

N6s2MojS kjc

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

21 Cr. 377 (AKH)

5 LEURY MOJICA,

6 Defendant.

7 -----x

Sentencing

8 June 28, 2023
9 10:50 a.m.

10 Before:

11 HON. ALVIN K. HELLERSTEIN,

12 District Judge

13
14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
17 Southern District of New York

18 BY: MATTHEW A. WEINBERG

Assistant United States Attorney

19 DERRICK MAGWOOD

20 Attorney for Defendant

21 Also Present:

22 DAGOBERTO ORRANTIA, Spanish Interpreter, Standby
23
24
25

N6s2MojS kjc

1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your
3 appearances for the record.

4 MR. WEINBERG: Yes. Good morning, your Honor.
5 Matthew Weinberg appearing for the government.

6 THE COURT: Good morning, Mr. Weinberg.

7 MR. MAGWOOD: Good morning, your Honor. It's Derrick
8 Magwood, 170 Old Country Road, Mineola, for Mr. Mojica.

9 THE COURT: Good morning.

10 Good morning, Mr. Mojica. Could you remove your
11 mask, please, Mr. Mojica.

12 THE DEFENDANT (In English): Excuse me?

13 THE COURT: Could you remove your mask, please.

14 THE DEFENDANT (In English): Good morning.

15 THE COURT: Sorry?

16 THE DEFENDANT (In English): I said good morning.

17 THE COURT: Good morning, Mr. Mojica.

18 This is a continuation of the sentencing. We
19 adjourned it in order to get supplementary information both
20 from the defense and the government, and they have come in.
21 But let me start again to conduct the sentencing.

22 Have you read the presentence investigative report,
23 Mr. Mojica?

24 THE DEFENDANT (In English): I believe so, yes.

25 THE COURT: It's your best recollection that you read

N6s2MojS kjc

1 it?

2 THE DEFENDANT (In English): That's --

3 THE COURT: Why don't -- why doesn't Mr. Magwood show
4 you what you have read.

5 MR. MAGWOOD: Judge, I met with my client last week
6 and -- I believe it was on Thursday --

7 THE COURT: Take off your mask, please.

8 MR. MAGWOOD: We met last Thursday, and we reviewed
9 the presentence report together.

10 THE COURT: Do you remember that, Mr. Mojica?

11 THE DEFENDANT (In English): Yes, sir.

12 THE COURT: Did you find any facts in the report that
13 you thought should be corrected?

14 THE DEFENDANT (In English): Excuse me?

15 THE COURT: Did you find any facts in the report that
16 you thought should be corrected?

17 THE DEFENDANT (In English): I think everything was
18 on the line. Everything was good.

19 THE COURT: Okay. Mr. Magwood, are there any facts
20 that you wish me to modify or correct?

21 MR. MAGWOOD: No, your Honor. We reviewed it -- we
22 had reviewed it before, but we reviewed it just to go through
23 because I was asking about additional information. So we just
24 went through it in detail.

25 THE COURT: And there are no factual issues?

N6s2MojS kjc

1 MR. MAGWOOD: No. Everything that was there was
2 accurate.

3 THE COURT: Does the government have any?

4 MR. MAGWOOD: No, your Honor.

5 THE COURT: I adopt the facts as set out in the
6 presentence investigative report.

7 Mr. Mojica pleaded guilty before Judge Willis on
8 November 16, 2022. I approved the plea on May 2, 2023.

9 Mr. Mojica pleaded guilty pursuant to a plea
10 agreement, which I adopt as the current findings on the
11 sentencing guidelines. The offense level, under section 2B3.1
12 is 20. There were upward adjustments of four, two, and one
13 because of use of a dangerous weapon, because of the restraint
14 of an individual, and because of the amount of loss, which is
15 greater than \$20,000 and less than \$95,000. The gross offense
16 level is 27. Three levels are deducted for acceptance of
17 responsibility, yielding an offense level of 24.

