

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 22-CR-20311-KMW

UNITED STATES OF AMERICA                     )  
   )  
                  *Plaintiff*                             )  
   )  
vs.   )  
   )  
CRISTIAN PATRICIO PINTADO GARCIA         )  
   )  
   )  
                  *Defendants.*                         )  
   )

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**CRISTIAN PINTADO'S SENTENCING MEMORANDUM**

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## I. INTRODUCTION

Cristian requests that this Honorable Court sentence him to time served and allow him to voluntarily depart the United States as a deportable alien immediately following his sentencing hearing. Cristian is “immensely sorry” for his conduct and as his wife **Patricia** explains “has tearfully apologized to us several times.”<sup>1</sup> And so, now, after spending close to 10 months in 2 prisons and accepting responsibility for his conduct, it is time for Cristian to return home to Quito, Ecuador to the people he loves and who love him: his wife, **Patricia**, his two sons, **Juan Carlos** (“Juanca”) and **Matias**, and his 11-year-old daughter **Florencia**, each of whom are pictured below:



Mr. Pintado’s home away from home has been prison in two foreign countries; first in San Juan, Costa Rica and then here in the Federal Detention Center in downtown Miami.

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<sup>1</sup> See Letter of Patricia Gomez Duranona (p.1). Attached as **Ex. A** is a Composite of Sentencing Letters translated by Paola Rios, a Mexican attorney. See **Ex. B**.

Cristian is a proud father, and a loving husband to Patricia, his sweetheart. Cristian is also a brother and a wonderful friend to those who are fortunate enough to have crossed paths with Cristian in his community. Indeed, as numerous letters from friends and family amply demonstrate, Cristian is a “*verdadero caballero*” who would give you the shirt off his back. Cristian truly exemplifies selflessness. Cristian’s acts of charity and altruism are a testament to who Cristian is -- as a man, a father, and a neighbor.

Perhaps Cristian’s selflessness and his desire to “give back” whenever possible can be attributed to his faith. Cristian’s pastor, Ramiro Paez Herrera, describes Cristian as “a man of integrity” who is “fearful of God.”<sup>2</sup>

Beyond this, as the parties both recognize, Mr. Pintado’s Guidelines are not a barometer for how the court should sentence Mr. Pintado. Mr. Pintado owns his crime, but unlike many defendants in this District, Cristian does not have second or third homes, jewelry, or expensive cars or boats. Instead, Cristian and his family were struggling immensely before his arrest, and they struggle even more now with his absence. Within weeks of his extradition to the United States, Cristian pled guilty to laundering the proceeds of foreign bribery violations. Mr. Pintado has expressed remorse for his conduct, and did not request a continuance of trial or file any pretrial motions in this case. And, right now, Mr. Pintado’s family needs him to self-deport to Ecuador.

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<sup>2</sup> Letter of Pastor Ramiro Paez Herrera (p.18)

## II. ARGUMENT

### A. CRISTIAN HAS SPENT 10 MONTHS IN TWO FOREIGN PRISONS

Cristian has spent hundreds of days in jail already including in a foreign prison, San Sebastian prison in San Juan Costa Rica, which at one point was called “the human cage.”<sup>3</sup> Cristian was housed with violent criminals in that prison and persons that pose a very different type of risk to Cristian. Similarly, at FDC, Cristian is amongst persons accused of committing violent felonies and felonies involving sex offenses. These are extremely unfamiliar and nerve wrecking surroundings for any first time-non-violent offender in any country let alone a country that is far away from your home and your family which is the case for Cristian.

Defendants must be given credit for time served in foreign prisons and the court should consider the harsh confinement conditions that existed for Cristian when he was in San Juan in deciding a fair sentence in this case. *United States v. Carty*, 264 F.3d 191 (2d Cir.2001) (pre-sentence confinement conditions in Dominican Republic may be a permissible basis for downward departures; case remanded); *Rickenbacker v. United States*, 365 F. Supp. 2d 347 (E.D. N.Y. 2005); *United States v. Jayyousi*, 657 F.3d 1085 (11th Cir. 2011); *United States v. Teyer*, 322 F. Supp. 2d 359, 377 (S.D.N.Y.2004); *United States v. Mateo*, 299 F. Supp. 2d 201, 207-12 (S.D. N.Y.2004).

