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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

11 Cr. 205 (AKH)

6 HUGO ARMANDO CARVAJAL BARRIOS,
7 a/k/a "El Pollo,"

Plea

8 Defendant.
9 -----x
10

11 Before:
12 HON. ALVIN K. HELLERSTEIN,
13 District Judge
14 APPEARANCES

15 JAY CLAYTON
16 United States Attorney for the
17 Southern District of New York
18 BY: KAYLAN LASKY
19 NICHOLAS BRADLEY
20 KEVIN SULLIVAN
21 Assistant United States Attorneys

22 LAW OFFICES OF ROBERT FEITEL
23 Attorneys for Defendant
24 BY: ROBERT FEITEL

25 Also Present:
26 Special Agent Michael Stanton, DEA
27 Special Agent Sarah Devine-Powell, DEA
28 Humberto Garcia, Interpreter (Spanish)
29 Jill Hoskins, Interpreter (Spanish)

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1 THE COURT: Be seated, please.

2 (Case called)

3 MR. BRADLEY: Good afternoon, your Honor. Nicholas
4 Bradley, Kaylan Lasky, and Kevin Sullivan for the government.
5 We're joined at counsel table by Paralegal Specialist Sabrina
6 Jim and DEA Special Agents Michael Stanton and Sarah
7 Devine-Powell.

8 THE COURT: Good afternoon. You're all alone, Robert.

9 MR. FEITEL: Good afternoon, your Honor. I left my
10 team at home. I came by myself.

11 Robert Feitel for defendant, Hugo Carvajal.

12 Mr. Carvajal is present, and he has indicated that he can hear
13 the translation into his native language of Spanish. He's
14 ready to proceed, your Honor.

15 THE COURT: Thank you, Mr. Feitel.

16 We have a Spanish-English interpreter, Ms. Hoskins and
17 Humberto Garcia. OK. There we go.

18 I understand, Mr. Carvajal, that you expressed an
19 interest to change your plea from not guilty to guilty. Is
20 that correct?

21 THE DEFENDANT: That is correct, your Honor.

22 THE COURT: And the government has given through
23 counsel, to Mr. Carvajal what we call a *Pimentel* letter
24 outlining the government's opinions with regard to a potential
25 plea if Mr. Carvajal would plead guilty to all of the four

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1 counts of the superseding indictment. That letter is June 23,
2 2025.

3 Mr. Feitel, have you received that letter?

4 MR. FEITEL: Yes, I have, your Honor, and I've
5 reviewed its contents with my client.

6 THE COURT: OK. Thank you. All right. In order to
7 accept a guilty plea, Mr. Carvajal, I have to administer an
8 oath to you requiring you to answer all questions put to you
9 with the truth, the whole truth, and nothing but the truth. If
10 you fail to do that, you expose yourself to more penalties. So
11 the first question is whether you wish to proceed under oath.

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: If you would please, Ms. Joseph will
14 administer an oath to you.

15 (Defendant sworn)

16 THE DEPUTY CLERK: Thank you, you may be seated. When
17 you are seated, please state your full name for the Court.

18 THE DEFENDANT: Hugo Armando Carvajal-Barrios.

19 THE COURT: How old are you, Mr. Carvajal?

20 THE DEFENDANT: Sixty-five years old.

21 THE COURT: Are you married?

22 THE DEFENDANT: Divorced, your Honor.

23 THE COURT: Do you have any dependent children?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: How old are they?

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1 THE DEFENDANT: I have three children from my
2 marriage. I have a 39-year-old daughter --

3 THE COURT: Excuse me. I asked only for dependent
4 children, that is, under the age of 21. Do you have any
5 children under the age of 21?

6 THE INTERPRETER: The interpreter would like to have
7 the last part of what your Honor said repeated. How long are
8 you seeking?

9 THE DEFENDANT: I have three minor children, a
10 daughter who is 13 years old; I have one who is nine, and then
11 a daughter who is seven years old, and two adopted children who
12 are ten years old.

13 THE COURT: Do they live with their mother or mothers?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: I understand that you are a citizen of
16 Venezuela, is that correct?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And you are not a citizen of the United
19 States?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: You have a right to consult with counsel
22 with the consulate of Venezuela or any other country before I
23 proceed further. Do you wish to take advantage of that right?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: So I may proceed? You waive the right to

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1 consult with consulate?

2 In order for me to accept the guilty plea, as I said
3 before, I have to ask you a number of questions. The purpose
4 of these questions is to make sure you understand the four
5 counts that have been alleged against you in the superseding
6 indictment; that your plea is voluntary; that you understand
7 the consequences of the plea; and that there is an independent
8 basis in fact to support the plea. So I'll proceed with these
9 questions.

