

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO
3
4

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARMELO R. GONZÁLEZ-ROMÁN,

Defendant.

Criminal No. 15-cr-00063 (JAF)

5
6 **MEMORANDUM IN SUPPORT OF VARIANCE**

7 **I.**

8 **Introduction**

9 It is undeniable that violent crime is rampant in Puerto Rico. *See Watchtower*
10 *Bible and Tract Society of New York, Inc. v. Sagardia De Jesus*, 634 F.3d 3 (1st Cir.
11 2011) (“*Watchtower I*”). In *Watchtower I*, the First Circuit examined the constitutionality
12 of Puerto Rico’s Controlled Access Law, which allowed neighborhoods to close off
13 access to public streets. *Id.* The Court recognized that “[t]he Controlled Access Law []
14 was prompted by and adopted against a background of endemic violent crime.” *Id.* at 6.
15 “Puerto Rico, with a median household income only about one-third of the U.S. national
16 average and less than half of every other state, has a homicide rate quadruple the U.S.
17 national rate and more than double that of virtually every state.” *Id.* “It is a major drug
18 transit point, and drug dealing has led in a number of cases to corruption among local

1 police.” *Id.* Along with drug trafficking comes drug-related violence, including the
2 transportation, possession, and use of illegal firearms.

3 Puerto Rico’s violent crime rate has been witnessed first-hand by the Article III
4 judges when they visit the island. The security measures taken to protect the judges
5 during their visits are neither secret, nor overemphasized. Article III judges live here
6 under the same cloud of concern. Simply, the measures taken to protect the federal judges
7 in Puerto Rico are necessities for the protection of the judicial system as a whole.
8 Typically, in large cities you can find a “safe” area of town, where law enforcement
9 escorts would not be necessary. In Puerto Rico, no place is “safe”; housing projects sit
10 alongside luxury homes, the shoreline is shared by all walks of life, and there is a
11 constant need to watch one’s back.

12 Even a person’s home or car is not a safe place in Puerto Rico. According to the
13 2013 data from the Federal Bureau of Investigation,¹ 9,328 incidents of violent crime
14 occurred that year in Puerto Rico. This is a rate of 258 violent crimes per 100,000
15 inhabitants. Of these violent crimes, 883 were for murder or violent manslaughter,²

¹ The most recent FBI data published online for Puerto Rico is from the year 2013. *See* FED. BUREAU OF INVESTIGATION, UNIFORM CRIME REPORTS, <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s> (last visited Jul. 17, 2015).

² We who manage the federal justice system in Puerto Rico know that the reality is worse than the statistics appear. The volume of cases in state court and the irregular local plea practice supervised by term judges, many times end up converting, reducing, or reclassifying murders or other crimes without any kind of explanation. It is an awful routine. Murder cases are reclassified by judges to manslaughter without legal justification and many times without a single word of explanation. This unfortunate cultural legal routine only demeans the credibility of the system. The local prosecutors and defense counsel consent or are powerless to protest. It is a culture of closing cases, many of which get illegal, unsupported, unwarranted reductions from murder to manslaughter and on many occasions the penalties imposed are not in keeping with the seriousness of the crimes. This applies also to crimes against property

1 which equates to 24.4 per 100,000 inhabitants.³ This is more than *quintuple* the United
2 States murder rate of 4.5 per 100,000 inhabitants.⁴ In fact, this murder rate is more on
3 par with countries like Mexico and the Dominican Republic than the general United
4 States.⁵ In 2012, the World Bank ranked Puerto Rico as having the fourteenth highest
5 murder rate in the world with twenty-seven intentional homicides per 100,000 people, a
6 rate higher than the Dominican Republic and Mexico, whose murder rates are both
7 twenty-two per 100,000 people.⁶ In 2013, there were 6,106 robberies in Puerto Rico,
8 which is a rate of 166.4 robberies per 100,000 inhabitants.⁷ This is over fifty percent
9 higher than the United States robbery rate of 109.1 per 100,000 inhabitants.⁸ It is a well-

and to violations of Puerto Rico's strict firearms laws. It is not uncommon to see probation sentences of over ten or fifteen years for cases that indeed were murder cases or serious firearms cases.

³ FED. BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES BY STATE, 2013, https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/5tabledatadecpdf/table_5_crime_in_the_united_states_by_state_2013.xls (last visited Jul. 17, 2015).

⁴ FED. BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES BY VOLUME AND RATE PER 100,000 INHABITANTS, 1994-2013, https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/1tabledatadecoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1994-2013.xls (last visited Jul. 17, 2015).

