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July 7, 2022

BY ECF

The Honorable Jed S. Rakoff
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Jason Gonzalez*, S1 21 Cr. 412 (JSR)

Dear Judge Rakoff:

The Government submits this letter in advance of the sentencing of Jason Gonzalez (“Gonzalez” or the “defendant”) in the above-referenced matter, currently scheduled for July 13, 2022 at 11:00 a.m. The defendant was a member of the “Get Money Gunnaz” or “GMG” set of the New York City-wide “Young Gunnaz” or “YGz” street gang (the “GMG YGz” or the “Crew”). The defendant, and other members of the Crew, sold narcotics on GMG-controlled blocks in the vicinity of 184th Street and Morris Avenue, carried firearms, and engaged in back-and-forth shootings with neighboring, rival crews. The defendant sold drugs for the Crew, possessed firearms in furtherance of its narcotics trafficking activity, and extolled the values of the Crew on social media. On the basis of the defendant’s conduct and his criminal history, the Government would have urged the Court to impose a sentence within the Stipulated Guidelines Range of 151 to 188 months’ imprisonment. However, in light of the Department’s support of the EQUAL Act, S.79, discussed *infra*, and the mitigating factors raised in the defendant’s submission, the Government requests that the Court impose a sentence of 136 months’ imprisonment.

I. Offense Conduct**A. Background**

For years, members of the GMG YGz engaged in drug dealing, firearms offenses, and crimes of violence, including shootings, in the vicinity of 184th Street and Morris Avenue in the Bronx, New York. (See Final Presentence Investigation Report, revised May 23, 2022 (the “PSR”) ¶¶ 12-13). The Crew engaged in controlled sales, primarily of cocaine base, and of relatively smaller amounts of heroin and fentanyl, to undercover law enforcement officers (“UCs”) and confidential sources (“CSs”). (PSR ¶ 13). Beginning in approximately 2017, UCs and CSs working for and at the direction of the New York City Police Department (“NYPD”) and, later, the Drug Enforcement Administration (“DEA”) began infiltrating the Crew through controlled purchases of narcotics. (PSR ¶ 14). Pursuant to his written plea agreement with the Government

(the “Plea Agreement”), the defendant agreed that he is responsible for participating in a conspiracy to distribute at least 7.5 kilograms of cocaine base.

On June 22, 2021, a Grand Jury sitting in the Southern District of New York returned superseding indictment S1 21 Cr. 412 (the “Indictment”), charging the defendant and twelve others in two counts. Count One charged the defendant with participating in a conspiracy to distribute and possess with intent to distribute (i) 280 grams and more of mixtures and substances containing a detectable amount of cocaine base in a form commonly known as “crack cocaine,” in violation of 21 U.S.C. § 841(b)(1)(A); (ii) mixtures and substances containing a detectable amount of heroin, in violation of 21 U.S.C. § 841(b)(1)(C); and (iii) mixtures and substances containing a detectable amount of fentanyl, in violation of 21 U.S.C. § 841(b)(1)(C). Count Two charged the defendant with using and carrying, and aiding and abetting the use and carrying of, a firearm in furtherance of that drug conspiracy, in violation of 18 U.S.C. § 924(c).

On July 6, 2021, the defendant was arrested. He has been detained since that date.

B. The Defendant

As a member of the GMG YGz, the defendant sold crack cocaine and heroin in the gang’s Bronx territory. (PSR ¶ 12). He was the direct seller in at least 9 controlled purchases of narcotics by law enforcement, which included selling approximately 7.5 grams of cocaine base, as well as a detectable amount of heroin. (*Id.* ¶ 16).

In addition to being a direct seller himself, the defendant also managed the Crew’s drug dealing, holding narcotics and collecting proceeds from other sellers. In particular, once Jevaun Charles, a co-defendant and another leader of the Crew, was incarcerated for a January 2019 carjacking committed with other Crew members, Gonzalez began managing drug dealing on Charles’s behalf. For example, in a record jail call on or about March 1, 2019, Gonzalez and Charles had the following conversation, in substance and in part, in which they discussed narcotics supplies and profits:

CHARLES: Tell me something good, bro.

GONZALEZ: Nah. Gucci everything.

CHARLES: All right. Same as last time?

GONZALEZ: Yeah.

CHARLES: All right, all right.

GONZALEZ: It was at, it was at 47.

CHARLES: All right. Yeah. All right, all right, all right. So, it should be another 80 at the end for me.

GONZALEZ: Mm-hmm.

CHARLES: All right, we're good.

