

# Department of Justice

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Western District of New York

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## MEXICAN NATIONAL SENTENCED FOR HARBORING ILLEGAL AND UNDOCUMENTED ALIENS

BUFFALO, N.Y.-- U. S. Attorney William J. Hochul, Jr. announced today that Javier Banda-Mireles, 38, a native and citizen of Mexico, who was convicted of harboring illegal aliens for commercial advantage, was sentenced to 12 months in prison by U.S. Chief District Judge William M. Skretny.

Assistant U.S. Attorney John E. Rogowski, who handled the case, stated that Banda-Mireles, whose brother, Simon Banda-Mireles at one time owned and operated several Mexican restaurants in Western New York, Ohio, Pennsylvania, and West Virginia, supervised and harbored between 6 and 25 illegal aliens in those businesses between 2006 and 2008. The illegal and undocumented employees were paid wages well below minimum wage.

The defendant's attorney urged the Court not to sentence the defendant to prison because he is an "openly gay" male who would not be able to defend himself in prison. AUSA Rogowski asked the Court to view that argument with skepticism because the defendant had previously been convicted for indecent assault on another male and had sexually harassed one of the illegal alien male victims under his supervision in this case. Judge Skretny noted the serious nature of the defendant's conduct and lack of remorse for the victims when he imposed the jail sentence. The defendant, who entered the United States illegally in 1991, was arrested in April 2008, along with his brother and nine other restaurant managers. All 11 defendants have been convicted. After conclusion of his sentence, the defendant will face removal proceedings with the Department of Homeland security.

The sentencing is the result of an investigation by Immigration and Customs Enforcement, Homeland Security investigations, under the direction of Special Agent in Charge James C. Spero and the Erie County Sheriff's Department, under the direction of Sheriff Timothy B. Howard. Assistant U.S. Attorney Robert C. Moscati assisted in the prosecution of the case.