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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 18 CR 286
vs.)	Chicago, Illinois
)	July 15, 2020
DAVID SALGADO,)	1:30 p.m.
)	
Defendant.)	

TRANSCRIPT OF PROCEEDINGS - SENTENCING
BEFORE THE HONORABLE MATTHEW F. KENNELLY

APPEARANCES:

For the Plaintiff:	HON. JOHN R. LAUSCH, JR. United States Attorney 219 South Dearborn Street Chicago, Illinois 60604 BY: MR. ANKUR SRIVASTAVA MR. SEAN J.B. FRANZBLAU
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For the Defendant:	PETRO & ASSOCIATES 53 W. Jackson Blvd, Suite 630 Chicago, Illinois 60604 BY: MR. MICHAEL J. PETRO MS. BROOKE BUICAN
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ALSO PRESENT:

Ms. Meredith Clifton, US Probation
Ms. Petra Salgado
Ms. Kimberly Arreola

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1 (Proceedings in open court)

2 THE CLERK: 18 CR 286-2, USA versus Salgado.

01:34:43

3 THE COURT: So we're following a little bit different
4 rules than we did the last time. Number one is you guys are
5 sitting too close to each other. So Ms. -- no, no. She can
6 move down to the end of the table. That will solve it. And
7 then maybe if you, yeah, just move one seat to your left,
8 Mr. Salgado. Thanks.

9 MR. PETRO: Do you want me to sit here, Judge?

01:34:57

10 THE COURT: No, no. You're fine right there. It's
11 all good.

12 Okay. So the rule is going to be you take your mask
13 off only when you are talking.

14 MR. PETRO: Okay.

01:35:03

15 THE COURT: And since I am talking, mine is off.

16 So first order of business is does the government
17 have any objections or corrections to anything in the
18 presentence report?

01:35:15

19 And we are just going to use the mics at the tables
20 too so you don't have to approach the podium.

21 MR. FRANZBLAU: Judge, just the objections that I
22 filed, that the government believes the two-level loss
23 enhancement applies for group one.

24 THE COURT: But put aside guideline issues.

01:35:27

25 MR. FRANZBLAU: Oh, I'm sorry.

1 THE COURT: No. My mistake. I didn't specify.

2 MR. FRANZBLAU: Excuse me. No, no.

3 THE COURT: Okay.

01:35:37

4 So, Mr. Petro, have you read the presentence report
5 and discussed it with Mr. Salgado?

6 MR. PETRO: Yes, I have, Judge. Thank you.

7 THE COURT: Mr. Salgado, did you -- you're fine --
8 Mr. Salgado, did you read the presentence report and discuss
9 it with your lawyer?

01:35:44

10 THE DEFENDANT: Yes.

11 THE COURT: Okay. And, Mr. Petro, aside from
12 guideline issues, do you have any objections or corrections to
13 anything?

14 MR. PETRO: I do not, Judge.

01:35:50

15 THE COURT: Okay. So let's talk about then the
16 guideline issues. And just let me get something to write on.
17 So I know we have an issue regarding the loss amount. Not
18 necessarily in this order, we have an issue regarding the role
19 in the offense enhancement. We have an issue regarding the
20 obstruction enhancement. I believe there is an issue
21 regarding grouping of counts.

01:36:10

22 MR. FRANZBLAU: Correct.

23 THE COURT: And I think that's it, but I'm not a
24 hundred percent positive.

01:36:21

25 Mr. Petro, do you think that covers all the guideline

1 issues we have to discuss?

2 MR. PETRO: There was one issue that you ruled on in
3 Sergeant Elizondo's hearing.

01:36:33

4 THE COURT: All right. You get a separate hearing on
5 that. I mean it. So, I mean, you weren't --

6 MR. PETRO: It had to do with sophisticated means.

7 THE COURT: Sophisticated means, right, that was the
8 fourth issue. I'm not -- yeah, unless you are going to make
9 other arguments about that.

01:36:48

10 MR. FRANZBLAU: I'm going to withdraw that argument.

11 THE COURT: Okay, fine. So I'm finding the
12 sophisticated means enhancement doesn't apply, which is what I
13 think Probation recommended.

01:36:53

14 I forgot to give the Probation officer a chance to
15 give her name. I apologize.

16 PROBATION OFFICER: Good afternoon, Your Honor.
17 Meredith Clifton on behalf of Probation, standing in for Laura
18 Donahue.

19 THE COURT: Thanks. Okay.

01:37:00

20 So let's talk about loss amount first. So I'll hear
21 first from Mr. Franzblau and then from defense counsel.

22 MR. FRANZBLAU: Thank you, Judge.

23 So the issue here is whether the government can show
24 by a preponderance that the loss in this case in the aggregate
25 exceeded \$6500.

01:37:17

01:37:34

1 Right off the bat, from the rental vehicle search we
2 have \$4200. So that gets us well beyond halfway there. And
3 then if we look to the Maplewood search, the first undercover
4 operation, all the Court would have to determine is that the
5 defendants intended to take a similar amount of money or
6 similar proportion of the total amount that they recovered in
7 order to meet the \$6500 threshold.

01:37:52

8 And the evidence is strong that they intended to take
9 at least the same proportion, which was about 20 to 25
10 percent.

11 As I talked about in the last sentencing hearing,
12 I'll be more brief this time, but we look to the dialogue with
13 Cuba.

01:38:02

14 THE COURT: At least 25 percent of, what was the
15 overall amount?

16 MR. FRANZBLAU: The overall amount --

17 THE COURT: That was there, in other words present.

18 MR. FRANZBLAU: -- in the Maplewood search was
19 \$15,000.

01:38:11

20 THE COURT: Got it, got it, okay.

21 MR. FRANZBLAU: So all the Court would have to find
22 is that they intended to take about 20 percent of that, and
23 you would get above what we need.

24 THE COURT: Okay.

01:38:21

25 MR. FRANZBLAU: And, Judge, we know that they did

1 intend to take a very substantial amount of that cash. You
2 look to the dialogue with Cuba in the initial recording when
3 Cuba tells Elizondo and Salgado that he was making \$800 a day
4 from the marijuana that he received from the fictional drug
01:38:41 5 dealer that he told them lived in this apartment, and Elizondo
6 told him, "Look, we know we have to make it worth your while
7 and compensate you for that lost income," basically telling
8 him we're going to give you substantially more than what you
9 get per day out of that place.

01:38:54 10 We also know from the recorded conversation a week
11 after the search in which Elizondo tells Cuba that he and
12 Salgado intended to take enough to make it a good Christmas
13 for everyone, meaning Cuba, Davis, Elizondo and Salgado.

14 So they were going to split proceeds four ways in an
01:39:18 15 amount that was substantial enough for each person to get, you
16 know, a fair amount, enough to make it a good Christmas. So
17 that certainly would seem to be at least in the couple of
18 thousands of dollars.

19 Even without the Maplewood search, we easily meet the
01:39:34 20 6500 threshold based on Gipson and Davis's testimony about the
21 cash that Elizondo and Salgado were distributing to them
22 throughout the course of the conspiracy. The jury plainly
23 rejected the argument that is ridiculous on its face that
24 Elizondo was paying them out of pocket when he had free public
01:39:55 25 funds available to do the same thing.

1 They both testified that -- excuse me, Gipson and
2 Davis testified that together they received about \$5500 in
3 cash during the course of the conspiracy.

01:40:10

4 And then on top of that we have the street value of
5 the cigarettes and the drugs that Elizondo and Salgado
6 distributed to Davis and Gipson alone. And as I lay out in
7 detail in my sentencing memorandum, that had a street value of
8 at least \$1500, and that's a very conservative estimate.

01:40:32

9 So we hit the 6500 easily and in multiple different
10 ways.

11 THE COURT: Thanks.

12 Mr. Petro.

13 MR. PETRO: Thank you, Judge.

01:40:42

14 I just want to start out, the standard is *United*
15 *States versus Bradley*, 628 F3d 394. "Due process" -- and this
16 is a 2010 case from the Seventh Circuit. "Due process
17 requires that sentencing determinations be based on reliable
18 evidence rather than speculation or unfounded allegations."

01:41:04

19 And then they repeat it in *United States versus*
20 *Clinton* in 825 F3d 809. "A sentencing enhancement cannot be
21 based on mere speculation."

01:41:26

22 And what the government has provided here today,
23 Judge, is mere speculation. They say words like "easily meet"
24 and that the street value "conservatively estimated." And all
25 it is is puffing, Judge. I don't know what drugs that they're

1 talking about, but if they're talking about this ecstasy, I
2 remember at one point that Mark Treadwell stated that he
3 bought 22 pills of ecstasy for \$60. So you've got \$60 there.

01:41:44

4 The other drugs, I don't know what he's referring to.
5 So you have 4260 the way that I see it.

6 And then the cash distributed to Gipson, you know,
7 the testimony that I remember from Gipson was the government
8 asking Ms. Gipson: "How much money did you get?"

9 And she said "A thousand."

01:42:03

10 And then Mr. Franzblau, as he often does, padded and
11 bolstered, "Are you sure it was only a thousand?"

12 And she said "1500."

13 And then Mr. Franzblau became frustrated again and
14 said, "Are you sure that you didn't get more than that?"

01:42:19

15 And then she went to 2,000.

16 And then Mr. Franzblau in his final last ditch
17 effort, he again upped it one more time; and she said, "No,
18 no. It was \$2500."

01:42:35

19 We don't know how much money Ms. Gipson got. She
20 never put it in a bank. So I would just say that anything
21 with respect to the amount of money that Ms. Gipson got is
22 speculative, it's speculative, Judge.

