

FILED



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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**

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9  
10 UNITED STATES OF AMERICA

11 Plaintiff,

12 vs

13 UVALDO SALAZAR-LOPEZ

14 Defendant.

2:09-cr-0063-PMP-RJJ

**PLEA MEMORANDUM**

15 The United States, by and through Gregory A. Brower, United States Attorney, and  
16 Nicholas D. Dickinson, Assistant United States Attorney, UVALDO SALAZAR-LOPEZ  
17 ("Defendant") and Defendant's attorney, Brenda Wexler assistant Federal Public Defender, submit  
18 this plea memorandum under Federal Rules of Criminal Procedure 11(c)(1)(A) and (B).

19 I.

20 **PLEA AGREEMENT**

21 The United States and Defendant have reached the following plea agreement, which  
22 is not binding on the Court:

23 A. **The Plea**

24 Defendant will plead guilty to one-count Information charging him with Unlawful  
25 Possession of a Firearm in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).  
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1 **B. Additional Charges**

2 The United States Attorney's Office for the District of Nevada ("United States") will  
3 bring no additional charge or charges against Defendant arising out of the investigation in the District  
4 of Nevada that culminated in this Plea Memorandum.

5 **C. Sentencing Guideline Calculations**

6 Defendant understands that the Court is required to consider United States Sentencing  
7 Guidelines ("U.S.S.G." or "Sentencing Guidelines") among other factors in determining Defendant's  
8 sentence. Defendant understands that the Sentencing Guidelines are advisory, and that after  
9 considering the Sentencing Guidelines, the Court may be free to exercise its discretion to impose any  
10 reasonable sentence up to the maximum set by statute for the crimes of conviction.

11 1. Defendant and the United States agree that the following sentencing guideline  
12 factors apply:

13 2. The base offense level is 14, because Defendant was a prohibited person.  
14 [U.S.S.G. § 2K2.1(a)(4)(A)].

15 3. The offense involved four firearms, resulting in a two-level increase. [U.S.S.G.  
16 § 2K2.1(b)(1)(A)].

17 4. The Defendant was a minimal participant in the criminal activity, resulting in  
18 a four-level decrease. [U.S.S.G. §3B1.2(a)].

19 5. Before any reduction for acceptance of responsibility, the adjusted base offense  
20 level calculated by the parties is 12.

21 6. The United States will recommend that Defendant receive a two-level  
22 adjustment for acceptance of responsibility unless Defendant (a) fails to make a complete factual basis  
23 for the guilty plea at the time it is entered; (b) is untruthful with the Court or probation officers; (c)  
24 denies involvement in the offense or provides conflicting statements regarding Defendant's  
25 involvement; (d) attempts to withdraw the guilty plea; (e) engages in criminal conduct; (f) fails to  
26 appear in Court; or (g) violates the conditions of Defendant's pretrial release conditions.

1 6. If Defendant's offense level, before any decrease for acceptance of  
2 responsibility, is 16 or higher, under U.S.S.G. §3E1.1(b), the United States will, in its sole discretion,  
3 make a motion for an additional one-level adjustment for acceptance of responsibility before  
4 sentencing if Defendant timely notifies the United States of Defendant's intention to plead guilty,  
5 thereby permitting the United States to avoid preparing for trial and allowing for the efficient  
6 allocation of resources.

7 7. Defendant's Criminal History Category will be determined by the Court under  
8 chapter Four of the U.S.S.G.

9 8. The parties understand that the stipulated Guideline calculations are based  
10 on information now known and could change upon investigation by the United States Probation  
11 Office. It is possible that factors unknown or unforeseen by the parties to the plea agreement may  
12 be considered in determining the offense level, specific offense characteristics, and other related  
13 factors. In that event, Defendant will not withdraw Defendant's plea of guilty.

14 **D. Other Sentencing Matters**

15 1. The parties stipulate that no other enhancements or reductions, except those  
16 described herein, should apply in calculating the total offense level.

17 2. The parties agree that any sentence imposed within the applicable Guideline  
18 sentencing range as determined by the Court will be a "reasonable" sentence under 18 U.S.C. §  
19 3553(a). Defendant agrees not to seek a downward departure or a downward variance from the  
20 applicable sentencing guideline range as determined by the Court.

