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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
-vs-)
)
PEDRO FLORES and MARGARITO)
FLORES,)
)
Defendants.)

Case No. 09 CR 383-10, -11
Chicago, Illinois
January 27, 2015
10:43 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE CHIEF JUDGE RUBEN CASTILLO

APPEARANCES:

For the Government: HON. ZACHARY T. FARDON
UNITED STATES ATTORNEY
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For the Defendant
Pedro Flores: [REDACTED]

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1 APPEARANCES: (Continued)

2 For the Defendant
3 Margarito Flores:

4 [REDACTED]

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1 (Proceedings heard in open court:)

2 THE CLERK: 09 CR 383, United States versus Pedro
3 Flores and Margarito Flores.

10:43:24

4 THE COURT: So appearances have already been noted on
5 the record.

6 Are both sides ready to proceed to sentencing?

7 MR. FERRARA: Yes, Your Honor.

8 [REDACTED]: Yes, Your Honor.

9 [REDACTED]: Yes, Judge.

10:43:32

10 THE COURT: And have defense attorneys reviewed the
11 presentence reports?

12 [REDACTED]: Your Honor --

13 [REDACTED]: Yes, Judge.

10:43:43

14 [REDACTED]: -- I've discussed it telephonically with
15 my client and met with him in person recently and reviewed it
16 with him.

17 [REDACTED]: I did not meet in person, but we've
18 discussed it by phone on several occasions, and he has had it
19 in his possession for quite some time, and we --

10:43:58

20 THE COURT: Okay. It's my understanding --

21 [REDACTED]: -- have nothing, no comment.

10:44:14

22 THE COURT: -- that for the defense and for the
23 government, there are no factual objections to the presentence
24 report and no legal objections. What remains for the Court is
25 really to consider all the 3553 factors, given the plea

1 agreements here, and determine a sentence somewhere between
2 the statutory minimum of 10 years and the cap that has been
3 placed by the plea agreement of 16 years and, in considering
4 that, to determine the level of cooperation made by both of
5 these defendants as outlined in the government's submission,
6 the defendants' original submission, supplemental submissions,
7 also to consider the defendants' own words to the Court by way
8 of letters, as well as the letters I've received from the
9 defendants' spouses; is that correct?

10:44:44 10 [REDACTED]: Absolutely, Judge.

11 THE COURT: Okay. Is there something you want to add
12 to it by way of a proffer as to other potential evidence the
13 Court should consider?

14:45:09 14 [REDACTED]: Judge, the only thing we would add,
15 there are three people at counsel table that we -- some by
16 subpoena and others by request: Tom Shakeshaft, the Assistant
17 U.S. Attorney who was in charge of the investigation from the
18 beginning; Agent Eric Durante, I believe he's now stationed
19 somewhere else; and Agent Todd Smith. All three, if called to
10:45:24 20 testify, would concur 100 percent with the government's
21 factual presentation with respect to the extent of their
22 cooperation.

10:45:47 23 They would all agree that, in their professional
24 opinion, the cooperation was unparalleled, which is what the
10:46:09 25 government has described it as. They would also expound on

1 the level of the cooperation. It's essentially laid out in
2 the three exhibits which the government has attached to their
3 pleading and which we referenced in ours, and they could fill
4 in any details you'd like.

10:46:34

5 They all three are extensively briefed on the issue
6 of how difficult this was, how difficult it became, and they
7 would also concur with the government's conclusions with
8 respect to the terrible danger that will follow these
9 individuals no matter where they are.

10:47:00

10 THE COURT: Okay. And --

11 [REDACTED]: Could I have one second to speak to my
12 client?

13 THE COURT: Sure.

10:47:10

14 [REDACTED]: Your Honor, I would only comment further
15 that as the Court is well aware, the ongoing nature of this
16 process is such that these gentlemen will be forever called
17 upon, at least for probably a great number of years, to
18 continue to appear when necessary and provide live testimony
19 in the matters that they've already provided information on.

10:47:31

20 Beyond that, I would also ask the Court to consider,
21 as I know you have from reading the various documents you've
22 been given, the dangerousness with which everyone involved
23 with the case was presented with, starting with the
24 clandestine meetings that took place in faraway places to
25 bring this cooperation to full fruition, which it now stands

10:47:51

1 at today.

2 THE COURT: Okay. And I take it the government
3 agrees with that.

4 MR. FERRARA: Correct, Your Honor.

10:48:03 5 THE COURT: Okay. Then what we will do, since
6 there's no dispute as to the sentencing guidelines, review of
7 the plea agreement, no factual disputes that the Court needs
8 to resolve, I will accept the facts contained in the two
9 excellent presentence reports.