01:42:56

23 And then with respect to the amount intended to take
24 that day, I don't find any evidence that they intended to take
25 that, except for some after-the-fact bolstering by Elizondo

1 that said we would have had a good Christmas. But that was
2 puffing, Judge, by Elizondo.

01:43:19

3 The testimony that I remember from that particular
4 occasion was that Mr. Salgado, my client, found the money. He
5 took it into his custody, and then he inventoried the money.
6 So to say that they intended to steal that money is
7 speculative, Judge.

01:43:38

8 The only thing that they've proven in my opinion is
9 the \$4,200. That's not speculative. And that's under the
10 \$6500 threshold.

11 Because they can't meet their burden with respect to
12 this particular enhancement, Judge, I think the right finding
13 is that it's 2,000 to 6,500, but nothing more has been proven.

01:43:58

14 THE COURT: Okay. What we are going to do is we'll
15 go and talk about everything and then I'll come back and rule
16 at the end.

17 So next would be -- sophisticated means is the thing
18 I ruled on that you are not renewing.

19 So next I guess would be obstruction then.

01:44:15

20 MR. FRANZBLAU: Well, I think the defense is also
21 opposing the possession of a firearm.

22 THE COURT: You're right, you're right. So let's
23 talk about that. You're right. I missed that one before.

01:44:28

24 MR. FRANZBLAU: Judge, this conspiracy involved the
25 abuse of the defendants' police powers to search, detain and

1 arrest in order to rob and steal from people. Carrying a
2 firearm was a central component of those powers. It allowed
3 the defendants to secure themselves and also to subdue their
4 victims during these sham raids. And it was absolutely
01:44:49 5 necessary to give them the opportunity to steal.

6 The evidence showed that the defendants targeted drug
7 dealers because they knew that they carried large amounts of
8 cash. But, of course, drug dealers also frequently carried
9 guns. And so the defendants also likewise needed to be armed
01:45:07 10 before they went into these houses to potentially confront
11 these people, subdue them and steal from them in their
12 presence often.

13 We have the *Long* case that for all intents and
14 purposes is directly on point here, where the officers
01:45:24 15 entering a home with intent to steal under the color of law,
16 with firearms readily available - don't need to draw it, don't
17 need to point it, certainly they don't need to shoot it - you
18 just have to have it available, because that's all the force
19 you need to subdue the victims and use the police power in
01:45:43 20 furtherance of the crime in the way that these defendants did.
21 And for that reason the enhancement applies.

22 THE COURT: Mr. Petro.

23 MR. PETRO: Judge, I just want to object just
24 briefly. He's using the word and he's piling on his usual --

01:45:52 25 THE COURT: Your client is trying to hand you

1 something.

2 MR. PETRO: He's using the word "defendants" and
3 that's his strategy here.

01:46:01

4 THE COURT: Your client is trying to hand you
5 something there or Ms. Buican is trying to hand you something.
6 Sorry, I just wanted to make sure you knew.

01:46:13

7 MR. PETRO: It's not defendants. We're here to
8 sentence David Salgado. What is the evidence that David
9 Salgado carried a gun at any time during this conspiracy?
10 There isn't any. I've looked at all the testimony. There is
11 no testimony that Salgado --

12 THE COURT: Is he the only Chicago police officer
13 while on duty who doesn't carry a gun?

01:46:23

14 MR. PETRO: Well, I don't know, Judge. But there has
15 to be something other than mere speculation. These are
16 undercover police officers. There is a lot of undercover
17 police officers that don't carry weapons.

01:46:37

18 We've looked at every piece of evidence in this case.
19 We've read all the testimony. We've listened to the experts.
20 We've done all of that, Judge. And there is not one shred of
21 testimony that my client ever possessed a firearm at any time
22 during this conspiracy.

01:46:53

23 And I know we can make assumptions and things along
24 those lines, but all these people that testified from the
25 Chicago Police Department about policies and procedures and

1 what they're required to do and what they're required not to
2 do, not one person came in here and said that an on-duty
3 police officer has to carry a weapon. And there is no
4 testimony, there is no evidence that my client ever possessed
01:47:12 5 a firearm.

6 And for that reason, Judge, I would go back to the
7 fact that this is speculative again. We know and we think
8 from our experience in life that officers carry firearms. But
9 the government has the burden of proving this particular
01:47:27 10 enhancement and they haven't done it, Judge.

11 THE COURT: Mr. Franzblau.

12 MR. FRANZBLAU: Well, even putting aside whether or
13 not Salgado carried a gun, obviously, he did, he's being held
14 accountable for jointly undertaking criminal conduct. So the
01:47:41 15 fact that Elizondo carried a gun, which I presented
16 photographs of at the last sentencing, he would be on the hook
17 for that.

18 I didn't realize the defense was contesting the fact
19 that Salgado carried a gun during searches. At trial we
01:47:53 20 presented videos and other evidence that depict him wearing a
21 gun. I can go downstairs and get them if we need to really
22 make an issue of this.

23 THE COURT: So the joint responsibility issue, that
24 would fall under the relevant conduct guideline, 1B1.3.

01:48:02 25 MR. FRANZBLAU: Correct.

1 THE COURT: What about that, Mr. Petro? Sorry. What
2 about that? So in other words, even if you concede for
3 purposes of discussion that there is no evidence that I'm
4 looking at right at this second here that Mr. Salgado had a
5 gun, he's still accountable because it was jointly undertaken
6 in criminal activity for Mr. Elizondo carrying a gun.

01:48:19

7 MR. PETRO: Judge, there is no evidence that Officer
8 Elizondo carried a gun. No one testified that Elizondo had a
9 gun.

01:48:33

10 THE COURT: There doesn't have to be testimony at
11 trial about it. I think that's pretty clear.

12 MR. FRANZBLAU: Judge, we presented photographs at
13 trial that depicted both of them carrying weapons.

01:48:46

14 THE COURT: All right. Moving to the next thing
15 would be obstruction then.

16 So, and again, the obstruction enhancement, so it's
17 different from, it's different from Mr. Elizondo's case,
18 because we don't have anything related to testimony. So what
19 it is here, if I'm understanding correctly, it's the
20 obstruction of which Mr. Salgado was convicted and then
21 applying that to the other counts or not exactly?

01:49:05

22 MR. FRANZBLAU: It's the underlying conduct of him
23 removing evidence from his home.

24 THE COURT: Yeah.

01:49:17

25 MR. FRANZBLAU: Number one. And then lying to the

1 agents about it.

2 THE COURT: Okay.

3 MR. FRANZBLAU: Number two. So let's, if we go
4 through group by group, I think there is some --

01:49:26

5 THE COURT: Yeah. It all, the grouping is sort of
6 the issue here.

7 MR. FRANZBLAU: There is some confusion because the
8 probation officer is using this terminology "the offense of
9 conviction," also the "object offense." Let's just put aside
10 "object offense" and talk about offenses of conviction.

01:49:39

11 THE COURT: Okay.

12 MR. FRANZBLAU: So group 1 is counts 1, 3 and 5.
13 Number 5 is the false statement.

14 THE COURT: Okay.

01:49:48

15 MR. FRANZBLAU: Now, under 3D1.2, application note 5,
16 when an obstruction -- when an offense that is dealt with
17 under 2J1.2 standing on its own is grouped, it should, the
18 first obstruction offense should be grouped with the offenses
19 that it was --

01:50:10

20 THE COURT: That it relates to essentially.

21 MR. FRANZBLAU: -- that it relates to. So that's why
22 we have the 1001 count --

23 THE COURT: That's why Count 5 is grouped with 1 and
24 2.

01:50:19

25 MR. FRANZBLAU: -- in group 1, yes.

1 THE COURT: Okay.

2 MR. FRANZBLAU: But the act of lying still
3 triggered -- so now we're into 2B1.1, because that's the
4 offense guideline that we're under for group 1.

01:50:32

5 Now we look at the offense enhancements and
6 adjustments that apply under the 2B1.1. And under 2B1.1,
7 because this conduct is now -- this offense is grouped in, the
8 lying to the agents about returning home and the act of
9 returning home itself was obstructive conduct tied to the
10 group 1 offenses.

01:50:54

11 The reason that *Tankersley*, the case that defendant
12 cites, does not apply here is because we're not counting this
13 under 2J1.2. You don't apply the 3C1.1 obstruction adjustment
14 under 2J1.2 because it's built into 2J1.2.

01:51:15

15 THE COURT: It would be double counting basically.

16 MR. FRANZBLAU: Right. Here we're at 2B1.1. It's
17 not dealt with. So you have to deal with it for the Section 3
18 adjustments.

01:51:26

19 But even if the 1001 count couldn't serve as the
20 basis for the adjustment, the act itself of returning home and
21 removing evidence triggers it for group 1. And the same
22 arguments go for group 2, that that same conduct applies to
23 group 2.

24 THE COURT: Okay.

01:51:39

25 MR. FRANZBLAU: Now, the difference with Elizondo is

1 that Salgado does not get it for the group 3 offense because
2 he didn't obstruct the prosecution or investigation of that
3 offense.

4 THE COURT: Got it.

01:51:53

5 Okay, Mr. Petro.

6 MR. PETRO: Judge, I just want to unbundle.

01:52:07

7 Mr. Franzblau is at it again by putting implications on that
8 just weren't proven at trial. He lied to the FBI about
9 returning home. To cover the fact that he removed evidence
10 was not proven. There is nothing in the record that would
11 show that he removed evidence from that particular location.

12 So he lied to the FBI about returning home, which is
13 the conduct specifically in count 5. And because count 5 is
14 covered by 2J1.2, you're double counting.

