. These sub-distributors of included: Leandro Lovato-Howells, Mario Lovato, Joseph Trujillo, Celina Garcia, Pete Espinoza, Daniel Maestas, Felicia Mingura, and Brandon Perrault. While intercepting communications, agents also learned that Jerry Vigil used Erika Vigil, Anthony Runion, and Jessica Vigil, to deliver methamphetamine to individuals in or around the Salt Lake Valley area. Furthermore, agents learned that Jerry Vigil collected drug

proceeds from his sub-distributors and paid Defendant for these previously fronted drugs. Defendant would then pay his sources of supply, including Mr. Cuna-Vigil and Mr. Avila-Garcia. All told, agents estimated more than 420 pounds of methamphetamine and 50 pounds of heroin flowed through this conspiracy during the relevant time period. As outlined above, based just on a few intercepts, agents demonstrated that Defendant received more than 11 pounds of methamphetamine and about two pounds of heroin from Mr. Avila-Garcia, just in a few days period in February 2021.

On May 26, 2021, the grand jury returned a 34-count indictment against 26 defendants. On February 9, 2023, Mr. Rael pleaded guilty to Counts 2, 3 and 5 of the Indictment. In exchange for his plea, the government agreed to dismiss Counts 4, 19, and 20 of the Indictment and agreed to an 11c1c range (subject to the approval of the Court) of 180-264 months' imprisonment. Mr. Rael agreed to waive appeal as long as he was sentenced within that range. The United States agreed to move for leave to dismiss the enhancement filed under 21 U.S.C. § 851 and Defendant agreed to five years of supervised release and a \$300 special assessment fee. The parties do not recommend a fine.

II. SENTENCING GUIDELINES

As this Court is aware, all sentencing proceedings should begin with correctly calculated sentencing guidelines. *United States v. Rosales-Miranda*, 755 F.3d 1253, 1259 (10th Cir. 2014). The United States Probation Office correctly calculated Defendant's advisory sentencing guidelines in this case. With the amount of controlled substances in this case, the Base Offense Level begins at 38 (USSG § 2D1.1). Indeed, Defendant was one of the main leaders of this conspiracy and had his hands on virtually all of the drugs at various times.

Defendant receives +2 for his conviction for the money laundering conspiracy under USSG § 2S1.1(b)(2)(B). Finally, Defendant was clearly an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive. Accordingly, the probation officer has correctly included a +2 in the advisory guidelines under USSG § 3B1.1(a). His Adjusted Offense Level is 44.

Defendant has extensive criminal history, with a criminal history score of 27 points and a Criminal History Category (CHC) of VI. Given his career offender status, Defendant would automatically be a CHC VI anyway.

Defendant has accepted responsibility for this crime, and the government recommends the third point for acceptance under § 3E1.1(a) & (b). Thus, as the probation officer correctly calculated, his Total Offense Level is a 41. With a CHC of VI, the applicable guideline range is 360 months to Life. Based on Defendant's actions, the sentences his co-defendants have received, and his role in this case, the United States recommends a sentence of 264 months (22 years), which is appropriate and not greater than necessary.

III. SENTENCING DISCUSSION

After calculation of the guidelines, the Court generally examines the factors under 18 U.S.C. § 3553(a) to consider a just and fair sentence -- a sentence that is sufficient, but not greater than necessary. A significant and substantial sentence of 264 months (22 years) comports with the 3553(a) factors.

A. Nature and Circumstances of the Offense

Defendant Joe Robert Rael was, essentially, the pinnacle of this conspiracy in Utah. He received copious amounts of methamphetamine (420 pounds) and heroin (more than 10

pounds) and then distributed that to sub-distributors for disbursement throughout the Wasatch Front. He also received payment for these large amounts of narcotics and ensured that the payments made their way back to Mexico through various money laundering means. As the Presentence Report outlines, Mr. Rael engaged in extensive narcotics trafficking activity and distributed huge amounts of narcotics in the conspiracy to maintain and further his narcotics trafficking organization. As this Court is well aware, engaging in narcotics trafficking is an inherently dangerous activity that significantly endangers the community, and, as such, the government believes Defendant should be held responsible for his role in the conspiracy, his own actions, and his own distribution activities. Overall, this organization received large amounts of narcotics directly from the CJNG cartel and doled them out into the community. More than 400 pounds of methamphetamine is attributable to this organization, which is one of the larger amounts ever seen in this district.