10:48:22 10 I will certainly consider the defendants' letters to
11 the Court, as well as the letters of their spouses, and we
12 will proceed to sentencing allocution.

13 I'll hear first from the government as to what it
14 believes is an appropriate sentence for both Flores
10:48:41 15 defendants, and then I'll hear from defense attorneys. And
16 then if either defendant or both defendants wants to make a
17 statement, they're free to do that, or they're free to stand
18 on their letters to the Court.

19 So we'll hear first from the government.

10:48:58 20 MR. FERRARA: Thank you, Your Honor.

21 As this matter has been pending before Your Honor for
22 the last six years and the relevant sentencing issues have
23 been well briefed by both sides, there's actually not a great
24 deal left to say; however, there are a small number of points
10:49:11 25 that the government would like to highlight that are

1 particularly relevant to the analysis of the 3553(a) factors.

2 The first is recognizing the meaning that this
3 sentence will have on the government's ability to encourage
4 high-level cooperators in the future. What the Flores
5 brothers accomplished is unprecedented to the point they will
6 unlikely be duplicated in full; however, their sentence
7 presents sort of an unmatched opportunity to send the
8 appropriate message that aiding justice is a viable
9 alternative to defendants persisting in a criminal enterprise.

10 In advancing this message, the Flores brothers'
11 cooperation is a sterling example in two regards: First is
12 the timing of their cooperation. Cooperation with the
13 government is not at all uncommon, as Your Honor is well
14 aware, for defendants who are in custody, who have already
15 been charged with an offense. A meaningful number of
16 defendants who see the handwriting on the wall that the end is
17 near also decide to cooperate before they're charged, before
18 they're in custody.

19 However, where those cooperation numbers become
20 vanishingly small is for people who make the decision to
21 cooperate who are sort of at the height of their criminal --
22 criminal wrongdoing, and that was certainly the case with the
23 Flores brothers.

24 At the time of their outreach to the government, they
25 were absolutely at the top of the cartel world. They were

1 earning millions of dollars, and they were relatively shielded
2 from problems with law enforcement due to their circumstances.
3 The fact that they were at such an apex when they decided to
4 turn the corner and come in and assist with the government's
10:50:45 5 investigation is exactly why they were able to achieve the
6 results of their cooperation. The cartel simply did not
7 expect them of being anything other than the cash cow outlet
8 that they had been for years and years.

9 For this reason and this reason alone, the Flores
10:50:59 10 brothers were able to achieve these results that otherwise
11 would have been impossible, and the best example to highlight
12 that, the nature of that cooperation, Your Honor, is the
13 recorded conversations that they made with Chapo Guzman.

14 At the time Chapo was -- was one of the if not the
10:51:17 15 most wanted person on earth. He was insulated by layer upon
16 layer of buffers and security measures, accessible in person
17 only at compounds that were -- you had to get in a small
18 airplane and fly to a clandestine airstrip cut into the side
19 of a mountain.

10:51:34 20 The Flores brothers were able to bypass all of that,
21 cut through all those levels of security and the buffers to
22 record two conversations directly with Chapo, two remarkably
23 inculpatory conversations in which Chapo admitted to the
24 existence of a vast conspiracy and specifically talked about a
10:51:54 25 heroin transaction right here in Chicago.

1 Defendants in a position that's not entirely
2 comparable but similar to the Flores brothers who are weighing
3 the equities of whether to do the right thing and come in or
4 persist in their criminality can look to this sentence as an
5 example that there is an alternative, that it is a viable
6 alternative to do the right thing, to cooperate with the
7 government and using the Flores brothers' cooperation and
8 ultimate sentence as an example.

9 Your Honor, the second factor that's very closely
10 related is the grave risk of their cooperation. I know this
11 has been briefed in substantial detail, but it really is
12 impossible to overstate.

13 If the Flores brothers' cooperation was discovered at
14 any time by any number of people within this conspiracy, they
15 certainly would have been killed. Their family members could
16 have been killed; and as the Court is aware, their father
17 actually was kidnapped and presumed killed as a direct result
18 of this cooperation, the Flores brothers' cooperation.

19 All too often, these type of fears of retaliation
20 from powerful criminal entities prevent people from doing the
21 right thing; and, once more, the fact that the Flores brothers
22 were able to cut through that fear, to work for a substantial
23 period of time with facing that grave danger while they were
24 on their own before they turned themselves in to the
25 government is once more something that's remarkable and

1 something that should be encouraged through an appropriate
2 sentence here.