01:52:28

15 He should not get two points. And there is also kind
16 of a gradation there, too. Elizondo would be receiving a
17 sensational windfall because he testified and he did not tell
18 the truth. And we pointed out specifically in our motion for
19 new trial what he did to not tell the truth.

01:52:53

20 But to give, well, Officer Salgado an enhancement for
21 count 5 under 2J1.2 and then to give him an obstruction for
22 the exact same conduct, that's double counting, Judge, and
23 that's not permitted. We cited *Tankersley*. And *Tankersley* is
24 directly on point. And what the government can't get around
25 in this particular matter is that he was convicted of this

01:53:16

1 count and 2J1.2 applies.

2 So there is no obstruction by Officer Salgado. He
3 didn't testify.

01:53:33

4 And the other thing is to remember on count 4, I
5 believe, for Elizondo, he was charged with corruptly
6 influencing David Salgado. So that's where the two points,
7 the additional two points comes in for him.

8 But with respect to Dave, he was convicted in count 5
9 of obstruction, and that's all he gets.

01:53:55

10 THE COURT: Okay. So on the grouping issue, I think
11 it would be helpful to me if you explained your position
12 first, because I want to make sure I have it clearly in mind
13 before I get Mr. Franzblau to respond to it.

01:54:09

14 MR. PETRO: Well, count 5, Judge, is outside the
15 conspiracy time frame and --

16 THE COURT: So why does that matter, I guess, is the
17 question. Why does that matter for purposes of grouping?

01:54:24

18 MR. PETRO: Well, it was after the fact. I don't
19 know how that particular act furthered the conspiracy. So I
20 don't think it should be grouped.

21 THE COURT: Okay. Mr. Franzblau.

22 MR. FRANZBLAU: Judge, first of all, it's not outside
23 the time frame of the conspiracy. It's an explicit overt act
24 --

01:54:30

25 THE COURT: It's an over act.

1 MR. FRANZBLAU: -- written into the conspiracy. Even
2 if it were though, it's relevant conduct and it still triggers
3 it.

01:54:43

4 The issue here is guideline section 3D1.2,
5 application note 5. It says the first obstruction offense
6 under 2J1.2 groups, anything more than that doesn't. That's
7 why count 5 groups and count 7 doesn't.

8 THE COURT: So the last one then would be role in the
9 offense. So let me hear from Mr. Franzblau first.

01:55:05

10 MR. FRANZBLAU: Judge, we are proceeding under an
11 otherwise extensive theory only, not the five or more
12 participant theory.

13 THE COURT: Okay.

01:55:15

14 MR. FRANZBLAU: And that is because we didn't end up
15 presenting some evidence that we had initially intended to.

16 So it's based on Elizondo, Salgado, Davis and
17 Gipson's involvement as participants. But the application
18 notes explain that if in furtherance of offense you basically
19 use the unwitting support of a number of other people, the
20 crime can become otherwise extensive and trigger the four
21 level enhancement. And that's exactly what we have here.

01:55:36

22 The defendants basically corrupted the entire court
23 system, the entire warrant process in order to carry out their
24 offenses. It involved duping the States Attorney. It
25 involved duping judges. And then it involved duping eight to

01:55:53

1 ten of their fellow officers who were necessary to go out and
2 execute those warrants.

3 And, of course, this didn't just happen once. It
4 didn't just happen twice. The Court heard evidence of at
01:56:11 5 least eight different bad warrants where this went on.

6 So under the facts of this case, although there were
7 only four participants, the otherwise extensive prong is
8 triggered. The four-level enhancement applies.

9 THE COURT: Mr. Petro.

01:56:25 10 MR. PETRO: I disagree, Judge. There is no one that
11 Mr. Salgado supervised. There is not any testimony that my
12 client supervised. If he was with people when particular
13 criminal acts happened, well, he was a co-equal with those
14 people.

01:56:43 15 The supervisor, the leader, the organizer in this
16 case was the sergeant, Sergeant Elizondo. He controlled every
17 portion and facet of the case. Latonya Gipson was his
18 confidential informant. He had worked with her for nine
19 years. Antwan Davis, he had worked with Elizondo since 2008.

01:57:10 20 The other people involved -- and I just want to quote
21 one case here. "The primary goal of 3B1.1 is to make a common
22 sense judgment about the defendant's relative culpability
23 given his status in the criminal hierarchy."

24 To give Dave four points would put him on the same
01:57:38 25 plane as, again, Officer Elizondo, who was a sergeant, who had

1 institutional power.

2 And you had so many people come in here and talk
3 about what the power was of the sergeant in this particular
4 matter. Whatever he said, if he said "Jump," then the answer
01:57:56 5 was "How high do you want me to jump?"

6 We heard the testimony about how Dave was a follower
7 and they mocked him and called him Little X, some of the team
8 members, because he did what Elizondo told him to do. That's
9 Dave's role in the offense.

01:58:14 10 Elizondo said "Jump" and Dave said "How high?"

11 But all of those, there is not one person that came
12 in here and testified that during the course of the
13 conspiracy, that Dave supervised him in any manner. He may
14 have been there at the same time that Elizondo ordered him to
01:58:32 15 be there and some of these particular acts took place, but he
16 didn't manage them. Even when Latonya Gipson did get some
17 cigarettes and some booze for her birthday from Dave, that was
18 at the order of Xavier Elizondo.

19 The final thing that's insulting about it is you can
01:58:54 20 see what the roles of, the relative roles of the people
21 involved in this case are, Elizondo got up and testified, and
22 so disrespectful is he of Dave that he makes up a lie, that
23 there was marijuana in Dave's house, and that he attributes it
24 to his wife, who is a nurse, who found personal offense and
01:59:20 25 went through the effort to fill out an affidavit about that

1 lie.

01:59:37

2 Sergeant Elizondo did what he did. He was very, very
3 skilled. He had been doing this for a long time. He had been
4 a member of the FBI task force. We heard all kinds of
5 testimony about how long he had been doing this and that he
6 had a certain amount of charisma that allowed him to do his
7 job.

01:59:55

8 But Dave is -- there is only one driver of this boat,
9 and that's Elizondo. And everyone else is in the back of the
10 boat doing what Elizondo tells them to do. That doesn't make
11 you a supervisor. It makes you a passenger. It makes you
12 just someone that was there.

02:00:13

13 And if the boat sinks, you can attribute it --
14 because it hits an iceberg, you can attribute it only to one
15 person and that's the captain.

02:00:30

16 And the captain of this particular ship was Elizondo.
17 Dave was just a passenger on that ship. That's all he was.
18 There is no testimony that he ever exerted any supervisory
19 control over anyone.

02:00:49

20 THE COURT: So, Mr. Franzblau, can you maybe zero in
21 on the question of supervision and direction, et cetera.

22 MR. FRANZBLAU: Yeah. So, Judge, there were several
23 instances at trial in which there was testimony given about
24 Dave actually directing and supervising the informants, the J.
25 Doe informants. One example was Elizondo told Gipson to go

1 meet with Dave because Dave needed a favor from her.

2 And when Gipson got there, Dave directed her to lie
3 on a search warrant and to get into the home under false
4 circumstances.

02:01:09

5 So that was one instance where David himself was
6 directing the informant to go and lie before a judge.

02:01:27

7 Even if Elizondo, even if it's true that Elizondo --
8 you know, certainly obviously within the Chicago Police
9 Department there was a hierarchy that he was at the top. That
10 doesn't mean that that hierarchy applied in that offense.

02:01:42

11 I think the evidence at trial showed that they were
12 equals in this conspiracy. Elizondo tended to have the
13 relationships with the informants. But they were both clearly
14 directing and driving the ship when it came to taking these
15 people and securing the false warrants, taking these people in
16 front of the judges.

02:01:59

17 But even if Elizondo was above David in the
18 conspiracy, it would still trigger the four level adjustment
19 because David is clearly above the informants themselves,
20 evidenced in part by their testimony.

02:02:14

21 THE COURT: So I guess my question is why would it
22 be, even taking everything you say as correct, why would it be
23 four levels rather than three? Organizer/leader as
24 distinguished from manager or supervisor?

25 MR. FRANZBLAU: I think, Judge, in the

1 manager/supervisor scenario, there is a clearer hierarchy than
2 there was here. It's often applied, you know, to a gang
3 situation or a drug situation in which there is a clear
4 distribution chain or there is someone who is calling the
02:02:37 5 shots.

6 In this case, the evidence, it's the government's
7 position that the evidence was David and Xavier Elizondo were
8 equals in the conspiracy, and they were at the top of the
9 ladder directing these two people beneath them.

02:02:45 10 The three level enhancement would apply if the
11 evidence showed that it went Elizondo, David beneath Elizondo
12 and the informants beneath David.

13 It's the government's position that it was more the
14 former model than the latter.

02:03:02 15 THE COURT: Mr. Petro, do you want to make any
16 further comment?

17 MR. PETRO: It just says in B, Judge, if you look at
18 B for three levels it says "five or more participants." And
19 the government's conceded --

02:03:11 20 THE COURT: "Or otherwise extensive," and they are
21 arguing the "otherwise extensive" part of it.

22 MR. PETRO: Well, I think that Sergeant Elizondo's
23 conduct was extensive, otherwise extensive, but David's was
24 not. And there has to be some gradation between Elizondo and
02:03:28 25 Salgado.

1 THE COURT: Okay.

2 MR. FRANZBLAU: Judge, can I make one more point?

3 MR. PETRO: But there is just no one that, there is
4 just no one that Dave supervised.

02:03:38

5 THE COURT: Good.

6 MR. FRANZBLAU: So not only did Dave play a
7 supervisory role over the informants, but also in the
8 otherwise extensive theory, he's also playing this leadership
9 role where he's putting into action these arms, branches of
10 the court system, basically the unwitting branches of the
11 court system just as much as Elizondo is, and he's effectively
12 manipulating them and exercising control over the unwitting
13 parties.