10 First, since these allegations make allegations
11 regarding narcotics and since you are not a citizen of the
12 United States, in likelihood if you plead guilty and are found
13 guilty, you are likely to be deported from the United States.
14 Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Would the government summarize one by one
17 the four counts of which Mr. Carvajal has been indicted?

18 MR. BRADLEY: Yes, your Honor. Just a brief summary?

19 THE COURT: A summary would be good.

20 MR. BRADLEY: Yes, sir.

21 THE COURT: Face Mr. Carvajal because he is the one
22 who has to understand it.

23 MR. BRADLEY: Yes, your Honor.

24 Your Honor, Count One charges the defendant with
25 conspiracy to commit narco-terrorism involving 5-kilograms or

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1 more of cocaine in at least in or about 1999 up to and
2 including in or about 2014 --

3 THE COURT: Mr. Bradley, this has to be interpreted
4 line by line, so phrase it so it can be interpreted. Start
5 again.

6 MR. BRADLEY: Your Honor, Count One charged the
7 defendant with participating in a conspiracy to commit
8 narco-terrorism involving 5 kilograms and more of cocaine from
9 at least 1999 up to and including in or about 2014. That's in
10 violation of a statute called Title 21 of the United States
11 Code, Section 960(a).

12 THE COURT: You understand that count, Mr. Carvajal?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: You've read it before, have you not?

15 THE DEFENDANT: Yes.

16 THE COURT: And you've discussed it with Mr. Feitel?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Count Two.

19 MR. BRADLEY: Thank you.

20 Count Two of the indictment charges the defendant with
21 participating in a conspiracy from at least in or about 1999 up
22 to and including in or about 2019 to import 5 kilograms and
23 more of cocaine into the United States and into the customs
24 territory of the United States; to manufacture, distribute and
25 possess with intent to distribute 5 kilograms and more of

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1 cocaine; intending, knowing, and having reasonable cause to
2 believe that that cocaine would be unlawfully imported in the
3 United States; and to manufacture, distribute, and possess with
4 intent to distribute 5 kilograms and more of cocaine on board
5 an aircraft registered in the United States. That's in
6 violation of Title 21 of the United States Code, Section 963.

7 THE COURT: Are you familiar with that count,
8 Mr. Carvajal?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: And you've discussed it with Mr. Feitel?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Count Three.

13 MR. BRADLEY: Count Three of the indictment charges
14 the defendant with possession of machine guns and destructive
15 devices from at least in or about 1999 up to and including in
16 or about 2019 during and in relation to and in furtherance of
17 the drug trafficking crimes charged in Counts One and Two of
18 the superseding indictment. That's in violation of Title 18 of
19 the United States Code, Section 924(c).

20 THE COURT: Similarly, Mr. Carvajal, are you aware of
21 that count?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And you've discussed that with Mr. Feitel?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Count Four.

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1 MR. BRADLEY: Count Four charges the defendant with
2 participating in a conspiracy from at least in or about 1999 up
3 to and including in or about 2019 to possess machine guns and
4 destructive devices during and in relation to and in
5 furtherance of the drug trafficking crimes charged in Counts
6 One and Two of the superseding indictment. That's in violation
7 of Title 18 of the United States Code, Section 924(o) .

8 THE COURT: And are you familiar with that count?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: And you've discussed that with Mr. Feitel?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Thank you, Mr. Bradley.

13 Tell me about your education, Mr. Carvajal. How far
14 in school did you go?

15 THE DEFENDANT: College, your Honor.

16 THE COURT: Did you finish college?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And you have the ability to read and
19 understand Spanish?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Any other languages?

22 THE DEFENDANT: No.

23 THE COURT: And you, with the aid of an interpreter,
24 are able to understand these proceedings?

25 THE DEFENDANT: Perfectly fine.

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1 THE COURT: OK. Coming into today, have you had any
2 narcotics or medicines or anything else that can blur your
3 thinking?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: Are you clear minded?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Have you discussed this case and its four
8 counts with Mr. Feitel?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Are you satisfied with his services?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Has anyone put you into fear causing you
13 to want to plead guilty?

14 THE DEFENDANT: No, your Honor.

15 THE COURT: Has anyone made any promises to you of
16 what would happen if you were to plead guilty?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Are you offering to plead guilty because
19 it's your own decision with the help of Mr. Feitel's advice?