10:53:31

3 Your Honor, shifting gears for a second, despite the
4 Court's great knowledge of the facts of this case and the
5 briefs that have been made, the government would be remiss if
6 it did not reference the great criminal culpability related to
7 these defendants. Their operation was simply the largest
8 known enterprise in the history of this city, a city that is
9 unfortunately no stranger to drug trafficking.

10:53:47

10 The total quantity of drugs that the Flores brothers
11 trafficked to Chicago is so large that it sounds fantastic.
12 Even using the most conservative numbers, it was a minimum of
13 more than 60 tons of cocaine alone. That number sounds
14 unreal, but unfortunately it was all too real, as was the
15 damage that those drugs did to untold individuals and entire
16 communities.

10:54:03

17 And even after the Flores brothers did turn that
18 corner, their cooperation was -- was not perfect. As the
19 Court is aware, there were two substantial deviations from
20 that correct path, and those were the unreported distribution
21 of 276 kilos of cocaine here in Chicago, as well as the
22 collection of millions of dollars of drug proceeds that were
23 collected during the pendency of their cooperation, once more,
24 without notice to the government on the front end.

10:54:21

10:54:39

25 The Flores brothers were ultimately honest about both

1 of those events in the government's determination; however,
2 the significant factor is that they were not disclosed as they
3 were ongoing or before they happened.

4 Fortunately, for the Flores brothers and the
10:54:58 5 government for that matter, these negatives do not tell the
6 whole story. Rather, the full story here presents a balance
7 between extreme opposite forces of positive and negative. In
8 weighing that balance, the government has reached a sentencing
9 recommendation.

10:55:15 10 Your Honor, simply a massive criminal enterprise used
11 to exist here in Chicago, the largest known drug-trafficking
12 enterprise existed here in Chicago at their creation. That
13 enterprise no longer exists, and they are directly responsible
14 for that.

10:55:31 15 Make no mistake, they were responsible for creating
16 it in the first place, but through their cooperation, that --
17 that enterprise has been completely dismantled, and that was
18 all of the workers and crew members that were here and in
19 other cities, as well as the Flores brothers' customer base
10:55:47 20 that was here and several other cities throughout the country.

21 The fact that that entire operation was entirely
22 dismantled made a real difference. It made a real difference
23 here in Chicago for the safety of our communities. It made a
24 real difference in other cities as well, such as Columbus,
10:56:07 25 Cincinnati, Philadelphia, New York, Washington, D.C.

1 Stripping away customers that received from the Flores
2 brothers 50 to 100 kilos of cocaine per month on average, once
3 more, made a real difference.

10:56:23

4 As the Court is aware, their cooperation didn't
5 simply stop there with dismantling their own organization and
6 their customers. What the Flores brothers did to attack the
7 Sinaloa cartel and the Beltran-Leyva organization really was
8 unprecedented. These were at the time two of the most
9 dangerous criminal entities on earth. The work that the
10 Flores brothers did made a massive difference there, and that
11 work continues to make a difference up to and including the
12 present.

10:56:45

10:57:00

13 With the indictment that has been unsealed as of
14 today, Your Honor, the government's investigation has
15 continued from the inception of their cooperation in 2008 all
16 the way until 2015, with additional high-level leadership
17 defendants within the Sinaloa cartel being charged.

10:57:20

18 All of that flows back to their original cooperation,
19 and all of it is relevant to determination of what the
20 appropriate sentence is here. Your Honor, as recently as
21 yesterday afternoon, the government spent hours with the
22 Flores brothers furthering their cooperation on additional
23 matters to assist with the government's investigation.

10:57:43

24 So, Your Honor, in this case, there's adjectives that
25 are routinely thrown around that you don't hear much in

1 courtrooms, words like unprecedented, extraordinary, historic,
2 incomprehensible, but here those words in this case are used
3 frequently, and they're used frequently for good reason.
4 Simply put, these two defendants are the most valuable
10:57:59 5 cooperators this district has ever seen in the context of a
6 drug case, and as well, Your Honor, in the context of
7 international money laundering related to drug-trafficking
8 organizations.

9 Just using some of these adjectives their cooperation
10:58:14 10 was extraordinary and did enough good to advance the interests
11 of -- I apologize, Your Honor -- to advance the interests of
12 justice that the government believes and recommends that the
13 appropriate sentence here is a sentence at or near the low end
14 of the agreed guideline range of 10 to 16 years' imprisonment.

