

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

JUAN GUERRERO,
Defendant.

Criminal Case No. 1:20-CR-00012-WES-LDA
FILED UNDER SEAL

SENTENCING MEMORANDUM

The Defendant stands before the Court having pled to one count of being a felon in possession of ammunition in October of 2019. Almost three-and-one half years later, he faces sentencing on the charge.

The Defendant, a convicted drug trafficker and affiliate of the Latin Kings street gang committed this offense while on federal supervised release which commenced only ten months before, and after the Defendant had served 188 months for a federal drug charge. This conduct, without taking a deep dive into the facts and circumstances of the case, is serious enough conduct itself to warrant the imposition of a guidelines range sentence, to run consecutive to the twenty-four month sentence the Defendant was ordered to serve as a violator of supervised release (1:05-cr-00030-WES-LDA). However, the Court is required to look at the unique facts and circumstances that we know about the events of October 2019. The government submits that a much clearer picture, and a more dangerous picture of the Defendant's conduct, has emerged since the time of the Defendant's arrest.

What is now clear is that on the night the Defendant was in possession of ammunition, he was also in possession of a firearm, he brandished it, showing off in the presence of young men, two of whom followed his example and chose the same path of crime, gang activity, including

firearm possession and drug trafficking, and these facts bear on the seriousness of the offense committed by the Defendant.

Now comes the United States and submits this sentencing memorandum in support of its sentencing recommendation of thirty-seven months to be imposed consecutively to the 24-month term imposed in 1:05CR-00030-WES-LDA.

Under 18 U.S.C. §3553(a), the court must impose a sentence sufficient but not greater than necessary to reflect the seriousness of the offense, to deter criminal conduct, to protect the public, and to provide the Defendant with education or vocational training, medical care and other correctional treatment. Factors that the court must consider are set forth in 18 U.S.C. 3553(a) and include the nature and circumstances of the offense and history and characteristics of the Defendant, the need for the sentence imposed, the kind of sentences available, the kinds of sentence and the sentencing range established the offense, pertinent policy statements, the need to avoid unwarranted sentence disparities among Defendants with similar records who have been found guilty of similar conduct, and the need for restitution for victims.

Nature and Circumstances of the Offense

To understand the seriousness of the Defendant's conduct we have to realize who the Defendant is, and what he stands for. He is a Trinitario. He is a gang member, and he was a gang leader.

The Trinitarios

In the early 1990s, the Trinitarios Gang was established in an American prison, Rikers Island, by two Dominican inmates charged with murder.¹ The group formed to protect fellow Dominican and other predominantly Hispanic inmates from rival prison gangs. The Trinitarios

¹ See *United States v. Urena*, 73 F.Supp.3d 291, 299 (S.D.N.Y, 2014); <https://www.fbi.gov/stats-services/publications/2011-national-gang-threat-assessment>

initially operated in New York and New Jersey and expanded operations into the Northeast. They operate inside and outside of the prison walls and are known to be involved in murder, robbery, home invasions, drug trafficking, firearms trafficking, human trafficking, and violent street crime. The colors worn by gang members to show their affiliation are lime green, as well as red, blue and white (the red, blue and white represent the colors of the Dominican Flag).²

Providence Police Detective Matthew McGloin has served the Providence Police Department (PPD) for the past thirteen years and has been a Detective in the Intelligence Unit since 2020. McGloin also serves as a Task Force Officer for the Bureau of Alcohol, Tobacco, and Firearms. He has worked gang cases throughout his entire career with the PPD and has testified dozens of times on serious violent felony cases involving gang members and has testified in both state and federal court.³ He knows the Trinitarios and their operation within the District of Rhode Island. According to McGloin, the Trinitarios within the District are responsible for home invasions, robbery, shootings, and drug trafficking. In 2010, the former leader of the local Trinitarios, John Polanco, was arrested for firearms possession. He was indicted by a Grand Jury for two violations of 18 U.S.C. §§922(g)(1) and 924(a)(2) and was sentenced to 68 months in prison.⁴ According to McGloin, when released from federal custody, Polanco temporarily regained his leadership position with the Trinitarios however lost his leadership status and the leadership void was filled by the Defendant.