02:03:56

14 So I think for all of those reasons he is up at the
15 very top at the four level.

02:04:11

16 THE COURT: Okay. So let me go back through to each
17 of these, not necessarily in the exact order that they were
18 discussed.

19 So first of all, on the loss amount, the question is
20 whether the loss amount that's established by a preponderance
21 of the evidence gets over \$6500. Everybody agrees that the
22 \$4200 from the rental vehicle counts.

02:04:23

23 The primary bone of contention, although not the only
24 one, has to do with the potential proceeds from the Maplewood
25 search.

02:04:45

1 So first of all, I think it was clearly shown that
2 there was an intention to take some of that money had they not
3 discovered the video cameras.

02:05:01

4 The fact that the evidence or at least some of the
5 evidence comes from comments that were made by Mr. Elizondo
6 after the fact doesn't make it any less significant.

02:05:19

7 And I think the tenor of those comments and the
8 evidence indicates that of the 15,000 that was there, it is
9 overwhelmingly likely, and not just a preponderance, that at
10 least 20 percent of that or \$3,000 would have been taken and
11 used by the participants in the crime, including Mr. Salgado
12 and Mr. Elizondo.

13 So I think that by itself is more than sufficient to
14 exceed to get the dollar amount over \$6500.

02:05:38

15 I agree that there is some play in Ms. Gipson's
16 testimony. Let's say you take the low amount, the thousand
17 dollars, that still is enough to get over 6500 if you take a
18 relatively modest anticipated skimming off of the proceeds of
19 the Maplewood search.

02:06:00

20 So I think there is enough to get over 6500 by a
21 preponderance of the evidence. That's the first thing.

02:06:25

22 On the firearm enhancement, so it clearly applies I
23 think. So I think that it's a reasonable inference from
24 evidence that Mr. Salgado was carrying a gun. But even if
25 not, there is direct evidence that Mr. Elizondo was and

1 Mr. Salgado is accountable for that under the relevant conduct
2 guideline, which is 1B1.3.

3 The *Long* case, *US versus Long*, which is a 2011
4 Seventh Circuit case, is pretty close and I think governs this
02:06:48 5 case.

6 The defendants were carrying out actions, the
7 defendants in this case were carrying out actions as a police
8 officer which involved making entries into people's homes.
9 The firearm cloaked them with the authority of a police
02:07:02 10 officer. Even if they didn't take out their guns and wave
11 them around, it was there. One doesn't know when going into a
12 property that's being searched whether there is going to be
13 people there or not.

14 So there was clearly possession in connection with
02:07:16 15 the offense, because the firearm was there and readily
16 available and cloaked the participants with the authority of a
17 police officer, so that enhancement applies.

18 On obstruction, I think the government has the better
19 of this argument. I don't think it's double counting given
02:07:37 20 the way it's grouped. Count 5 is essentially obstruction with
21 regard to counts, I think 1 and 3. And I think it's both
22 aspects of it. It's both a lie to the agents and the act of
23 returning home, which the evidence reasonably construed was
24 done to destroy or conceal evidence.

02:07:59 25 This is not double counting. So it's not really like

1 the *Tankersley* case that was cited. So I think the Probation
2 Office did the calculation correctly.

3 I also agree with the grouping that was done by
4 Probation. The defendant's argument is overruled on that.

02:08:13

5 On the role in the offense, so first of all, the
6 criminal activity, it's not whether the two defendants by
7 themselves were otherwise extensive, it's the criminal
8 activity as a whole. It involved a lot of people beyond the
9 criminal participants. The criminal participants being

02:08:29

10 Mr. Elizondo, Mr. Salgado, Gipson and Davis.

11 And then there were other people, there were other
12 police officers who had to sign off on the warrant
13 applications, at least in some instances. There were other
14 police officers who were involved in executing the warrants.

02:08:47

15 There were States Attorneys who were involved in preparing the
16 papers to present to a judge. There were judges involved in
17 it. And even assuming that all those people were unwitting
18 participants, which is what the evidence showed, their
19 involvement is enough to make it extensive within the meaning
20 of the guideline. So that part of it applies.

02:09:09

21 You know, the evidence regarding Mr. Salgado's
22 direction of other people is less than it was with regard to
23 Mr. Elizondo. And the distinction between the four level and
24 three level enhancement is that the guidelines organizer or
25 leader, that's four levels, versus manager or supervisor.

02:09:33

1 I think there is certainly enough evidence that
2 Mr. Salgado managed or supervised other people, whether they
3 were in one or two instances the other criminal participants
4 or more likely in most of the instances the nonparticipants
02:09:49 5 who were unwittingly involved.

6 I think there is less evidence that he was organizing
7 or leading it. And we do have this factor here that under
8 just in terms of military rank or whatever, he was outranked
9 by Elizondo. And there was some evidence that Elizondo told
02:10:07 10 him on various occasions to do this or that.

11 That doesn't make him any less culpable. But I think
12 for purposes of this enhancement it's the three levels, not
13 the four that applies.

14 So what does that do? So then you've got to sort of
02:10:20 15 rework everything. Does that drop the offense level by one or
16 does it end up --

17 MR. FRANZBLAU: I believe it takes us to 25 and I
18 total.

19 THE COURT: Okay. Does that sound right to you,
02:10:31 20 Mr. Petro?

21 MR. PETRO: I'm sorry, Judge?

22 THE COURT: So with that finding, does that reduce
23 the overall offense level as recommended by Probation by one
24 to 25?

02:10:39 25 MR. PETRO: Would I just have -- could I just adjourn

1 just briefly for one second?

2 THE COURT: Sure.

3 MR. PETRO: It's complicated.

02:10:46

4 THE COURT: That's fine. I am not going to leave,
5 but go ahead and take a minute to do the math.

6 (Pause)

7 MR. PETRO: Judge, can I just get a clarification,
8 please?

9 THE COURT: Sure.

02:11:50

10 MR. PETRO: I thought your ruling indicated that
11 count 5 was grouped with --

12 THE COURT: I don't know if I got the numbers right
13 or not. What I concluded was that Probation had grouped the
14 counts correctly. I may have flubbed the numbers.

02:12:03

15 MR. PETRO: Thank you, Judge. Then it would be 23
16 plus 2 would be 25. That's correct.

17 THE COURT: So I'm finding that the criminal history
18 category is I. The offense level is 25. That means that the
19 advisory range under the sentencing guidelines is 57 months on
20 the low end, 71 months on the high end.

02:12:22

21 So I would like to hear first -- first of all, does
22 anybody have any witnesses that you are planning to call?

23 MR. PETRO: I do have two witnesses I would like to
24 proffer testimony.

02:12:32

25 THE COURT: Why don't we do that first.

1 MR. PETRO: Thank you, sir.

2 THE COURT: So let's, you know, let's just think
3 about -- I'm sorry, did I miss something?

02:12:42

4 PROBATION OFFICER: Can I have a minute as well? I'm
5 getting different math than the parties.

02:13:01

6 THE COURT: Okay. Yeah. So if you are going to
7 huddle, at least do it out of my sight, okay, if you can't
8 huddle. So just maybe walk over to the side and stand far
9 enough apart from each other. We can put the white noise
10 machine on. Actually, no, we're not going to put the white
11 machine on. You work for the Court. If you want to talk,
12 talk.

13 (Discussion off the record)

14 THE COURT: So is it still 25?

02:14:50

15 PROBATION OFFICER: Yes.

02:15:02

16 THE COURT: Okay. So 57 to 71 months is the advisory
17 range. So I would like to hear first from the government
18 regarding the appropriate sentence, then from defense counsel.
19 I'll give the government to respond to anything you think you
20 need to and then Mr. Salgado gets to talk last.

21 Go ahead, Mr. Franzblau.

22 MR. FRANZBLAU: Judge, beginning with the nature and
23 circumstances of the offense -- oh, I'm sorry, did you want to
24 do witnesses first?

02:15:21

25 THE COURT: Oh, witness, I forgot about that. Let's

1 do them first. The question is, I think the way to do this,
2 we'll just have them talk from the podium. We've got two
3 podiums, podia. And so maybe if you want to question, if you
4 want to stand so that they can see you and you can see them --
02:15:30 5 are you going to question them or are they just going to talk?

6 MR. PETRO: I'm just going to introduce them for the
7 record, Judge.

8 THE COURT: Fine, okay. Why don't you do that.

9 MR. PETRO: They will proffer a statement and that
02:15:40 10 will be the end of it.

11 THE COURT: That's fine.

12 MR. PETRO: I think they will both be reading a
13 statement.

14 THE COURT: Okay. Who is the first person?

02:15:42 15 MR. PETRO: Petra Salgado.

16 THE COURT: Ms. Salgado, just come right up to this
17 podium here.

18 MS. P. SALGADO: This one?

19 THE COURT: Yes, this one right here.

02:16:00 20 So what is your name?

21 MS. P. SALGADO: Petra Salgado.

22 THE COURT: P-E-T-R-A?

23 MS. P. SALGADO: Yes.

24 THE COURT: All right. Go ahead.

02:16:10 25 MS. P. SALGADO: Okay. I'm David Salgado's sister.

1 I'm two years older than David.

2 This is going to take me a while.

3 THE COURT: I understand. Just take your time.

02:16:36

4 MS. P. SALGADO: While we have a close relationship
5 now, growing up, we fought over everything. We are both
6 strong willed and have hot tempers, which led to some intense
7 arguments.