10:58:36 15 THE COURT: Thank you.

16 The defense may proceed.

17 [REDACTED]: Judge, I said at the very beginning of
18 our sentencing memorandum, which was relatively brief, that to
19 say as the government does at the outset that the Flores
10:58:56 20 brothers' "unparalleled assistance to the government
21 sufficiently offsets their considerable criminal culpability"
22 puts it bluntly; but I also said yet at the same time, it
23 properly frames the criminal -- the critical issues that are
24 before you today.

10:59:15 25 And in that regard, I continued back to the use of

1 the term "unparalleled." There's no doubt, and both clients
2 will readily admit, that their drug distribution network is
3 unparalleled. They make no excuse for it. There are perhaps
4 some things that mitigate, but frankly it's of the scale that
5 is virtually unmitigatable but for the cooperation.

10:59:43

6 And yet on the flip side, the cooperation is indeed
7 unparalleled. You know it from what the government has set
8 forth. You also know it from the cases that you've seen, and
9 it seems to me -- and I'm -- you know, there are cases that
10 need wisdom, and this is one of them. This is a case that
11 needs your experience and your skill at balancing because it's
12 ultimately a balancing.

11:00:14

13 There are competing interests, I get it, everybody
14 gets it; but the reason I set forth the guideline issues is
15 that I think in this case, it's the best place to look for
16 direction because the guidelines really set forth the very
17 factors that you are to consider in the granting of a 5K1
18 motion in arriving at the appropriate sentence, and I did them
19 in reverse in our pleading, and it's kind of the same order
20 that Mr. Ferrara just went in, so I'm not going to belabor it.

11:00:37

11:01:04

21 But the first is the timeliness of their assistance,
22 which I pointed out to you was remarkable on a number of
23 levels, most importantly the sheer danger that they
24 encountered in the very first meetings that they ended up with
25 in Mexico. I set that forth in the pleading. I don't need to

11:01:27

1 belabor it, but you know as well as I do that if someone had
2 been caught under those circumstances, the result would have
3 been death and we wouldn't be here today.

11:01:48

4 Those meetings turned productive. It started a
5 domino that is equally unparalleled in this district and,
6 frankly, I think in the country.

11:02:09

7 The other factor going in reverse is the injury
8 suffered or any danger or risk of injury to the defendant and
9 his family because of his assistance. As we pointed out to
10 you, as Mr. Ferrara just said, they've already lost their
11 father over this. They have many family members who live --
12 who will have to live in constant fear for a long time, for as
13 long as they live.

11:02:33

14 The defendants themselves have to live in that fear,
15 and I don't know how you even put a price tag on that type of
16 anxiety. I suppose some people could cruelly say they deserve
17 it, but I don't know that anyone deserves that.

11:02:55

18 But be that as it may, it exists. It's a real
19 threat, and they will live with that whether they are in a
20 penitentiary or whether they are outside of a penitentiary,
21 and I think that's a significant factor.

11:03:12

22 The other factor is nature and extent of the
23 assistance, which we've also discussed, as we have the
24 truthfulness, completeness and reliability of any information
25 or testimony provided, and I won't belabor that because the

1 government stands by that.

2 But what is significant is the first factor, which is
3 your evaluation of the significance and usefulness of the
4 defendants' assistance, taking into consideration the
5 government's evaluation of the assistance rendered. And I
6 sometimes like to argue the opposite of this, but in this
7 case, I think there's a lot of merit to that. I think the
8 Commission was wise in that because ultimately it is really
9 only the government that can provide a more detailed, a more
10 relative value to the cooperation. We were in that chair at
11 one time, both of us, and we know what you see there.

12 So I think the Commission's statement there is
13 extremely important because the government is essentially
14 saying this should be a sentence of 10, 11, 12 years, and I
15 agree with that. Frankly, I think a sentence of 10 years
16 would work.

17 The issue in that is that sooner or later, they have
18 to be released and live with the fear that we're talking
19 about. And from a deterrence standpoint, which I think would
20 be the most significant factor, the difference in a couple of
21 years is I think vastly outweighed by your ability to fashion
22 conditions of supervised release that will offset that.

23 So I agree with the government's recommendation here.
24 I think at or near the low end is what we said in the
25 pleading, and I'll stand by that.