Within the District of Rhode Island, at some point in time prior to October of 2019, the Trinitarios split into two groups, the “FT3s” or the “Full Time Trinitarios” which are comprised of the older members, and the “SS” or “Southside Trinitarios” faction comprised of younger

² <https://www.nytimes.com/2018/07/18/nyregion/trinitarios-gang-bronx-stabbing.html>

³ McGloin is available to provide testimony regarding these matters.

⁴ Evidence gathered during that investigation included a videotape of a Trinitarios organizational meeting which was recorded in June of 2010. See 1:10-cr-000127-WES-PAS.

Hispanic teens. The groups were at one point friendly with one another, however that has changed and there is now no allegiance between the groups. McGloin knows that when the groups first split, it was not unusual for each group to show their allegiance with one another by wearing the colors associated with the Trinitarios and flashing customary gang signs.

October 19, 2019

On the evening of October 21, 2019, at approximately 1:20 am, the Providence Police received a shots fired call (approximately 1:20 am), in the area of the Laundry World Laundromat. As they responded to the area, officers observed a black BMW driving away from the general location. Police observed that the vehicle was speeding and suspecting that it was fleeing the shots fired scene, officers followed the vehicle and attempted to stop it with lights and sirens. The vehicle, driven by the Defendant, did not immediately stop. When it finally did stop, officers attempted to get the Defendant and his single passenger out of the vehicle. The Defendant did not immediately obey commands and resisted law enforcement efforts to secure him in handcuffs. The Defendant's passenger was 16-year-old [REDACTED]. According to McGloin, [REDACTED] is a known member of the Trinitarios street gang.⁵ At the time of the stop, it was after 1:00 am, and [REDACTED] was in the custody of the Rhode Island Training School, but was out on a weekend pass allowing him to go home with supervision by his mother.⁶ Both Guerrero and [REDACTED] were taken out of the motor vehicle at gunpoint and upon searching the vehicle, law enforcement officers located a blue Nike backpack in the backseat of the BMW. Inside the backpack was a black magazine with a ten-round capacity. It

⁵ [REDACTED] is now an adult and charged with drug trafficking in P2-2023-0090A. When arrested, a search warrant was executed for his home, law enforcement located fentanyl within the apartment and within the bedroom of [REDACTED]. Law enforcement officers located one lime green bandana and beads. Detective McGloin was present for the search and confirmed that the green bandana is lime green, the color worn by members of the Trinitarios to signify the allegiance with the gang.

⁶ He was held having been held at the training school, as ordered by the Rhode Island Family Court, for firearms and assault charges.

contained 8 live 9 mm cartridges. All eight live cartridges were marked FC 9mm luger. The marking "FC" indicates that the manufacturer is Federal Cartridge Company.

Soon after, Police searched the area where there was the report of shots fired. Specifically, they searched the parking lot of Laundry World. Police discovered and seized 10 spent shell casings. The head stamps on these spent shell casings were all marked FC 9mm luger (manufactured outside of the District of Rhode Island), the same caliber and manufacturer as the live ammunition found in the Defendant's car.⁷

The Defendant was initially charged with misdemeanor offenses in State Court. At the time that the Defendant was presented before state court, police had not yet obtained video evidence from the camera at the location of the shots fired, the Laundry World Laundromat parking lot, which depicts an individual that the government submits is the Defendant, in possession of a firearm and firing into the air.

The video is black and white and is time stamped. The video shows that at timestamp 1:04:20, a group of 6 men were in the parking lot. It shows five individuals wearing hooded sweatshirts (all hoods were up) and one young man was dressed in a white tee-shirt without a hood. Four of the five wearing hoods are indistinguishable from one another and appear to be around the same height and similar weight.⁸ You cannot see their faces. These four are much smaller than the fifth man in the hooded sweatshirt. This fifth man in a hooded sweatshirt is heavyset and at various points in the video is facing the camera. You can clearly see that he has facial hair/beard and is wearing a sweatshirt with distinct patches/patterns on it. On the

⁷ The call to Police was determined to have come in at the time the shots are fired on the video. Detectives investigating indicate that the time stamp on the video at the time of the shooting (1:04) was 13 minutes slow. The call into the Providence Police was made at approximately 1:20.

⁸ Although you cannot recognize the faces of the 4 other men in hoods, the clothing worn by them meets the general description of the clothing worn by [REDACTED].

sweatshirt, there appears to be a logo/emblem over the right breast. The sweatshirt is clearly two-toned in color and is lighter in color on the upper chest portion (different shading as the video is black and white). It is dark in the area of the stomach. Also, the top of the sleeves to the elbows are lighter in color than the lower portion of the sleeves.