02:16:50

8 Even though I knew David meant no harm and there was
9 no -- and there was a great person inside. The David Salgado
10 I know is patient and understanding. He is someone who tries
11 to do the right thing, tries to be a better person and tries
12 to help those in need as much as he can.

02:17:06

13 David and I along with our other four siblings grew
14 up under rough circumstances. Our father, who didn't know how
15 to read and write, worked two jobs to feed the family of
16 eight. As much as our father struggled to provide for us, he
17 managed to put us through college.

02:17:24

18 He was a man with a vision and incredibly strong
19 family values. He just wanted to see his children succeed in
20 life. With as much as my father worked to support us, he was
21 not much -- he was not around much. But that is how he showed
22 us the love and he cared for us and what he provided.

02:17:44

23 Our father passed his strong family values to us.
24 And David wholeheartedly loves his wife Kim and their son
25 Mateo. Due to the recent events, David has been at home

1 everyday taking care of Mateo. And their father-son bond has
2 flourished.

02:18:03

3 Mateo means the world to David. And denying him the
4 privilege of seeing and taking care of him everyday I know
5 will leave a void in not only David's heart, but Mateo as
6 well.

02:18:20

7 It is because of this that I'm standing here today
8 pleading for leniency on behalf of my brother. I wanted you
9 to hear firsthand from me, because I feel the prosecution
10 painted a picture of a man that is not the brother I know.

02:18:43

11 Since losing our mother unexpectedly in 2017, we have
12 all suffered heartaches, but David really took it the hardest.
13 He fell into a depression and mourned in silence, which only
14 left him feeling angry and anxious. The loss of our mother
15 took a toll on David.

16 He was left in a vulnerable state, easily influenced,
17 and in a daze that resulted in him going through the motions
18 of life instead of taking an active part in it.

02:19:01

19 It is still hard for me to understand how everything
20 unfolded. But I understand the seriousness of the situation.
21 Through all of this David continues to believe in higher power
22 and lives with a strong sense of remorse. Despite everything,
23 he continues to reach out and help the less fortunate.

02:19:22

24 I thank you for your time and I hope you are able to
25 take my heartfelt words into consideration.

1 THE COURT: Thanks, Ms. Salgado.

2 Any other person, Mr. Petro?

3 MR. PETRO: Kim, do you want to come up.

4 THE COURT: You can just stay where you are,

02:19:34

5 Mr. Petro. You don't have to trudge back and forth.

6 Hi, ma'am. What is your name?

7 MS. ARREOLA: Kimberly Arreola.

8 THE COURT: A-R-R-E-O-L-A?

9 MS. ARREOLA: Yes.

02:19:44

10 THE COURT: All right. Go ahead.

11 MS. ARREOLA: My name is Kimberly Arreola, and I am
12 writing on behalf of my husband, David Salgado.

13 David and I have been together for seven years. And
14 we will celebrate our third wedding anniversary this August.
15 We have one child, a seventeen month old named Mateo Elias.

02:19:59

16 For as long as I have known David, he has been
17 nothing short of genuine, selfless, honest, caring and
18 dependable. He wears his heart on his sleeve a hundred
19 percent of the time all day everyday.

02:20:13

20 David sincerely cares about his family and friends
21 and genuinely enjoys, genuinely enjoys helping others in any
22 capacity.

23 Whenever someone, be it a family member or friend,
24 friend of the family or a friend of a friend needs a helping
25 hand, David is the go-to person. He never hesitates to help.

02:20:29

1 He always makes time to be there for others.

2 I have personally witnessed David's selflessness so
3 many times throughout our time together, it is impossible to
4 share it all in a one-page letter. From keeping water, snacks
02:20:48 5 and clothing handy in his car to pass out to the homeless
6 people when driving around, to saving half a meal or buying an
7 extra meal to give to a local homeless person on the walk back
8 home after a dinner out, to collecting and delivering food,
9 homemade meals, clothing, bedding and toiletries to a group of
02:21:05 10 homeless men in Pilsen, David makes it his job to serve and
11 assist those in need.

12 Growing up in a neighborhood fraught with gangs, guns
13 and drugs, David experienced firsthand the devastating effects
14 of living in such a community and, quite frankly, was
02:21:21 15 fortunate to make it out alive, unlike his older brother
16 Elias, who was killed in Little Village when David was only
17 nine years old.

18 Despite the number of hardships outweighing the
19 number of positive opportunities available to him, David
02:21:34 20 managed to prevail. He graduated from high school, earned a
21 bachelor's degree and passed the police test. His intentions
22 have been nothing short of selfless and genuine and have
23 remained as such.

24 With the arrival of our son Mateo, David's caring
02:21:50 25 selfless nature has shown through exponentially. Watching him

1 take care of Mateo everyday is a constant reminder of just how
2 loving, selfless and dedicated David is. And I could not have
3 asked for a better father for our son, nor a better partner,
4 best friend, husband or soulmate.

02:22:08

5 Judge Kennelly, my husband David Salgado is a good
6 man, and I can only hope that this letter along with all the
7 others written on his behalf offers you some insight into his
8 actual character. And I can only pray you will consider my
9 comments in making a fair sentence for David. Thank you.

02:22:24

10 THE COURT: Thanks, Ms. Arreola.

11 Okay. Mr. Franzblau, you can go ahead.

12 MR. FRANZBLAU: Thank you, Judge.

13 Judge, like last time, I'm going to talk about why
14 the guidelines do not capture the seriousness of this offense.

02:22:40

15 The driving guideline here is for count 2, the civil
16 rights conspiracy. And the guideline, for reasons I lay out
17 in detail in my memo, does not capture the nature of this
18 conspiracy because it does not account for the multiple
19 underlying offenses involved in the civil rights conspiracy.

02:23:00

20 Your Honor has heard evidence of at least eight bad
21 searches that these defendants were involved in. But this
22 guideline punishes them the same as if they had only done it
23 once.

02:23:14

24 But this, of course, was no one-off mistake. This
25 was repeat, continuous conduct by thoroughly corrupt police

1 officers over a period of seven months. The guidelines don't
2 capture it.

02:23:29

3 The guidelines do not capture the joint nature of the
4 conduct and the particularly pernicious dynamic we had in this
5 case between a corrupt supervisor and a corrupt line officer
6 and the way that they used that dynamic to work the system,
7 where Elizondo would sign off on these bogus warrants that
8 Salgado was typing up.

02:23:47

9 So the first line of defense was corrupted. And
10 after that, of course, they didn't have immediate supervision
11 on the ground and when it was going on. So that again made
12 this particularly damaging and difficult to detect within the
13 CPD. The guidelines don't capture it, but the sentence must
14 reflect it.

02:24:02

15 It does not, the guidelines do not capture the
16 extraordinary public and institutional harm caused by these
17 defendants' corruption. Not only were there several
18 individual victims who had their doors kicked down in their
19 homes, invaded wrongfully, but we had the defendants again
20 hijacking the court system and turning it into an
21 instrumentality of their crimes.

02:24:25

22 And as Your Honor said, that's why people don't trust
23 the system. That's why people don't trust law enforcement.
24 They corrupted the whole warrant process, one of our core
25 constitutional protections that makes, gives meaning to the

02:24:44

1 word living in a free society. That was taken away in a
2 meaningful way for an entire area of this city. The
3 guidelines don't reflect it, the punishment must.

02:25:02

4 The guidelines do not reflect the damage caused to
5 Mark Treadwell, the extraordinary corruption involved in
6 falsifying a police report that led to the denial, the false
7 imprisonment of this man for over four months. It takes this
8 case into a categorically different level of seriousness.
9 It's not reflected in any way in the guidelines, it must be in
10 the punishment.

02:25:24

11 Your Honor, it's the government's position that the
12 defendant David Salgado should receive the same punishment as
13 Elizondo. And the reason for that is that, you know, for all
14 intents and purposes, the offense and relevant conduct was
15 mostly the same. From the government's standpoint, they are
16 equally culpable. But each one had a uniquely aggravating
17 factor that the other did not or to the same extent as the
18 other.

02:25:41

02:25:57

19 For Elizondo, it was the perjury that went on at
20 trial. For Salgado, it was the high levels of drug
21 distribution. A police officer out on the street doling out
22 narcotics to drug addled and addicted people, dangling
23 narcotics in front of them in order to manipulate them, it is
24 outrageous, it is arguably far more serious than Elizondo's
25 perjury.

02:26:20

1 You heard evidence at trial that Salgado distributed
2 20 to 25 pills of ecstasy to Antwan Davis. That was
3 corroborated in several ways, including the fact that we
4 showed that that was the one thing that was not photographed
5 during the search were those missing ecstasy pills.

02:26:32

6 You heard that Salgado distributed a bag of marijuana
7 to Gipson. That was corroborated on several different fronts.
8 You heard testimony from two different officers who saw
9 Salgado remove marijuana from the evidence room shortly before
10 these drugs were distributed, packaged in the exact same way
11 that Gipson described it, in a little sandwich baggie.

02:26:52

12 We also showed you GPS information and text message
13 exchanges that show, in fact, Salgado did meet with her that
14 day in the parking lot and gave her not only a bottle of
15 alcohol but a bag of marijuana.

02:27:10

16 And then, Judge, you heard at sentencing from Jacob
17 Hochgraver. And this I think is the most serious conduct.
18 Hochgraver testified that on at least a dozen occasions the
19 defendant gave him heroin. This is a man who is suffering
20 from a disease, a sickness, and he's got a police officer
21 feeding that disease.