18 Do I have it right, Mr. Weinberg?

19 MR. WEINBERG: Yes, your Honor, that is correct.

20 THE COURT: Do I have that right, Mr. Magwood?

21 MR. MAGWOOD: Yes.

22 THE COURT: I so find.

23 Mr. Mojica has no criminal history points. He is in
24 category I. The guideline range is 51 to 63 months, followed
25 by one to three years of supervised release.

N6s2MojS kjc

1 Do I have it right, Mr. Weinberg?

2 MR. WEINBERG: Yes, your Honor, that is correct.

3 THE COURT: Do I have it right, Mr. Magwood?

4 MR. MAGWOOD: Yes.

5 THE COURT: I so find.

6 Mr. Mojica has been in custody since February 22,
7 2022. He is a citizen of the United States.

8 And from there, I will let you speak, Mr. Magwood.

9 MR. MAGWOOD: Yes, your Honor.

10 So for Mr. Mojica, we are still -- regarding this
11 incident that happened several weeks ago, we are still
12 receiving information even as of this morning regarding what
13 happened. Because that situation has not been finalized,
14 there have been no charges brought against him. I don't think
15 it's -- that we should really use that as a factor to punish
16 him more, instead, to let a thorough investigation of that
17 happen.

18 As far as from meeting with Mr. Mojica and speaking
19 with him over time, I found him to be very engaging. I found
20 certain things, when -- for a young person to move and to
21 leave -- go from different schools, that in some ways he
22 needed additional services. Those things can lead to
23 frustration, they can lead to lack of direction and focus, and
24 we see in his history that there were little things that were
25 going on.

N6s2MojS kjc

1 He got himself involved here with a group that
2 were -- I don't think that their intent towards him was
3 genuine, and they put him into a situation which he has always
4 said, you know what, I had no business being involved in this.
5 I should not have done it. And he's always been from the
6 beginning, you know, I will take -- I will accept
7 responsibility for it.

8 THE COURT: What does that mean?

9 MR. MAGWOOD: He said -- he knew that he would be
10 punished for it, he knew that he would receive jail time for
11 it, and he never gave me any of the -- he didn't say it was
12 somebody's else fault. He did not say that someone else
13 threatened him to do it, that it was his idea. He said, I did
14 do this, and I take responsibility for it, and he never looked
15 for any way to say, well, here's a defense to it. He said
16 this is something that I did.

17 I thought that was genuine, I thought that that is a
18 big part of growing up, and a lot of people don't do that even
19 as they get older. They always look for a reason of why or
20 what happened to this person and how about this case? He has
21 said from the beginning that, you know, I should not have done
22 it, and I did do it, and I will take responsibility, and I
23 know I am going to receive a significant sentence because of
24 it.

25 THE COURT: Thank you.

N6s2MojS kjc

1 The government is going to argue to me that his
2 conduct in jail and getting involved in a knife fight and
3 incurring other disciplinary measures indicates a hardening of
4 attitude that will not protect the public from further crimes
5 of the defendant unless he is more severely punished. What's
6 your comment about that?

7 MR. MAGWOOD: Some of the disciplinary things are
8 things that I have seen recently, but when I looked at it—and
9 I read the new ones this morning—the things that he was doing
10 in his cell at the time, the covering of the windows and
11 asking for psychiatric help, I think, is telling.

12 His behavior has changed significantly over the last
13 six months. I'm not sure what's going on. I don't know what
14 services he is receiving, but he was never -- that was never
15 any way that he has been.

16 You see him in court, and he is very conscious about
17 being polite, so I'm not sure, but I would like to have him
18 evaluated if -- especially if he is asking for it. You know,
19 and I'm not sure if anything has been done with that, but I
20 think that's a significant thing, because that behavior in a
21 room by himself indicates that there is a severe agitation,
22 and that level of agitation can usually manifest itself at his
23 age. He is around 20, 21. That can be the onset. And it
24 usually goes undiagnosed. And these are the types of
25 behaviors that I have seen in the past, personal, that

N6s2MojS kjc

1 indicate that something is wrong and needs to be fleshed out,
2 honestly, Judge, before we even go further, because it doesn't
3 make sense.

