UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 03-20774-CR-MORENO(s)

UNITED STATES OF AMERICA

v.

WILLIAM RODRIGUEZ-ABADIA,

Defendant.

_____/

PLEA AGREEMENT

The United States of America and WILLIAM RODRIGUEZ-ABADIA (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to Count 1 of the superseding indictment, which count charges the defendant with conspiracy to import five kilograms or more of cocaine, in violation of Title 21, United States Code, Sections 963 and 960(b)(1).

2. The United States agrees to seek dismissal of the remaining counts of the superseding indictment in this case, as to this defendant, at the time of sentencing. In addition, because this defendant could not have been extradited on the indictment in United States v. William Rodriguez-Abadia, No. 93-470-CR-Hoeveler, and in consideration for the defendant's voluntary surrender to United States authorities which thereby avoided the need for his extradition from Colombia, the United States agrees to seek dismissal of all counts of that indictment, as to this defendant, within five days of the execution of this plea agreement.

3. The defendant is aware that the sentence will be imposed by the court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the court relying in part on the results of a Pre-Sentence Investigation by the court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offense identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

4. The United States and the defendant agree that, although not binding on the probation office or the court, they will jointly recommend that the court impose a sentence within the advisory sentencing guideline range produced by application of the Sentencing Guidelines. Although not binding on the probation office or the court, the United States and the defendant further agree that, except as otherwise expressly contemplated in this Plea Agreement, they will jointly recommend that

the court neither depart upward nor depart downward under the Sentencing Guidelines when determining the advisory sentencing guideline range in this case.

5. The defendant also understands and acknowledges that the court must impose a minimum term of imprisonment of ten (10) years and may impose a term of imprisonment of up to life. Following the term of imprisonment, the court must impose a minimum term of supervised release of five (5) years and may impose a term of supervised release of up to life. In addition to a term of imprisonment and supervised release, the court may impose a fine of up to $4,000,000.00.

6. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph 5 of this agreement, a special assessment in the amount of $100 will be imposed on the defendant and must be paid prior to sentencing in this matter.

7. The defendant agrees to forfeit, to the United States and/or to Colombia, all of his right, title and interest to all assets or their substitutes which are subject to forfeiture pursuant to Title 21, United States Code, Sections 853. Defendant agrees that the assets or their substitutes which are subject to forfeiture (hereafter "forfeitable property") more fully detailed at Exhibit A attached hereto and incorporated hereweith, are assets derived from or traceable, directly or indirectly, to narcotics trafficking and/or constitute facilitating property of the crime charged at Count 1 of the superseding indictment to which he has pled guilty. Defendant agrees that the forfeitable property includes his interest in Drogas La Rebaja, S.A., Laboratorios Kressfor de Colombia, S.A., Valores Mobiliarios de Occidente, S.A., a/k/a "Vamosa," Cosmepop, S.A., Farmacoop, S.A., Inversiones Ara, Ltda., and Inversiones Miguel Rodriguez e Hijo, C.S. as well as all related corporations and subsidiaries, more fully detailed at Exhibit A.

The defendant agrees to assist the United States and Colombia in all proceedings, whether administrative or judicial, involving the forfeiture of the forfeitable property to the United States and/or to Colombia. Such assistance includes, but is not limited to, an agreement on the defendant's part to defend the forfeiture action against all third parties, other than the government of Colombia, claiming an interest in the forfeitable property. The defendant knowingly and voluntarily agrees to waive any claim or defense he might have under the Eighth Amendment to the United States Constitution, including any claim of excessive fine or penalty with respect to the forfeiture. The defendant further agrees to waive presentation of the forfeiture aspects of this case to a jury, and agrees to waive the statute of limitations with respect to the commencement of, or notification about, such forfeiture proceedings.

8. The Office of the United States Attorney for the Southern District of Florida (hereinafter "Office") reserves the right to inform the Court and probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of an agreed-upon sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

9. The United States agrees that it will recommend at sentencing that the court reduce by three levels the offense level applicable to the defendant's offense, based upon the defendant's timely recognition and affirmative acceptance of personal responsibility, pursuant to Section 3E1.1 of the Sentencing Guidelines. However, the United States will not be required to make this recommendation if the defendant: (1) fails or refuses to make a full, accurate and complete disclosure

to the probation office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering the plea agreement; or (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making a false statement or misrepresentation to any governmental entity or official.

10. The United States and the defendant agree that, although not binding on the probation office or the court, the following are the only Sentencing Guidelines factors readily provable by a preponderance of the evidence, and that they will jointly recommend that the court make the following findings and conclusions, based upon the Sentencing Guidelines, as to the sentence to be imposed:

a) That the defendant's base offense level would be 38, based on an amount of cocaine that is more than 150 kilograms, pursuant to Sections 2D1.1(a)(3) and 2D1.1(c)(1).

b) That the defendant's base offense level be increased by four (4) levels based on the defendant's role as an organizer of criminal activity that involved five or more participants and was otherwise extensive, pursuant to Section 3B1.1(a);

c) That the defendant's base offense level be decreased by three (3) levels for acceptance of responsibility, pursuant to Section 3E1.1;

d) That the defendant's total offense level, assuming the defendant qualifies under the provisions of paragraph 9 above, under all of the circumstances of the offense committed by the defendant, would be Level 39, Category I, which corresponds to an advisory guideline range of 262–327 months' imprisonment.

e) That the defendant should be sentenced at the low end of the advisory guideline range, that is, to 262 months' imprisonment.