02:27:32

22 The police officer on one hand is using him to get
23 drugs from another, from certain parties, and then he's just
24 simply transferring it to someone else. I think Hochgraver
25 described it best when he said it was outrageous. It was like

02:27:46

1 Training Day. It was like nothing he had ever seen before.

2 It was surreal the level of corruption that was going on.

3 Hochgraver's testimony was detailed, it was credible
4 and it was corroborated by independent evidence, namely,

02:28:02

5 Government Exhibit Hochgraver Text Messages, the text messages
6 were recovered from Salgado's phone in which he's

7 communicating with Hochgraver about these text messages. And

8 it's clear from the way that Hochgraver speaks to the

9 defendant that their relationship was exactly as Hochgraver

02:28:20

10 described it.

11 If Hochgraver was willing to lie and get him into a

12 house that he shouldn't have been going into after cutting

13 these corners, Salgado would give up whatever goods he found

14 inside. Hochgraver says on page 3 of this text message

02:28:35

15 exhibit, "I will also give up Dave's, a target's cousin

16 tonight. But I want all his dope and money he has on him."

17 Now, obviously, a person on the street is not going

18 to demand dope and money seized in a house from a police

19 officer, unless he knows he can safely make that demand,

02:28:55

20 unless he knows he's dealing with a thoroughly corrupt police

21 officer. And that, of course, is exactly what we have here.

22 Now, unlike Elizondo, Salgado's uniquely aggravating

23 conduct is not captured in any way in the guidelines.

24 Elizondo got the obstruction bump. Salgado, there is nothing

02:29:19

25 in the guidelines that account for his drug distribution. And

1 I would argue that it is more serious. It's as outrageous and
2 ridiculous as that perjury was. For a police officer to be
3 out on the street distributing narcotics, it is even more
4 serious and it demands an even firmer punishment.

02:29:34

5 Your Honor, I also want to address this idea that
6 Salgado, this sort of Nuremberg defense, if you will, that
7 Salgado was simply following orders. That does -- that just
8 doesn't cut it here. The defendant cannot just blame
9 Elizondo.

02:29:51

10 Salgado had been on the police force for 14 years
11 before he was paired with Elizondo. This was not a situation
12 in which Elizondo was manipulating some green, newbie officer
13 who didn't know the ropes. Salgado was experienced. He had
14 been around the block. He should have been able to say no.

02:30:11

15 In fact, every argument that the defendant makes
16 about all of the time that Salgado spent on the force and all
17 the good things he did before he became corrupt you should
18 also look at as all the reasons he should have been able to
19 say no. His will was not overborne. He wasn't tricked. He
20 wasn't manipulated. He was thoroughly corrupt because he
21 chose to be.

02:30:29

22 And we know that he was corrupt before he was paired
23 with Elizondo. And with all due respect to his family members
24 and the hardship that he's gone through, he was corrupted
25 before the passage of his mother and his parents.

02:30:45

1 Hochgraver was testifying about conduct that took
2 place in 2016, way before this conspiracy. Salgado was having
3 Hochgraver lie on warrants and doling out drugs. The charged
4 conspiracy was just a continuation of a long pattern of
5 criminal conduct that had already took place. He broke bad
6 before he met Elizondo. He can't now turn around and point
7 the finger at him.

02:31:04

8 You know, Judge, my heart goes out to Salgado's
9 family. Clearly, there is a lot of good about him. I wish I
10 had made more of a point of this for defendant Elizondo. He's
11 obviously a good father, a good family member, a good friend.

02:31:27

12 There is rarely a situation, as you know better than
13 I do, where a defendant, someone who has committed a crime, I
14 mean, they're still human beings, there is rarely a situation
15 where they're all bad.

02:31:44

16 And we're not here to say that he's led a bad life,
17 that he's anything other than what has been proven against him
18 at trial, that he committed these acts. But, you know, as
19 citizens, we all owe obligations beyond our immediate family
20 members and our friends.

02:31:57

21 And as police officers, the defendants owed
22 extraordinary obligations and carry extraordinary
23 responsibilities and duties that they owed to the public, and
24 they failed again and again and again. They betrayed that
25 trust.

02:32:17

1 So regardless of how he's lived his life - and I'm
2 not here to argue about that, you should certainly weigh it to
3 the extent it's mitigating - but we are here to punish the
4 extraordinary breach in the public trust that took place in
02:32:32 5 this case.

6 And considering the length, the manner, the
7 continuous nature, and especially the particularly aggravating
8 nature of the drug distribution, of standing out on the street
9 and handing out heroin to drug-addicted people, who need the
02:32:50 10 help of the police, not the complicity, not being an
11 accomplice, he deserves to go away as long as Elizondo.

12 THE COURT: Thanks, Mr. Franzblau.

13 Mr. Petro.

14 MR. PETRO: Judge, I just want to comment on a few
02:33:07 15 things.

16 The 25 pills that allegedly Antwan Davis received,
17 the ecstasy pills, it's corroborated by everything except for
18 the grand jury statement that was prepared by Mr. Franzblau.
19 We all remember about how when he went to the grand jury and
02:33:23 20 he testified under oath, he told Mr. Franzblau, and
21 Mr. Franzblau must have believed him.

22 And then he testified that it was Elizondo that gave
23 him the pills. And then as we move closer to trial, there was
24 this meeting between Mr. Davis and Mr. Franzblau where
02:33:40 25 miraculously that testimony was changed, and now Salgado was

1 the purveyor of these drugs to Antwan Davis.

2 And we remember Antwan Davis' testimony, that when
3 the government asked him a question, he had an answer. He had
4 prepared an answer. But when the defense attorneys asked him
5 a question, he said that he didn't remember or he didn't know.

02:33:58

6 But the only thing that doesn't corroborate that Dave
7 gave these pills to Antwan Davis is the grand jury statement
8 of that gentleman there. And it's outrageous. That's
9 outrageous.

02:34:20

10 Gipson received this marijuana that he talks about.
11 Latonya Gipson testified thoroughly that she smoked whatever
12 was given to her and she didn't get high, that she did not
13 feel the effects that she familiarized with marijuana.

02:34:43

14 So as far as that particular drug, I have no idea.
15 Latonya Gipson, who was an expert on just about every drug
16 that's manufactured, testified that she didn't get high on
17 whatever it was that Dave gave her. So that leaves Dave with
18 giving her cigarettes and alcohol.

02:35:06

19 Mr. Hochgraver never complained. Mr. Hochgraver was
20 a shakedown artist. Mr. Hochgraver, who alleges that Dave
21 gave him all this heroin, never told anyone about this. And
22 we know that he had access. He was also working for the
23 Tinley Park Police Department as a confidential informant and
24 being paid per transaction \$40 per transaction. And then he
25 was also working for the Orland Park Police Department being

02:35:27

1 paid somewhere in that same range.

2 There is absolutely nothing to support Hochgraver's
3 drug-addled brain, nothing. And that's why he wasn't called
4 at trial.

02:35:46

5 The thing that I find most amazing about this case is
6 that all these experts that came on, Sean Martin and all these
7 people from the Chicago Police Department came on, and there
8 was never any ability, all these orders that exist, and the
9 experts that work for the Chicago Police Department said:

02:36:05

10 Look, there is no order related to confidential informants.
11 There is no order that specifically states that confidential
12 informants can't be paid.

13 I asked one of them: Is there any training on this
14 particular aspect?

02:36:20

15 There is no training. The command structure was
16 responsible for ensuring proper practice.

17 There is no database for registered or unregistered
18 informants.

02:36:43

19 Dave was at the mercy of Xavier Elizondo. He was the
20 command structure on these search warrants. Should Dave have
21 been able to say no? Well, the hardest part about law
22 enforcement or being a lawyer is that we can do our jobs, all
23 of us can do our jobs. They're high stress. But when you
24 combined social things, the death of a loved one or the death
25 of a parent, and the difficulty of the job, you know, the job

02:37:05

1 makes these officers sick. That's the truth, Judge. And the
2 only vacation they get is found at the bottom of a bottle of
3 whiskey or vodka or something along those lines.

02:37:29

4 And it's easy to say that anyone should have been
5 able to say no. But when you overwhelm someone with the job,
6 the job of being a police officer in 2018 in Chicago, I think
7 if you tested every police officer in the city of Chicago
8 during that time, Judge, had Post-Traumatic Stress Disorder at
9 some level. And most of them were self-medicating.

02:37:49

10 There is nowhere to go to get away from the job
11 except to the local bar to drown your sorrows with some
12 alcohol.

02:38:09

13 So what do I think in the end? And Dave is going to
14 make an allocution and tell you, Judge. But I would like to
15 say that it has to be sufficient but not greater than
16 necessary, the sentence.

02:38:32

17 And what is that number? And you have to take into
18 account if the sentencing guidelines don't capture something,
19 right now they're saying that Elizondo and Salgado are the
20 same. And that's an absolutely outrageous argument. Elizondo
21 was the command structure. That's worth 20 months.

02:38:58

22 Elizondo also got up and lied and lied and lied and
23 lied. And you can imagine what it's like to go to work every
24 day for someone like that where you have to flip a coin to
25 determine whether or not he's telling the truth or not telling

1 the truth. He certainly had a reputation. He had the people
2 on the street. People lucked up to him. He's a guy going
3 places. He threw around the fact that he was on an FBI task
4 force with his team members. And he threw it around in here
5 in court, too.

02:39:18

6 And you can see what kind of monster this guy is.
7 How would you like him to be your boss? Even when he's put
8 under oath in courtroom, he still can't tell the truth.

9 And to show you what kind of person he is, he
10 actually lied and said that my client's wife used and
11 possessed marijuana. And we provided her -- and she's
12 shocked, dismayed, disheartened that someone would say that
13 about her.