4 THE COURT: Sorry?

5 MR. MAGWOOD: It doesn't make sense that his behavior
6 would change that dramatically in the last six months.

7 THE COURT: I'm not sure it changed dramatically.
8 That's the problem. It seems to be consistent with the crime
9 that put him in jail in the first instance. That is the
10 government argument, and it's hard to say they are not right.

11 MR. MAGWOOD: That is --

12 THE COURT: He went to jail because he put an
13 imitation gun that looked real to the head of the parking
14 attendant in a small enclosure, got the parking attendant on
15 the floor and, for a number of minutes, held the gun to the
16 head of the parking attendant and had him lie on the ground,
17 and Mr. Mojica had his knee on the back of the parking
18 attendant.

19 So I put myself into that position. Let's suppose I
20 am working to get my tuition and I worked as a parking
21 attendant in a parking lot, and some guy came in with a gun
22 and put me to the floor and held me there while they will
23 looked around at the car keys and took some cars they wanted
24 to take. How would I feel? How many nightmare dreams would I
25 have? How would I feel about getting another job where I was

N6s2MojS kjc

1 alone?

2 It strikes me that when you talk about crime, we talk
3 about the conduct of the person who is being accused of the
4 crime. What is the impact of the crime? Why is it that
5 someone who commits a crime, is not a wealthy person, who
6 needs money, who doesn't have the things that other people
7 get, doesn't have a feeling for the other person that they
8 harm? It indicates to me sort of a hardening of attitudes, so
9 that there is real danger that when the person finishes his
10 time, he is going to be committing another serious crime that
11 may even be worse. And people think that when I accept
12 responsibility, I did the crime so I will do the time, but
13 there is a problem beyond the time, and that is what's at
14 stake in this case.

15 Mr. Mojica is 20 years old. I am 89. Suppose he
16 lives as long as I do, another 69 years. Is it going to be a
17 life of crime or is it going to be a life where he settles
18 down and gets a job and works his way up and provides a living
19 for a family, raises a family, and lives a normal life? What
20 does it look like? What are the chances, one or the other?

21 And I get a report this morning that Mr. Mojica is
22 trying to break out of the van that took him from the
23 detention center to court. What does it look like? What could
24 I -- you know, I was going to ask you to comment on some of
25 these things, Mr. Mojica. I can do it now.

N6s2MojS kjc

1 Tell me about yourself. Tell me what makes you tick.
2 Why do you do these things?

3 THE DEFENDANT (In English): There is a lot of
4 reasons and there is no reasons. It is that I be bored, I
5 being feeling suicidal, I be unloved, and I be having hope,
6 then I lost the hope, then I be trying to have fun.

7 THE COURT: You've had a tough life.

8 THE DEFENDANT (In English): Huh?

9 THE COURT: You have had a really tough life.

10 THE DEFENDANT (In English): Yeah, since I'm a little
11 kid. But it's all right, because I'm -- I'm getting used to
12 what it comes, whatever it comes. You just got to keep going,
13 I believe, so I just keep going. So I try to behave. And
14 then something just have my mind, I remember everything; then
15 I started crying, then I don't want to cry, because I want to
16 grow up; then I started just breaking things, then I stopped;
17 then I need help, then I don't need help; then I started
18 working out. And this -- I don't know what's going on with
19 me, and I'm trying to find out myself.

20 So I let others help me, that's why I don't hurt
21 nobody and I follow orders, so I just be trying to figure it
22 out, why if I'm following orders I still be punished. So I
23 just start thinking. Sometimes I cannot sleep, then I try to
24 sleep. Then all I want is love, and they took that from me.
25 So it's like, all right, then I had hope, then they took that

N6s2MojS kjc

1 from me. So then I start having fun, and then they --

2 THE COURT: Who took it away from you?

3 THE DEFENDANT (In English): Life. That's how it
4 goes.

5 THE COURT: Life took away love.

6 THE DEFENDANT (In English): Life took away
7 everything, because since I'm a little kid, I have everything,
8 I didn't have nothing. Because I was, like -- I been in a big
9 room by yourself, with a big bed, with a PlayStations,
10 computers, phones, toys, and everything you think you need is
11 not happiness.