B. History and Characteristics of the Defendant

Mr. Rael is 55 years old. He is a product of Salt Lake City, Utah. His father worked in auctions. According to the Defendant, he had a difficult childhood. He has three siblings, one of whom is in Utah State Prison. He has four biological children. He is in good physical health. He began using methamphetamine at age 30. He did not complete high school the first time but now has a high school diploma. While he has had extensive periods of incarceration during his adult life, he has worked as an electrician.

A review of his criminal history is also warranted at this juncture.

- On October 18, 2013, Mr. Rael pleaded guilty to a violation of Possession with Intent to Distribute a Controlled Substance (2nd degree felony), and Attempted Possession with Intent to Distribute a Controlled Substance. He received an indeterminate sentence

of not less than one year and not more than fifteen years in the Utah State Prison (Count 1) and not more than five years in the Utah State Prison (Count 2).

- On September 21, 2012, Mr. Real pleaded guilty to a violation of Possession with Intent to Distribute a Controlled Substance (2nd degree felony), for which he was sentenced on that same day, and received an indeterminate sentence of not less than one year and not more than fifteen years in the Utah State Prison. That prison term was suspended and imposed consecutive to two state cases (listed above and below). After revocation on December 6, 2013, this prison term was imposed concurrent to three state cases.
- On September 21, 2012, Mr. Real also pleaded guilty to a violation of Possession with Intent to Distribute a Controlled Substance (3rd degree felony), for which he was sentenced on that same day, and received an indeterminate sentence of not more than five years in the Utah State Prison. This prison term was suspended and consecutive to two state cases (listed above and below). After revocation on December 6, 2013, the original sentence was imposed and the prison term was imposed concurrent to three state cases.
- On September 21, 2012, in yet another state case, Mr. Real pleaded guilty to a violation of Possession with Intent to Distribute a Controlled Substance (2nd degree felony), for which he was sentenced on that same day, and received an indeterminate sentence of not less than one year and not more than fifteen years in the Utah State Prison. This prison term was suspended and consecutive to two state cases (listed above). After revocation on December 6, 2013, the Court imposed the original sentence and ordered it to run concurrent to three state cases.
- On May 4, 2009, Mr. Real pleaded guilty to a violation of Possession with Intent to Distribute a Controlled Substance (2nd degree felony), for which he was sentenced on that same day, and received an indeterminate sentence of not less than one year and not more than fifteen years in the Utah State Prison.

As demonstrated above, Mr. Rael has four narcotics trafficking felonies on his state record, at least three of which make him eligible for career offender status. In this conspiracy, Mr. Rael has the most extensive and serious criminal records of all the defendants.

C. The Sentence Reflects the Seriousness of the Offense

A significant and substantial sentence, which the United States believes is 264 months, will reflect the seriousness of this offense. Defendant's guilty plea in this case demonstrates his acceptance of responsibility and his awareness of the toll of destruction that methamphetamine and heroin trafficking wrecks upon our communities. Certainly, conspiring

to distribute methamphetamine and heroin (and launder the proceeds of that trafficking) allows for widespread destructive effects. And being the leader of the organization in Utah clearly is serious enough for this Court to consider in fashioning his sentence. Indeed, Defendant's role was higher than all the sub-distributors that have already been sentenced by this Court. Of course, Mr. Rael should not be held responsible for the drug epidemic writ large, but he should be sentenced in accordance with an understanding of the impact that his role in this conspiracy as the leader for this narcotics trafficking organization had upon the community. The government believes a significant and substantial sentence as determined by the Court, which is 264 months (and which is lower than the advisory guidelines range of 360 months to Life), is required for Defendant and others to understand the import of their criminal behavior and activities.