The video shows this heavysset man placing something on his right hand (presumably a glove), with what we now know is a handgun (based on the totality of the circumstances and the recovery of spent shell casings) in his right hand, firing the weapon into the air⁹. Nine to ten flashes are observed on the video. This is the same location where the ten spent shell casings were found.

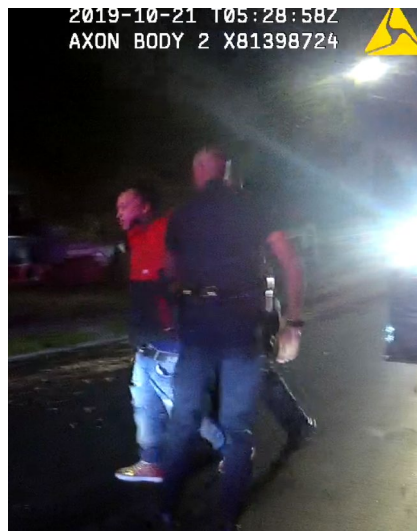
Screenshots from Laundry World Video



⁹ The circumstantial evidence shows the flashes of lights (muzzle flash), and the shell casings are found where the shots are fired.

Upon being stopped moments after the shots were heard and called in to the police, Defendant was observed to be wearing a two-toned sweatshirt, primarily red and black, with the same clothing pattern and logo/emblem over the right breast as the person depicted in the video. Defendant matches the height, weight, and other physical features of the shooter. He has a beard. He was also wearing what appears to be the same footwear as the shooter in the video. Although you cannot identify the Defendant's face on the video, any reasonable person would conclude that the shooter and Defendant are the same person.

Still shot from Body Camera at Arrest



Still shot from Body Camera at Station





Further evidence of the Defendant being in possession of a firearm and firing the weapon into the air in the Laundry World Laundromat comes from evidence produced by the Defendant himself at the time of the supervised release violation hearing. At the supervised release violation hearing, Defendant produced a witness, [REDACTED]¹⁰, a then-juvenile who testified that he had obtained the Defendant's keys and put the backpack in the Defendant's motor vehicle while the vehicle was parked at a nightclub, Mi Sueno. The Defendant also produced a videotape depicting an individual, who [REDACTED] testified was himself placing the backpack in the motor vehicle in a nightclub parking lot. The backpack was the same backpack that the ammunition was found inside of at the time Defendant was stopped. A firearm was not present. However, what is gleaned from these facts were that first, the Defendant is affiliated with [REDACTED], enough so that [REDACTED] was able to get Defendant's keys and place the backpack in the vehicle.

On May 1, 2020, [REDACTED] was arrested after a motor vehicle pursuit in which [REDACTED] was a passenger and was observed to throw a firearm out the window of the vehicle. The firearm was retrieved and was sent to the University of Rhode Island State Crime

¹⁰ It should be noted that [REDACTED] claimed not to even know of the Trinitarios gang, despite the discovery of the

Laboratory (Lab). The results of firearms testing by the Lab showed that the firearm possessed by [REDACTED] on May 1, 2020, was the same firearm that expelled the projectiles, leaving the 9-millimeter shell casings, in the Laundry World parking lot on October 21, 2019.

The totality of the evidence clearly paints the picture, and the reasonable inferences can be drawn that the firearm was in the backpack when it was placed into Guerrero's vehicle by [REDACTED]; it was the Defendant firing into the air at the Laundry World and not [REDACTED]; and that the firearm was taken from the scene of the shots fired by one of the young men in the video and wound up in the hands of Trinitario [REDACTED] in May of 2020. It should be noted that Defendant called [REDACTED] to testify at the Supervised Release hearing on March 9, 2020. When [REDACTED] testified, he appeared his stated age of 16, he was 5 foot 7 inches and 150 pounds. He had a slim build and bore no resemblance to the Defendant.

The pertinent clip of the Laundry World Video is submitted at Exhibit 1.