12 THE COURT: I bet you know someone in the street who
13 had as much deprivation, as much hardship as you and turned out
14 to be honest?

15 THE DEFENDANT (In English): I know, but that's not
16 what I am saying.

17 THE COURT: What's the difference between you and that
18 person?

19 THE DEFENDANT (In English): Because, look, it's no
20 difference. I don't -- I don't compare myself to nobody
21 because I don't want to make nobody feel no type of way. So I
22 put myself as an example and as an explanation, so I express
23 myself the way I am and what I. Do because I don't like to
24 talk about others because that could get me in a deeper, worse
25 predicament, and I could get somebody involved in my case or

N6s2MojS kjc

1 my problem.

2 THE COURT: That's what I am afraid of. That's
3 exactly what I am afraid of, that you catch yourself in a
4 predicament and do something bad again, and it could be worse
5 than it was before.

6 THE DEFENDANT (In English): Because the thing is --

7 THE COURT: What am I to do as a judge? I don't want
8 to hurt your life, but I can't let you go out and commit
9 crimes.

10 THE DEFENDANT (In English): I understand that.
11 That's why it is like, it is like I still need help, but I
12 don't need help; and I still need time, and I don't need time;
13 and it's, like, it's complicated for me to understand what I
14 need and what I don't need.

15 THE COURT: You could get help in jail. Did you try
16 to get help?

17 THE DEFENDANT (In English): Excuse me?

18 THE COURT: You could get help in jail. Did you try
19 to get help?

20 THE DEFENDANT (In English): Of course I tried to get
21 help.

22 THE COURT: And what happened?

23 THE DEFENDANT (In English): And they helped me.
24 They still trying. We all trying to understand me, and I'm
25 trying to understand me. And it's, like, that's why I got to

N6s2MojS kjc

1 the box, and then they took me out of the box; and then I
2 talked to psychology, and I haven't talked to her again, I
3 don't know why. And it's like we still -- we still trying to
4 figure me out, I believe.

5 So that's what I believe, because I don't know what
6 to believe. And it's like I want to express myself all the
7 way all the time, and I want to tell you everything I know and
8 I want to hundred percent or a thousand percent or infinite
9 percent, I want to tell you everything, I swear. But I don't
10 know everything, and that's the problem that I don't know
11 things, and I been trying to know more and ask. And I don't
12 like reading books and I don't care about phones and I don't
13 care about nothing. And I think that's the problem, that I
14 don't care about nothing.

15 And at the beginning I wanted to die. I felt
16 suicidal because I was in a cell with somebody for so long,
17 and he have a daughter and he haven't seen his daughter for
18 years. And I understand his pain because I -- I don't have a
19 daughter, but I'm a son of somebody, and I know how my dad
20 feels. So I was like, you know what, Imma just die. Imma get
21 out of this cell and Imma -- Imma kill the person that did
22 that damage to one of my brothers and Imma take the blame, and
23 I don't care if the judge give me life. Imma just gonna keep
24 going, and I don't care, 'cause he hurt one of my brothers.

25 So before I got out of the cell, they pulled up, the

N6s2MojS kjc

1 officers pulled up, and they started giving me orders, so I
2 didn't want to take no orders, so I started giving direct
3 orders to them. So they didn't take my orders, so I keep
4 breaking things. And then they told me that, you know, it's
5 like 50/50 type shit -- I don't want to say that word. That
6 was bad. It's like 50/50 work, so they were like, all right,
7 you got to come, and they started yelling. So I obey they
8 orders and they obey my's. And they grabbed me. They tie me
9 up. I got to suicide watch 'cause I got -- I needed the help.
10 I was screaming for help. I was screaming that I needed to go
11 to suicide watch. So I flooded the cell and I broke this, and
12 that's the reason why they took me to suicide watch.