20 THE DEFENDANT: Yes, your Honor. It's because of the
21 comment that you made at the last hearing.

22 THE COURT: What comment was that?

23 THE DEFENDANT: That I would be able to plead guilty
24 or not if I wished.

25 THE COURT: Well, you do understand that you were not

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1 being compelled to plead guilty?

2 THE DEFENDANT: I understand, your Honor.

3 THE COURT: And you understand that you have a full
4 right under the Constitution of the United States to plead not
5 guilty and to require the government to prove guilt against you
6 beyond a reasonable doubt and to the satisfaction unanimously
7 of a jury?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: So is it because I said that you could
10 plead guilty that you are pleading guilty today or because you
11 want to plead guilty?

12 THE DEFENDANT: Because I want to, your Honor.

13 THE COURT: It's your decision.

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: And is it your belief that I'm compelling
16 you in any way to plead guilty?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: The decision to plead guilty is your
19 voluntary act, is that right?

20 THE DEFENDANT: Right.

21 THE COURT: Without any promises having been made to
22 you, right?

23 THE DEFENDANT: Right, your Honor.

24 THE COURT: OK. Now, do you understand that under the
25 Constitution you have a presumption of innocence, and that you

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1 cannot be found guilty of the crimes charged except if the
2 government proves your guilt beyond a reasonable doubt to the
3 satisfaction unanimously of a jury?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: And do you understand that you have a
6 right to counsel in all aspects of this criminal case and that
7 if you can't afford a lawyer, the government will provide a
8 lawyer free of charge?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: And with the help of the lawyer, you could
11 confront all witnesses against you. You can cross-examine
12 them. You can require anyone having favorable information to
13 come to the trial and testify whether that person wishes to do
14 so or not, and that you yourself could testify if you wish to.
15 But if you didn't wish to, you won't have to, and no inference
16 could be drawn against you.

17 THE DEFENDANT: I understand, your Honor.

18 THE COURT: But if you plead guilty, you give up those
19 rights. Do you understand?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Now, Mr. Bradley, would you tell
22 Mr. Carvajal what is the maximum exposure that he faces with
23 regard to these four counts?

24 MR. BRADLEY: Yes, your Honor. Would you prefer I
25 face the defendant during that?

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1 THE COURT: Yes, I do.

2 MR. BRADLEY: OK. So first, for Count One, the
3 narco-terrorism conspiracy, that carries a maximum term of
4 imprisonment of life, a mandatory minimum term of 20-years
5 imprisonment, a maximum term of supervised release of life, a
6 mandatory minimum term of supervised release of five years, and
7 a maximum fine comprised of the greatest of \$250,000, twice the
8 gross pecuniary gain derived from the offense or twice the
9 gross pecuniary loss to persons other than the defendant
10 resulting from the offense, and a mandatory \$100 special
11 assessment.

12 THE COURT: Go onto Count Two.

13 MR. BRADLEY: Count Two, that's the narcotics
14 importation conspiracy. That carries a maximum term of
15 imprisonment of life, a mandatory minimum term of imprisonment
16 of ten years, a maximum term of supervised release of life, a
17 mandatory minimum term of supervised release of five years, and
18 a maximum fine of the greatest of \$10 million, twice the gross
19 pecuniary gain derived from the offense, or twice the gross
20 pecuniary loss to persons other than the defendant resulting
21 from the offense, and a \$100 mandatory special assessment.

22 THE COURT: Count Three.

23 MR. BRADLEY: Count Three carries a maximum term of
24 imprisonment of life, a mandatory minimum term of imprisonment
25 of 30 years, which is to run consecutively to any other term of

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1 imprisonment imposed, a maximum term of supervised release of
2 five years, a maximum fine of the greatest of \$250,000, twice
3 the gross pecuniary gain derived from the offense, or twice the
4 gross pecuniary loss to a person other than the defendant, and
5 a mandatory \$100 special assessment.

6 THE COURT: Is there a minimum for supervised release
7 in Count Three?

8 MR. BRADLEY: No, your Honor.

9 THE COURT: Count Four.

10 MR. BRADLEY: As to Count Four, that carries a maximum
11 term of imprisonment of life, a maximum term of supervised
12 release of five years, and a maximum fine of the greatest of
13 \$250,000, twice the gross pecuniary gain derived from the
14 offense, or twice the gross pecuniary loss, and a mandatory
15 special assessment. So in total, the maximum sentence of
16 incarceration on Counts One, Two, Three and Four of the
17 superseding indictment is life imprisonment with a mandatory
18 minimum term of 20-years imprisonment, to be followed by an
19 additional mandatory minimum term of 30-years imprisonment on
20 Count Three, which must run consecutively to any other term of
21 imprisonment imposed. So the aggregate or total mandatory
22 minimum term of incarceration is 50 years imprisonment.

