

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 07-20633-CR-GOLD

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RITA CAMPOS RAMIREZ,

Defendant.

**SENTENCING MEMORANDUM ON BEHALF
OF RITA CAMPOS RAMIREZ**

The Defendant, RITA CAMPOS RAMIREZ, by and through undersigned counsel, respectfully files this Sentencing Memorandum setting forth all factors that the Court should consider in determining what type and length of sentence is sufficient, but not greater than necessary, to comply with the statutory directives set forth in 18 U.S.C. § 3553 (a).

Introduction

Rita Campos Ramirez is a sixty (60) year old woman, with no prior criminal record. She was born in Cuba on October 19, 1947, and emigrated from the island at the age of seventeen, first to Miami, Florida, on March 18, 1966, and then to Puerto Rico. She then returned back to Miami, Florida in 1968, with her mother and two younger brothers. Several years later, Ms. Campos Ramirez married for the first time, and her two sons, Jose Pablo Gaytan and Daniel Jesus Gaytan, were born of this union. Both of her sons, along with their wives reside in Miami. She is an extremely caring, devoted, generous, and selfless individual who has and would do anything possible to help her family and friends. In the character letters of support, which will be submitted to the Court as a Composite Exhibit to this memorandum, Ms.

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Campos Ramirez dedication and personality is captured by her son Daniel, who describes how difficult life has been for the Defendant, and the sacrifices she made for her children after her divorce from their father, to raise two young boys in Miami alone and without any financial assistance from her ex-husband.

Ms. Campos Ramirez studied, attended classes and seminars, and taught herself the business of medical billing. To support herself and her family she was employed at various medical offices and worked as a free-lance employee until she started her own business in 2002, R and I Medical Billing, Inc.

In addition to her two sons, the Defendant is the primary caregiver to her eighty-six (86) year old mother, Maria Magdalena Ramirez, who suffers from congestive heart failure and was just recently hospitalized for a pulmonary embolism. By all accounts, her mother's condition is deteriorating on a daily basis. Ms. Campos Ramirez provides emotional support, and does her household chores and errands. More likely than not, the moment the Defendant says goodbye to her mother prior to being incarcerated, it will be the last time she sees her alive as her mother is too frail to travel and there is no federal women's prison facility in the South Florida area.

As will be discussed further, Ms. Campos Ramirez has agreed as part of her plea agreement with the Government to a \$1.5 million consent forfeiture which will necessitate the forfeiture of her primary residence which she shares with her oldest son, Jose, and his wife, as well as her two other properties, including the condominium where her youngest son, Daniel, and his wife reside. While she accepts that her sentence in this case will deprive her of her freedom and will leave her penniless and homeless after incarceration, it is still

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exquisitely painful and distressing to her that after struggling so long and hard to raise and support her sons, that due to her actions, she has caused them to lose the roof over their heads.

Rita Campos Ramirez stands before this Honorable Court in shame and remorse for the actions which gave rise to the charges herein. Such actions were an aberration of behavior for the way she has lived her life in both this country and the country of her birth. The embarrassment and distress she has caused to herself, her family, and to the supporters who have appeared before this Court in their letters, and their personal appearances expected at sentencing is palpable, although it has not affected those individuals who love and trust Rita Campos Ramirez. It is a testament to a person's background and character that, despite the facts and circumstances surrounding the charges against them, and their admission to such conduct, that many individuals who know Ms. Campos Ramirez would come forward and express their support in order for the Court to have a clearer picture of what this woman is really like.

As shown below, the Defendant has undertaken significant self-reform through introspection, and substantial and ongoing cooperation with State and Federal authorities. This self-reform, combined with Rita Campos Ramirez's age, personal history and characteristics, lack of any criminal background, and the factors enumerated in 18 U.S.C. § 3553 (a), in addition to the advisory sentencing guidelines, strongly mitigates in favor of a sentence at the low end of Level Thirty-One (31), Criminal History Category I, of the advisory guidelines.

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Plea Agreement

In April, 2007, Ms. Campos Ramirez entered into a Plea Agreement in this case. She agreed to waive indictment and plead guilty to a two count Information charging conspiracy to commit healthcare fraud in violation of 18 U.S.C. § 1349 (Count 1), and submission of a false claim to Medicare in violation of 18 U.S.C. § 287, (Count 2). Ms. Campos Ramirez agreed to continue her ongoing cooperation with both the state and federal law enforcement authorities. The Government agreed to recommend a three (3) level reduction for acceptance of responsibility. Ms. Campos Ramirez and the Government agreed they will jointly recommend that the Court impose a sentence within the advisory guideline range, however the Government has reserved the right to argue at sentencing for an upward departure for disruption of a governmental function. The Defendant has agreed that she will not request a downward departure or variance under 18 U.S.C. § 3553 (a), although the Court clearly is permitted to tailor the ultimate sentence in light of this and other statutory concerns. As to the counts in the Information, the parties jointly recommend that the Court make certain findings regarding the applicable base and total offense levels. Although the plea agreement is not binding on the Court, Ms. Campos Ramirez requests that she be afforded the benefit of the stipulated terms of the agreement.