GONZALEZ: [UI]

CHARLES: All right, all right. [UI] ya add 16, 16 and 24. Hold on. All right. Alright bet so. I'm about to call this bitch Nika up when this shit hang up. At the end of everything, bro, should be 40 at the end.

GONZALEZ: 40.

CHARLES: 40 at the end on my behalf. And then 18 for him.

GONZALEZ: All right.

CHARLES: Yeah.

GONZALEZ: Yeah. I know, I know the other shit is done deal.

CHARLES: Yeah.

GONZALEZ: You hear me?

CHARLES: Yeah. Oh and fucking um... on that mother fucking Fat Boy wave. Remember um... 6 4 and then on our wave, 65 35. So...

GONZALEZ: Mm-hmm.

CHARLES: Yeah. So... including that. Including that, that 8 that's already there for me, at the end, should be 4 after everything. After that, I'm trying to make a big move. So... word. That's a fact.

GONZALEZ: I got you.

CHARLES: Has Nika [PH] hit you back up?

GONZALEZ: Nah, she ain't hit me.

CHARLES: All right. [UI] this bitch up. [UI] So, make sure I'ma do all that shit.

GONZALEZ: I'm going—I'm going to get that done tonight. So niggas early morning we be good.

CHARLES: Yeah, yeah, yeah, yeah, yeah. A lot of niggas be out early, you heard?

GONZALEZ: Yeah.

CHARLES: I mean, make sure you hit—you hit the young boy up tonight. Because he be on his crazy old shit.

GONZALEZ: Yeah, he getting hit tonight.

CHARLES: Yeah. Yeah, that's a fact. Yeah, that's a fact. [UI]

GONZALEZ: The only thing – I gotta spoon feed him.

CHARLES: Yeah, yeah, yeah. Baby steps. All right. All right now. Man, son, this shit got me tight.

GONZALEZ: Facts bro. I just, I just did the math on my cellphones when he asked about it, for the other eight.

CHARLES: Oh, you gave it to him yourself?

GONZALEZ: Yeah.

CHARLES: Good look out. Yeah, good look out. [UI] I don't want to talk about this shit no more till the end, that's it. Nothing to talk about, nothing.

GONZALEZ: Yeah.

CHARLES: Next time we talk about this shit is in a few days. [UI] Don't make no sense being hot boys every day. [Laughter] Word. Man, I want to get—you gotta get another phone too.

GONZALEZ: Yeah, I'm about to-- I'm about to, um, probably in a couple days. I'll let you know.

As another example, New York City Department of Correction records reflect that, on or about July 28, 2019, Israel Garcia, a co-defendant and the Crew's leader, traveled to Riker's Island to visit Charles. According to those records, Garcia left the prison facility at approximately 4:55 p.m. A mere ten minutes after Garcia departed, law enforcement intercepted a call on which Garcia and Gonzalez discussed the collection of money from members of the Crew:

GARCIA: Did you get the bread for [Unintelligible]?

GONZALEZ: Who this?

GARCIA: Rock bro.

GONZALEZ: Yeah, I told him already.

GARCIA: No Why, I need you to grab everything bro! Please bro!

GONZALEZ: Aight.

GARCIA: No, not them little niggas! I don't trust them little niggas. You grab all them shit's bro. So I can reach and unpack um bro!

GONZALEZ: Aight.

GARCIA: Grab the [Unintelligible], please.

GONZALEZ: Got it.

GARCIA: I'm coming there right now.

GONZALEZ: Aight bet.

A short time later, at 6:58 p.m., law enforcement intercepted another call between Garcia and Gonzalez, on which the two continued discussing collection:

GONZALEZ: Yo.

GARCIA: You got everything?

...

GONZALEZ: Everything is [Unintelligible] bro somebody is in her house.

GARCIA: What?

GONZALEZ: Ali [Alysha Beltre] said she got no bread for you. She got it I think [Unintelligible] but she don't got no bread on her, she said it's in her house, her mom's not home.

GARCIA: Did everybody else pay you already?

GONZALEZ: Um . . . Kenny [Deuri Carambot] got to talk to you to.

GARCIA: I don't wanna . . . aight I'll be there in a second.

GONZALEZ: Niggas is getting the [Unintelligible]

In addition, the defendant also was involved in a July 26, 2019 shooting at Saint James Park in the Knightsbridge neighborhood of the Bronx. The defendant and a group of GMG YGz, including Jason Gonzalez, Shakur Culbert, and Kewaanne Williams, traveled to Saint James Park. At the park, members of a rival crew approached the GMG YGz group and began shooting at them, whereupon Williams pulled out a firearm and attempted to return fire, before the group fled from the park. (PSR ¶ 33). The day after the shooting, on or about July 27, 2019, Gonzalez and Charles (who was incarcerated, as noted above), discussed the shooting:

CHARLES: You just woke up?