11. The defendant agrees that he shall cooperate fully with this Office by:

a) providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other court proceeding; and

b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office.

Such cooperation shall expressly include the defendant's truthful testimony at the trials of Gilberto Rodriguez-Orejuela and Miguel Rodriguez-Orejuela, in case number 03-20774-CR-Moreno(s) and in case number S4 03-CR-1465 in the Southern District of New York.

12. This Office reserves the right to evaluate the nature and extent of the defendant's cooperation and to make the defendant's cooperation, or lack thereof, known to the court at the time of sentencing. If in the sole and unreviewable judgment of this Office the defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the court's downward departure from the sentence required by the Sentencing Guidelines, this Office may at or before sentencing make a motion pursuant to Title18, United States Code, Section 3553(e), Section 5K1.1 of the Sentencing Guidelines, or Rule 35 of the Federal Rules of Criminal Procedure subsequent to sentencing, reflecting that the defendant has provided substantial assistance and recommending a sentence reduction. The defendant acknowledges and agrees, however, that nothing in this Agreement may be construed to require this Office to file such a motion

and that this Office's assessment of the nature, value, truthfulness, completeness, and accuracy of the defendant's cooperation shall be binding on the defendant.

13. The defendant understands and acknowledges that the court is under no obligation to grant a government motion pursuant to Title 18, United States Code, Section 3553(e), 5K1.1 of the Sentencing Guidelines or Rule 35 of the Federal Rules of Criminal Procedure, as referred to in paragraph 12 of this agreement, should the government exercise its discretion to file such a motion.

14. The defendant is aware that the sentence has not yet been determined by the court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the court. The defendant understands further that any recommendation that the government makes to the court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the court and the court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 3 above, that the defendant may not withdraw his plea based upon the court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

15. If the defendant requests, and in the judgment of this Office the request is necessary, this Office will recommend that Immigration and Customs Enforcement ("ICE") apply for "S" visas on behalf of the defendant, his wife, his mother-in-law, and his two children. It is understood that this Office and ICE have authority only to recommend and apply for an "S" visa, and that the final decision to issue any visa rests with the Department of Justice and the Bureau of Citizenship and

Immigration Services, which will make their decision in accordance with the applicable regulations. This Office will also make a request with the United States Marshals Service for witness protection for this defendant and his family members described above should it appear that this defendant or such family members are in danger due to this defendant's cooperation and testimony.

16. This Office agrees to provide all evidence in its possession concerning the defendant's pending indictment in the Southern District of New York to the United States Attorney's Office for the Southern District of New York. This Office further agrees to provide a full assessment of the defendant's cooperation to the United States Attorney's Office for the Southern District of New York.

17. Contingent upon a voluntary and complete waiver of all right, title, and interest in all entities listed on Exhibit A attached hereto by both the defendant and his wife, Maria Ximena Wilson-Garcia, this Office agrees to recommend to the appropriate parties in the United States government that the defendant and his wife, Maria Ximena Wilson-Garcia, be removed from the list of persons affected by Executive Order 12978. Although this Office will make this recommendation, the actual decision as to whether the two names will be removed from the list is not one that can be made by this Office.

18. This Office further agrees that, although not binding on the court, in consideration for the defendant's voluntary surrender to United States authorities which thereby avoided the need for his extradition from Colombia, it will: object to any sentence of life imprisonment being imposed on the defendant; request that the defendant not be housed in solitary confinement during his incarceration; seek to ensure that the defendant is treated humanely while incarcerated; and agree not to prosecute the defendant for any past crimes for which he has not already been indicted.

19. The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure from the guideline range that the court establishes at sentencing. This appeal waiver includes a waiver of the right to appeal the sentence on the ground that the sentencing guidelines are in any respect unconstitutional, or on the grounds that any fact found by the Court at sentencing was not alleged in the indictment, admitted by the defendant, found by a jury, or found beyond a reasonable doubt. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights, except for the waiver of appeal on the ground that the sentencing guidelines are in any respect unconstitutional and on the grounds that any fact found by the Court at sentencing was not alleged in the indictment, admitted by the defendant, found by a jury, or found beyond a reasonable doubt. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney. The defendant further agrees, together with the United States, to request that the district court enter a specific finding that the defendant's waiver of his right to appeal the sentence imposed in this case was knowing and voluntary.

20. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Date: 3/8/06 By: _____
RICHARD D. GREGORIE
ASSISTANT UNITED STATES ATTORNEY

Date: 3/8/06 By: _____
EDWARD R. RYAN
SPECIAL ASSISTANT U.S. ATTORNEY

Date: 3/8/06 By: _____
MATTHEW S. AXELROD
ASSISTANT UNITED STATES ATTORNEY

Date: 3-8-06 By: _____
HUMBERTO DOMINGUEZ, ESQ.
ATTORNEY FOR DEFENDANT

Date: 3-8-06 By: _____
WILLIAM RODRIGUEZ-ABADIA
DEFENDANT