

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-80015-CR-MARRA

1	UNITED STATES OF AMERICA,)	
2)	
3	GOVERNMENT,)	
4)	
5	-v-)	
6)	
7	ALFREDO RODRIGUEZ,)	
8)	
9	DEFENDANT.)	West Palm Beach, Florida
)	June 18, 2010
)	

TRANSCRIPT OF SENTENCING PROCEEDINGS
BEFORE THE HONORABLE KENNETH A. MARRA
UNITED STATES DISTRICT JUDGE

Appearances:

14	FOR THE GOVERNMENT	Ann Marie C. Villafana, AUSA
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16		7th Floor,
17		Fort Lauderdale, FL 33394

18	FOR THE DEFENDANT	Dave Lee Brannon, AFPD
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20		Suite 500,
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25		

1 (Call to the order of the Court.)

2 THE COURT: Good morning, please be seated.

3 We're here in the case of the United States of
4 America versus Alfredo Rodriguez, Case
5 Number 10-80015-CR-MARRA.

6 May I have counsel state their appearances, please.

7 MS. VILLAFANA: Good morning, Your Honor. Marie
8 Villafana, for the United States. With me is special agent
9 Christina Prior (phonetic), from the FBI.

10 THE COURT: Good morning.

11 MR. BRANNON: Good morning, Judge. Dave Lee Brannon,
12 Assistant Federal Public Defender, on behalf of Alfredo
13 Rodriguez, who's present in court. We also have some members
14 of his family present in court that I'll mention later.

15 THE COURT: All right. Good morning.

16 We are here for sentencing. Have both sides reviewed
17 the presentence investigation report?

18 MS. VILLAFANA: Yes, Your Honor.

19 MR. BRANNON: Yes, sir.

20 THE COURT: Has the Defendant reviewed it with
21 counsel?

22 MR. BRANNON: Yes, sir.

23 THE COURT: Okay. And all the objections were
24 resolved; is that correct?

25 MR. BRANNON: Yes, sir.

1 THE COURT: So I will adopt the findings of the
2 presentence report as the findings of the Court.

3 Ms. Villafana, what's the Government's position
4 regarding sentencing?

5 MS. VILLAFANA: Your Honor, we would ask that the
6 Court impose a sentence at the low end of the advisory
7 guideline range. I think in accordance with the 3553(a)
8 factors that is an appropriate sentence.

9 In particular, the Court is required to consider the
10 type of the offense, the facts and circumstances of the
11 offense. In this case, the Defendant obstructed a very
12 significant investigation into the exploitation of young women
13 here in Palm Beach County, and he knew about the significance
14 of the evidence that he had, and he made a decision that
15 although he knew he was required to turn it over, he wanted to
16 get money for that document rather than turn it over to law
17 enforcement or to turn it over in response to civil subpoenas.

18 The Court is required to consider how to promote
19 respect for the law and how to deter others. Since you are
20 involved in the civil litigation, I know that you are well
21 aware of the facts of the case, and obstruction was a
22 significant consideration in this case. There was great
23 difficulty getting witnesses to assist and come forward in the
24 case and respond to requests of law enforcement for evidence.

25 In this case, we do believe that 24 months is an

1 appropriate sentence. The Defendant, after entering his
2 guilty plea in this case, went on to commit additional crimes
3 which are the subject of a separate indictment and which will
4 be the subject of a separate sentencing, but I do believe that
5 the Court should consider them in determining what sentence is
6 appropriate for this defendant.

7 THE COURT: What is the status of the other case?

8 MS. VILLAFANA: My understanding from talking to the
9 AUSA down there is that the Defendant does intend to enter a
10 guilty plea within the next couple weeks in that case.

11 THE COURT: Thank you.

12 Mr. Brannon?

13 MR. BRANNON: Thank you, Judge.

14 First, I would note to the Court that I provided some
15 submissions for sentencing yesterday, a number of family
16 letters.

17 THE COURT: I read them.

18 MR. BRANNON: Thank you, sir.

19 We have present in court today showing their love and
20 support for Mr. Rodriguez his wife, Patricia Dunn, who has a
21 letter she's going to read to the Court in just a minute, his
22 daughter, Christina Rodriguez, who provided a letter already
23 to the Court and will not be speaking, and his stepson,
24 Christopher Dunn, who didn't provide a letter but will very
25 briefly address the Court.