1 I know my client wants to address you briefly, he
2 will do that, but he's addressed you in his letter. I have
3 not been in this case from the beginning, but I've been in it
4 now for it seems like an eternity, maybe four years, and I've
5 come to know Mr. Flores. I've come to know his family. I've
6 come to live with the anxiety that they share, but I've also
7 come to appreciate the sincerity of their statements about
8 their caring for their family members, and that's genuine.

9 And, again, that's not -- it doesn't offer any
10 excuse, nothing excuses the conduct, but, you know, there is
11 such a thing as redemption hopefully, and there is such a
12 thing as finally doing the right thing, and I think that's
13 exactly what they have said to you in their letters, and I
14 think -- I don't think. I know that that's genuine.

15 So I would ask you to do exactly what the government
16 is asking you to do, as odd as it may seem coming from my
17 voice, but I think it's appropriate.

18 THE COURT: Okay. You may proceed, counsel.

19 [REDACTED]: Your Honor, my only further comments are
20 to highlight the timeliness of the cooperation. Certainly I
21 agree with everything that's been said about the inability to
22 offset the nature of the conduct.

23 What often happens that results in cooperation starts
24 with the handwriting on the wall being your name under the
25 "-v-" in a court document or that early morning visit to your

1 residence by law enforcement agents.

2 What happened here was the handwriting on the wall
3 was self-composed. Both brothers decided that there had to be
4 a way to alter the course, and they reached out and began that
5 process, an extremely dangerous process because at the time,
6 they were still sitting in the back yard of the very people
7 that they intended to provide information against without the
8 protection that most cooperators normally have because in many
9 instances, not all, those people are either in custody or in
10 the control of government agents.

11 This is a situation that developed while they were in
12 a foreign place, not able to have that protection, where at
13 any given moment, their cooperation with the government could
14 have been exposed and the results dramatically different than
15 what they are right now, including even the ability to
16 negotiate a place to actually have a conversation in person
17 with government agents.

18 Mr. Guzman, as it's well known, has a network of
19 people who continuously provide information to him on the
20 whereabouts of anyone that he may be doing business with, so
21 the mere presence in a location outside where they would
22 normally be authorized to be would have set off significant
23 alarms, and I think the nature of Mr. Guzman's practice would
24 have been to react first and ask questions later.

25 But nonetheless undeterred by that extreme risk, both

1 defendants engaged in cooperative conduct that allowed the
2 government to amass not only a great quantity of information
3 but great quality of information as established by the number
4 of indictments brought in this district, the indictments
5 brought in other districts, the successful prosecution of
6 almost every one of those cases. In fact, other than a case
7 that was dismissed in this district for reasons that I think
8 only related to the government's willingness to expose certain
9 information, they weighed that and decided not to pursue that
10 case.

11:09:11

11:09:32

11 But in this district, every one of those cases has
12 resulted in a successful prosecution, which I think speaks
13 volumes of the quality and the quantity of the information
14 that was given.

11:09:45

11:10:05

15 As I commented earlier, as you are well aware, this
16 is a process that's not going to stop in the near future. The
17 risk remains certainly from the moment they decided at a young
18 age to get involved in drug trafficking, well aware of the
19 risks that that posed outside of whether they cooperated with
20 government at any time or not. The risk was certainly
21 heightened, given the nature of the information they provided
22 to the government and on both sides, they completely
23 dismantled this entire pipeline, both from the supply side and
24 the distribution side. So the number of people who obviously
25 are not happy with the result of that cooperation certainly

11:10:25

1 significantly increases the risk factor.

2 Judge, this is a risk that will forever follow them
3 and their families. There's already been a situation that has
4 had a disastrous result for them, and they're going to forever
5 have to live with that.

11:10:44

6 I'm asking that you consider a sentence at the low
7 end, at the very end of the range in this case, and also as
8 Mr. -- as we've mentioned already, I think that there are
9 other ways to fashion a sentence beyond the prison sentence
10 that gives the Court the necessary control moving forward.

11:11:05

11 THE COURT: Thank you.

12 Do either defendants, either Pedro or Margarito, want
13 to make a statement to the Court?

14 [REDACTED]: May I have a minute, Judge?

11:11:20

15 THE COURT: Yes.

16 (Defendant and counsel conferring.)

17 DEFENDANT MARGARITO FLORES: Good morning.

18 THE COURT: Good morning.

19 DEFENDANT MARGARITO FLORES: First of all, I want to
20 thank you to taking the time to read my lengthy letter that
21 was sent to you.

