

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

vs.

SAMUEL MONTOYA

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NO. 1:21-CR-00336-1

SENTENCING MEMORANDUM

TO THE HONORABLE JOHN D. BATES, UNITED STATES DISTRICT JUDGE FOR
THE DISTRICT OF COLUMBIA:

NOW COMES SAMUEL MONTOYA, Defendant in the above-entitled and numbered cause, by and through his undersigned Counsel, Donald H. Flanary, III., and respectfully files this Sentencing Memorandum pursuant to Title 18 United States Code § 3553¹ and for good cause would respectfully show this Honorable Court as follows:

Mr. Montoya requests a sentence of probation. Should the Court not be inclined to grant probation, Mr. Montoya respectfully requests that in the alternative, he be sentenced to home incarceration. Given the Plea Agreement, the 18 U.S.C. § 3553(a) factors outlined in this Memorandum, and the Defendant's compliance while on pretrial release, this request is reasonable.

I. Mr. Montoya's Acceptance of Responsibility

Defendant Samuel Montoya has taken full responsibility for his actions during the riot at the U.S. Capitol on January 6, 2021. Mr. Montoya was arrested without incident on April 13, 2021

¹ 18 U.S.C. § 3553 contains factors that warrant a sentence outside the advisory guideline range. The Sentencing Reform Act gives the sentencing court the discretion to depart from the sentencing range in certain circumstances. *United States v. Williams*, 503 U.S. 193, 195-96. Sentencing Courts, "while not bound to apply the Guidelines, must consult those Guidelines and take them into account when sentencing." *United States v. Booker*, 543 U.S. 220 (2005). Courts of appeals will look to the sentencing under a standard of reasonableness. *Id.* at 264.

in the Western District of Texas. He appeared via video conference for his initial appearance on April 14, 2021 and was released the same date on a personal recognizance bond.

Mr. Montoya pleaded guilty before this Court on November 7, 2022, to Count 5 of the Superseding Information that charged the offense of Parading, Demonstrating, or Picketing in a Capitol Building in violation of Title 40 U.S.C. § 5104(e)(2)(G), and a written plea agreement was filed that same date (Dkt. No. 55). He has remained on bond without issue since his release nearly two years ago.

II. Sentencing Guidelines

Mr. Montoya agrees with the Probation Officer that pursuant to U.S.S.G. 1B1.9, the U.S. Sentencing Guidelines do not apply to this misdemeanor Count. Moreover, The Supreme Court has clarified that the federal sentencing guidelines are now advisory only. *See United States v. Booker*, 125 S. Ct. 738 (2005).

III. Requested Sentence

Samuel Montoya respectfully requests that this Court sentence him to probation. In the alternative, he requests that he be sentenced to home incarceration. As the Court will see below, there are a number of very important 18 U.S.C. § 3553(a) factors that warrant a sentence of probation.

IV. Sentencing Factors to Consider

18 U.S.C. 3553 (a)(2) mandates that a sentence (1) “reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;” (2) “afford adequate deterrence to criminal conduct;” (3) “protect the public from further crimes of the defendant;” and (4) “provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.” *See* 18 U.S.C. § 3553. When

considering the totality of the circumstances surrounding Mr. Montoya's case, a sentence of probation is the appropriate punishment.

18 U.S.C. § 3553 (a)(1) directs this Court to consider the "nature and circumstances of the offense and the history and characteristics of the defendant." *See id.*

A. The Characteristics of Defendant Samuel Montoya.

Defendant Samuel Christopher Montoya was born on May 8, 1985, in San Marcos, Texas to his parents, Samuel L. Montoya and Melba Montoya. Both Mr. And Mrs. Montoya pastor at the Sinai Pentecostal Church in San Marcos, Texas, and the two are still happily married. He also has two siblings, Priscilla Montoya (43) and Jacob Montoya (49), and he maintains a close relationship with his parents and both siblings.

Mr. Montoya was born and raised in Texas and had a good childhood, free from abuse or neglect. He graduated from San Marcos High School in 2003 and began working various jobs. In July of 2018, he was hired at Free Speech Systems, LLC, where he was trained as a video editor. Unfortunately, he was laid off in November of last year after the company filed for bankruptcy.

B. Mr. Montoya's Behavior While on Bond.

As mentioned above, Defendant has been cooperative with law enforcement since his arrest nearly two years ago and has remained compliant with all conditions of release without issue. He is truly remorseful for violating the law on January 6, 2021, as evidenced by the apology he made during his PSR interview and his compliance while under pretrial supervision.