GONZALEZ: Nah, I'm in the crib just laying down everybody . . . I don't even know what nigga is doing.

CHARLES: Hmm, what time ya got in the crib? That BBQ was lit?

GONZALEZ: Oh boy, if you know what happened boy . . . hmm.

CHARLES: Hmm, yo bro I felt like something was gonna happen but I felt like it was gonna be some Kingsbridge niggas.

GONZALEZ: Yeah.

CHARLES: It was, right?

GONZALEZ: Yeah.

CHARLES: Damn, niggas moved on niggas. Niggas got it on . . . or not even it ain't get that far?

GONZALEZ: Got far nigga, you know what happened.

CHARLES: Oh man.

GONZALEZ: Niggas let it rain on us.

* * * *

GONZALEZ: Nigga I'm glad there wasn't.

CHARLES: [Laughs] Who was out there though? Rocky...

GONZALEZ: Nah, Rock wasn't even there.

CHARLES: Oh word, he said he was going, Keys was there?

GONZALEZ: Nah, Keys was definitely there.

CHARLES: Ah, ya niggas.

II. The Defendant's Plea and Applicable Guidelines Range

On February 28, 2022, pursuant to the Plea Agreement, the defendant pled guilty to one count of conspiring to distribute cocaine base, or "crack cocaine," in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), and 846. In the Plea Agreement, the parties stipulated that the Stipulated Guidelines Range for this offense is 168 to 210 months' imprisonment, with a 60-month mandatory minimum term of imprisonment, based on a total offense level of 33 and a Criminal History Category of III. The United States Probation Office (the "Probation Office") calculates a Guidelines range of 188 to 235 months' imprisonment, based on a total offense level of 33 and a

Criminal History Category of IV.¹ (*See* PSR ¶¶ 87). The Probation Office recommends a sentence of 188 months' imprisonment. (*Id.* at 26-28).

As the Court may be aware, on June 22, 2021, the U.S. Department of Justice provided public testimony in support of the EQUAL Act, S.79. This proposed legislation would eliminate the powder-to-cocaine base sentencing disparity in 21 U.S.C. §§ 841 and 960. Although the Department supports elimination of the powder-to-cocaine base disparity, until legislation to that effect is passed, the current statutory and guidelines provisions remain in effect. In this case, the amount of cocaine attributable to the defendant's criminal conduct, as stipulated in the Plea Agreement, is 7.5 kilograms of cocaine base, which results in a current base offense level of 33 and a Stipulated Guidelines Range of 168 to 210 months' imprisonment, with a mandatory minimum sentence of 60 months' imprisonment. If the powder cocaine Guidelines were instead applied to the same amount of cocaine base, the base offense level would be 29, and the Guidelines sentencing range would be 108 to 135 months' imprisonment, with a mandatory minimum sentence of 60 months' imprisonment.² The Court can and should, consistent with the law and current sentencing framework, consider the powder-to-cocaine base disparity in assessing the Section 3553(a) factors. *See Kimbrough v. United States*, 552 U.S. 85, 106-08 (2007); *United States v. Cavera*, 550 F.3d 180, 191-92 (2d Cir. 2008) (en banc). Based on consideration of the powder-to-cocaine base disparity and all the relevant factors under Section 3553(a) as set forth below, the Government believes a sentence below the current Guidelines sentencing range is appropriate.

III. Applicable Law

As the Court is aware, the Sentencing Guidelines provide strong guidance to sentencing courts following *United States v. Booker*, 543 U.S. 220 (2005), and *United States v. Crosby*, 397 F.3d 103 (2d Cir. 2005). Because the Guidelines are "the product of careful study based on extensive empirical evidence derived from the review of thousands of individual sentencing decisions," *Gall v. United States*, 552 U.S. 38, 46 (2007), district courts must treat the Guidelines as the "starting point and the initial benchmark" in sentencing proceedings. *Id.* at 49. After that calculation, however, the Court must consider the seven factors outlined in Title 18, United States Code, Section 3553(a), which include the nature and circumstances of the offense, the individual characteristics of the defendant, and the need to adequately deter criminal conduct and promote respect for the law. *Id.* at 50 & n.6.

IV. Discussion

The Government respectfully submits that the seriousness of the offense, the need to promote respect for the law, ensure just punishment, protect the public, and afford adequate

¹ The Probation Office's criminal history calculation includes an additional three criminal history points based on a youthful offender conviction for robbery, which was not included in the plea agreement's criminal history calculation. (PSR ¶ 42).