23 THE COURT: Are you aware of these statutory
24 penalties, Mr. Carvajal?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: I have a certain amount of discretion. I
2 can't give you less than the mandatory minimum for each count,
3 and, of course, I can't give you more than life. I don't know
4 what I would do with this case or how I will sentence. It
5 could be that you will be disappointed by my sentence, but if I
6 accept your sentence today, you are bound by it, whether you're
7 disappointed or not. Do you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Next, Mr. Bradley, would you tell
10 Mr. Carvajal what are the requirements of proof for each of
11 these four counts?

12 MR. BRADLEY: Yes, your Honor.

13 THE COURT: And then how you would tend to prove each
14 of the counts.

15 MR. BRADLEY: Yes, your Honor. I'll start by going
16 through the elements of each count.

17 THE COURT: Yes.

18 MR. BRADLEY: As to Count One, the narco-terrorism
19 conspiracy, this crime has three elements that the government
20 must prove beyond a reasonable doubt:

21 First, that there was an unlawful agreement or
22 understanding between two or more people to distribute
23 5 kilograms or more of cocaine or possess with the intent to
24 distribute 5 kilograms and more of cocaine, knowing or
25 intending to provide something of pecuniary value to the FARC;

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1 that's the revolutionary armed forces of Colombia;

2 second, that the defendant knowingly and intentionally
3 joined in that agreement; and

4 third, that one of the jurisdictional elements of the
5 statute is satisfied; here specifically, that after the conduct
6 required for the offense occurred, an offender was brought into
7 or found in the United States. That's for Count One.

8 Count Two, that's the narcotics importation
9 conspiracy. This crime has three elements:

10 First, that there was an unlawful agreement or
11 understanding between two or more persons to import cocaine
12 into the United States, or to manufacture or distribute cocaine
13 while knowing or intending that it would be unlawfully imported
14 into the United States, or to manufacture, distribute, or
15 possess with intent to distribute cocaine onboard an aircraft
16 registered in the United States;

17 second, that the defendant knowingly and intentionally
18 joined in that agreement; and

19 third, that the conspiracy or agreement involved at
20 least 5 kilograms or more of cocaine. That's Count Two.

21 As to Count Three, this is the charge of using,
22 carrying, and possessing machine guns and destructive devices.
23 This crime has three elements:

24 First, that the defendant committed the drug
25 trafficking crimes charged in Counts One and Two of the

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1 superseding indictment, the elements of which I've just
2 described;

3 second, that the defendant knowingly used or carried a
4 firearm during and in relation to the drug trafficking charges
5 charged in Counts One and Two, or possessed a firearm in
6 furtherance of drug trafficking crime as charged in Counts One
7 and Two, or aided and abetted another in such use, carrying, or
8 possession; and

9 third, that the offense involved a machine gun or
10 destructive device. That's Count Three.

11 As to Count Four, this is the conspiracy to use or
12 carry machine guns or destructive devices. This crime has
13 three elements:

14 First, that there was an agreement or understanding
15 between two or more persons to use or carry a firearm during
16 and in relation to the drug trafficking crimes charged in
17 Counts One and Two, or to possess a firearm in furtherance of
18 the drug trafficking crimes charged in Counts One and Two;

19 second, that the defendant knowingly and intentionally
20 joined in that agreement; and

21 third, that the offense involved the machine gun or
22 destructive device. That's for Count Four.

23 In addition to that, the government would need to
24 prove by a preponderance of the evidence that venue is
25 appropriate in the Southern District of New York. And should

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1 the case proceed to trial --

2 THE COURT: How would you go about proving all these
3 propositions?

4 MR. BRADLEY: Yes, your Honor.

5 If the case were to proceed to trial, the government
6 would expect to present, among other things, the following
7 evidence:

8 Testimony from multiple witnesses describing the
9 defendant engaging in large-scale cocaine trafficking,
10 including deals involving planes and boats filled with
11 thousands of kilograms of cocaine leaving Venezuela under the
12 defendant's protection bound for the United States; testimony
13 from witnesses regarding the defendant's cocaine trafficking
14 with the FARC, and agreements to supply the FARC with weapons,
15 including automatic rifles and explosive devices, including in
16 exchange for cocaine;

17 testimony from expert witnesses regarding
18 international drug trafficking routes, the cocaine
19 manufacturing process, and the capabilities of machine guns and
20 destructive devices used by the defendant and others in
21 furtherance of their cocaine trafficking;

22 electronic evidence seized from a FARC encampment
23 showing correspondence between FARC leadership describing
24 meetings with defendant and his agreement to supply the FARC
25 with weapons;

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testimony from a witness regarding the defendant orchestrating the kidnapping and torture of that witness before he could travel out of Venezuela to meet with U.S. law enforcement regarding FARC-related drug trafficking;

law enforcement testimony regarding how a joint offender and coconspirator of the defendant was first brought to the Southern District of New York; and

finally, photos, law enforcement testimony, and other evidence regarding the seizure in Mexico of over 5 tons of cocaine on a plane that was dispatched by the defendant and his coconspirators from Venezuela to Mexico.