C. Letters from Mr. Montoya's family.

1. Letter from Samuel and Melba Montoya, mother and father of Samuel Montoya.

Samuel and Melba Montoya, Mr. Montoya's mother and father, write a letter to this Court in support of their third-born son. Samuel and Melba Montoya have been Pastors at Sinai

Pentecostal Church for 52 years and have been married for 52 years in July 2023. They describe their family as a close-knit Christian family that serves their community and church with love and devotion. Mr. and Mrs. Montoya state that Samuel has looked after his father throughout his journey with Salivary Gland Cancer in 2018 and has helped his mother with her health issues. They describe Samuel as their right-hand man and state that he has their love and support. Both believe Samuel is remorseful, sorry for his actions, and request leniency from the Court. *See* Letters from family, *attached* as Exhibit 1

2. Letter from Priscilla Montoya, sister of Samuel Montoya.

Priscilla Montoya, sister of Samuel Montoya, also writes a letter of support for her younger brother. Priscilla is a social worker and works as a professional in the mental health sector. She describes her and Samuel's relationship as very close in adolescence and adulthood. She believes that Samuel is truly remorseful for his actions. She writes that Samuel is the main familial support for her aging parents and asks for lenience in his sentencing. *See id.*

3. Letter from Paul A. Martinez, cousin of Samuel Montoya.

Paul A. Martinez, cousin to Samuel Montoya, also writes a letter of support. He writes that he has known Mr. Montoya his entire life and that he is polite, hardworking, and always willing to help when needed. Mr. Martinez also explains that he is an enthusiastic, sensible, and graceful person. Mr. Martinez feels that the charges are out of character for Samuel and is asking the Court for leniency in his Sentencing. *See id.*

D. Letters from Mr. Montoya's friends and colleagues.

1. Letter from Tom Ray, a close family friend.

Tom Ray, a close family friend, writes a letter to this Court asking for leniency in Mr. Montoya's sentencing. He explains that he has worked with Samuel's father, Pastor Montoya in

the San Marcos Ministerial Association for several years, and has known the Montoya family for 25 years. Mr. Ray believes Samuel Montoya is a quality young man, positive contributor to the Austin and San Marcos community, and not a negative influence by nature. *See* Letters from friends and colleagues, *attached* as Exhibit 2.

2. Letter from Jessica Aaron, a close mutual friend of Samuel Montoya.

Jessica Aaron, close mutual friend to Samuel Montoya, also writes a letter of support. She writes that she has known Mr. Montoya for over 3 years. She describes Samuel as honorable, trustworthy, and a good-hearted person. Ms. Aaron believes Mr. Montoya's actions in this case are out of character and that he regrets his actions. He asks the Court for leniency in his Sentence. *See id.*

3. Letter from John Mendoza, a close friend and Minister of Samuel Montoya.

John Mendoza, close friend and Minister to Samuel Montoya, writes a letter of support. He writes that he has known Mr. Montoya since he was born through his work in ministry. He believes that Samuel values integrity and honesty and describes him as someone who is willing to serve others. Mr. Mendoza asks to look favorably upon Mr. Montoya when considering his Sentence. *See id.*

4. Letter from Saul Gonzalez, a San Marcos City Council Member and friend of Samuel Montoya.

Saul Gonzalez, friend to Samuel Montoya, also writes a letter of support. He writes that Samuel was raised with Christian values and morals, and his actions are not in keeping with his background. Mr. Gonzalez believes that Samuel is a fine young man and is asking the Court for leniency in Mr. Montoya's Sentencing. *See id.*

5. Letter from Sean Mitchell, friend of Samuel Montoya.

Sean Mitchell, friend of Samuel Montoya, writes a letter of support. He has known Samuel for three years. He describes Mr. Montoya as a passionate individual that works hard and carries himself in a polite, respectable manner. Mr. Mitchell is asking the Court to look favorably upon Samuel and asks for leniency in his Sentencing. *See id.*

6. Letter from Rev. Josue Brewster Sanchez, friend and Pastor to Samuel Montoya.

Josue Brewster Sanchez, friend and Pastor, also write a letter of support. He has known Samuel and his family for twenty-five years and describes Samuel as a good hearted loving young man. Mr. Sanchez believes that Samuel's actions are out of character for him and that he regrets his actions. *See id.*