11:11:46

22 THE COURT: And could you state your name just for
23 the record?

24 DEFENDANT MARGARITO FLORES: Oh, I'm sorry.

11:11:52

25 Margarito Flores, Jr.

1 THE COURT: Okay. You may proceed.

2 DEFENDANT MARGARITO FLORES: First and foremost, I
3 want to take full responsibility for all my actions -- I'm
4 sorry -- for my bad decisions, for the life of crime that I
5 have lived. I'm ashamed. I'm embarrassed. I'm regretful for
6 being stupid enough to making such bad decisions. I disgraced
7 myself and my children. I put my family in harm's way, and I
8 will never forgive myself.

11:12:10

9 I want this Court to know that I recognize how awful
10 my conduct was, and I know there's no excuse for it, but I
11 want to apologize to this Court, to the prosecutors, my
12 country, to the citizens of Chicago, all its citizens, and
13 especially to the people I've harmed because of the drugs I've
14 sold, Your Honor.

11:12:29

15 Thank you.

11:12:45

16 THE COURT: Thank you.

17 DEFENDANT PEDRO FLORES: Good morning, Your Honor.

18 THE COURT: Good morning, Mr. Pedro Flores.

19 You may proceed.

20 DEFENDANT PEDRO FLORES: First of all, I just want to
21 thank God for seeing me through all that danger and allowing
22 me to be here today. Your Honor, especially thank my wife and
23 children and family for all their support and being --
24 standing strong by our side through the most difficult times
25 in our life.

11:13:03

11:13:26

1 And I also want to thank the United States government
2 for giving me the opportunity to cooperate and take apart the
3 drug traffic I helped create. Thank the government, the DEA
4 and you, Your Honor, for allowing me the opportunity to not
5 spend the rest of my life in prison.

11:13:48

6 I am before you today ready to take full
7 responsibility for my life as a drug trafficker, and I know my
8 actions deserve the greatest punishment, and I am grateful
9 that the government has asked you to consider my work as a
10 cooperator. I know my cooperation did not wipe the slate
11 clean for me and the damage I have caused, and I believe it
12 was my obligation to help take apart the drug distribution
13 network I helped build, and I just want to do the right thing
14 and I'm truly sorry for all my actions.

11:14:10

15 Thank you, Your Honor.

11:14:37

16 THE COURT: Nothing easy about sentencing either of
17 the Flores brothers. I've given a lot of thought to this
18 sentencing.

19 I have to start out with the first thing I thought
20 about was whether or not this plea agreement was sufficient,
21 given the amount of drugs involved in this case, which is
22 unprecedented, devastating, horrific.

11:15:05

23 When you think about a drug conspiracy that involves
24 1,500 to 2,000 kilograms of cocaine per month and coming not
25 only to this city, which I love dearly, but also to Columbus,

11:15:35

1 Ohio, Cincinnati, Ohio, Philadelphia, New York, Washington,
2 D.C., Detroit, Vancouver, it is devastating to think about
3 that, and it's devastating to think about when you add that
4 all up, it's 64,000 kilos over the course of the charged
5 conspiracy, and this is not only the drug cocaine but also the
6 drug heroin.

7 When you think about the return to this being over
8 \$1 billion, it's money, just money that drives all this. I
9 look at the two Flores brothers and I think growing in Chicago
10 under different circumstances, both of you gentlemen probably
11 could have accomplished a great deal if you had been law
12 abiding because there's a lot of things you are, but stupid is
13 not one of them. And you're very smart to get to this point
14 in this drug conspiracy, to be able to ultimately work to a
15 level where any walls that we had, and I'm not naive enough to
16 think that we have walls that protected this city, but if we
17 did, you devastated those walls. You just knocked them down
18 because this became just a highway of drugs that were coming
19 into this city.

20 Nor am I naive enough to think that this highway was
21 closed down because you were out of business or because people
22 have been arrested both in the United States and in the
23 country of Mexico, another country that I love dearly that has
24 been devastated by drug conspiracies. Unfortunately, the
25 demand for drug use in this country continues. There are not

1 enough treatment programs, and there seems to be no absence of
2 individuals who get involved in trafficking in drugs.

3 And I know this because I see them every day.

11:18:03

4 Twenty years on the bench, one of the things that I've
5 complained to the U.S. Attorney's Office is that oftentimes,
6 too often, I've seen low-level drug dealers prosecuted in this
7 court, and I've complained about that early and often. But
8 that is not the complaint that I have today because there is
9 no doubt in my mind that both of the Flores brothers are the
10 most significant drug dealers that I've ever had to sentence
11 in 20 years on the bench, and that is saying a lot.