THE COURT: And venue?

MR. BRADLEY: As to venue, your Honor, the government would anticipate introducing law enforcement testimony showing that a joint offender and coconspirator of the defendant was first brought to the United States into the Southern District of New York, satisfying the first-brought statute. That's Title 18 of the United States Code, Section 3238.

THE COURT: Mr. Carvajal, returning to the issue of sentencing, the *Pimentel* letter, which I mentioned before, spells out in pages 2 and 3 the various considerations that are set out in the sentencing guidelines and that help me consider the appropriate sentence to be given to you. They're not binding. They're suggestive of what I have to do. I'd like to go over those with you starting on page 2 at the very bottom

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1 and going on to page 3.

2 First, instead of separately considering the counts
3 that are roughly the same, Counts One, Two and Four are grouped
4 together, and together they add up to an accusation of an
5 importation of 450 kilograms of cocaine at least with a base
6 level of 38. Now, these guidelines rank all federal offenses
7 from the most minor to the most severe. The level appropriate
8 to this count is considered number 38, which is very near the
9 top, very near the most severe.

10 Because firearms were possessed, an increase of two
11 levels is appropriate. Because violence or a credible threat
12 to use violence was involved, another two levels are adjusted
13 upwards. Because an aircraft other than a regularly scheduled
14 commercial air carrier was used, still another two levels are
15 adjusted upwards. Because you allege to have maintained a
16 premises for the purpose of manufacturing or distributing a
17 controlled substance, another two levels can be adjusted
18 upwards. Because there were or there will be proof of witness
19 intimidation, tampering of evidence, destruction of evidence,
20 and it lists such activities, as part of a pattern of criminal
21 conduct which you engage in as a livelihood, still another two
22 levels are adjusted upwards. Because the felony involved also
23 promoted the federal crime of terrorism, another 12 levels are
24 adjusted upwards, and because you were an organizer or a leader
25 of a criminal activity that involved five or more participants

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1 or was otherwise extensive, still another four levels could be
2 adjusted upwards. Because you abused the position of public
3 trust in a manner that significantly facilitated the commission
4 or concealment of the offense, still another two levels is
5 adjusted upwards, and that would bring you just beyond or the
6 highest level of the sentencing guidelines.

7 In addition, Count Three, which is discussed on page 4
8 of the letter, will impose a 360-month term of imprisonment
9 required before two sections of the United States Code
10 consecutive to the imprisonment for Counts One, Two and Four.
11 The entire calculation comes to an offense level of 66, but
12 since it's higher than 43, anything higher doesn't count.

13 You have no criminal history points. You were in
14 criminal history category VI because of the offensive nature of
15 these offenses. All of this brings you to a mandatory minimum
16 sentence of 20 years to be followed by an additional mandatory
17 minimum term of 30 years or 50 years and a maximum of life. So
18 my discretion is between 50 years and life, not a very happy
19 discretion for anybody. Do you understand all this?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: And you've discussed it with Mr. Feitel,
22 have you?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Plus, the possibility of a fine between
25 \$50,000 and \$10 million. Plus supervised release in the terms

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1 that Mr. Bradley read out, which is something that happens
2 after you finish your term of sentence. There are conditions
3 attached. If you breach one of those conditions or more, a
4 hearing can take place, and you could be sent to jail even
5 again. Do you understand all of this?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And also, the prospect of deportation
8 after you finish your jail term. Do you understand?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: There will be a sentencing hearing, if you
11 plead guilty and I accept the plea, about three to four months
12 from now at which time I will consider all of this and decide
13 the appropriate sentence to give to you. At that time, you and
14 Mr. Feitel can tell me anything you think is appropriate to be
15 told, and I will take all of that into consideration.

16 Now, Mr. Feitel, you've heard Mr. Bradley's comments
17 about what he has to prove and how he can prove it. Do you
18 believe that Mr. Bradley can prove a *prima facie* case on each
19 of these four counts against your client?

20 MR. FEITEL: Yes, your Honor, and I consulted with my
21 client. We believe the government can prove a *prima facie* case
22 on the four counts charged.

