

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

MAR 17 2003

UNITED STATES OF AMERICA)

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

v.

02 CR 1172

DOCKETED
MAR 18 2003

Judge Geraldine Soat Brown

ELVIRA ARELLANO

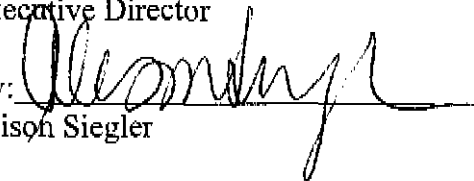
NOTICE OF FILING AND CERTIFICATE OF SERVICE

To: Mr. Edward Kohler
Assistant United States Attorney
219 S. Dearborn Street, 5th Floor
Chicago, IL 60604

Please take notice that on this 17th day of March, 2003, the undersigned filed the following document in the above captioned cause, a copy of which is attached hereto:

- DEFENDANT ELVIRA ARELLANO'S MEMORANDUM IN AID OF SENTENCING

Respectfully submitted,
FEDERAL DEFENDER PROGRAM
Terence F. MacCarthy
Executive Director

By: 
Alison Sieglar

ALISON SIEGLER
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STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, Mark Tigue, state that on the 17TH day of March, 2003, I caused copies of the forgoing motion to be hand delivered to the U.S. Attorney's Office at 219 S. Dearborn Street, Chicago, Illinois, attn: Edward Kohler, and to the Probation Office at 55 E. Monroe Street, attn: Malissa Groh.

Mark Tigue

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DEFENDANT ELVIRA ARELLANO'S MEMORANDUM IN AID OF SENTENCING

ELVIRA ARELLANO, by her attorney ALISON SIEGLER of the Federal Defender Program, respectfully requests that the Court sentence her to a brief period of unsupervised probation for this misdemeanor offense and waive any fine. In support of this request, we state as follows:

Elvira Arellano is a 28-year-old single mother with no prior convictions. Ms. Arellano has lived at the edge of poverty for much of her life. She grew up in Mexico, one of five children in an impoverished family living at the subsistence level in "one of the poorest states in Mexico." Exh. B; see also Exh. D (describing "the terrible conditions" that lead immigrants to leave their native countries for America). Ms. Arellano's father had trouble supporting the family because he had severe hip problems which made it difficult for him to find work. (PSI at 5.) As a result of her father's health problems, Ms. Arellano and her brothers and sisters began working at a young age. In 1997, while in her early twenties, Ms. Arellano immigrated to the United States in to find better work and a better life. (Id.) Ms. Arellano had heard that there were jobs in Washington state, and so she moved there and found work as a house cleaner. (Id. at 5, 7.) Several years later, Ms. Arellano gave birth to a son, Saul Manon, whom she has raised entirely

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on her own. (*Id.* at 5.) Saul is a United States citizen. During the year 2000, Ms. Arellano learned that better-paying jobs were available in Chicago, and she left Washington in pursuit of work that would enable her to be a better provider for her son. (*Id.*) When Ms. Arellano first moved to Chicago, she was not able to find good paying work for quite some time. She finally secured a job with World Service Company, a cleaning service that had a contract with O'Hare Airport. (*Id.* at 7.) Although the hourly wage was more money than she had made previously, it was barely enough to cover the costs of rent and day care for Saul while she was at work.

In the six years since Ms. Arellano came to the United States, she has never been arrested or convicted of any criminal offense (aside from the instant case). Instead, she has been a hard-working, law-abiding member of the community. She tried to enter the United States in 1997 in an effort to escape the poverty in which she had grown up. She tried to enter with someone else's immigration document because she did not have documentation of her own. Although it was wrong for Ms. Arellano to conceal her identity, she did what so many other otherwise law-abiding immigrants have done: she tried to enter the United States, spurred on by the promise of the American dream of freedom and enterprise. As the Pastors at St. Pius V Parish explain in their letter to the Court, "Elvira Arellano is one of countless others who come to this country trying to survive. The people who come to our church, live in our neighborhoods and come to this land try to improve their family conditions. They are often people trying to earn a living and provide for others in our community and in their homelands." Exh. A, Att. 3; see also Exh. A, Att. 4 ("Like all of us, Elvira was searching for freedom and opportunities."). When Ms. Arellano's initial effort to enter the country failed, she tried again and was admitted. Ms. Arellano's efforts to enter the United States without legal permission do not, standing alone,

render her a criminal. “She came to this country with good intentions to work, to be a good citizen” Exh. A, Att. 4. The fact that Ms. Arellano has not even been arrested in the six years she has lived in this country confirms that her efforts to cross the border was motivated by desperation, not malice. As many organizations and community members state in their letters, “She works hard, takes care of her son, and is not harmful to anyone.” Exh. A, Att. 7-9; Exh. B (emphasis added); see also Exh. E (“The only thing she has done is to come from a very poor area in Mexico to the United States in search of a better life for herself and her family—the same thing so many millions of other people in our country have done.”); Exh. A, Att. 6 (“She has never caused harm to anyone in society”).¹