### B. HISTORY AND CHARACTERISTICS OF CRISTIAN

This court may consider Cristian’s good deeds, and his life *before and after* the conduct for which he was convicted. *Pepper v. United States*, 131 S. Ct. 1229, 1239-40 (2011) (internal quotations and citations omitted) (“to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes

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<sup>3</sup> [Murillo: San Sebastián Prison is a human cage - American Expatriate Costa Rica](#)

magnify, the crime and the punishment to ensue.”); *see Miller v. Alabama*, 132 S. Ct. 2455 (2012) (“punishment for crime should be graduated and proportioned to both the offender and the offense”); *see also United States v. Warner*, 792 F.3d 847 (7th Cir. 2015) (relying mainly on letters of support the district court found defendant’s charitable works and generosity overwhelming, thus warranting departure from guidelines).

Cristian is an indispensable pillar of his family: he supports his wife, **Patricia**, and his three children, **Matias**, **Juan Carlos**, and **Florencia**. Cristian also cares for his mother, **Maritza**, who suffers from physical disabilities and his father, **Patricio**, who suffers from cancer. One of his two younger brothers, **Richard**, also suffers from mental health issues and has never worked and so Christian supports him. *U.S. v. Bortnick* 2006 WL 680544 (E.D.Pa.,2006) (in eight-million-dollar fraud case where guidelines 51-63 months, one million dollar fine and sentence of 7 days were sufficient in part because the court reasoned that “taking defendant out of his family environment for a protracted period of time will serve a useful social or penal purpose. Defendant's contribution to the care of Nathan and to his family's financial circumstances is crucial. Defendant has no criminal history, he is a non-violent offender, and he is not a threat to the community. The victims of the offense are better served by a sentence involving a shorter period of incarceration. Defendant owes a substantial amount of restitution, which he will be able to pay more easily if he is not subjected to a lengthy incarceration period.”).

Prior to his arrest in Costa Rica, Cristian had no experience with the criminal justice system. In fact, as your Honor will hear from friends, colleagues, and family members, Cristian is an extraordinary father, sibling, and husband, a devout Christian, and a man who many describe as ethical, hard-working, patient, gentle, kind, and generous.

## 1. Cristian Through the Lens of His Family

Cristian is part of a large family



Cristian's loving wife of 22 years, **Patricia**, describes Cristian's love for his children and the emptiness that his absence has caused:

The most important thing is that the father who accompanies his son to watch his soccer team is missing; the athlete who enjoys playing squash with his children is missing; the math teacher; the father who takes his daughter riding her bike; the father who teaches them with firmness and love what is wrong and joyfully acknowledges every success they have; the loving husband who never lets me down; my unconditional companion; the friend who is the joy of the parties; the friend who always has a helping hand for anyone in need; the son who is the pillar of his parents; and the brother and brother-in-law who's always there to help.<sup>4</sup>

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<sup>4</sup> Letter of Patricia Gomez Durañona (p.1)



Cristian is pictured with **Patricia** below:



His oldest son, **Matias**, explains this absence and how he “lost [his] role model” and it led him to return to Ecuador and said:

The void my dad’s absence has left in our lives is so great that today, with of pain, I share that I have made the decision to give up my dream of studying at this university and return to Ecuador to be with my family.<sup>5</sup>

**Matias** also writes about how Cristian is the dad “that never stopped giving” and reinforces that:

My dad is a man who has never stopped giving. Every Christmas, he made us fill more than 100 bags with candy to give to those who needed it most before celebrating with our family. He was always the “favorite dad” of my friends. The one who drove us to and from places. The one who formed a soccer team with fathers and sons to bring us together, designed jerseys, and even though we had never played together, he led us to the finals through his leadership and dedication.

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<sup>5</sup> Letter of Matias Pintado (p.3)

Similarly, **Juan Carlos**, Cristian's younger son, expresses true admiration writing about his first memory with his dad before buying a birthday piñata and how Cristian motivated him to work hard at soccer writing:

In my last game with the school team in Costa Rica, all I wanted was to score a goal. And when I did, I ran aimlessly from the excitement until I saw him on the sidelines, jumping like crazy. I ran to hug him, and he said to me: "What a great goal, son!" That's one of the most beautiful memories I have.

<sup>6</sup>

Below Cristian enjoys a game with his two sons and spends time with Florencia:



And Cristian's youngest, **Florencia**, who is 11 writes that her dad "is the most noble person I know" and a dad who has always been there for her "in contests, presentations, sports mornings, and much more, wherever I go he will always be there."<sup>7</sup>

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<sup>6</sup> Letter of Juan Carlos Pintado (p.5)

<sup>7</sup> Letter of Florencia Pintado (p.7)