23 THE COURT: And you have no defenses to trump those
24 proofs?

25 MR. FEITEL: No, your Honor. My client has made what

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1 I think is a considered decision to plead guilty to the
2 charges.

3 THE COURT: Mr. Carvajal, are you offering to plead
4 guilty because you believe that you are, in fact, guilty of
5 each of those four counts?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: At this point, I would ask you to tell me
8 in your own words what causes you to be guilty. I suspect that
9 you and Mr. Feitel have worked out a statement. I'll be glad
10 to hear it.

11 MR. FEITEL: Your Honor, if I might preface my
12 client's statement?

13 THE COURT: You can sit, Mr. Feitel.

14 MR. FEITEL: Excuse me, your Honor?

15 THE COURT: You can sit.

16 MR. FEITEL: Your Honor is a federal judge. It's
17 appropriate to stand.

18 THE COURT: Stand at the podium.

19 MR. FEITEL: Your Honor, before my client allocutes
20 against himself, I just wanted to let your Honor know that we
21 received the government's *Pimentel* letter. We recognize it's
22 just a suggestion, but in order to advance whatever possible
23 defenses we have, my client is going to admit to the smallest
24 quantity of evidence necessary to admit guilt for each of four
25 counts in the indictment.

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1 He's not going to give a very long oration about what
2 it was that he did because we're going to reserve our rights to
3 challenge some of the government's proposed upward adjustments.
4 I just wanted your Honor to know that he's not going to speak
5 in great detail, and I hope that is acceptable with the Court.
6 He is going to admit to the elements of each of the offenses.

7 THE COURT: I had planned to question him on each of
8 these adjustments. For example, paragraph 3 mentions
9 450 kilograms of cocaine.

10 MR. FEITEL: As to that, I would ask your Honor to
11 forgo it. We want to reserve our rights to challenge. We are
12 not agreeing to the *Pimentel* letter. As your Honor suggested,
13 it's just a suggestion from the government. My client is going
14 to admit to participation in the underlying conspiracy, which
15 is 5 kilograms or more. I believe that's sufficient in a case
16 where there's not a plea agreement for the Court to accept my
17 client's guilty plea, and I would ask you to do just that
18 without further elaboration at this point.

19 THE COURT: Which means that I may be faced with a
20 trial at the sentencing stage?

21 MR. FEITEL: It's impossible to predict precisely. I
22 don't want to create work, but given some of the mandatories
23 and the way this works out, there may be a resolution. But at
24 this point, I would like to reserve my client's rights to
25 challenge some of the proposed upward adjustments suggested by

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1 the government in the *Pimentel* letter, which I believe is
2 appropriate under the circumstances.

3 THE COURT: The consequence of that is that you change
4 the burden of proof unfavorably to your client. If the
5 government has to prove all these points at the trial, it has
6 to prove it beyond a reasonable doubt. But at a *Fatico* hearing
7 in sentencing, the burden of proof is preponderance of the
8 evidence. So why would you want to defer this contest until
9 the sentencing stage and not do it at trial?

10 MR. FEITEL: I believe that my client would not be the
11 first defendant, nor will he be the last, who has decided to
12 make this decision. We discussed the --

13 THE COURT: Mr. Feitel, I have every respect for you
14 as a lawyer. I know you. I know that you work very hard for
15 your clients, and you work intelligently, so I respect your
16 decision. I'm just pointing this out because you may be giving
17 up an advantage that your client has.

18 MR. FEITEL: I greatly respect your Honor's comments.
19 I think in balance under the circumstance of this case, this is
20 an appropriate strategy to proceed. I have participated in
21 other sentencing -- in other guilty plea proceedings rather
22 where there was no plea agreement, and this is the manner that
23 my client and I wish to proceed. Sufficient evidence to admit
24 to culpability for the essential elements of the offense, as
25 articulated by the government, without an agreement to anything

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1 more.