1 With the Court's permission, I'll have them go ahead
2 and come on up and speak to the Court, and then I'll go into
3 my allocution.

4 THE COURT: All right. Certainly.

5 MR. BRANNON: Okay. Mr. Dunn, would you come
6 forward.

7 THE WITNESS: Good morning.

8 THE COURT: Your name, please?

9 THE WITNESS: Christopher Dunn.

10 I just wanted to say a few words about my stepfather.
11 I've actually been here before when I was studying law back in
12 high school, but I never thought I'd be here in these
13 circumstances. It's just -- it's -- I don't know how to say
14 this. It's not in character for my stepfather. This was the
15 man that, more than after maybe myself, was the biggest moral
16 anchor in my life. He would always say things like, you need
17 to do the right thing no matter what. There was no
18 explanation, it was just to be done, and that things had to be
19 done by the book. That, you know, you had to put other people
20 first and worry about other people.

21 And this isn't -- this isn't -- this scene isn't
22 where he belongs. He's -- I don't know if you can call
23 anybody perfect, but he -- I can call him a good man. And he
24 may be desperate at times, even ignorant of things at times
25 and not always right, but he's good at heart.

1 You know, I don't know if this helps or hurts, but a
2 few months ago, actually months ago, I was -- I actually --
3 I've been reading more. I've -- I pray for my family, and I
4 pray for a lot of things, and I'm thankful for a lot, but I
5 don't know if I should regret this, but I prayed a long time
6 ago before, before any of this, that as good as Alfredo was, I
7 wanted to make him a better man, as good as one can be, and I
8 actually prayed that something would come about to where he
9 could see the light and become closer with God.

10 And I knew what -- I mean, I'm not a fool. I know a
11 lot of people don't change until they're traumatized, you
12 know, for the better, and I knew what I was praying for was a
13 trauma. I even thought it to myself. I didn't know. I guess
14 mysterious ways indeed. I didn't know what I was praying for
15 specifically, but I knew he needed something to jolt him to
16 become even better than he already was. And as also this has
17 been passing and all these things have been happening, the
18 silver lining is really that I've seen him become more of a
19 Bible man, you know. He listens to the Word more. He's been
20 quoting me. He's been quoting to me the words, and I've seen
21 a good man transform into an even better man.

22 Thank you.

23 THE COURT: Thank you.

24 MR. BRANNON: And Ms. Dunn, I believe you have a
25 letter you want to read to the Judge?

1 THE WITNESS: Yes.

2 THE COURT: Good morning.

3 Your name, please?

4 THE WITNESS: Good morning.

5 THE COURT: Your name?

6 THE WITNESS: Patricia Dunn.

7 THE COURT: Patricia?

8 THE WITNESS: Yes, Dunn, D-u-n-n.

9 THE COURT: Can you spell your first name?

10 THE WITNESS: Patricia, P-a-t-r-i-c-i-a.

11 THE COURT: Thank you.

12 THE WITNESS: Your Honor, it was difficult for me to
13 write something on behalf of Alfredo Rodriguez because he's
14 the least person that I could think would ever need your
15 mercy. Alfredo has always been respectful, determined,
16 honest, caring, helpful, a great father, a great husband and a
17 great friend. I have shared my life with Alfredo for the past
18 17 years. After my first husband pass away, he helped me
19 raise my two children as well as his three children. He gave
20 all of them nothing but love, commitment and great example.
21 Alfredo has been taught all his life to be good, to be a good
22 citizen and excel at whatever he did. He proudly taught this
23 to all our children.

24 Alfredo has the honor to say that his grandfather was
25 the only Bolivian lawyer to be seated at the House of Lords in

1 England where he was serving as an ambassador to Bolivia. His
2 grandfather was a great example for Alfredo and our siblings.

3 Alfredo attended the Bolivian air force academy and
4 later attended the United States Air Force. He has --

5 THE COURT: Ms. Dunn, can you slow down, please?
6 Because the court reporter is having trouble.

7 THE WITNESS: I'm sorry.

8 THE COURT: That's all right. Just relax and speak a
9 little more slowly.

10 THE WITNESS: You want me to repeat the last
11 sentence?

12 THE COURT: Yes, please.

13 THE WITNESS: Alfredo attended the Bolivian air force
14 academy, and later he attended the United States Air Force.
15 He has lived in this country for more than 30 years. And even
16 though sometimes times were difficult, he always kept his
17 straight path without breaking the law.

