

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

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UNITED STATES OF AMERICA           §  
  §  
  §   CRIMINAL NO. 4:10-CR-041-Y  
  §  
  §  
HUGO ALBERTO GUERRERO (5)       §

GOVERNMENT'S RESPONSE to DEFENDANT'S MOTION FOR VARIANCE

The United States Attorney for the Northern District of Texas, in response to the defendant **Hugo Alberto Guerrero's** Motion for Variance, would respectfully show the Court as follows:

The defendant cites generally to 18 U.S.C. § 3553(a) as a basis for a sentencing variance. Specifically, the defendant attempts to minimize his involvement in the case, and establish himself as a peripheral, almost accidental conspirator. However, the defendant's account of events conflicts with the objective facts observed by the officers conducting surveillance on February 2, 2010 (previously discussed in the government's responses to the defendant's various objections to the presentence report and its addendum). Moreover, the fact that the defendant attempted to flee the scene, very nearly hitting police officers with his car, indicates that the defendant had more at stake than merely being a peripheral conspirator. In conclusion, the nature of the offense, the defendant's involvement in the offense, the need to punish the defendant, and the need to protect society from the defendant all justify a sentence within the advisory guideline

range.

Respectfully submitted,

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s/ Shawn Smith  
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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2010, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorney of record who has consented in writing to accept this Notice as service of this document by electronic means: Peter Smythe.

s/ Shawn Smith  
SHAWN SMITH  
Assistant United States Attorney