

UNITED STATES DISTRICT COURT, DISTRICT OF NEW MEXICO											
SENTENCING MINUTE SHEET											
CR No:	19-2747 KG			USA vs.:	ASTROGA, ET AL.						
Date:	3/17/2021			Name of Deft:	MARTIN PENA ASTROGA						
Before the Honorable:				KENNETH J. GONZALES, UNITED STATES DISTRICT JUDGE							
Time In/Out:	1:18 – 2:39 PM			Total Time in Court (for JS10):	1 HOUR 21 MINUTES						
Clerk:	CHRIS EUBANKS			Court Reporter:	DANNA SCHUTTE EVERETT						
AUSA:	CLARA COBOS			Defendant's Counsel:	KEN DEL VALLE						
Sentencing in:	LAS CRUCES			Interpreter:	N/A						
Probation Officer:	BRANHAN KEMP			Sworn?		Yes		No			
Convicted on:	X	Plea		Verdict	As to:		Information	X	Indictment		
If Plea:	X	Accepted		Not Accepted	Adjudged/Found Guilty on Counts:	1 – 10, 12 AND 13					
If Plea Agreement:		Accepted		Not Accepted	X	No Plea Agreement	Comments:				
Date of Plea/Verdict:	3/24/2020			PSR:	X	Not Disputed		Disputed			
PSR:	X	Court Adopts PSR Findings		Evidentiary Hearing:		Not Needed	X	Needed			
Exceptions to PSR:	COURT WILL VARY.										
<b>SENTENCE IMPOSED</b>				Imprisonment (BOP):	136 MONTHS AS TO COUNTS 1 – 8, AND 10, 12, 13; 48 MONTHS AS TO COUNT 9, SAID TERMS TO RUN CONCURRENTLY FOR A TOTAL OF 136 MONTHS						
Supervised Release:	5 YEARS AS TO COUNTS 1 AND 2; 3 YEARS AS TO COUNTS 3 – 8; 1 YEAR AS TO COUNT 9; AND 4 YEARS AS TO COUNTS 10, 12 AND 13, SAID TERMS TO RUN CONCURRENTLY FOR A TOTAL OF 5 YEARS				Probation:						
X	500-HOUR DRUG PROGRAM			BOP SEX OFFENDER PROGRAM	OTHER:						
Court recommends ICE begin removal proceedings immediately or during service of sentence							X	ICE not applicable			
SPECIAL CONDITIONS OF SUPERVISION											
	No re-entry without legal authorization					Home confinement for _____ months _____ days					
	Comply with ICE laws and regulations					Community service for _____ months _____ days					
X	Participate in/successfully complete subst abuse program/testing shall not exceed more than 60 tests per year				X	Reside at a Residential Reentry Center for UP TO 6 MONTHS					
X	Participate in/successfully complete mental health program and take all mental health medications prescribed					Register as sex offender					
X	Refrain from use/possession of alcohol shall not exceed more than 4 tests per day					Participate in sex offender treatment program					
X	Submit to search of person/property					Possess no sexual material					
X	No contact with co-deft(s)/co-conspirator(s)					No computer with access to online services					
	No entering or loitering near victim's residence					No contact with children under 18 years					
	Provide financial information					No volunteering where children supervised					
X	Grant limited waiver of confidentiality					Restricted from occupation with access to children					
	Participate in an educational or vocational program					No loitering within 100 feet of school yards					
X	Refrain from the use and possession of synthetic cannabinoids or other legally sold designer drugs				X	Not possess, sell, offer for sale, transport, cause to affect interstate commerce, import, or export any drug paraphernalia					
<b>OTHER:</b>											
Fine: \$					Restitution: \$						
SPA: \$	1,200.00			(\$100) as to each Count	Payment Schedule:	X	Due Imm.		Waived		
OTHER:											

<input checked="" type="checkbox"/>	Advised of Right to Appeal		Waived Appeal Rights per Plea Agreement
<input checked="" type="checkbox"/>	Held in Custody		Voluntary Surrender
<input checked="" type="checkbox"/>	Recommended place(s) of incarceration:		<b>SERVICE OF SENTENCE AT A FEDERAL MEDICAL CENTER CLOSE TO FAMILY, IF ELIGIBLE</b>
	Dismissed Counts:		
OTHER COMMENTS:		<b>COURT ADDRESSES THE DEFENDANT REGARDING WAIVER OF PERSONAL APPEARANCE; DEFENDANT SIGNED WAIVER AND AGREES TO PROCEED VIA VIDEO CONFERENCING.</b>  <b>DEFENSE COUNSEL ADDRESSES THE COURT AND ASKS FOR A SENTENCE OF 120 MONTHS. GOVERNMENT RESPONDS AND ASKS FOR A SENTENCE OF 151 MONTHS. COURT STATES FINDING AND WILL APPLY THE TWO-LEVEL ADJUSTMENT UNDER THE SENTENCING GUIDELINES. DEFENDANT ALLOCUTES.</b>	

### EVIDENTIARY HEARING

**1:22 p.m.** Court: Inquires of counsel if an evidentiary hearing is needed.

Mr. Del Valle: Will have defendant testify.

Ms. Cobos: If the Court will take judicial notice of statements in Government's brief, evidentiary hearing not necessary.

Court: Inquires of defendant if he wishes to testify.

Mr. Astorga: Yes.

Court: Mr. Del Valle may proceed.

**1:28 p.m. Mr. Del Valle calls Martin Pena Astorga (Sworn).** Inquires of events of meeting and delivery of drugs to Ms. Gomez.

**1:30 p.m. Cross-examination of Mr. Astorga by Ms. Cobos.** Questions concerning Ms. Gomez. Inquires as to his sister-in-law, JoAnn Dunlap, and the drugs being sent to her house.

**1:39 p.m.** Mr. Del Valle: Issue of an organizer enhancement. Objects to the line of questioning as to Ms. Dunlap.

Court: Inquires of to where in the presentence report as to enhancement.

Mr. Del Valle: Responds.

Ms. Cobos: Responds.

Court: Will allow counsel to ask questions as to interaction during redirect.

**1:42 p.m. Ms. Cobos continues cross-examination of Mr. Astorga.** Continues questions concerning involvement of Ms. Dunlap.

**1:47 p.m. Redirect examination by Mr. Del Valle.**

**1:47 p.m.** Court: Inquires of counsel if there is any more testimony.

Mr. Del Valle: No.

Ms. Cobos: Nothing from the Government.

Court: Will hear from counsel as to sentencing.