18 What he's going through right now, it is out of
19 character for him. He always told all of our children to do
20 good, not to turn away from their goals, to go to school and
21 to help others. He wanted to inject the good in our
22 children's DNA.

23 We as a family need Alfredo. He's our pillar.
24 Please do not let the moment of weakness or need or mostly
25 ignorance to ruin his life and most of our lives. Please,

1 sir, give him the opportunity to be free and to be with us.
2 We need him.

3 Thank you.

4 THE COURT: Thank you.

5 MR. BRANNON: Your Honor, this is not our normal
6 case. I don't really feel I can comment too much about the
7 Miami matter since that is pending, even though I
8 understand -- my understanding of the resolution is the same
9 as the Government's.

10 Mr. Rodriguez had made a good living as a house man
11 to the wealthy, and that's reflected in several paragraphs in
12 the PSI. I think one of the things that a lot of people don't
13 understand is that his having any connection at all to
14 Mr. Epstein, once that particular story became well-known,
15 entirely finished that line of work for him. Frankly, none of
16 the wealthy wanted to be associated with anybody that had
17 anything to do with what happened at Mr. Epstein's house. So
18 even though Alfredo did good work and a lot of people had
19 thought a lot of him and he had worked for a lot of other
20 people in the past, once that fact became known and once they
21 could do a background check or a Google search on
22 Mr. Rodriguez and see his name tied to Mr. Epstein, they were
23 not interested. They didn't want to have him working with
24 them. So he hit some real economic hard times.

25 One thing I don't think any of us are real clear

1 at -- and you know that the central point in this obstruction
2 charge is the book that has been mentioned. I don't know at
3 what point Mr. Rodriguez became aware that he actually had the
4 book. One of the things that Mr. Rodriguez did was he lived
5 at Mr. Epstein's estate. And when he left Mr. Epstein's
6 employment, a lot of stuff got packed up and put away. One of
7 those things was a copy of the book, of which there were many
8 copies, and Mr. Rodriguez had one as Mr. Epstein's house man.

9 There came a point at which he was aware that he had
10 the book. I can imagine if I was packing up my office, I'm
11 not sure how long I would know that I had everything that I
12 had in the boxes until I started going through them and see
13 them.

14 He did cooperate in the early stages of the
15 investigation. He's mentioned in news reports where he had
16 given information and papers over to the Palm Beach Police
17 Department when they investigated.

18 He has been a good family man. That's been reflected
19 in the letters. We are cooperating with the Government now
20 and will continue to cooperate with the Government.

21 I think one of the things that we do have to consider
22 in deciding what is an appropriate sentence in this case is
23 what happened to Mr. Epstein. It is difficult for me to
24 justify Mr. Rodriguez getting a sentence greater than
25 Mr. Epstein received, and Mr. Epstein received a sentence of

1 18 months in the stockade on some very serious charges. I can
2 introduce a copy of the nonprosecution agreement into the
3 record if the Court wishes me to.

4 THE COURT: I'm familiar with it.

5 MR. BRANNON: Okay. I don't want to necessarily put
6 that in the record unless we need to have it in the record.

7 So I would ask the Court to consider that as an
8 appropriate sentence in this case. I know that's a sentence
9 below the guideline range, but I think when we look at how
10 society views results, I think there's just something that
11 doesn't look quite right for Mr. Epstein's house man to get a
12 greater sentence for what he's done than Mr. Epstein did for
13 what he's done, which is substantially worse.

14 So I would ask the Court to sentence Mr. Rodriguez to
15 a sentence of 18 months.

16 THE COURT: All right. Thank you.

17 Does Mr. Rodriguez wish to say anything?

18 THE DEFENDANT: Your Honor, I'm not going to make
19 this long, but like my wife and my kids, I always told them to
20 do the right thing, and I sent them to college to push to
21 higher education. But I'm really sorry for what I did, and I
22 just pray that the Court to be merciful to me, sir.