11:18:30

12 What do I make of this case? As it is, your
13 attorneys have served you well. They have negotiated based on
14 your cooperation. And I do want to talk about your
15 cooperation. Never in my 20 years on the bench have I seen a
16 situation where defendants, regardless of the crime that's
17 being prosecuted, stopped in the middle of the crime spree and
18 say I'm going to cooperate. I haven't seen that, so I have to
19 give that significance.

11:18:56

11:19:17

20 And so any inkling that I had to reject the plea
21 agreement based on this type of cooperation, I will not follow
22 that impulse, but I want you both to know that but for your
23 cooperation, if you had been brought before me in your prison
24 garb, you'd be leaving here today with a life sentence, and I
25 would not hesitate at all to give you a life sentence for this

11:19:43

1 type of drug conspiracy and this devastation of this country
2 and this city with these drugs because it is devastating. It
3 is just simply horrific.

11:20:03

4 I have decided that the plea agreement gives me
5 enough discretion and such as it is, anywhere between 10 and
6 16 years, that certainly narrows my field of discretion. I
7 think it is fair because I've never seen anyone just stop in
8 the middle of a conspiracy, as I said before, and decide to
9 cooperate.

11:20:26

10 I wish your cooperation had been perfect. It is not
11 perfect. It is valuable, it is timely, and the fact that
12 you've recorded conversations is very significant and might
13 turn out to be even more significant in upcoming trials that
14 may or may not take place in this city or in this country, but
15 I understand what you have done. You've taken a great deal of
16 risk, and I certainly am going to consider that because in a
17 very real way, even though I'm not going to sentence you to
18 life, you are going to leave here with a life sentence.

11:20:50

19 You and your family members for the rest of your life
20 will always have to look over your shoulder and wonder every
21 time you're outside in a vehicle and you see a motorcycle come
22 up behind you, you're going to be wondering if that is the
23 motorcycle that is going to take your life.

11:21:11

24 Every time you start a car, you're going to be
25 wondering is that car going to start, or is that car going to

11:21:33

1 explode every single time for the rest of your life.

2 And I know what that feeling is because I have put my
3 life on the line in the drug wars, and I could close my eyes
4 right here right now in 2015 and take myself back to 1987, and
5 the sad reality is nothing has really changed. Drugs are
6 available. You could walk to the West Side of Chicago and
7 people can purchase kilograms, heroin hits, and it just goes
8 on and on. And that, to me, is sad.

9 I've considered the violence that you suffered, that
10 your family has suffered. No one should lose a parent under
11 those circumstances. But realize this: That a lot of people
12 in this city have lost family members, sons and daughters,
13 fathers and sons, because of drugs. You need to realize that.

14 I've also considered very carefully what the
15 government said about your actual use of violence and the fact
16 that they cannot prove that you have either ordered someone to
17 have their life taken or were involved in the actual taking of
18 life, and that is significant for me. And I will tell you,
19 weighing all of these 3553 factors ultimately -- and I want
20 you to know this -- but for your cooperation, you would have
21 received a life sentence.

22 If your cooperation had been perfect, you would leave
23 here today with 12-year sentences. That's what I think is
24 fair. But it's not going to be that way, and I'll tell you
25 why, because there's one thing that really bothers me.

1 There's one thing about your cooperation that just is not
2 forgivable for me, and that is your failure to report to the
3 government the arrival of 276 kilograms of cocaine in that
4 transaction with Mr. Vasquez-Hernandez.

11:23:51

5 Now, you need to know, and you do know, that
6 Mr. Vasquez-Hernandez left here with a 22-year sentence just
7 for that transaction, if nothing else.

11:24:12

8 So today, I'm sentencing you, both of you, to
9 14 years in the custody of the Attorney General. That's what
10 I think is sufficient, that's what I think is fair, but I want
11 you to know that that 276 kilos which you allowed to be
12 distributed on the streets of Chicago cost you two years. I
13 want you to know that.

11:24:29

14 Now, I'm not concerned about you being involved in
15 drug trafficking after you get out of prison. I am concerned
16 about your safety. I am concerned about that, but I think for
17 now, given the time you've already spent in custody, that
18 you're better off being in custody where the government, the
19 government has responsibility for your safety before they turn
20 it over to you. And I think 14 years, in light of the
21 devastation that you caused this city, this country of yours,
22 is what is appropriate.

11:24:51

23 I will place you on five years of supervised release
24 following the sentence.

11:25:09

25 I'm not going to fine you, although I will tell you

1 this, I think everyone in this city, everyone in this city
2 thinks that you have money. Everyone. But we're not going to
3 do anything about that.