The Government and Ms. Campos Ramirez have agreed in the plea agreement that the Base Offense Level under U.S.S.G. § 2B1.1 (a) is six (6), and that the enhancement under § 2B1.1 (b)(1)(N) raises the base an additional twenty-six (26) levels. Adding the use of a special skill under Section 3B1.3 gives an additional two (2) levels, concluding with a Total Offense Level of

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thirty-four (34), minus a three (3) level reduction for acceptance of responsibility pursuant to Sections 3E1.1 (a) and 3E1.1 (b), which yields an adjusted total offense level of thirty-one (31). The Presentence Investigation Report agrees with the Adjusted Total Offense Level of thirty-one (31) and Criminal History Category I.

Acceptance of Responsibility and Cooperation

In March, 2006, Rita Campos Ramirez's name and billing company came to the attention of senior investigators Ronald Ilhardt and Gene Francar of the State of Florida, Office of the Attorney General, Department of Legal Affairs, Medicaid Fraud Control Unit (MFCU), while they were conducting an investigation into one of the Defendant's billing clients for possible overpayments by Medicaid. On March 23, 2006, a subpoena was served on the Defendant for her records. At this time, Ms. Campos Ramirez was not a target of any criminal investigation, and her compliance with said subpoena was sought only in the capacity of a business records custodian.

However, shortly after receiving said subpoena, the Defendant retained private counsel and indicated her desire and willingness to cooperate with law enforcement authorities. From that moment onward, Ms. Campos Ramirez placed herself on the path to rehabilitation. Through counsel, and then at numerous detailed debriefings, Ms. Campos Ramirez cooperated with the investigators from the Attorney General's Office, Medicaid Fraud Control Unit. She has provided detailed proffers, and thousands of pages of billing records, contracts, and related documents. She identified the names of the individuals who hired her, paid her, and with whom she had daily contact in the receipt of bills from the corrupt clinics causing the submission of

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fraudulent claims to Medicare and Medicaid. Ms. Campos Ramirez assisted in the preparation of a detailed index of all clinics, physicians, management corporations, provider numbers, billing amounts, procedure codes, medications, payments and dates of service for all of her HIV billing clients. These documents have saved hundreds of hours of law enforcement investigative manpower, and according to the MFCU investigators, this index has been indispensable in assisting and furthering their investigation and prosecution of violators of the Florida Medicaid Act.

Based upon this voluntary and extensive cooperation with the State of Florida investigators, Ms. Campos Ramirez's involvement in Medicare HIV billing was communicated to the United States Government. Since August, 2006, the Defendant has been interviewed by the federal law enforcement authorities from both the Southern District of Florida United States Attorney's Office Fraud Division and the United States Department of Justice, Criminal Division. As the federal investigation developed, she began to realize the enormous impact her actions had on the Medicare program, and intensified her efforts as a cooperating witness. The Defendant also attempted to provide proactive, undercover cooperation to the federal law enforcement authorities from June through August, 2007. As with any electronically monitored situation, Ms. Campos Ramirez was undertaking a task which had some element of personal risk. She permitted her billing office to be equipped with videotape and audio recording equipment and attempted to contact and schedule meetings with prior billing clients, co-conspirators, and potential corrupt clinic owners or individuals violating the healthcare fraud statutes. This activity was extremely difficult for the Defendant mentally and emotionally , but she was

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able to arrange and record at least two meetings with potential targets which were monitored by federal agents.

The Defendant's ongoing cooperation has led to the arrest and conviction of one of her former billing clients in a State of Florida Medicaid fraud case, a civil settlement by two of the physicians employed by said clinic, and a guilty plea and conviction of a clinic owner in a related case in the Southern District for conspiracy to commit healthcare fraud. As per the MFCU investigators, Ms. Campos Ramirez's continued cooperation has resulted in two (2) corrupt physicians entering into cooperation arrangements with the Florida Medicaid Fraud Unit, and will lead to either state charges or future federal indictments against numerous others.

Ms. Campos Ramirez's willingness to first become a cooperating witness and then a cooperating defendant, began almost two (2) years ago, even before she became a target of a criminal investigation. She could have instructed her attorney to file legal challenges to the State investigative subpoena or could have simply complied by producing the requested documents. Instead, she understood the importance of making amends for her past actions in condoning and assisting her co-conspirators in defrauding Medicare and Medicaid. She accepted responsibility for her actions, and recognized the importance of being a law abiding citizen, which again argues for a sentence at the low end of the advisory guidelines.