Ms. Arellano has accepted responsibility for possessing a false social security card. Although she does not in any way seek to diminish the seriousness of her conduct, her fierce desire to support her son financially helps explain the instant offense. Ms. Arellano is completely responsible for supporting four-year-old Saul financially, and has worked very hard since his birth to make ends meet. Ms. Arellano loves her son deeply and is dedicated to providing him with an easier, more carefree childhood than her own. See, e.g., Exh. A, Att. 6 (“In my ten years of community development work I have never met a more sincere and dedicated mother than Elvira.”). As Joshua Hoyt, the Executive Director of the Illinois Coalition

¹As a recent editorial in the Chicago Tribune pointed out, our country does not always stringently enforce its immigration laws, in part because “employers in agriculture, restaurant, hotel, meatpacking and other business sectors rely heavily on the labor of immigrants, including many who are here illegally. . . . This seemingly intractable conundrum of illegal immigration boils down to a question of supply and demand. Because of lower birth rates and rapidly growing low-wage employment sectors, the U.S. needs workers. Unemployed workers from poorer countries—largely Mexico—risk life and limb to come here and fill those jobs.” Exh. G.

for Immigrant and Refugee Rights explains in his letter to the Court, "I stress that everything that Ms. Arellano has been doing is for a better life for her son." Exh. A, Att. 1. Many community members point out in their letters that, "As a responsible mother, Ms. Arellano had to work so that she and her four year old could survive in the U.S. . . . Ms. Arellano's only intention was to progress in life and provide food and shelter for herself and her son." Exh. B.

Since her arrest in this case, Ms. Arellano has complied fully with the conditions of her release. See, e.g., Exh. A, Att. 1 ("Sincc the time I have known her . . . , Ms. Arellano has been scrupulously obeying the requirements of her release from detention."). As Mr. Hoyt explained in his letter, because Ms. Arellano's immigration status prevents her from working right now, she has been dependent on the kindness and generosity of others to continue to support herself and her son. See id. As is clear from the numerous letters and petitions attached to the instant memorandum, and from the financial aid Ms. Arellano has received (PSI at 9), the community has rallied around Ms. Arellano and has provided her with emotional as well as financial support.²

Ms. Arellano will likely be deported as a result of her actions in this case. If she is, she will be ripped away from the country she has called home for the past six years, and will be taken to Mexico with her son, a United States citizen, in tow. She will leave behind her the many

²The community organizations that have written letters and/or submitted petitions in support of Ms. Arellano include: the Illinois Coalition for Immigrant and Refugee Rights, Exh. A, Att. 1; Casa Aztlan, Exh. A, Att. 2; St. Pius V Parish in Pilsen, Exh. A, Att. 3; Programa C.I.E.L.O. (Center for Information and Education Latino Optimum), Exh. A, Att. 4; La Voz de los de Abajo, Exh. A, Att. 5; Instituto del Progreso Latino ("Institute for Latino Progress"), Exh. A, Att. 6; Latino Organization of the Southwest, Exh. A, Att. 7; Now or Never Committee (Ahora o Nunca!), Exh. A, Att. 8; and the Brazilian Immigrant Center based in Allston, Massachusetts, Exh. A, Att. 9.

friends she has made during her life here. She will also leave behind her the fiction of the American dream, the idea that this country is a place where anyone can start fresh and carve out a better life. See, e.g., Exh. A, Att. 4 (“We are willing to go to war to fight for the rights of the oppressed and ensure their freedoms, yet right here in our country, we fail to hear the voices of those crying out, asking for the very same things.”). We ask that in determining the appropriate sentence for Ms. Arellano, this Court recognize that the deportation to which Ms. Arellano will likely be subjected as a result of her own actions will be a substantial punishment, and will significantly compound any punishment this Court imposes.

WHEREFORE, for the foregoing reasons, we respectfully request that the Court sentence Ms. Arellano to a brief period of unsupervised probation.³

Respectfully submitted,
FEDERAL DEFENDER PROGRAM
Terence F. MacCarthy
Executive Director

By: 

Alison Siegler

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³Other courts in this district have sentenced defendants involved in Operation Tarmac to unsupervised probation. See, e.g., United States v. Alejandro Alvarado, 02 CR 1180 (Judge Denlow) (six months unsupervised probation); United States v. Martin Rodriguez, 02 CR 1184 (Judge Keys) (nine months unsupervised probation); United States v. Victor Garcia, 02 CR 1174 (Judge Mason) (one year unsupervised probation); United States v. Maria Vera, 02 CR 1175 (Judge Mason) (one year unsupervised probation); United States v. Martin Molina, 02 CR 1177 (Judge Keys) (one year unsupervised probation).

*See Case
File for
Exhibits*