13 And then from suicide watch, I thought they was going
14 to left me for dead, so I got scared. So I started breaking
15 the beds. I started breaking everything. I thought, I
16 thought that was the way I could call their attention. So I
17 started peeing on myself. I started acting like a little kid.

18 THE COURT: I'm asking you now, what do you think of
19 what you were thinking?

20 THE DEFENDANT (In English): I was thinking that --

21 THE COURT: You think that's a solution, to do what
22 you were doing?

23 THE DEFENDANT (In English): No. I wasn't looking
24 for that solution. I thought that I couldn't help somebody.

25 THE COURT: But now you are here.

N6s2MojS kjc

1 THE DEFENDANT (In English): Huh?

2 THE COURT: Now you are here. I have to sentence
3 you. You are telling me that you are driven by forces that
4 may result in someone being killed. That's what you just
5 said.

6 THE DEFENDANT (In English): Excuse me? No, I said
7 that -- what I say?

8 THE COURT: You said that you have forces and some
9 things may happen and you may kill somebody --

10 THE DEFENDANT (In English): Oh, 'cause when I was in
11 the box, right, somebody pull up, and there is a kid that,
12 like, he is around my age, right --

13 THE COURT: Look, I'm not a psychologist. I can't
14 understand what makes you tick.

15 THE DEFENDANT (In English): All right.

16 THE COURT: I can't fix anything up that's
17 psychologically damaged. I'm a judge.

18 THE DEFENDANT (In English): All right.

19 THE COURT: I've got to sentence you. And what I am
20 seeing is that I am sentencing someone who doesn't seem to be
21 learning the lesson --

22 THE DEFENDANT (In English): I'm trying.

23 THE COURT: -- of the crime that's been committed and
24 the time that has to be spent for that crime. I see a person
25 who is going to commit other crimes. You will get out of jail

N6s2MojS kjc

1 and commit other crimes. That's what I am saying.

2 THE DEFENDANT (In English): It's like I'm trying.

3 THE COURT: I don't want to see that, but that's what
4 I am seeing.

5 You know, in life, you are either an actor or a
6 victim. If you are a victim, things happen to you and you
7 blame what happens to you for whatever you do. If you are an
8 actor, you take responsibility and say life's tough. Maybe I
9 didn't have love or other toys or what have you, but I can get
10 over it, I can do something with my life.

11 So you are in the first one. You are a victim. You
12 are comfortable being a victim. As long as you are going to
13 be a victim, you are going to commit crimes, because it's not
14 your fault, something is happening, you are suicidal or
15 something's happening to you, so you do things without
16 thinking.

17 But you have got to be an actor. You have got to say
18 if I do this, something's going to happen to me or to another
19 person. I don't want to hurt another person. I don't want to
20 hurt myself. I want to live a good life. That's where you've
21 got to end up.

22 And I have to punish you now, and from what I hear, I
23 think I have to do what the government says I should do, which
24 is give you 75 months.

25 THE DEFENDANT (In English): I don't have no problem

N6s2MojS kjc

1 with your decision because --

2 THE COURT: You say you don't have any problem with my
3 decision?

4 MR. MAGWOOD: No I think he is saying that he
5 understands what you are saying. But, Judge, I think he is
6 saying that he is trying to figure out what's going on.

7 THE COURT: I know. What are you saying?

8 THE DEFENDANT (In English): Me?

9 THE COURT: Yeah.

10 THE DEFENDANT (In English): I'm saying -- I don't
11 know. I know what I'm saying. I'm saying that I have no
12 problem with your decision, but it's like I still -- I'm
13 still -- I don't know. I'm still being me. These are --
14 that's the problem.

15 THE COURT: Who is me? Who are you?

16 THE DEFENDANT (In English): Leury Mojica.

17 THE COURT: Are you a guy that commits crimes or are
18 you a guy that wants to change his life?

19 (Defense counsel and defendant confer)

20 THE DEFENDANT (In English): I do have dreams. I
21 have a lot of dreams. I be having dreams about having a car
22 wash, having, what else, having Airbnbs, I be having dreams
23 about I want a wife, I want kids, I want cars, I want pinball.