23 THE COURT: Thank you.

24 THE DEFENDANT: Thank you, sir.

25 THE COURT: Ms. Villafana, what do you have to say

1 about the somewhat logical argument that maybe Mr. Rodriguez
2 shouldn't get worse than Mr. Epstein did in his plea agreement
3 with the State?

4 MS. VILLAFANA: I certainly understand the logic. I
5 know that if he had gotten the two-level reduction for
6 acceptance, he would have been at that same sentence of 18
7 months at the low end. He didn't get the two-level reduction
8 for acceptance because the day of his change of plea, he went
9 and drove down to Miami and conducted a purchase of various
10 firearms with an undercover officer, which is why the two
11 levels were added. So that's certainly a difference.

12 Another difference is that while I can't -- I
13 obviously don't have a crystal ball, and I can't say what
14 would have happened if this evidence had come to light during
15 the pendency of the grand jury investigation, what I can say
16 is that there were significant issues related to federal
17 prosecution of the Epstein case in terms of the interstate
18 nexus between the crimes that were under investigation. Some
19 of the information contained in the book that Mr. Rodriguez
20 had, as well as other information that he was able to provide
21 once he was cooperating post-arrest, would have answered the
22 questions that were raised regarding that interstate nexus.
23 So would that have meant that there definitely would have been
24 a federal prosecution? I can't say for certain. Would that
25 significantly have advanced the ball? Yes.

1 THE COURT: Mr. Brannon mentioned that there were
2 other copies of this book. I thought he said there were many
3 copies of this book. Is that true as far as you're concerned?
4 And how and when did these other copies come to light?

5 MS. VILLAFANA: No other copies have come to the
6 light of any federal investigator, but our understanding from
7 interviewing Mr. Rodriguez was that multiple copies of that
8 book were made and were kept at Mr. Epstein's homes throughout
9 the world, but none of them were ever either found during the
10 search of Mr. Epstein's home in Palm Beach, and obviously no
11 other search warrants were ever executed on his islands or any
12 of his other residences. So this is the only copy that's
13 known to law enforcement.

14 THE COURT: Oh, but he contends that there were other
15 copies?

16 MS. VILLAFANA: Yes. And I think from seeing the
17 book, I think that that's true.

18 THE COURT: Okay. So he lost his two points for
19 acceptance because of the gun charge?

20 MS. VILLAFANA: Yes.

21 MR. BRANNON: Actually, Judge, I think it was three
22 points for acceptance, because we're at an offense level 17.
23 It would be 16 or greater. He would have gotten a three-level
24 reduction for acceptance. His guidelines with acceptance
25 would have been 15 to 21 months.

1 MS. VILLAFANA: Okay. Right. So -- but he's at a 17
2 now, which is 24 to 30, and he would have been at a 14, which
3 would have been, right, 15 to 21.

4 THE COURT: All right. So he would have gotten 15?
5 You would have been recommending 15 if he hadn't been involved
6 in the gun charge?

7 MS. VILLAFANA: That's correct.

8 THE COURT: And he's obviously going to get punished
9 for the gun charge separate and apart from what happens here
10 if he pleads guilty and is convicted one way or the other.

11 MS. VILLAFANA: Correct.

12 THE COURT: All right. Anything else?

13 MR. BRANNON: No, sir.

14 THE COURT: All right. The Court has considered the
15 statements of all the parties, the presentence report, which
16 contains the advisory guidelines, as well as the statutory
17 factors set forth in 18 U.S.C., Section 3553(a)(1) through
18 (7).

19 It is the finding of the Court the Defendant is not
20 able to pay a fine.

21 Now, in imposing sentence, the Court has to consider
22 the statutory factors of 3553, which require the Court to
23 consider the nature and circumstances of the offense, which in
24 this case are significant because of the impact it had on the
25 investigation of Mr. Epstein. And much has been said and

1 written about the sentence that Mr. Epstein received for the
2 crimes to which he's pled guilty, and if this book had been
3 produced when requested things may have been different. So in
4 one sense when we compare the sentence that's going to be
5 imposed in this case to what Mr. Epstein got, if this book had
6 been produced, Mr. Epstein's sentence might have been
7 significantly different. But he got what he got, and I think
8 that's a factor to be considered in this case.

9 The history and characteristics of this defendant up
10 until this incident and this gun incident, he's had an
11 exemplary life. And I don't know what has brought about this
12 change in his behavior, but two incidents so close together is
13 somewhat troubling.