2 THE COURT: What is the government's position,
3 Mr. Bradley?

4 MR. BRADLEY: We agree with Mr. Feitel, your Honor.

5 THE COURT: Sorry. I didn't hear you.

6 MR. BRADLEY: We agree with Mr. Feitel, your Honor,
7 specifically that provided the defendant makes a sufficient
8 allocution of the essential elements of the offenses in Counts
9 One through Four, that would be acceptable for the purposes of
10 today's plea. With regard to the sentencing enhancements, they
11 are, of course, set forth in a *Pimentel*. The defendant is not
12 agreeing to them, and those sentencing enhancements and their
13 applicability would be proven by a preponderance at sentencing
14 regardless of whether the defendant proceeded to trial.15 THE COURT: What is the government's position going to
16 be with respect to one additional point for acceptance of
17 responsibility on a timely basis?18 Let me speak so Mr. Carvajal understands. One benefit
19 of pleading guilty is that there are potentially three points
20 that are reduced from the calculation of the sentencing
21 guidelines; two or acceptance of responsibility because by
22 pleading guilty, you accept the responsibility of the charges
23 when you decide not to accept them. That gives you a downward
24 adjustment of two, so it brings your calculation down. In
25 addition, if you do this on a timely basis and the government

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1 agrees with that; namely, that you do it sufficiently in
2 advance of trial to save the government from the time and
3 burden of preparation, you could possibly get an additional
4 point reduced. And therefore, I ask Mr. Bradley what is the
5 government's position with regard to that one extra point, the
6 deduction. Do you understand, Mr. Carvajal?

7 THE DEFENDANT: Yes, your Honor.

8 MR. BRADLEY: We're considering that, your Honor, with
9 regard to that last point. It is a week or less than a week
10 before trial. I would note that --

11 THE COURT: That's why I asked you the question.

12 MR. BRADLEY: Right. I don't think we have a firm
13 answer on that. I would note that for the purposes of the
14 guidelines calculations, I wouldn't expect that that final
15 point would change anything.

16 THE COURT: Right. OK. Let's proceed, Mr. Feitel.

17 THE DEFENDANT: Your Honor, for the first charge, I
18 admit that I conspired with others to possess with the intent
19 to distribute --

20 THE COURT: I'm afraid I can't hear you, Ms. Hoskins.
21 Can you get a microphone?

22 THE INTERPRETER: Of course, your Honor.

23 THE COURT: It might be easier, Ms. Hoskins, if you
24 were to sit closer to the mic.

25 THE INTERPRETER: Certainly, your Honor. Beginning

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1 again.

2 THE DEFENDANT: I admit that I conspired with others
3 to possess with the intent to distribute 5 kilograms or more of
4 cocaine knowingly and with the intention to provide something
5 of value to the group known as FARC, and I knew that the FARC
6 was involved in terrorist activities.

7 As far as the second count --

8 THE COURT: Before you get to the second count, the
9 indictment alleges that you were director of Venezuela's
10 military intelligence agency known as the Direccion de
11 Inteligencia Militar between 2004 and 2011. Is that correct?

12 THE DEFENDANT: Yes, with one proviso, your Honor.

13 THE COURT: Yes.

14 THE DEFENDANT: It doesn't change the fundamentals but
15 in 2008, I was transferred to the counterintelligence unit, and
16 the military intelligence agency went fully under the control
17 of another person.

18 THE COURT: And after 2013, you again became the
19 director of the Direccion de Inteligencia Militar, is that
20 correct?

21 THE DEFENDANT: No, military counterintelligence,
22 which is something completely different.

23 THE COURT: OK. Were you one of the leaders of
24 management that manages the cartel known as Cartel de Los Soles
25 organization in Venezuela?

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1 MR. FEITEL: Your Honor, as to this, I would like to
2 object. These are questions that --

3 THE COURT: OK. I accept.

4 MR. FEITEL: Thank you, your Honor.

5 THE COURT: Mr. Bradley, is there anything else you
6 want me to do?

7 MR. BRADLEY: Not as to Count One, your Honor.

8 THE COURT: I'm ready for Count Two.

9 THE DEFENDANT: As far as the second count, I admit
10 that I conspired with others to possess with the intent to
11 distribute 5 kilos or more of cocaine knowing and with the
12 intention that the cocaine would be imported illegally to the
13 United States.

14 THE COURT: Is that satisfactory, Mr. Bradley?

15 MR. BRADLEY: Yes, as to Count Two, your Honor.

16 THE COURT: Count Three.

17 THE DEFENDANT: For Count Three, I admit that
18 knowingly I carried a firearm, that is, a machine gun, in
19 relation to its conspiracies charged in Counts One and Two in
20 this case.

21 THE COURT: In furtherance of that conspiracy?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Mr. Bradley?

24 MR. BRADLEY: No additional questions as to Count
25 Three.

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1 THE COURT: Sorry?

2 MR. BRADLEY: The government is satisfied as to Count
3 Three.

4 THE COURT: Count Four.

5 THE DEFENDANT: For Count Four, I admit that I
6 conspired with others to possess a machine gun as part of the
7 conspiracy charged in Counts One and Two of my case.