24 THE COURT: But you've got to do it the right way.

25 THE DEFENDANT (In English): All right.

N6s2MojS kjc

1 THE COURT: You've got to do it with work. You've got
2 to do it with staying clean.

3 Look, as I say, I'm not a psychologist. I'm not a
4 social worker. I'm a judge.

5 I am going to sentence you to 70 months. It's less
6 than what the government wants. It's higher than the
7 guidelines. I want to show you that I have that little bit of
8 faith in you, not a lot, but a little bit of faith in you that
9 you will turn yourself around.

10 And I want you to think about why I am giving you
11 these 70 months. I am giving you these 70 months because you
12 still pose a danger to society. The punishment is not -- the
13 punishment assigned to this crime is not a sufficient
14 deterrent, meaning it's a warning you can't do it again, and
15 there is danger you will commit crimes again.

16 So I am going to give you an extra month, but not as
17 much as the government wants because I believe that people can
18 turn themselves around. The first thing is you have to want
19 to. Who is me? That's the question you ask.

20 THE DEFENDANT (In English): Who is me?

21 THE COURT: Are you a person who is going to strike
22 out at others because I want this or I want that or someone is
23 hurting me and I have to get back at them or what? Or are you
24 a person that can take control of himself and find love? If
25 you are not prepared to love someone else, you can't get love

N6s2MojS kjc

1 in return. In order to be loved, you have to love. If you
2 love, you can't hurt. You have to build.

3 You've got to think about these things. You have to
4 figure out how could I do these things? People tell you in
5 jail do this, do that. You can't just say, hell with you.
6 You've got to -- you are in a place where you have got to take
7 commands. You are not on the street. You are in jail. And
8 if you someone else is in trouble in jail, you can't be the
9 guy who fixes it up. You've just got to look out for yourself
10 and do what you have to do and get out of jail and create a
11 life for yourself. That's what you need to do.

12 All right. 70 months in custody with recommendations
13 of psychiatric evaluations. And where should it be served,
14 Mr. Magwood? Where are you recommending? Where do you
15 recommend -- where should I recommend that he be jailed?

16 MR. MAGWOOD: Judge, I would try to keep it local,
17 either in Connecticut --

18 THE COURT: Proximate to New York City. Okay. Those
19 two recommendations. First one is that he be confined in a
20 place where he can get adequate psychiatric help --

21 MR. MAGWOOD: Yes.

22 THE COURT: -- and the second that he be jailed as
23 close as possible to New York City.

24 Following custody, he will be sentenced to supervised
25 release of three years. The purpose of the supervised release

N6s2MojS kjc

1 is to help you adjust and get ahold of yourself and start
2 working and have the structure of probation to help you. But
3 there are a lot of rules attached to that, and if you violate
4 those rules, a hearing can happen and I could sentence you to
5 more jail even though you served your term. So you have got
6 to behave on that supervised release as well, and use it in a
7 positive way to help you get skills, to help you get jobs,
8 starting at the bottom and trying to move yourself up.

9 The conditions are as stated in the presentence
10 investigative report.

11 Starting on page 20, the mandatory conditions are
12 imposed, including the provision for drug testing.

13 The standard conditions set out at pages 20, 21, and
14 22 are all imposed.

15 As special conditions, the provision for outpatient
16 treatment in the first paragraph on page 22 is imposed.

17 A provision for allowing search in the second
18 paragraph on page 22 is imposed.

19 There is a mandatory restitution in this case, I
20 guess, is there, Mr. Weinberg?

21 MR. WEINBERG: Yes, your Honor, there is, and the
22 parties --

23 THE COURT: I will get to it.

24 MR. WEINBERG: Okay.

25 THE COURT: So you must give access to the probation

N6s2MojS kjc

1 officer to requested financial information and not incur new
2 credit charges as provided in the third and fourth paragraph
3 under special conditions.