⁵ Andrew O'Reilly, *Plagued by Violence, Bad Economy, Puerto Rico Rings in 2014 with Bang; 13 Murders in 5 Days*, FOX NEWS LATINO (Jan. 8, 2014), <http://latino.foxnews.com/latino/news/2014/01/08/plagued-by-violence-bad-economy-puerto-rico-rings-in-2014-with-bang-13-murders/>.

⁶ The World Bank, http://data.worldbank.org/indicator/VC.IHR.PSRC.P5?order=wbapi_data_value_2012%20wbapi_data_value%20wbapi_data_value-last&sort=asc. (last visited July 17, 2015).

⁷ FED. BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES BY STATE, 2013, https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/5tabledatadecpdf/table_5_crime_in_the_united_states_by_state_2013.xls. (last visited July 17, 2015).

⁸ FED. BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES BY VOLUME AND RATE PER 100,000 INHABITANTS, 1994-2013, https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/1tabledatadecoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1994-2013.xls. (last visited July 17, 2015).

1 known fact that robberies in Puerto Rico almost always involve firearms – not knives or
2 old fashioned revolvers, but state of the art semi-automatic and automatic pistols of
3 potent calibers.

4 As stated above, there is no denying that violent crime has been insufficiently
5 addressed by the Puerto Rico local court system, by the Department of Education, and by
6 the Executive Branch of government. *Cf. Colon-Vazquez v. Department of Educ. of*
7 *Puerto Rico*, 46 F.Supp.3d 132 (D.P.R. 2014) (discussing the failures of the public
8 education system in Puerto Rico). In 2011, Puerto Rico had a record 1,136 reported
9 murders – a rate of 30.6 per 100,000 people; the robbery rate was 174.4 per 100,000 with
10 6,465 reported cases.⁹ The problem is not just in the streets, but in the enforcement of
11 laws as well. Plagued by the systemic deficiencies in the Puerto Rico Police
12 Department’s policies and procedures, Puerto Rico entered into an agreement with the
13 federal government titled the “Agreement for the Sustainable Reform of the Puerto Rico
14 Police Department”. (*See United States v. Puerto Rico*, D.P.R. Case No. 3:12-cv-02039,
15 ECF No. 60). That agreement seeks to reform the Puerto Rico Police Department,
16 bringing it in compliance with the laws and Constitution of the United States and Puerto
17 Rico.

18 To combat the wave of violent crime on the island, the Puerto Rico Department of
19 Justice and the federal government determined that a change was necessary. Since 2011,
20 the primary prosecution of violent crimes has shifted to the federal system in many

⁹ FED. BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES BY STATE, 2011,
<https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table-5> (last
visited 7/20/2015).

1 matters where there is concurrent jurisdiction with Puerto Rico. As a result, the United
2 States District Court for the District of Puerto Rico has, in practice, assumed nearly all
3 cases of importance that normally would be handled by state courts.

4 The terms of the agreement between the federal and local governments are
5 confidential; however, it is public knowledge that the agreement has existed since
6 November 2011. It is no secret that the Puerto Rico Police Department is understaffed,
7 which directly relates to its ability to adequately investigate criminal matters. The
8 purpose of the agreement is for the referral and handling of cases by federal authorities,
9 where there is concurrent state and federal jurisdiction, in order to target violent offenders
10 in illegal possession of firearms and to address major drug trafficking using Puerto Rico
11 as a land base. Working together, federal, state, and local authorities aim to reduce crime
12 and increase the quality of life in Puerto Rico. By allowing the federal authorities to take
13 primary prosecution over certain crimes for which it has concurrent jurisdiction, the
14 Puerto Rican authorities are freed up to dedicate their resources to investigate and support
15 prosecutions at a more manageable level.¹⁰

16 This shift has led to a markedly different criminal process for the violent offenders
17 in Puerto Rico. In Puerto Rico, criminal defendants are constitutionally guaranteed a
18 right to bail in all felony cases, even the most violent offenders. Previously, when

¹⁰ That is not to say that Puerto Rico's law enforcement has given up its authority to prosecute narcotics and firearms cases or cases of violent crime. On the contrary, in recent years the Puerto Rico Criminal Justice System has engaged in a strategic plan to clean up Puerto Rico, both on the streets (*see Puerto Rico Criminal Justice System Strategic Plan for the Fiscal Years 2014-2018*, Puerto Rico Department of Justice, (submitted December 2013), www.iir.com/bja-state-fact-sheets/PDF/Strategies/PR-Strategic-Plan.pdf), and inside its Police Department (*see United States v. Puerto Rico*, D.P.R. Case No. 3:12-cv-02039, ECF No. 60).