02:39:36

14 His testimony is worth 20 months, Judge. The number
15 is 37 months. That is sufficient but not greater than
16 necessary.

02:39:55

17 And we can look at specific deterrence. Is there
18 specific deterrence here? Yeah. He lost his job. Salgado
19 lost his pension, Judge. He loses the stream of income.
20 Elizondo is going to get his pension for the rest of his life.
21 Salgado doesn't. Is that punishment? It's a grave
22 punishment. He would be four years from retirement at this
23 time, Judge. It's a substantial punishment.

02:40:15

24 But being a guy, being Little X and following rules,
25 you know, it's a shame what's happened here, Judge.

02:40:37

1 I think 37 months -- he's got a young son. You've
2 read the letters. He's hard working. He's gotten awards that
3 he had perfect attendance for year after year after year. But
4 he's a hard-working person. He'll do anything for anyone. He
02:41:00 5 is dedicated to his community. He was happy about being a
6 Chicago police officer because he wanted to help people,
7 Judge.

8 And I think considering all those things, I think 37
9 months is the right number.

02:41:17 10 THE COURT: Did you have any comments on any of the
11 supervised release conditions that were proposed?

12 MR. PETRO: No, Judge. No objection.

13 THE COURT: I forgot to ask Mr. Franzblau that.

14 So, Mr. Franzblau, is there anything you want to
02:41:29 15 reply to what Mr. Petro said? Include anything you want to
16 say about supervised release.

17 MR. FRANZBLAU: No to both, Judge.

18 THE COURT: Okay. Mr. Salgado, you have the right to
19 tell me anything you would like to before I sentence you. If
02:41:40 20 you want to come up here, that's fine. If you want do to it
21 from there, that's fine. It's your choice.

22 THE DEFENDANT: Okay. I'll most likely stay here.

23 THE COURT: Okay. Pull the mic.

24 If you want to come up here, yeah, that's fine.

02:42:00 25 Okay. Go ahead.

1 THE DEFENDANT: Judge Kennelly, first of all, I want
2 to thank you for giving me the opportunity to address the
3 Court.

02:42:08

4 And I would like to start by telling you a little bit
5 about myself. I am the youngest of six children, the only one
6 born here in the United States.

02:42:28

7 I was raised in the south side of Chicago,
8 particularly in the Pilsen, Little Village, two neighborhoods
9 that are still and are infested with gangs, drugs and crime.

10 When I was young, I witnessed my mom being robbed,
11 experienced a burglary in process as we walked into our
12 apartment as the burglar was running out.

02:42:50

13 While living in Little Village, my brother was killed
14 as a result of gang violence. And my sister was sexually
15 abused during the commission of yet another home
16 invasion/burglary.

17 I was pressured in the worst times to joined gangs,
18 but I would always refuse, knowing that this would lead to
19 being harassed and getting beat up, as I typically did.

02:43:07

20 I avoided the violence of the neighborhoods by
21 joining after-school programs, programs like the Boys and
22 Girls Club of Chicago, the Chicago Police Explorers Program.
23 Participating in the Chicago Police Explorers Program was one
24 of the main experiences that interested me in law enforcement.

02:43:29

25 After completing high school, I attended Richard J.

1 Daley College, where I was earned -- where I earned an
2 associate's degree and continued my education at Saint Xavier
3 University, earning a bachelor's degree.

02:43:46

4 I applied for and was accepted into the Chicago
5 Police Academy in August 25th, 2003. I entered the Police
6 Academy, where I was taught about rank and file, law and
7 numerous use of force tactics.

02:44:06

8 After graduating from the academy, I was assigned to
9 the 10th District Police Station, which is an area in which I
10 grew up. I was very happy with this assignment as it allowed
11 me to serve my childhood community.

12 I worked hard for 14-plus years, never taking a day
13 off. I received numerous awards for my work ethic from
14 various supervisors under which I worked.

02:44:22

15 Any time I had the opportunity I would volunteer to
16 speak to youth programs and elementary schools about the
17 negative effects of gangs and drugs.

02:44:43

18 Whether on duty or off duty, I would also tend to the
19 homeless community, which I still do now, by taking them food,
20 clothes or giving an opportunity to call their loved ones
21 using my personal cellphone. These homeless people are
22 immigrants from different parts of Latin America.

02:45:01

23 After my mother passed away in March of 2017, I
24 became very depressed. I began to drink heavily, almost every
25 day to numb my pain and ease, ease the hurt I was feeling.

1 Not even my wife knew that I was doing this because I hid it
2 so well.

02:45:23

3 At this time I also lost the passion of going to
4 work. This happened around the same time Sergeant Xavier
5 Elizondo took over as my supervisor.

6 Like every supervisor I had worked for, I respected
7 and trusted him. I, like all police officers that come out of
8 the academy, was taught to follow orders from your supervisor
9 because they are there to protect you, not hurt you.

02:45:37

10 After working on his team for a short amount of time,
11 I had confidence in Sergeant Elizondo's leadership as he had a
12 broad knowledge base regarding gangs and gang structure and
13 extensive experience working for specialized units and task
14 force created by the Chicago Police Department.

02:46:01

15 During the time Sergeant Elizondo was my supervisor,
16 he pushed me and other team members to prepare search warrants
17 using information he received from his personal informants,
18 informants that he would only handle in an attempt to gain
19 high numbers of activity to appease the higher rank and file.

02:46:19

20 Always believing information provided to us by our
21 supervisor was true and accurate, my team members and I would
22 prepare warrants as ordered. Due to my strong work ethic, I
23 believed that the rank and file -- I believed in the rank and
24 file.

02:46:34

25 I would follow orders, prepare search warrants as

1 instructed, which made me an easy target for taunting by
2 others members on my team. Just like with previous teams and
3 supervisors, my team dubbed me Little X. With previous
4 supervisors I had been called Little Ferrar, Little J and et
5 cetera. Whatever supervisor I was working for, I would get
6 picked on, and they would use the term "little" with the
7 supervisor's name.

8 Standing here today I feel ashamed and embarrassed,
9 disgraced, ashamed that I allowed myself to just throw the
10 motions at work and blindly following orders from my
11 supervisor, embarrassed that I brought the shame, heartache to
12 my family, especially after all the loss we have recently
13 suffered, the passing of my father in February of 2018, when
14 all this happened; disgraced that after all the years and
15 years of dedication I sacrificed, I gave the city to serve and
16 protect, I have not only lost my identity, but I will lose my
17 job and I will lose my pension as well.

18 Through all this hardship my family and I have
19 endured in the few, in the last few years, my wife and I have
20 been blessed with the arrival of our son Mateo Elias.

21 I've become a new father for the first time. And
22 more recently -- I'm sorry, Your Honor. And more recently,
23 still I found the comfort in the little joys of life, Mateo's
24 laugh, the pitter patter of his feet as he runs through the
25 house, and hearing his small voice call from da da.

1 It is because of this, Your Honor, that I humbly ask
2 for leniency of the Court, from the Court. Becoming a husband
3 and a new father has been challenging in so many ways. And I
4 can only pray, I can only pray you grant me the privilege of
02:48:45 5 being present in my son's life and allow me to be there to
6 raise him alongside my wife.

7 I appreciate your thoughtful consideration while
8 making your decision, Your Honor. Thank you very much.

9 THE COURT: Thank you, Mr. Salgado.

02:49:00 10 Okay. So first of all, I need to start with the
11 crimes here, which were quite severe. They involved
12 corrupting the court system, corrupting public officers,
13 violating the law, violating the constitution, stealing from
14 people, in some instances distributing drugs, passing out
02:49:37 15 money to people to lie. You really can't minimize how
16 extraordinarily serious the crimes were that were committed
17 here. They're very serious offenses that merit significant
18 sanction.

19 It was Mr. Salgado's sister that made the comment,
02:50:08 20 she thought that at the trial, I wrote down her words, painted
21 a picture of a man that was different from the person I know.

22 It's probably right. I mean, I can't disagree with
23 that at all. I mean, you know, at trials you don't get a
24 picture painted of the full person. That's not what a trial
02:50:31 25 is for. A trial is an exercise to determine whether there is

1 evidence that proves a person's guilt of a crime.

2 And the evidence that gets presented by the
3 prosecution to prove that, it isn't evidence about the whole
4 person, it's about what they did and what they intended and so
02:50:46 5 on. And so that's why the trial is a picture of somebody
6 different from, you know, family members or friends know.

7 It's at sentencing that you get a more complete
8 picture. And that's why, you know, sentencing is kind of a
9 wide-open proceeding where pretty much anything can be
02:51:08 10 submitted.

11 And so I'm not going to say and I wouldn't hesitate
12 to say about pretty much any defendant, maybe with some
13 exceptions, that they're evil people. And I certainly don't
14 think Mr. Salgado is an evil person or anything close to it.
02:51:23 15 I think he's a good person. That's shown by the letters that
16 were submitted. That's shown by his actions. That's shown by
17 the commendations he got. That's shown by his diligent
18 service.

19 And, you know, taking what Mr. Salgado just said a
02:51:42 20 second ago and what his family members said, you know, he
21 became a police officer for good and honorable reasons it
22 seems like to, you know, protect the community and help other
23 people and did quite a bit of that. I have no doubt about
24 that.

02:51:59 25 At some point though something else started

1 happening. And I can't pinpoint exactly where it happened.
2 And at some point, Mr. Salgado, this other side emerged. He
3 became maybe slowly but surely but ultimately maybe while he
4 was doing good things and also became corrupt, and there is
5 just no question about that.