Opposition to Government's Motion
For Upward Departure

Pursuant to the plea agreement in this case, the Government reserved the right to argue at sentencing for an upward departure for a disruption of a

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governmental function pursuant to U.S.S.G. § 5K2.7. The Government now seeks a two (2) level upward adjustment, which would raise the Defendant's Total Offense Level to 33 and the guideline imprisonment range to 135 to 168 months.

Ms. Campos Ramirez respectfully submits that under U.S.S.G. § 5k2.0 (a)(1)(A), this Court should not upwardly depart from the applicable advisory guideline range because there is not an "aggravating or mitigating circumstance... of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that, in order to advance the objectives set forth in 18 U.S.C. § 3553 (a)(2), should result in a sentence different from that described." While the Defendant has fully admitted her involvement in the submission of fraudulent medical bills to the Medicare program, her role in said conspiracy as an authorized biller causes her to be primarily responsible for the entire intended loss billed to the program on behalf of her co-conspirators. The Defendant accepts her role and responsibility in this criminal enterprise, however based on the specific offense characteristics under U.S.S.G. § 2B1.(b)(1)(N), her offense level is already increased by twenty-six (26) levels. It is respectfully submitted that for this Defendant, the advisory sentencing guidelines provide an acceptable level of recommended range of imprisonment at level thirty-one (31) and that the aggravating circumstance of disruption of a governmental function should not apply.

In *United States v. Regueiro*, 240 F.3d 1321 (11 Cir. 2001), the Court held that an upward departure for disruption of a governmental function pursuant to U.S.S.G. § 5K2.7, was warranted because the district court found

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“(1) factors atypical, meaning that it takes the case out of the ‘heartland’ of cases involving the conduct described in the applicable guideline and (2) whether that factor should result in a different sentence.” In *Regueiro*, the Defendant organized and established more than 100 nursing groups, and fraudulently billed Medicare for thousands of services that were never performed or were performed on patients who were not eligible to receive Medicare benefits. The Defendant and co-defendant, Perez, were extensively involved in all aspects of the scheme, recruiting employees, physicians and nurses to participate in the fraud, and creating documents to support the fraudulent home health visits. While the appellate court sustained an upward departure for Regueiro based upon the scope and nature of the Defendant’s fraud, the Court also noted that the trial court did not impose a similar departure pursuant to this section for co-defendant Perez.

Ms. Campos Ramirez respectfully admits that her conduct and that of her co-conspirators, indicted and unindicted, caused a significant disruption to an important governmental function, however she argues that the advisory guidelines at Level 31 already more than adequately take into consideration the circumstances of her behavior and offense.

Conclusion

Following United States v. Booker, 543 U.S. 220 (2005), in imposing sentence, courts must now consider the impact of the factors enumerated in 18 U.S.C. § 3553 (a), and the guiding principle in sentencing is that “the court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes” of sentencing: “(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

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(B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the Defendant; and (D) to provide the Defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner” 18 U.S.C. § 3553 (a)(2).

The offense in this case is defrauding the United States Government through the submission of false or fraudulent Medicare claims. It is an extremely serious offense and Ms. Campos Ramirez, as the authorized biller for these corrupt clinic owners and physicians, has admitted and pled guilty to being a participant in the conspiracy. The defendant, a 60 year old peaceful, non-violent woman will be much older than almost all federal female inmates. Her expected incarceration may cover a significant portion of her anticipated life expectancy. As a lawful permanent resident for forty-two years, but not a United States citizen, Ms. Campos Ramirez is subject to removal proceedings by the Department of Homeland Security and possible deportation to a country where she has not had contact since her teenage years.

Ms. Campos Ramirez was not the most culpable participant in the conspiracy. Certainly, most of her billing clients were the largest financial beneficiaries and yet due to the defendant’s position as the Medicare biller for these entities, the defendant is held accountable for all of the intended and actual loss to the Government, and is facing the most significant punishment and longest incarceration under the advisory guidelines.

The Defendant has agreed to a consent forfeiture which will require her to lose all of her property, her vehicle, and personal funds. She will also be ordered to pay restitution to the Government in an amount of over Two Hundred Million Dollars (\$200,000,000.). Upon her release from prison, if she

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is allowed to remain in this country, she would have a very low likelihood of recidivism. A sentence at the bottom of Level 31, along with the other penalties, fines, and forfeitures, will still promote respect for the laws of this country, afford adequate deterrence to future criminal conduct, and protect the public from any further crimes by the Defendant.

For the foregoing reasons, Rita Campos Ramirez respectfully submits that a sentence at the low end of Level 31, Criminal History Category I, is sufficient, but not greater than necessary, to comply with the statutory directives set forth in 18 U.S.C. § 3553 (a).

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of March, 2008, I electronically filed the foregoing document with the Clerk of the court using CM/ECF. I also certify that the foregoing document is being served this day on the following parties via transmission of Notices of Electronic Filing generated by CM/ECF or facsimile:

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