7. Letter from Michael Contreras, close friend of Samuel Montoya.

Michael Contreras, close friend of Samuel Montoya, writes a letter to the Court in support of Samuel. He writes that he has known Samuel for fifteen years through his Church. He describes Samuel as a kind individual who looks out for his family and friends. Mr. Contreras is asking the Court for leniency in his Sentencing. *See id.*

8. Letter from Adan Salazar, friend of Samuel Montoya.

Adan Salazar, friend of Samuel Montoya, also writes a letter of support. He has known Samuel for several years and describes him as a dedicated, hardworking, and kind person. He writes that Mr. Montoya is driven by his strong work ethic and is willing to go beyond what is expected of him. He believes that Samuel is an upstanding, honest Christian man that shows a great deal of integrity and humility. Mr. Salazar asks the Court for leniency. *See id.*

9. Letter from Michelle A. Harold, friend of Samuel Montoya.

Michelle A. Harold, friend of Samuel Montoya, also writes a letter of support. Mrs. Harold and Samuel met while her husband was working at their church. She considers Mr. Montoya a long-time friend and explains that Samuel was the first to offer assistance to anyone in need. She describes Mr. Montoya as considerate, loving, caring, and compassionate. *See id.*

10. Letter from Sam Brannon, friend of Samuel Montoya

Sam Brannon, friend of Samuel Montoya, writes a letter of support. Mr. Brannon holds the position of Hays County Republican Precinct Chair and met Mr. Montoya in 2015 at a City Council meeting. He describes Samuel as a good Christian, and a valuable part of the community. He states that Samuel is surrounded by supportive and nurturing parents and asks the Court for leniency. *See id.*

11. Letter from Jerry Pena-Ahuyon, friend of Samuel Montoya

Jerry Pena-Ahuyon, friend of Samuel Montoya, writes a letter of support. Mr. Pena has known Mr. Montoya for 6 years and states that he is a kind-hearted and empathic person who cares deeply about his family and those around him. He describes Samuel as hard-working and responsible. He believes that Mr. Montoya is remorseful for his actions and is asking for leniency. *See id.*

12. Letter from Brandon Gray, friend of Samuel Montoya

Brandon Gray, friend of Samuel Montoya, also writes a letter of support. Mr. Gray met Samuel 5 years ago as a camera man. He describes Mr. Montoya as genuine, kind, charismatic, and honest. Mr. Gray asks the Court to look favorably upon Mr. Montoya. *See id.*

13. Letter from Matthew Gonzalez, close friend of Samuel Montoya

Matthew Gonzalez, close friend of Samuel Montoya, writes a letter of support. Mr. Gonzalez and Samuel met 3 years ago as he was serving as the Men's Ministry President. He states that Mr. Montoya sees the good in everyone and encourages everyone to do better in life. Mr. Gonzalez states that Samuel deeply regrets his actions and asks the Court look favorably upon Mr. Montoya. *See id.*

V. BOP Designation

Mr. Montoya is a life-long resident of Texas and his friends and family reside in San Marcos. For these reasons, should the Court impose any sentence of imprisonment, Mr. Montoya respectfully requests that this Court recommend he be designated to serve his sentence at any Bureau of Prisons Facility near San Marcos, Texas.

VII. Conclusion and Prayer

Mr. Montoya readily acknowledges and accepts that he must be punished for his actions in this case but asks the Court to remember that he is defined by much more than the instant offense. As outlined in this Memorandum, Mr. Montoya takes full responsibility for his actions and is capable of remaining a productive member of society as he has during his time before this offense and while on bond.

WHEREFORE, PREMISES CONSIDERED, Defendant Samuel Montoya respectfully prays that you take into consideration this Sentencing Memorandum and impose a sentence of probation, or in the alternative, a sentence of home incarceration and for other such relief that this Honorable Court deems just and right.

Respectfully Submitted,

DONALD H. FLANARY, III.
State Bar No. 24045877
FLANARY LAW FIRM, PLLC
One International Center
100 N.E. Loop 410, Suite 650
San Antonio, Texas 78216
Tel: (210) 738-8383
Fax: (210) 728-3438

BY: /s/ Donald H. Flanary, III.
Donald H. Flanary, III.

ATTORNEY FOR DEFENDANT,
Samuel Montoya.

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the above and foregoing document was electronically sent *via* CM/ECF to Alexis Loeb, Assistant United States Attorney, on March 29, 2023.

/s/ Donald H. Flanary, III.
Donald H. Flanary, III.