² Using criminal history category IV, as the Probation Office does, the powder cocaine Guidelines range would be 121 to 151 months' imprisonment.

deterrence, all warrant imposition of a sentence of 136 months' imprisonment. Notwithstanding his relatively young age, the defendant already has engaged in a course of repeated, escalating criminal conduct, that casts doubt on the defendant's ability to lead a law-abiding life and underscores the need for a serious sentence.

A. A Substantial Sentence Is Appropriate

i. Seriousness of the Offense and Respect for the Law, and Just Punishment

The nature and circumstances of the defendant's conduct weigh heavily in favor of a substantial sentence. As detailed above, the defendant not only sold drugs but continued managing the Crew's drug dealing while its leaders, Charles and Garcia, were not on the block themselves. The defendant and his co-conspirators caused immense harm to their community. Between approximately November 2017 and February 2020, law enforcement CSs and UCs made over approximately 100 controlled purchases of narcotics from the Crew, and the defendant was the direct seller in at least 9 of those. (PSR ¶¶ 14, 23). According to cooperating witnesses and surveillance conducted by law enforcement, this was but a fraction of the drugs the Crew sold; and their other customers, unlike the UCs and CSs, were using these dangerous drugs that the defendant and his co-conspirators sold. This conduct, and the seemingly impunity the defendant felt, calls for a serious sentence.

ii. The Defendant's History and Characteristics

The defendant's history and characteristics likewise weigh heavily in favor of a substantial sentence. The defendant has an extremely serious criminal history, including a conviction for attempted murder. Significantly, the defendant began participating in the instant offense following his release from his six-year sentence for that conviction. That serious conviction and sentence clearly did not deter the defendant from trafficking in crack and heroin, and from engaging in armed gang activity with co-conspirators he knew to commit shootings and other acts of violence.

In sum, through his elevated role in the crew, selling crack and heroin, and maintaining access to firearms, the defendant has established that he is, and remains, a danger to the community. The Government's below-Guidelines sentencing request takes into account both the crack-to-powder cocaine disparity and the defendant's history and characteristics in seeking a sentence of 136 months' imprisonment, which is well below the Plea Agreement's Stipulated Guidelines Range.

iii. The Need to Protect the Public and Deter the Defendant and Other Similarly Situated Individuals

A substantial sentence is needed to adequately punish the defendant and to demonstrate the seriousness of his conduct. The crimes at issue here have seriously harmed an unknown number of drug users and addicts, not to mention the citizens forced to navigate life in the GMG YGz's territory, knowing the risk of gang violence, including shootings. Such a sentence is also needed to promote respect for the law and deter the defendant from future crimes—a goal that was not accomplished by any of the defendant's prior arrests or contacts with law enforcement. Moreover,

looking beyond the defendant himself, in a case like this, where the defendant was involved in a much larger gang and drug conspiracy that operated out in the open, there is a significant need to deter others by showing that such crimes will result in a substantial sentences when prosecuted in federal court. It is clear from all of the defendants' criminal histories in this case—and in others like it—that state prosecutions and lenient sentences do not adequately deter them. A federal sentence must send a starkly different message.

A lengthy sentence is also necessary to avoid unwarranted disparities between this defendant and his co-defendants. This investigation led to the prosecution and conviction of 13 defendants.³ Of those, the Government required six—the defendant, Garcia, Charles, Williams, Smith, and Gonzalez—to plead to offenses carrying mandatory minimum sentences. Of that group, Garcia, Charles, and Williams stipulated to leadership enhancements, pursuant to U.S.S.G. § 3B1.1, and all but one also agreed to a two-level increase, pursuant to U.S.S.G. § 2D1.1(b)(1), for possession of a firearm in connection with the present offense. In the Government's view, the defendant's conduct places him squarely in the top half of more culpable defendants, in the group directly following Garcia and Charles, the two leaders of the Crew. His sentence must reflect his culpability relative to his co-conspirators. Finally, and most importantly, significant sentences in this case are essential to protect the public from the defendant, his co-conspirators, and a resurgence of the GMG YGz in the vicinity of 184th Street and Morris Avenue in the Bronx. A 60-month sentence, which the defendant requests, will not accomplish the goals of sentencing.

³ Garcia's motion to withdraw his guilty plea is pending before the Court.

V. Conclusion

For the reasons set forth above, the Government respectfully requests that the Court impose a sentence of 136 months' imprisonment. Such a sentence would be sufficient, but not greater than necessary, to serve the legitimate purposes of sentencing.

Respectfully submitted,

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