11:25:28

4 I will enter the preliminary order of forfeiture
5 which will result in 81,500 seized from Individual A on
6 September 1, 2010 being forfeited, which will result in
7 forfeiture of \$10,000 used as a downpayment on a vacant lot
8 being forfeited; more importantly, in \$3.5 million, more
9 specifically specified in the preliminary order of forfeiture
10 being forfeited; and also a 2008 Land Rover vehicle which VIN
11 number is indicated in the preliminary order of forfeiture.
12 That will be forfeited.

11:25:59

13 But I think if you ask the average person on the
14 street, they think you still have money left over other than
15 the money that the government is going to leave you with, but
16 I'm not going to fine you.

11:26:22

17 I am required to assess you \$100.

11:26:38

18 We're not going to talk about where you're going to
19 be held on the record for safety reasons. I'll make those
20 recommendations confidentially and privately.

11:27:01

21 But let the message go out: No. 1, it's never too
22 late to cooperate because a significant discount in what would
23 otherwise have been life sentences has been given by this
24 Court today. Let that message go out. You can cooperate with
25 the government and get a discount for bad behavior even as

1 devastating as this behavior was.

2 That will be the sentence of this Court.

3 Is there anything else we need to take care of?

4 MR. FERRARA: Your Honor, two matters from the
5 government.

11:27:18

6 THE COURT: Yes.

7 MR. FERRARA: With respect to the 3553(a) -- I'm
8 sorry, with respect to the conditions of supervised release --

9 THE COURT: Right.

11:27:25

10 MR. FERRARA: -- the Seventh Circuit's recent opinion
11 in *United States versus Thompson* requires --

12 THE COURT: Sure.

13 MR. FERRARA: -- specific reasons for those
14 conditions, so the government would request that those -- the
15 Court's well-reasoned imposition of those be on the record.

11:27:36

16 THE COURT: Sure. And let me just say there will be
17 no special conditions of supervised release.

18 While on supervised release, each defendant cannot
19 commit any federal, state or local crime.

11:27:57

20 And the only other special condition, just because I
21 am aware that there has been some drug use, is that there will
22 be one drug test within 15 days of release from imprisonment
23 and random drug tests thereafter.

24 And it's not lost on me -- I want to tell both of the
25 Flores brothers -- that even one of your brothers was addicted

11:28:22

1 at one point and suffered from addiction, and that's just one
2 example of the many addictions I've had to cope with as a
3 federal judge.

11:28:44

4 I'm also going to order that each defendant provide a
5 DNA sample at the direction of the probation officer.

6 It will also be a condition, given the offenses that
7 the defendants have pled guilty to, and this is federal law so
8 it really doesn't go beyond federal law, that they cannot
9 possess a firearm or destructive device.

11:29:06

10 Those are the sole conditions. Both Flores
11 defendants have a right to appeal the sentence by filing a
12 notice of appeal within 14 days. If you need appointed
13 counsel for purposes of pursuing an appeal, you can request
14 one from the Court of Appeals. But I believe, given your
15 unique cooperation as I've indicated today and the facts of
16 this case, that these sentences are sufficient but no greater
17 than necessary under 18 U.S.C. 3553.

11:29:29

18 Is there anything else?

11:29:46

19 MR. FERRARA: Your Honor, with respect to the plea
20 agreements in this matter, there is a full appellate and
21 collateral attack waiver.

22 THE COURT: Okay.

23 MR. FERRARA: Just to make that of record.

24 And then at this time, the government moves to

11:29:54

25 dismiss Count 2 of the indictment.

1 THE COURT: Count 2 will be dismissed, and I think we
2 covered all the collateral waivers during the Rule 11 colloquy
3 with both defendants, so I won't go any further with that.

4 Anything else for the defense?

11:30:11

5 [REDACTED]: No, Judge.

6 [REDACTED]: No, Your Honor.

7 [REDACTED]: Can we have a brief --

8 THE COURT: Sure. We'll give you a brief moment, and
9 the Court will stand in recess.

11:30:19

10 [REDACTED]: Thank you.

11 (Which were all the proceedings heard.)

12 CERTIFICATE

13 I certify that the foregoing is a correct transcript from
14 the record of proceedings in the above-entitled matter.

15 /s/Kathleen M. Fennell

February 11, 2015

16 _____
17 Kathleen M. Fennell
18 Official Court Reporter

_____ Date

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