14 The Court has to consider the need for the sentence
15 imposed to reflect the seriousness of the offense, to promote
16 respect for the law and to provide just punishment.

17 The Court has to consider the need to protect the
18 public from further crimes of the Defendant, which I really
19 don't think is too much of a concern. I don't think
20 Mr. Rodriguez is going to be in any more trouble after he
21 finishes his sentence for this case and whatever sentence, if
22 any, may be imposed for the gun case.

23 Also, the Court has to consider the need to afford
24 adequate deterrence to criminal conduct by others and has to
25 consider the need to avoid unwarranted sentencing disparities

1 among defendants with similar records who have been found
2 guilty of similar conduct.

3 So if you look at this particular incident, his
4 guidelines would be 15 to, what is it, 18 months, or 21?

5 MR. BRANNON: Fifteen to 21, Judge.

6 THE COURT: Fifteen to 21 months if he hadn't been
7 involved in the gun charge. He's going to get, if he's going
8 to plead guilty, which I'm told he probably will -- and
9 whether he pleads guilty or not, from what I understand of the
10 case, it's likely he's going to get convicted one way or the
11 other anyway. So he's going to get punished for that gun
12 charge separate and apart from what happens here, so I don't
13 know that it makes sense to have to increase his punishment
14 here because of a gun charge that he's going to get punished
15 for independently.

16 And there is some logic to the argument that
17 Mr. Rodriguez here shouldn't be punished more severely than
18 Mr. Epstein, who did significantly more egregious things than
19 Mr. Rodriguez did. Although, as I said, if this information
20 had come to light sooner, maybe Mr. Epstein situation would
21 have turned out differently.

22 But taking into consideration the fact that he is
23 going to be punished for his gun charge separately, and that
24 would have affected his guideline, and Mr. Epstein's sentence
25 was less than his guidelines here, I think a sentence below

1 the advisory guideline range would be sufficient but not
2 greater than necessary to comply with the factors under 3553.
3 So I am going to impose a sentence below the advisory
4 guideline range.

5 Pursuant to the Sentencing Reform Act of 1984, it is
6 the judgment of the Court that the Defendant, Alfredo
7 Rodriguez, is hereby committed to the custody of the Bureau of
8 Prisons to be imprisoned for a term of 18 months. Upon
9 release from imprisonment, the Defendant shall be placed on
10 supervised release for a term of two years.

11 Within 72 hours of his release, the Defendant shall
12 report in person to the probation office in the district where
13 he's released.

14 While on supervised release, the Defendant shall not
15 commit any crimes, he shall be prohibited from possessing a
16 firearm or other dangerous devices, and he shall not possess a
17 controlled substance.

18 He shall cooperate in the collection of DNA and shall
19 comply with the standard conditions of supervised release that
20 have been adopted by this court, as well as the following
21 special conditions: Financial disclosure requirement and
22 permissible search, as noted in Part G of the presentence
23 report.

24 The Defendant shall also immediately pay to the
25 United States a special assessment of \$100.

1 Total sentence is 18 months' imprisonment, two years'
2 supervised release and a \$100 special assessment.

3 Now that sentence has been imposed, does the
4 Defendant or his counsel object to the Court's findings of
5 fact or the manner in which sentence was pronounced?

6 MR. BRANNON: No, sir. We do have one request of the
7 Court.

8 THE COURT: Yes.

9 MR. BRANNON: We would ask the Court to recommend the
10 Miami area as the place of incarceration.

11 THE COURT: I'll make that recommendation.

12 Any objection from the Government?

13 MS. VILLAFANA: No, Your Honor.

14 THE COURT: Mr. Rodriguez, you have the right to
15 appeal the sentence that's been imposed. If you wish to file
16 an appeal, you must file your notice of appeal within 14 days
17 from the date judgment's entered in this case. And if you are
18 unable to pay for the cost of the appeal, you may seek leave
19 to file the appeal in forma pauperis.

20 Good luck to you, sir. Thank you.

21 (Proceedings concluded.)
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* * * * *

CERTIFICATE

I, Stephen W. Franklin, Registered Merit Reporter, and Certified Realtime Reporter, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Dated this 22nd day of JUNE, 2010.

/s/Stephen W. Franklin

Stephen W. Franklin, RMR, CRR