

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

UNITED STATES OF AMERICA, )  
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)  
v. )  
) REPORT AND RECOMMENDATION  
JUAN CASTENEDA-RENTERIA, )  
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)  
Defendant. ) By: B. WAUGH CRIGLER  
U.S. MAGISTRATE JUDGE

In accordance with the provisions of Title 28 U.S.C. § 636(b)(3) and upon the defendant's consent, this case was referred to the undersigned to conduct a plea hearing.

**DEFENDANT'S RESPONSES TO RULE 11 INQUIRY**

The Grand Jury has returned a multiple count Superseding Indictment charging defendant in Count One with knowingly combining, conspiring, confederating, and agreeing with other persons, both known and unknown to the Grand Jury, to knowingly and intentionally distribute, or possess with the intent to distribute five hundred grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A)(viii), all in violation of Title 21, United States Code, Section 846; in Count Six with possessing firearms in furtherance of a drug trafficking offense which could have been prosecuted in a Court of the United States, specifically, the possession of methamphetamine on February 15, 2006, with intent to distribute, all in violation of Title 18, United States Code, Section 924(c); and in Count Seven with knowingly and intentionally possessing 50 or more grams of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, with intent to distribute, all in violation of

Title 21, United States Code, Section 841(a)(1).

On November 7, 2006, a plea hearing was conducted before the undersigned, and the defendant entered a plea of guilty to Counts One, Six and Seven of the Superseding Indictment. At this hearing the defendant was placed under oath and testified that his full legal name is Juan Casteneda-Renteria, that he was born on June 24, 1984 in Mexico and that he received nine years of formal education in Mexico. The defendant stated that he read, write and understand “very little” English.<sup>1</sup> The defendant stated that he was fully aware of the nature of the charges against him and the consequence of pleading guilty to those charges. The defendant further testified that he was not under the influence of alcohol, medicine, or any drug. Defendant stated that he had no other physical or mental condition which impaired his ability to understand the nature of the proceedings being held. Defendant’s counsel stated that he had no reservations as to the defendant’s competency to enter a plea of guilty to the offenses.

The defendant testified that he had received a copy of the Superseding Indictment pending against him and that he had fully discussed the charges therein, and his case in general, with his counsel. The defendant stated that he was pleading guilty of his own free will because he was, in fact, guilty of the offenses charged. The defendant also stated that no one had made any promises, assurances or threats to him in an effort to induce his plea. The defendant testified that he understood that the offenses with which he is charged in Counts One, Six, and Seven are felonies and that, if his plea is accepted, he will be adjudged guilty of those offenses. Moreover, the defendant testified that he understood that he will be required to pay a mandatory assessment of \$100 per felony count.

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<sup>1</sup>An interpreter assisted the defendant during the hearing.

The defendant was informed that the maximum possible penalty provided by law for the offense with which he is charged in Count One is life imprisonment, a \$4,000,000 fine, and a period of supervised release. The defendant was informed that the statutory minimum sentence for Count One is ten years imprisonment. The defendant was informed that the statutory mandatory penalty for the offense with which he is charged in Count Six is five years imprisonment, which imprisonment must be imposed to run consecutive to any other sentence he receives. Defendant was further informed that Count Six has a potential fine of \$250,000. The defendant was informed that the maximum possible penalty provided by law for the offense with which he is charged in Count Seven is forty years imprisonment, a \$2,000,000 fine, and a period of supervised release. The defendant was informed that the statutory minimum sentence for Count Seven is five years imprisonment.

The defendant was informed that under the Sentencing Reform Act of 1984, the United States Sentencing Commission has issued guidelines for judges to follow in determining the sentence in a criminal case. The defendant was then informed that, in light of the United States Supreme Court's decision in *United States v. Booker*, 125 S.Ct. 738 (2005), the sentencing guidelines are no longer mandatory but that the sentencing judge may apply them in an advisory fashion in determining a reasonable sentence. The defendant testified that he and his counsel had discussed how the sentencing guidelines might apply in his case. The defendant also testified that he understood that the court would not be able to determine the applicable guideline range, for advisory purposes, until after a presentence report has been prepared and both parties have been given an opportunity to challenge the reported facts and application of the guidelines. He stated that he understood that the eventual sentence imposed may be different from any estimate his attorney had given him and that

the court has the authority to impose a sentence that is either higher or lower than that called for by the guidelines, so long as the sentence is not greater than the statutory maximum for the offenses to which the defendant is pleading guilty. The defendant stated that he knew that parole had been abolished and that if he is sentenced to prison he will not be released on parole but on supervised release, a violation of which could result in additional incarceration.