21 3. The United States will recommend that Defendant be sentenced to the low end of  
22 the advisory guideline range, as determined by the Court.

23 4. Defendant agrees that the Court may consider any counts dismissed under this  
24 agreement, along with all other relevant conduct whether charged or uncharged, in determining the  
25 applicable sentencing guidelines range, the propriety and extent of any departure from that range,  
26

1 and the determination of the sentence to be imposed after consideration of the sentencing  
2 guidelines and all other relevant factors.

3 5. The stipulations in this agreement do not bind either the United States Probation  
4 Office or the Court. Both Defendant and the United States are free to: (a) supplement the facts by  
5 supplying relevant information to the United States Probation Office and the Court, and (b)  
6 correct any and all factual misstatements relating to the calculation of the sentence.

7 **E. Fines and Special Assessment**

8 1. Defendant agrees that the Court may impose a fine due and payable immediately  
9 upon sentencing.

10 2. Defendant will pay the special assessment of \$100 per count of conviction at the  
11 time of sentencing.

12 **F. Waiver of Appeal**

13 In exchange for the concessions made by the United States in this plea agreement,  
14 Defendant knowingly and expressly waives the right to appeal any sentence that is imposed within  
15 or below the applicable Sentencing Guideline range as determined by the Court, further waives the  
16 right to appeal the manner in which that sentence was determined on the grounds set forth in Title  
17 18, United States Code, Section 3742, and further waives the right to appeal any other aspect of  
18 the conviction or sentence, including any order of restitution. Defendant reserves only the right to  
19 appeal any portion of the sentence that is an upward departure or higher than the sentencing  
20 guideline range determined by the Court.

21 **G. Additional Promises, Agreements, and Conditions**

22 1. In exchange for the United States entering into this agreement, Defendant agrees  
23 that (a) the facts set forth in Section IV of this Plea Agreement shall be admissible against  
24 Defendant under Fed. R. Evidence. 801(d)(2)(A) in the following circumstances: (1) for any  
25 purpose at sentencing; and (2) in any subsequent proceeding, including a trial in the event  
26 Defendant does not plead guilty or withdraws Defendant's guilty plea, to impeach or rebut any

1 evidence, argument or representation offered by or on Defendant's behalf; and (b) Defendant  
2 expressly waives any and all rights under Fed. R. Criminal P. 11(f) and Fed. R. Evid. 410 with  
3 regard to the facts set forth in Section IV of the Plea Agreement to the extent set forth above.

4 2. The parties agree that no promises, agreements, and conditions have been entered  
5 into other than those set forth in this plea memorandum, and not will be entered into unless in  
6 writing and signed by all parties.

7 **H. Limitations**

8 This Plea Agreement is limited to the United States Attorney's Office for the District of  
9 Nevada and cannot bind any other federal, state or local prosecuting, administrative, or regulatory  
10 authority. However, this Plea Memorandum does not prohibit the United States through any  
11 agency thereof, the United States Attorney's office for the District of Nevada, or any third party  
12 from initiating or prosecuting any civil proceeding directly or indirectly involving Defendant,  
13 including but not limited to, proceedings under the False Claims Act relating to potential civil  
14 monetary liability or by the Internal Revenue Service relating to potential tax liability.

15 **II.**

16 **PENALTY**

17 1. The maximum penalty for violating Title 18, United States Code, Section 922(g)(5)  
18 is not more than 10 years imprisonment, a fine of not more than two-hundred fifty thousand dollars  
19 (\$250,000), or both.

20 2. Defendant is subject to supervised release for a term not exceeding five (5) years.  
21 Supervised release is a period of time following imprisonment during which Defendant will be  
22 subject to various restrictions and requirements. Defendant understands that if Defendant violates  
23 one or more of the conditions of any supervised release imposed, Defendant may be returned to  
24 prison for all or part of the term of supervised release, which could result in Defendant serving a  
25 total term of imprisonment greater than the statutory maximum stated above.

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1           3.       Defendant must pay a special assessment of one-hundred (\$100) for each count of  
2 conviction.