Characteristics of the Defendant

The Defendant is now 42 years old and has spent most of his adult life behind bars. He has been convicted of serious drug offenses, firearms offenses, and violent felonies. His record and history of violating probation and parole demonstrate an unwillingness and inability to abide by conditions of release. A summary of the Defendant's felony convictions is as follows:

<u>Arrest date</u>	<u>Case #</u>	<u>Sentence</u>	<u>Charge</u>
11/10/99	P2-00-0320A	5 years, 6 months to serve	Manufacturing/delivery
A condition of the Defendant's probation was that he keep the peace and be of good behavior. He violated probation and was sentenced to 3 years to serve.			
11/19/01	P2-02-0663AG	3 year to serve 10 years suspended	Felony Assault- 2 counts Use Firearm in Violent

10 years suspended

Crime- 2 counts
Carrying pistol without
license

Defendant was on probation in P2-00-0320A when he committed this offense, a drive-by shooting at another person. A condition of the Defendant's probation was that he keep the peace and be of good behavior. He violated probation committing his federal crimes.

2004	1:05cr30	188 months to serve 5 years supervised release	conspiracy to distribute a controlled substance
------	----------	---	--

Defendant was on probation in both P2-00-0302 and P2-02-0663AG when he committed this offense. A condition of Defendant's supervised release was that he not violate any state or federal laws. He has been found in violation of this condition.

In P2-00-0320A, Defendant pled nolo contendere to the charges on April 3, 2001. He made it only seven months from the date of his plea before violating his probation by committing a violent crime. In P2-02-0663AG, he was released from custody and paroled to home confinement on February 18, 2004, and then to parole without home confinement on August 18, 2004. He made it less than 6 months before being taken into federal custody for committing a new drug offense (05-CR-30).

Defendant's affiliation with gangs is nothing new. The affidavit in support of the Defendant's drug arrest (05-CR-30 dated October 21, 2004) set forth that the Defendant was engaging in narcotics trafficking offenses with members of the Almighty Latin King Nation, including co-defendant Joel Francisco, then the leader of the RI Almighty Latin Kings Nation, while on home confinement as a condition of his parole.

Having been released in January of 2019, Defendant has shown that he is unwilling to leave the gang life and criminal behavior behind. Officer McGloin dedicates time searching social media sites when investigating gang members.

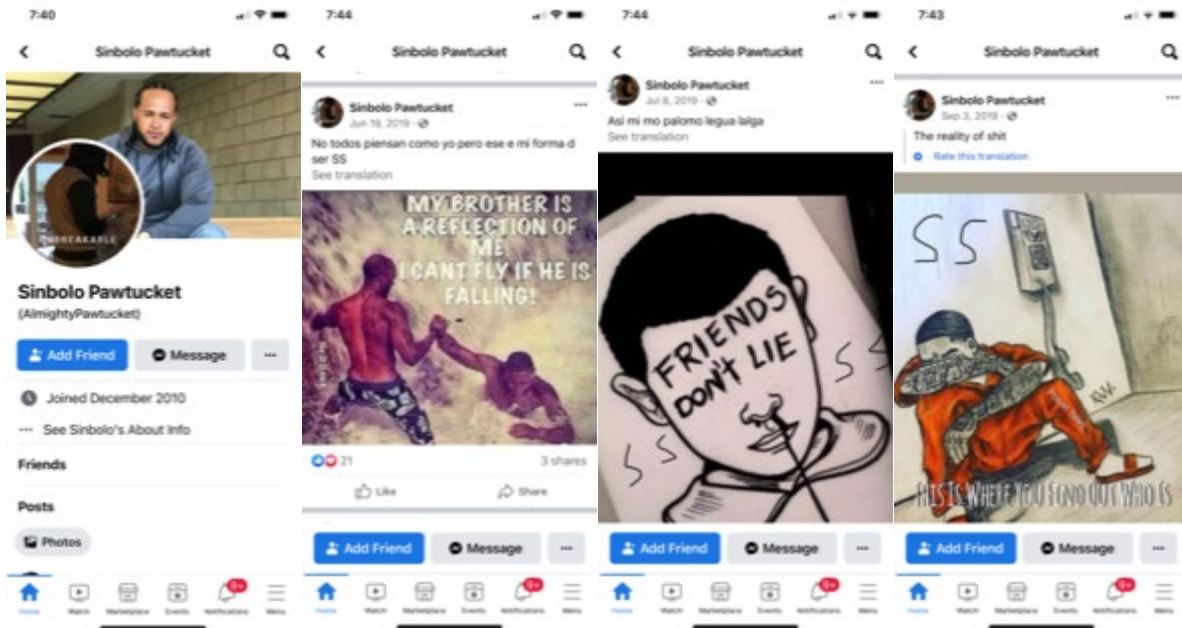
Detective McGloin who researches social media sites of gang members, discovered a

Facebook profile for “Sinbolo Pawtucket” or (“AlmightyPawtucket”). Guerrero is known by the moniker “Pawtucket”.¹¹ The photos posted are of Juan Guerrero and the posted photos date to 2018. The screenshots below depict his “SS” affiliation.