4 And finally, you shall refrain from contact with all
5 known members or associates of the Trinitarios, as well as any
6 other street gang.

7 You shall be supervised by the district of your
8 residence.

9 There is a mandatory special assessment of \$100, which
10 will be due upon the filing of the judgment.

11 Restitution, Mr. Weinberg, how much is it?

12 MR. WEINBERG: Yes, your Honor. There is a consent
13 order of restitution that the parties signed prior to the last
14 proceeding. It is in the amount of \$10,000.

15 THE COURT: I signed it?

16 MR. WEINBERG: You did not. The defendant and his
17 counsel and the government signed it.

18 THE COURT: Do you want to hand it up for me?

19 MR. WEINBERG: I will. I just would note, looking at
20 it right now, I noticed there is a typo on the first page. It
21 refers to \$100,000. It should be \$10,000.

22 THE COURT: Correct it in ink and have Mr. Magwood
23 initial it.

24 MR. WEINBERG: I will initial it and I should have
25 Mr. Magwood initial it, as well?

N6s2MojS kjc

1 THE COURT: Yes.

2 MR. WEINBERG: I am also bringing up the schedule of
3 victims to receive the restitution, which will be filed under
4 seal, the government requests be filed under seal.

5 THE COURT: Do you want me to sign that, too, or is
6 that going to be attached?

7 MR. WEINBERG: It is just attached separately. It is
8 the schedule.

9 THE COURT: Okay. I have signed the order. I have
10 noted the potential recipients. And I will give it back to
11 you, Mr. Weinberg.

12 Can you please file it on the ECF --

13 MR. WEINBERG: Yes, your Honor.

14 THE COURT: -- and under seal.

15 Payments will be made on the 30th day of each month
16 of the supervised release at the rate of 10 percent of gross
17 income. There shall be no interest provided there are timely
18 payments.

19 The restitution liability paragraph on page 24 is
20 adopted.

21 I don't impose a fine because there is no ability to
22 pay a fine.

23 Is there forfeiture in the case?

24 MR. WEINBERG: No, your Honor. The government is not
25 seeking forfeiture.

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1 THE COURT: No forfeiture.

2 You are entitled under the Constitution to appeal,
3 Mr. Mojica. If you wish to appeal the sentence, discuss it
4 with Mr. Magwood.

5 Mr. Magwood, if your client wishes to appeal, I
6 instruct you to do so on a timely basis.

7 If you can't afford a lawyer, the government will
8 provide a lawyer free of charge.

9 Underlying counts?

10 MR. WEINBERG: Yes, your Honor. The government moves
11 to dismiss the underlying count, which is Count One.

12 THE COURT: One to three, no?

13 MR. WEINBERG: Mr. Mojica was not charged in Counts
14 Two and Three. But for the avoidance of doubt, the government
15 moves to dismiss all open counts against Mr. Mojica.

16 THE COURT: So ordered.

17 Is there anything I missed?

18 MR. WEINBERG: You may have said it when I was
19 looking at the papers, but just the special assessment. I'm
20 not sure.

21 THE COURT: I said \$100 due upon filing of the
22 judgment.

23 Anything else?

24 MR. WEINBERG: Nothing else, your Honor. Thank you.

25 THE COURT: Mr. Magwood?

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1 MR. MAGWOOD: Nothing else, your Honor. Thank you.

2 THE COURT: Okay. That's the punishment. Mr. Mojica
3 is now detained, so he will continue his detention. I think
4 that covers everything.

5 Mr. Mojica, I wish you well. You've got a tough life.
6 You have had a tough life. But no human being has to be a
7 victim. There is always light if you look for light. There
8 is always love if you look for love and be prepared to give
9 your love.

10 One way or another, you have to change your ways,
11 because continuing your ways, you will die on the street.
12 Changing your ways gives you a chance to live a decent life
13 and to do better for your children than your parents did for
14 you.

15 Good luck to you.

16 We are adjourned.

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