3           4.       Defendant is required to pay for the costs of imprisonment, probation and  
4 supervised release, unless Defendant establishes that Defendant does not have the ability to pay  
5 such costs, in which case the Court may impose an alternative sanction such as community service.

6   **III.**  
7   **ELEMENTS**

8           To convict the Defendant of Unlawful Possession of a Firearm, Title 18, United States  
9 Code, Section 922(g)(5), the United States must prove each of the following elements beyond a  
10 reasonable doubt:

- 11           1.       Defendant knowingly possessed the firearms described in Count One of the  
                  Information;  
12           2.       The firearms had been shipped or transported from one state to another; and  
13           3.       At the time Defendant possessed the firearms, he was an alien who was illegally or  
14 unlawfully in the United States.

15   **IV.**  
16   **FACTS THAT SUPPORT GUILTY PLEA**

- 17           1.       Defendant is pleading guilty because Defendant is guilty of the charged offense.  
18           2.       In pleading to the offense, Defendant acknowledges that if Defendant elected to go  
19 to trial instead of entering this plea, the United States could prove facts sufficient to establish  
20 Defendant's guilt beyond a reasonable doubt.

21           3.       Defendant specifically admits and declares under penalty of perjury that all of the  
22 facts set forth below are true and correct:

- 23           4.       On December 23, 2008, Defendant knowingly possessed the following four  
24 firearms:  
25                    a DPMS, Model A-15, .223 caliber rifles, serial number FH40299;  
26                    a DPMS, Model A-15, .223 caliber rifles, serial number FH36302;

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- a DPMS, Model A-15, .223 caliber rifles, serial number FH40287; and
- a DPMS, Model LR-308, .308 caliber rifle, serial number 27782.

5. At the time Defendant possessed the firearms, Defendant was an alien who was illegally or unlawfully in the United States.

6. Defendant admits that the government could prove beyond a reasonable doubt that the three firearms described above were not manufactured in the State of Nevada. Thus, the firearm had traveled in interstate commerce.

V.  
**ACKNOWLEDGMENT**

1. Defendant, acknowledges by Defendant's signature below that Defendant has read this Memorandum of Plea Agreement, that Defendant understands the terms and conditions, and the factual basis set forth herein, that Defendant has discussed these matters with Defendant's attorney, and that the matters set forth in this memorandum, including the facts set forth in Part IV above are true and correct.

2. Defendant acknowledges that Defendant has been advised, and understands, that by entering a plea of guilty Defendant is waiving, that is, giving up, certain rights guaranteed to Defendant by law and by the Constitution of the United States. Specifically, Defendant is giving up:

- a. The right to be indicted by a federal grand jury;
- b. The right to proceed to trial by jury on the original charges, or to a trial by a judge if Defendant and the United States both agree;
- c. The right to confront the witnesses against Defendant at such a trial, and to cross-examine them;

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d. The right to remain silent at such trial, with such silence not to be used against Defendant in any way;

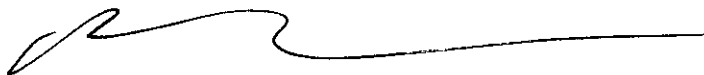
e. The right, should Defendant so choose, to testify in Defendant's own behalf at such a trial;

f. The right to compel witnesses to appear at such a trial, and to testify in Defendant's behalf; and

g. The right to have the assistance of an attorney at all stages of such proceedings.

3. Defendant, Defendant's attorney, and the attorney for the United States acknowledge that this Plea Memorandum contains the entire agreement negotiated and agreed to by and between the parties, and that no other promise has been made or implied by either Defendant, Defendant's attorney, or the attorney for the United States.

GREGORY A. BROWER  
United States Attorney



NICHOLAS D. DICKINSON  
Assistant United States Attorney

*2/27/09*

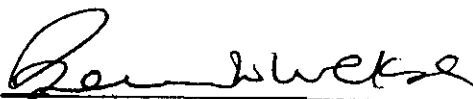
DATED

*Uvaldo Salazar Lopez*

UVALDO SALAZAR-LOPEZ  
Defendant

*02/19/09*

DATED



BRENDA WEXLER  
Assistant Federal Public Defender  
Counsel for Defendant

*2/19/09*

DATED