Posted Translation SS till death.

¹¹ This Facebook profile is currently active and all of the photographs taken from it area accessible to the public.



Posted translation for post second from right: Not everyone thinks the way that I do but that is how I am SS.

McGloin also knows from his investigations that the “Southside” affiliation of the Trinitarios uses its own signs what purports to be an “SS” to symbolize its affiliation. He was able to obtain a screenshot of the Defendant, posted on the Sinbolo Pawtucket Facebook page, showing his allegiance to the Trinitarios Southside, displaying the known gang symbol. The photograph on the right below was taken by McGloin from Sinbolo Pawtucket’s Facebook post. McGloin, who is familiar with the Defendant was able to positively identify him in the posting, despite the poor quality of the reproduction/screenshot depicted below. The photograph on the left depicts the Defendant (still from video), the photo on the right depicts [REDACTED] displaying the same “SS” “Southside” Trinitarios sign (middle photograph), and [REDACTED] displaying the Trinitarios sign (right photograph).¹²

¹² The photo of Defendant was taken from a screenshot of a video posted on the Sinbolo Pawtucket Facebook profile. The photo of [REDACTED] was taken from the video, exhibit 2, which was posted on January 14, 2020, by “El Budy” (Andres Gomez), a known Trinitario. It should be noted that when [REDACTED] testified in March of 2020, he claimed he didn’t even know what the Trinitarios were.



Defendant's willingness to devote his time and resources to leading a gang of young men who live a life of crime and glorify the use of firearms, speaks to his character.

The Need for the Sentence Imposed

Simply put, the Defendant is a danger to society. He has shown, throughout his life, that his affiliations give him access to firearms. He doesn't hesitate to use them, as demonstrated by his conduct in the instant case and the drive-by shooting of which he was convicted in 2001, and by what only can be described his encouraging others to use them as depicted in the Laundry World video. Although the Defendant didn't shoot at someone or destroy property in this case, he was thirty-eight years old, hanging around with teenagers, and the message he was clearly sending to those he was with in the Laundry World parking lot was that it is "OK" or "cool" to use firearms. The Defendant needs to be separated from society, in a place where he cannot encourage others to live the lifestyle that glorifies firearms use and gang membership.

The Sentencing Range Established for the Offense

The United States agrees with the calculation of the Base Offense Level for the Defendant and the computation of his criminal history.

Pursuant to 18 U.S.C. §3584, this Court may sentence the Defendant to either a concurrent or consecutive term of imprisonment to the 24- month sentence imposed for revocation of supervised release in 05-CR-00030-WES-LDA after considering all the factors set forth in 18 U.S.C. §3583. The sentences must run concurrently unless the court orders the sentences to run consecutively, or the statute requires a consecutive sentence. The United States respectfully asks that this Court order Defendant's sentence to run consecutively to the sentence imposed in 05-Cr-00030-WES-LDA. The Defendant's criminal history is serious, he was only out of prison for ten months prior to the instant offense, he has again chosen to affiliate with gangs and LEAD the local Trinitarios. The years that the Defendant served in both the state and federal prison systems has failed to deter him from the commission of crime, and his behavior in the instant case encouraged others to commit crime. The lengthy term of imprisonment requested by the government protects society from this Defendant and separates him from young individuals perhaps contemplating a life of crime and gang affiliation.

Respectfully submitted,

UNITED STATES OF AMERICA
By its Attorney,

ZACHARY A. CUNHA
United States Attorney

/s/Stacey A. Erickson

Stacey A. Erickson
Assistant U.S. Attorney
U.S. Attorney's Office
One Financial Plaza, 17th Floor
Providence, RI 02903
Tel (401) 709-5032
Fax (401) 709-5001
Email: stacey.veroni@usdoj.gov