8 THE COURT: Mr. Bradley?

9 MR. BRADLEY: The government is satisfied as to Count
10 Four.

11 THE COURT: Do you need anything on venue?

12 MR. BRADLEY: Two things. First, with regard to
13 venue --

14 THE COURT: You can ask Mr. Carvajal.

15 MR. FEITEL: Your Honor, again, not to interrupt
16 Mr. Bradley, I believe we indicated that we were going to
17 stipulate. I apologize for interrupting if I stole your
18 thunder. I'm not sure my client -- I discussed this with him
19 briefly. But the standard is first brought, and there was no
20 principal argument against somebody else being first brought to
21 this jurisdiction. We were going to stipulate as to --

22 THE COURT: You agree there was venue?

23 MR. FEITEL: Yes, your Honor. There was no argument
24 to the contrary that I could think to make, so yes.

25 MR. BRADLEY: My only other related point, your Honor,

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1 as to Count One is that the defendant is not contesting the
2 jurisdictional element as to the narco-terrorism count, which
3 specifically is that after the offense had taken place, an
4 offender was brought to the United States.

5 MR. FEITEL: We agree to all those. Those are
6 objective facts, your Honor.

7 THE COURT: OK.

8 MR. BRADLEY: And the last point, your Honor, and this
9 is just a little broader, I would just make sure that the
10 defendant understands the Court's authority to order forfeiture
11 and restitution as to each of the counts in the superseding
12 indictment.

13 THE COURT: Is there any restitution in this case?

14 MR. BRADLEY: We believe there may be a basis for
15 restitution as to one of the victims, the one that I mentioned
16 had been tortured. I believe we would have a better
17 understanding of what that amount might be closer to sentenced
18 and the same as to forfeiture as well.

19 THE COURT: Do you understand, Mr. Carvajal, that if
20 any person is a victim and has injury and the government seeks
21 restitution, there may be an order requiring you to pay
22 restitution to that victim? Do you understand that?

23 THE DEFENDANT: Yes. I understand, your Honor.

24 THE COURT: And if the government finds any property
25 or money in your possession that are the fruits of a crime or

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1 the criminal proceeds directly, the government can cause them
2 to be forfeited to the government. Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Mr. Bradley, anything else?

5 MR. BRADLEY: Not from the government, your Honor.

6 THE COURT: Mr. Feitel?

7 MR. FEITEL: No, your Honor.

8 THE COURT: Mr. Carvajal, I accept your plea of guilty
9 to each of the four counts. I instruct the clerk to enter the
10 plea of guilty to each of those four counts, and you are
11 adjudged guilty of each of those four counts. I find that your
12 plea is voluntary, that you understand the consequences, and
13 that there is an independent basis of fact to support each of
14 the four counts and the plea of guilty to each of the four
15 counts.

16 I order a probation report and the preparation of a
17 sentencing report. If there's an interview with a client, I
18 order that Mr. Feitel be given notice so that he may attend if
19 he or his client wishes him to attend, and I order Mr. Bradley
20 to provide the probation officer with a copy of this allocution
21 prior to any interview. Sentencing will occur --

22 THE DEPUTY CLERK: October 1, 2025, at 10:30 a.m.

23 THE COURT: It's the day before Yom Kippur,
24 Mr. Feitel.

25 MR. FEITEL: Excuse me, your Honor.

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1 THE COURT: It's the day before Yom Kippur.

2 MR. FEITEL: That would be problematic because I would
3 have to be here and then go back. More problematic is I have a
4 trial starting the Tuesday after Labor Day.

5 THE COURT: When would you like to have the
6 sentencing?

7 MR. FEITEL: Closer to the end of October with a date
8 that is good for your Honor.

9 THE COURT: Is that OK with you, Mr. Bradley?

10 MR. BRADLEY: Yes, your Honor. I think I would just
11 ask, because Mr. Feitel previewed that a *Fatico* seems quite
12 likely, that as long as the Court is prepared to hold an
13 evidentiary hearing during that time.

14 THE COURT: I have a trial ongoing during that period,
15 so I can't predict, but I'm sure we'll find time for a *Fatico*
16 if one is necessary.

17 MR. BRADLEY: Understood, your Honor.

18 THE COURT: Would you like it at the end of October,
19 Mr. Feitel?

20 MR. FEITEL: Yes, your Honor.

21 THE COURT: I think we can oblige.

22 THE DEPUTY CLERK: October 29, 2025, at 10:30 a.m.

23 MR. FEITEL: That's good for the defense, your Honor.

24 MR. BRADLEY: And for the government.

25 THE COURT: Thank you, all. These proceedings are

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1 closed.

2 (Adjourned)

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