The defendant testified that he understood that he had the right to a trial by a jury, in addition to the following rights, which will be waived or given up if his guilty plea is accepted:

1. The right to plead not guilty to any offense charged against him;
2. The right at trial to be presumed innocent and to force the government to prove his guilt beyond a reasonable doubt;
3. The right of assistance of counsel at trial and in any subsequent appeal;
4. The right to see, hear and cross-examine witnesses;
5. The right to call witnesses to testify in his own behalf and to the issuance of subpoenas or compulsory process to compel the attendance of witnesses;
6. The right to decline to testify unless he voluntarily elects to do so in his own defense;
7. The right to a unanimous guilty verdict; and
8. The right to appeal a guilty verdict.

The defendant also testified that he understood that if he is adjudged guilty of these charges, he may be deprived of valuable civil rights, such as the right to vote, the right to hold public office, the right to serve on a jury, and the right to possess a firearm.<sup>2</sup>

The defendant stated that he was fully satisfied with the advice and representation given to him in this case by his counsel. The defendant also stated that he believed his counsel's representation had been effective. The defendant testified that he understood the possible consequences of his plea. The defendant asked the court to accept his plea of guilty to Counts One, Six, and Seven of the Superseding

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<sup>2</sup>Defendant would not possess these rights which appertain only to citizens.

Indictment.

## **THE GOVERNMENT'S EVIDENCE**

The defendant waived his right to have the government's Factual Summary read in open court and had no objection to the Summary. The Factual Summary having been filed in open court, the evidence presented therein regarding the offenses charged is as follows:

If this case had gone to trial, the United States would have presented evidence that a group of individuals, some related by blood and others by affinity, began to distribute methamphetamine, in ounce and multiple-ounce quantities per transaction, beginning about January of 2005 and continuing until a law enforcement seizure and arrest of the participants on February 15, 2006. These transactions occurred in or near the Chestnut Ridge apartment complex near Harrisonburg, Virginia, in the Western Judicial District of Virginia. One distinctive characteristic of this group was that they shared a cellular telephone number, apparently on some informal rota, so a prospective purchaser did not necessarily know which conspirator would answer the telephone and which might make the delivery and collect the money.

In February, 2006, controlled purchases of methamphetamine were made from various members of this group in and from the Chestnut Ridge Apartments. On February 15, 2006, immediately before one such negotiated transaction, law enforcement officers and agents executed a search warrant at a particular apartment, in which apartment was located the two Meza Duran brothers and the two Guillan Castellanos brothers named in the indictment, along with JUAN CASTENEDA-RENTERIA. Also seized pursuant to that search warrant was a .38 caliber revolver, a .22 caliber pistol, the cell telephone used to arrange the prior transactions, and about nine additional ounces of methamphetamine.

JUAN CASTENEDA-RENTERIA was identified by the other participants, after each was

advised of his *Miranda* rights in English and in Spanish, as the source for the methamphetamine found in and sold from the apartment and as the source for a Smith and Wesson .38 caliber revolver found in the apartment during the search. According to a codefendant, CASTENEDA RENTARIA supplied him with the .38 caliber revolver for use at the apartment.

Following his arrest, the agents executed another search warrant at CASTENEDA RENTARIA'S residence elsewhere in Harrisonburg and seized a .45 caliber pistol, some identification papers bearing his name and likeness, and some drug paraphernalia. Each firearm described in this summary meets the statutory definition of "firearm" in Title 18.

### **FINDINGS OF FACT**

Based on the evidence presented at the plea hearing, the undersigned now submits the following formal findings of fact, conclusions and recommendations:

1. The defendant is fully competent and capable of entering an informed plea;
2. The defendant is aware of the nature of the charges and the consequences of his plea;
3. The defendant knowingly and voluntarily entered a plea of guilty to Counts One, Six, and Seven of the Superseding Indictment; and
4. The evidence presents an independent basis in fact containing each of the essential elements of the offenses to which the defendant is pleading guilty.

### **RECOMMENDED DISPOSITION**

Based upon the above findings of fact, the undersigned RECOMMENDS that the court accept

the defendant's plea of guilty to Counts One, Six, and Seven and adjudge him guilty of those offenses. The undersigned further DIRECTS that a presentence report be prepared. A sentencing hearing hereby is scheduled for January 16, 2007 at 1:30 p.m. before the presiding District Judge in Harrisonburg.

**NOTICE TO PARTIES**

Notice is hereby given to the parties of the provisions of 28 U.S.C. § 636(b)(1)(C): Within ten days after being served with a copy of this Report and Recommendation, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. The presiding District Judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. The presiding District Judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the undersigned. The judge may also receive further evidence or recommit the matter to the undersigned with instructions.

Failure to file timely written objections to these proposed findings and recommendations within 10 days could waive appellate review. At the conclusion of the 10-day period, the Clerk is directed to transmit the record in this matter to the presiding United States District Judge.

The Clerk is hereby directed to send certified copies of this Report and Recommendation to all counsel of record.

ENTERED: \_\_\_\_\_  
United States Magistrate Judge  
  
\_\_\_\_\_  
Date