His brother **Richard** writes that Cristian “often took the place of a father” in his life and “will always be my role model.”<sup>8</sup> Equally compelling, his brother, **Juan Esteban**, writes that Cristian “taught me principles” and that Cristian is “an example to follow as a person, son, brother, husband, father..”<sup>9</sup> And his mother, **Maritza**, underscores that “[t]ogether with his wife, they have guided their children on the right path, always fearing God” and that everyone in Ecuador has love and gratitude for Cristian.<sup>10</sup>

Cristian’s mother-in-law, **Hilda**, sister-in-law, **Evangelina**, and brother-in-law, **Fernando** each emphasize that Cristian is a good man extremely dedicated to the future of his children. **Evangelina** who has fought against corruption in Ecuador as part of the Advisory Council of the Alliance of Integrity writes that Cristian gave her “optimism and encouragement” when her husband died suddenly of a heart attack and taught her the difficult lesson of having to “learn from your mistakes, from your pain, and move forward.”<sup>11</sup> **Hilda** thanks Cristian for being a “great pillar for me when I became a widow” and admires Cristian as a “great father and husband.”<sup>12</sup> **Fernando** writes about how Cristian rescued him from a precarious financial situation, paid for life altering surgeries and tuition, when **Fernando** had two very small children:

I went through a very difficult financial situation while living in Spain. There was no work, and I had no way to feed my children. Cristian bought plane tickets for me and my children. At the time, Maximiliano was 9 months old, and Federico was 6 years old, he welcomed us with open arms, enrolled my son in the same school as his own children, and helped us purchase health insurance for them. Maximiliano, at just 9

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<sup>8</sup> Letter of Richard Pintado (p.12)

<sup>9</sup> Letter of Juan Esteban Pintado (p.11)

<sup>10</sup> Letter of Maritza Garcia Marino, (p.9)

<sup>11</sup> Letter of Evangelina Gomez Durañona (p.14)

<sup>12</sup> Letter of Hilda Vasta Gonzalez (0.10)

months old, had to undergo two surgeries for a tumor. The insurance didn't cover the procedures, and Cristian personally took care of all the expenses. He is an incredibly generous person and has a deep faith in God.<sup>13</sup>

And, Cristian's cousin, **Karen** remembers that Cristian never let her stand alone at the daddy-daughter dance at her graduation because he was "always the cousin who cares about his family and supports them when they need it."<sup>14</sup> Indeed, **Karen** writes about Cristian re-routed her back on the right professional path after a negative professional experience.<sup>15</sup>

**Karen** is also grateful for his many selfless acts:

He was the cousin who tried to help my brother financially so he could pay for a semester of college, who gave my mother translation work whenever possible, the accomplice with whom we were able to help my grandmother get into a nursing home so she could have peace of mind and I can continue listing every selfless act of support and help I witnessed with each member of his family. Cristian was the older brother figure within my family, and he's the best example we could have ever had.<sup>16</sup>

Aunt, **Sylvia**, writes that Cristian is "compassionate" and "kind-hearted" and that he helped her during the most challenging time in her life when her husband passed away.<sup>17</sup>

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<sup>13</sup> Letter of Fernando Gomez Durañona (p.13)

<sup>14</sup> Letter of Karen Cisneros (p.15)

<sup>15</sup> Letter of Karen Cisneros (p.15)

<sup>16</sup> Letter of Karen Cisneros (p.16)

<sup>17</sup> Letter of Sylvia Guadalupe del Pilar Pintado Guerra (p.17)

## 2. Cristian Through the Lens of His Colleagues and Friends

Cristian's friends consistently describe Cristian as a hardworking man of integrity who is both sensitive, generous, and funny. **Dennis**, a lawyer friend of Cristian's for more than 28 years, writes that Cristian is "one of the most optimistic people I know" who is "responsible, honest, and dedicated."<sup>18</sup>

Cristian's friend, **Santiago**, a civil engineer in Ecuador, admires Cristian as a father<sup>19</sup>:

Over the years, I've seen Cristian in many roles, but the one that stands out the most is that of a father. He was always present for his children, encouraging them at soccer games, organizing teams, and even acting as their coach. I clearly remember the passion he showed during each match, always enthusiastic and supportive. He didn't just support his own children—he inspired an entire group of kids to love the sport. I'm convinced that, thanks to his leadership, our school developed one of the strongest, most united, and successful teams. Even we parents got involved: Cristian formed a team of dads and children to play together every week.