D. The Sentence Promotes Respect for the Law

Narcotics trafficking, and specifically supplying a large methamphetamine and heroin conspiracy, is a serious offense. Accordingly, the laws of the United States provide for relevant punishment of such an offense. A serious and substantial sentence for this activity is warranted. The equities of this case warrant a sentence that is a significant and substantial sentence, which is 264 months (22 years). Such a sentence should promote respect for the law by Defendant as well as by the community. Indeed, Defendant has, time and time again, received extensive sentences for his narcotics trafficking crimes (on the state side) and yet is now before this Court. Clearly, his prior incarceration has not had an effect on his actions. One hopes that an appropriate and just sentence of 264 months will finally allow for respect for the law by the defendant.

E. The Sentence Provides Just Punishment

Defendant has very extensive criminal history. As outlined above, he is a CHC VI (with 27 criminal history points). He is also a career offender. And he was the Utah-based leader of this narcotics trafficking organization. Based on his criminal history and his actions in this case, a 264 months sentence clearly provides just punishment. He should receive a sentence that demonstrates sufficient punishment for his conduct. The suggested sentence of 264 months custody strikes the right balance of providing adequate punishment and this proposed sentence is the least amount of custodial time that should be accorded to him.

F. The Sentence Affords Adequate Deterrence to Criminal Conduct

In order to adequately deter Mr. Rael's conduct, as well as the conduct of other persons who anticipate taking a leadership role in the trafficking of methamphetamine and heroin, a significant and substantial sentence of 264 months demonstrates the judicial system's intolerance of such activities. One hopes that such a sentence would demonstrate to the public that leading a methamphetamine and heroin trafficking conspiracy is ill-advised and incompatible with appropriate citizenship in the community. Unfortunately, Mr. Rael seems to have not gotten the message that he needs to stop engaging in narcotics trafficking, given his extensive criminal history and career offender status. A significant and substantial sentence of 264 months further demonstrates that the United States' judicial system recognizes the harm that methamphetamine and heroin trafficking causes to the community, and further demonstrates to the public that such activity should be deterred.

G. The Sentence Protects the Public from Further Crimes of the Defendant

The United States hopes that Mr. Rael will not commit further crimes on the public

after this experience with the federal justice system. Of course, hope springs eternal and one should strive to believe that the Defendant has learned his lesson. As previously noted, however, this isn't Defendant's first rodeo into the criminal justice system. And it isn't his second, third, or fourth rodeo either. His extensive and concerning criminal history demonstrates that Defendant habitually has an inability to stop committing crime. While the United States hopes that Defendant will, finally, stop committing crime and trafficking in narcotics, his track record says otherwise. Thus, at this juncture, one must hope that a significant and substantial sentence of 264 months (which is still more than 100 months below the advisory guidelines range) will hopefully deter his future conduct.

H. The Sentence Can Provide Correctional Treatment, Educational Training, and the Like

It is clear that Mr. Rael appears to struggle with addiction. The United States believes he would significantly benefit from participation in numerous BOP programs for which he may qualify. With a significant and substantial sentence of 264 months, one anticipates that he will have the opportunity to avail himself of some of the relevant educational/vocational programs while serving his sentence. If he does take advantage of these programs, one hopes that Mr. Rael will take these programs seriously and not ever appear before this Court again.

I. The Sentence Avoids Unwarranted Sentencing Disparities Among Similarly Situated Defendants

All of the adjudicated co-defendants in this case, have already pleaded guilty and/or been sentenced. The chart below outlines the defendants in this case:

<u>Name</u>	<u>Arraignment Date</u>	<u>Trial Date</u>	<u>Plea Date</u>	<u>Sentencing Date</u>	<u>Sentence</u>
Luis Cuna-Vigil					
Jesus Avila-Garcia	6/16/2021	X	3/10/2023	1/29/2024	120 months
Joe Robert Rael	7/1/2021	X	2/9/2023	7/18/2024	180-264 months range
Jerry Philip Vigil	5/28/2021	X	5/27/2022	9/1/2022	192 months
Jennifer Lopez-Lopez	6/29/2021	X	11/8/2021	8/1/2024	
Maria Islas-Avila	6/28/2021	X	11/23/2021	12/6/2022	36 months
Martin Verduzco-Muro	5/27/2021	X	3/1/2022	5/25/2022	96 months 11c1c
Edward David Lucero	5/27/2021	X	3/14/2022	7/14/2022	144 months 11c1c
Linda Mabel Hernandez-Alvarez	9/23/2021	X	10/11/2022	3/9/2023	42 months
Brian Michael Fioravanti	7/1/2022	X	3/2/2023	3/11/2024	46 months
Jeffrey Kraig Ellis	5/27/2021	X	12/12/2022	4/5/2023	120 months
Patrice Raelynn Estes	5/27/2021	5/18/2022	4/20/2022	9/20/2022	42 months
Leandro Cortez Ochoa Lovato-Howells	6/15/2021	5/18/2022	4/21/2022	7/7/2022	108 months 11c1c
Mario Alberto Lovato	5/27/2021	X	3/3/2022	6/2/2022	60 months 11c1c
Joseph Raymond Trujillo	5/27/2021	X	5/11/2022	11/8/2022	120 months
Celina Alexandra Garcia	6/15/2021	X	2/15/2022	4/27/2022	96 months 11c1c
Pete Vince Espinoza	5/28/2021	X	1/4/2023	8/3/2023	108 months 11c1c
Judy Ann Maestas	5/27/2021	X	3/16/2022	6/1/2022	72 months 11c1c
Felicia Nicole Mingura	5/28/2021	UACT	UACT	UACT	UACT
Jessica Leann Vigil	5/27/2021	X	3/9/2022	12/7/2022	Time Served
Anthony James Runion	5/28/2021	X	5/17/2022	9/21/2022	24 months 11c1c
Richard Lawrence Trujillo	6/22/2021	X	4/25/2022	8/3/2022	84 months
Brandon Jay Perrault	6/18/2021	X	3/10/2023	7/25/2023	48 months
Erika Rachelle Vigil	5/28/2021	X	1/27/2022	10/6/2022	24 months 11c1c
Pedro Jurado	3/9/2022	11/16/2022	9/28/2022	1/17/2023	72 months 11c1c
Kylee Martinez Jimenez-Cuna	5/27/2021	X	3/23/2022	4/4/2023	Time Served

The defendants in blue have been sentenced. The defendants in green have pleaded guilty and are awaiting sentencing. The defendant in yellow is a fugitive.

As outlined extensively above and in the PSI, Mr. Rael was the Utah-based leader and the state-based pinnacle of this conspiracy. Other defendants were on the level of sub-distributors, such as Ms. Garcia, Mr. Maestas, Mr. Lovato-Howells, Mr. Lucero, Mr. Trujillo, and Mr. Verduzco-Muro. Furthermore, defendants such as Ms. Jimenez-Cuna, Ms. Erika Vigil, Ms. Jessica Vigil, have even lower roles in this conspiracy, as they generally held narcotics for the principals, or engaged in lower-level narcotics dealing.

Given his status in this conspiracy, the Defendant should receive a sentence on par with the other pinnacle defendant, Mr. Cuna-Vigil. He should also receive a sentence that is higher

than the sub-distributors already sentenced in this case. A significant and substantial sentence of 264 months, which is below the advisory guidelines range of 360 months to Life, would be appropriate based on all the factors outlined above.

IV. CONCLUSION

Based on the foregoing information, the United States recommends a significant and substantial sentence of 264 months. Indeed, this sentence is the least amount that the Court should consider and is a considerable variance from the advisory guidelines sentence range of 360 months to Life. In this case, based on these facts and circumstances, on his extensive leader/organizer role in the conspiracy, his extensive criminal history (leading to his status as a career offender), as well as on his own actions during the conspiracy period, a significant and substantial sentence of 264 months is appropriate. The United States has put a lot of thought and consideration into this specific recommendation and believes it is an appropriate recommendation given all the factors discussed above. This recommendation accounts for Defendant's concerning criminal record, his actions in the conspiracy, his leader/distributor/supplier role in the conspiracy, the lower sentences of other persons in the conspiracy (virtually all of whom have been sentenced now), as well as the nature and characteristics of the offense. In accordance with the facts and arguments discussed above, the United States requests this significant and substantial sentence of 264 months (22 years)

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because it is sufficient, but not greater than necessary, for Mr. Rael's punishment.

DATED this 12th day of July, 2024.

TRINA A. HIGGINS
United States Attorney

/s/ Stewart M. Young

STEWART M. YOUNG
Assistant United States Attorney