02:52:26

6 You know, a second ago Mr. Salgado I think was
7 basically trying to tell me, "I believed everything that the
8 informants were saying. I believed everything Mr. Elizondo
9 told me." It's just not a believable proposition.

02:52:42

10 I mean, the most charitable way I can characterize it
11 is he decided to look the other way and go along. I think
12 that's overly charitable. I think it's way worse than that.
13 But the proposition that Mr. Salgado is just an unwitting
14 participant in somebody else's crime is just not a viable
15 proposition by any stretch of anybody's legitimate
16 imagination.

02:53:06

17 And this isn't a case about not complying with
18 Chicago Police Department rules about, you know, paying
19 informants or detailing it or writing it up and things like
20 that. It's a case about causing other people to lie for
21 personal gain and corrupting the system for personal gain.

02:53:24

22 So, you know, as a person who is called upon to
23 impose a sentence, I'm faced with the same question that I
24 have to deal with in many, many cases is: Why does a
25 basically good person do bad things?

02:53:44

1 And, you know, there is no way for me to provide an
2 answer to that. I can, I can maybe, you know, make educated
3 guesses at it, semi-educated guesses.

02:54:06

4 I mean, I think that there is a decent chance that
5 what was going on here is that, you know, Mr. Salgado along
6 with Mr. Elizondo figured, well, you know, if we're taking
7 drugs and money from drug dealers, who cares? They're bad
8 people. They don't matter.

02:54:25

9 And if we, if we, you know, have to give a little bit
10 of weed or some ecstasy on the side to somebody, it's okay,
11 they don't matter either. You know, it's something they would
12 be doing anyway.

02:54:42

13 I mean, at a certain level it involves a level of
14 dehumanization of the people that you are responsible for in
15 the final analysis.

16 I don't think that Mr. -- I think the comment was
17 made, maybe by Mr. Petro, that Mr. Salgado was at the mercy of
18 Mr. Elizondo. I just can't buy that. The evidence doesn't
19 show it and I can't buy it.

02:55:05

20 He could have said "No." He could have said "I'm
21 tired of being in this unit." He could have asked to be
22 reassigned. Nobody put a gun to his head or anything close to
23 it and forced him to work with this guy that he says was
24 leading him down this path.

02:55:19

25 So he wasn't at the mercy of anyone. Mr. Salgado

1 made choices, and now this is where he finds himself. And
2 it's a sad situation any time that you have, you know, a
3 basically good person that's a good family person, you know,
4 grew up with a good family and has a good family, that they're
02:55:37 5 in this position that they now have to pay a price for
6 something very bad that they did. But this is where we are.

7 The crime is severe because it's part of many things
8 that corrode the trust of the public. People look at things
9 like this and they say: These people, I guess they just don't
02:56:06 10 follow the rules. They don't have to follow rules. They
11 don't think they have to follow the rules.

12 And ultimately when that gets believed on a
13 widespread basis, there is no trust left. And without trust,
14 the system doesn't work. The system just doesn't work. We're
02:56:19 15 seeing that.

16 I'm not saying Mr. Salgado is directly responsible
17 for any of it, but, you know, you see what happens when people
18 don't trust the system.

19 And Mr. Salgado was one of many, many aspects of
02:56:34 20 that, but he was certainly one of them. And it was a matter
21 of choice, not having the wool pulled over his eyes or being
22 forced or anything like that.

23 So to deal with some of the arguments that were made,
24 I think as I said in Mr. Elizondo's sentencing, I do think the
02:56:56 25 government has a viable point when they say that the

1 sentencing guidelines range does not completely capture the
2 severity of what happened here. Mr. Franzblau explained that
3 quite well, and I can't really improve on it. There are
4 things on the other side. There is the positive aspects of
02:57:16 5 Mr. Salgado's life and his career that I've mentioned.

6 There is also the other consequences of this. As
7 Mr. Petro has pointed out and family members, he's lost his
8 job. He's lost his pension. You know, it has a serious
9 effect on his family. You know, police officers in prison,
02:57:39 10 it's not a great thing.

11 I think as I did in Mr. Elizondo's case, that those
12 factors essentially balance each other out. On the one hand,
13 the guidelines not completely capturing everything, and on the
14 other hand the other factors that I just noted.

02:57:56 15 So let me start with the supervised release
16 conditions. First of all, the period of supervised release is
17 going to be one year. It's going to include all of the
18 conditions that were recommended by Probation, which there
19 haven't been any objected to.

02:58:08 20 Mr. Petro, as you know, I have to read them out loud,
21 unless Mr. Elizondo -- or Mr. Salgado, excuse me --
22 Mr. Salgado tells me that I don't have to read them out loud.
23 Do I need to read the supervised release conditions that were
24 in the presentence report out loud?

02:58:23 25 (Discussion off the record with defendant)

1 MR. PETRO: No, Judge.

2 THE COURT: All right. So those will be the
3 conditions. The restitution I believe is \$4,200.

4 MR. FRANZBLAU: Correct.

02:58:31

5 THE COURT: And it's payable to -- well, we'll get
6 that figured out.

7 The special assessment is -- I've got to look.

8 MR. FRANZBLAU: \$500.

02:58:45

9 THE COURT: \$500, there is 100 each on five counts,
10 total of 500.

11 I'm waiving interest on the restitution.

12 I'm not imposing or I'm waiving cost of imprisonment
13 and cost of incarceration.

02:59:03

14 So in terms of the sentence, I don't -- I get the
15 arguments that are made for -- and so first of all, let me
16 first say that the government argued for a significantly
17 higher sentence for Mr. Elizondo than I imposed and would have
18 been arguing for that same sentence as I understand it from
19 the memorandum for Mr. Salgado too and now is arguing for the
20 same sentence that I actually imposed on Mr. Elizondo, which
21 was 87 months, so 7 years and 3 months.

02:59:20

22 I understand the government's argument about the sort
23 of the unique things that it's contended that Mr. Salgado did.
24 On the other hand, those are things that Mr. Elizondo was also
25 accountable for.

02:59:40

1 Mr. Salgado is not accountable for the one very
2 significant thing that Mr. Elizondo did, which was lie on the
3 witness stand. He wasn't accountable for that at all. He
4 didn't have anything to do with it. So I don't think they
5 merit the same sentence.

02:59:52

6 I am going to impose, as I did with Mr. Elizondo, a
7 sentence at the high end of the guideline range, because I
8 think that adequately captures the conduct and the mitigating
9 factors.

10 So the sentence will be, so on counts 1 and 5, it's
11 60 months, because that's the maximum. On counts 2, 3 and 7,
12 it's 71 months, which is the high end of the guideline range.
13 And those are all concurrent. So the total sentence is 71
14 months. As I said, the term of supervised release is a year
15 on each of the counts to run concurrently.

03:00:26

16 Before I advise Mr. Salgado his appellate rights, are
17 there any other issues that you'd like to bring up or anything
18 you think I overlooked, Mr. Petro?

19 MR. PETRO: Judge, I would just ask for the
20 Residential Drug Abuse Program.

03:00:38

21 THE COURT: Yes, that's clearly merited. And I am
22 going to recommend given what is disclosed in the presentence
23 report that Mr. Salgado be designated to an institution where
24 he can participate in the Residential Drug and Alcohol Abuse
25 Program at an appropriate point during his term of

03:00:51

1 incarceration.

2 MR. PETRO: He would like to serve his sentence at
3 Oxford in Wisconsin, please.

03:01:04

4 THE COURT: Recommend FPC Oxford because it's close
5 to Chicago, and it's important for Mr. Salgado to remain in
6 contact with his family and vice versa.

7 Anything else you can think of?

8 And I'm going to set a surrender date. If you want
9 to make the argument, go ahead.

03:01:15

10 MR. FRANZBLAU: Judge, just a technical point on
11 restitution. He's jointly and severally liable.

12 THE COURT: Jointly and severally liable with
13 Mr. Elizondo. Thanks for reminding me of that. That's true.

03:01:26

14 Okay. So Mr. Salgado, you have the right to appeal.
15 To do that, you would have to file a notice of appeal with the
16 Clerk of this Court. You would have to do that within 14 days
17 after the judgment gets entered. If you want to appeal, you
18 should tell Mr. Petro or Ms. Buican. They know what to do.

03:01:40

19 If you couldn't afford the filing fee for an appeal,
20 the cost of court hearing transcripts, the trial transcript,
21 or the cost of an attorney and could show that, that would be
22 provided without any cost to you.

23 Do you understand all that?

24 THE DEFENDANT: Yes, sir.

03:01:47

25 THE COURT: Okay. So I'm going to set a surrender

1 date basically like about four months out. I'm going to say,
2 let's say December, it's a little bit more than four months,
3 but December 2nd at whatever institution is designated by the
4 Bureau of Prisons.

03:02:05

5 MR. FRANZBLAU: Judge, just to make a record.

6 THE COURT: Yes.

7 MR. FRANZBLAU: Normally I would ask you to take him
8 into custody now. But since you did not for Elizondo --

03:02:15

9 THE COURT: I would deny it for the same reason if
10 you asked, yes.

11 MR. FRANZBLAU: -- I wish he be treated equally.
12 Thanks.

13 THE COURT: Okay. We're in recess.

14 (Proceedings concluded)

15 C E R T I F I C A T E

16 I, Jennifer S. Costales, do hereby certify that the
17 foregoing is a complete, true, and accurate transcript of the
18 proceedings had in the above-entitled case before the
19 Honorable MATTHEW F. KENNELLY, one of the judges of said
20 Court, at Chicago, Illinois, on July 15, 2020.

21

22 /s/ Jennifer Costales, CRR, RMR

23 Official Court Reporter

24 United States District Court

25 Northern District of Illinois