His life-long friends, **Carlos**, **Diego**, **Cristian Dimitri**, and **Fabian** each express their gratitude for Cristian's friendship and describe him as a brother. **Santiago** writes that Cristian as "an unconditional friend" who is "deeply dedicated to his family" and thanks Cristian for being one of "the cornerstones during one of the hardest times" in his life which was Carlos' divorce.<sup>20</sup> **Diego**, a life-long friend who moved to Canada, stresses that Cristian is the "most selfless person that I know" and reminisces fondly about their days playing soccer together every week.<sup>21</sup> **Cristian Dimitri** who Cristian met during their university years studying for their masters writes that Cristian is a "person of integrity deeply committed to his family."<sup>22</sup>

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<sup>18</sup> Letter of Dennis Jonathan Fletcher Lazo (p.19)

<sup>19</sup> Letter of Santiago Martinez (p.25)

<sup>20</sup> Letter of Santiago Martinez (p.25)

<sup>21</sup> Letter of Diego Moscoso (p.27)

<sup>22</sup> Letter of Cristian Dimitri Pinto Gaibor (p.22)

And, **Fabian**, another childhood friend, writes that Cristian is a “magnificent human being” and that Cristian’s advice has helped him in ways “he perhaps could not imagine.”<sup>23</sup>

### C. CRISTIAN COMPARED TO OTHER DEFENDANTS

In assessing 18 U.S.C. Section 3553(a)(6), it is critical to evaluate the real offense conduct committed by Cristian. At Merlo’s direction, Cristian and Lenin Matute, through Royalty Re, facilitated payments to the Chairman of Seguros Sucre, Juan Ribas, and other officials of Seguros Sucre to ensure that H.W. Wood and Tysers, multinational reinsurance brokers obtained significant reinsurance contracts for Seguros Sucre’s insurance policies. Royalty Re was then compensated with a portion of the brokerage commission from the business obtained by H.W. Wood and Tysers. In other words, Royalty Re was a *de facto* agent of Tysers and H.W. Wood, which allowed H.W. Wood and Tysers to obtain lucrative and profitable contracts from which they gained exponentially more money than Pintado, Lenin Matute, or even Merlo.

Starting with **Esteban Merlo**, the lead defendant in this case. Mr. Merlo received a very lenient sentence of 5 months half the amount of time already served by Cristian. Yes, Mr. Merlo cooperated but his cooperation did not yield any additional arrests or indictments and instead led to a deferred prosecution against H.W. Wood, whose principals have never been prosecuted. Mr. Merlo was also the architect of the scheme.

Even more significantly, and distinct from Cristian, Mr. Merlo committed another federal crime while he was involved in the foreign bribery offense when he lied to immigration officials about that very conduct to obtain U.S. citizenship. Your Honor highlighted her

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<sup>23</sup> Letter of Fabian Rojas Moscoso (p. 20-21)

reservations about this conduct during Mr. Merlo's sentencing. Cristian did not commit an immigration crime in addition to the foreign corruption offenses and Cristian did not gain nearly as much as Merlo did from his offense conduct. In fact, as the government alleged in the Indictment, the very reason that Cristian is even prosecutable under the FCPA is that he was the "agent" of a domestic concern, Mr. Merlo and therefore less culpable than Mr. Merlo.

By comparison, co-defendant **Lenin Matute** remains a fugitive<sup>24</sup> who has not been arrested or punished for the alleged offense conduct.

**Principals of H.W. Wood or Tysers.** Not a single individual from these companies has been prosecuted in the United States.

**Juan Ribas** was the only foreign official<sup>25</sup> who was prosecuted in connection with the offense conduct and who was the beneficiary of the bribes. Mr. Ribas, however, is not an elected official of a government. He was the chairman of *Seguros Sucre S.A.* and was elected by a board of directors. *Seguros Sucre* is partially owned by the government and although a quasi-private entity performs public functions and therefore may be considered an instrumentality of a foreign government under this Circuit's decision in *United States vs. Esquenazi*, 752 F.3d 912 (11<sup>th</sup> Cir. 2014) qualifying it for "instrumentality" status under the FCPA definition of a "foreign official." <sup>26</sup> Mr. Ribas received a more serious sentence of 36

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<sup>24</sup>Neither Pintado nor Lenin Matute are persons who fled from the United States or any proceeding in any country. Lenin Matute has not surrendered or presented himself to face the charges in this case.

<sup>25</sup> 15 U.S.C. Section 78dd-2(h)(2)(A) defines a "foreign official" as an instrumentality of a foreign government.

<sup>26</sup> [What is a Foreign Official Under the FCPA? – Andrew Feldman Attorney At Law](#)



months, but Mr. Ribas was a high-level executive that gained significant monies from the scheme compared to Mr. Pintado.

### **III. CONCLUSION**

Based on an application of the 3553(a) factors set forth herein, Cristian respectfully submits that this court sentence him to time served as set forth in the plea agreement, and permit Cristian to voluntarily depart the United States immediately following his sentencing hearing.