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United States District Court

Southern District of California

UNITED STATES OF AMERICA

Plaintiff,

v.

OSCAR DANILO BLANDON,

Defendant

Case No. 92-0551-3

GOVERNMENT'S MOTION FOR

DOWNWARD DEPARTURE FROM

SENTENCING GUIDELINES PURSUANT

TO GUIDELINE 5X1.1 AND

REQUEST TO SEAL

COMES NOW the United States of America, through its

attorney, Alan D. Bersin, United States Attorney, Southern

District of California, by L. J. O'Neale, Assistant United States

Attorney, and pursuant to Sentencing Guideline 5X1.1,

respectfully moves the court to depart downward from the

Sentencing Guidelines, based upon the defendant's substantial

assistance to the government, as set forth below. This motion is

based upon Sentencing Guideline 5X1.1, the attached memorandum

of points and authorities, the attached affidavit of L. J.

O'Neale, and the complete record of this case.

Because of the sensitive nature of the information contained herein, the United States also requests that the court order this motion to be kept as part of the record of this case, but be sealed until after order of the court.

DATED this 16th day of December, 1993.

Respectfully submitted,

ALAN D. BERSIN

United States Attorney

Southern District of California

signed by

L.J. O'NEALE

Assistant United States Attorney

MEMORANDUM OF POINTS AND AUTHORITIES

A court must ordinarily sentence a person convicted of a misdemeanor (other than a petty offense) or a felony within the range specified by the Sentencing Guidelines. Title 18, United States Code, 3553 (a) (4) and (b).

Sentencing Guideline 5X1.1 states:

Substantial Assistance to Authorities (Policy Statement)

Upon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, the court may depart from the guidelines.

(a) The appropriate reduction shall be determined by the court for reasons stated that may include, but are not limited to, consideration of the following:

(1) the court's evaluation of the significance and

usefulness of the defendant's assistance, taking
into consideration the government's evaluation of
the assistance rendered;

(2) the truthfulness, completeness, and
reliability of any information or testimony
provided by the defendant;

(3) the nature and extent of the defendant's
assistance;

(4) any injury suffered, or any danger or risk of
injury to the defendant or his family resulting
from such assistance;

(5) the timeliness of the defendant's assistance.

For the reasons stated in the attached Affidavit of L.J.

O'Neale, the United States respectfully prays that the court
depart below the guideline range and sentence the defendant to a
term less than that specified of the sentencing guidelines.

DATED this 16th day of December, 1993.

Respectfully submitted,

ALAN D. BERSIN

United States Attorney

Southern District of California

signed by

L.J. O'NEALE

Assistant United States Attorney

AFFIDAVIT OF L.J. O'NEALE

County of San Diego

State of California

L. J. O'Neale being first duly sworn, deposes and says as
follows:

1. I am an Assistant United States Attorney of the Southern District of California,

2. On December 16, 1993, Special Agent Charles E. Jones, Drug Enforcement Administration , provided me with a three-page memorandum specifying the particular investigation in which. Mr. Bandon has assisted the United States, and the nature and extent of his assistance. A copy of this memorandum is attached hereto as Exhibit 'A,' because Mr. Bandon's attorney has indicated that he does not need to know the details of Mr. Bandon's cooperation and assistance, the copy of this motion delivered to him does not contained this Exhibit.

3. I have spoken to Agent Jones on at least a weekly basis concerning Mr. Bandon's cooperation and assistance, and Agent Jones has indicated that Mr. Bandon's assistance was extraordinarily valuable in major DEA investigations of Class I drug traffickers. It should be noted that Mr. Bandon has provided information leading to the indictment of a corrupt United States government official, and has provided essential information in the investigation of a murder stemming from drug trafficking rivalries. (It should also be pointed out that this murder was not within any organization of which Mr. Bandon was a member, nor was he involved in any way with the murder.)

4. Based upon the information given to me by Agent Jones, I request the the court depart downward to a Level 23 (43-57 months), and sentence Mr. Bandon to a term of 48 months' imprisonment.

5. The United States does not quarrel with the computation of United States Probation, and does not seek to understate the nature and severity of Mr. Bandon's criminal conduct. In my opinion, however, the severity of Mr. Bandon's offense is mitigated by the remarkable nature and value of his cooperation, as set forth in the

memorandum of Agent Jones. While the departure requested herein is a substantial one, in my opinion it is well-deserved.

6. Because I believe if the information in this motion was public knowledge, the investigations in which Mr. Bandon has cooperated might be compromised, and his life and safety would be at risk, I request this court to issue its order sealing this motion.

signed

L. J. O'Neale