1 prosecuted under Puerto Rico’s jurisdiction, even violent offenders were rarely detained
2 pending their trial. When prosecuted under the federal system, the majority of these
3 violent offenders remain off the streets and unable to commit further offenses pending
4 their trials.

5 Since 2011, the court has witnessed how the joint work between the federal system
6 and Puerto Rico’s Police Department and Department of Justice has led to both an influx
7 of violent crime prosecutions in this court *and* a decrease in the violent crime rate. The
8 message from both levels of government is clear – we must no longer allow Puerto Rico
9 to be overrun by violent crime. Puerto Rico and the federal government are working
10 together to prosecute these matters in the federal system – where justice is swift and not
11 for sale by favoritism, custom and usage, indolence, abdication, or even resignation. It is
12 a duty of this court to penalize the criminals and protect the citizens of Puerto Rico – who
13 are also, though it is sometimes forgotten, citizens of the United States.

14 Defendant Carmelo R. González-Román (“González-Román”) is part of the
15 firearms problem in Puerto Rico. González-Román pleaded guilty to knowingly
16 brandishing a firearm during a crime of violence. At first sight, this offense seems to be a
17 run-of-the-mill heartland case; but it is not. At his sentencing hearing, we determined that
18 an upward variance, greater than the one stipulated by the parties, was necessary due to
19 the horrific details of the crime.

20 Formal Judgment will enter five days after the entry of this memorandum to allow
21 defense counsel an opportunity to react in the event that our analysis here is dramatically
22 opposed to what transpired at the sentencing hearing.

1 year-old survived. The above event will hereinafter be referred to as “the Guaynabo
2 Massacre” as it is known throughout the island.¹³

3 The Guaynabo Massacre was the seventh multiple killing in Puerto Rico in 2014.¹⁴
4 These killings can happen everywhere, not just in low-income housing projects.¹⁵ Here,
5 violent crime takes place at normal hours of the day, at high-end shopping centers, food
6 courts like the one in the upscale San Patricio Plaza, parking lots of a Walgreens or
7 movie theater, while driving on the highways, during sporting events,¹⁶ even in front of
8 the federal courthouse where this very court sits. The island is thirty-five miles wide by
9 100 miles long and, contrary to what happens in the New England sister districts, there
10 are no safe haven suburbs to find peace and protection – violent crime occurs on every
11 corner all over the island and everyone is at risk twenty-four hours a day, seven days a
12 week.

¹³ See *In Cold Blood, Four Members of Same Family Murdered in Puerto Rican Luxury Neighborhood*, FOX NEWS LATINO (November 18, 2014), <http://latino.foxnews.com/latino/news/2014/11/18/in-cold-blood-four-members-same-family-murdered-in-puerto-rican-luxury/>; *Puerto Rico Police Investigating Murder of Family in Luxury Neighborhood*, CARIBBEAN NEWS DESK (November 18, 2014), <http://caribnewsdesk.com/news/8958-puerto-rico-police-investigating-murder-of-family-in-luxury-neighborhood>; and *Police in Puerto Rico Investigate Murder of Military Family*, REUTERS (November 18, 2014), <http://www.reuters.com/article/2014/11/18/us-usa-puerto-rico-murders-idUSKCN0J22I020141118>.

¹⁴ *Police in Puerto Rico Investigate Murder of Military Family*, REUTERS (November 18, 2014), <http://www.reuters.com/article/2014/11/18/us-usa-puerto-rico-murders-idUSKCN0J22I020141118>.

¹⁵ We do not intend to demean or be disrespectful to the many law-abiding citizens who live in the projects. However, it is a fact that these projects are run by violent drug-trafficking organizations that make up part of our criminal docket on a daily basis. Multi-defendant cases arising out of those locations can be sixty to one-hundred defendants. For example, a recently returned indictment has 105 defendants, ten murders, and a host of firearms-related charges. It involves a RICO drug conspiracy and gang wars bridging various public housing projects – a literal no man’s land.

¹⁶ *Two Shot While Competing at 70.3 Puerto Rico TRIATHLETE*, March 16, 2015, http://triathlon.competitor.com/2015/03/news/2-shot-competing-70-3-puerto-rico_113800.

1 **III.**

2 **Facts**

3 On December 1, 2014, at approximately 7:30 a.m., González-Román and an
4 unknown individual invaded a home in Luquillo, Puerto Rico.¹⁷ Three residents were
5 home at the time of the invasion – a husband, wife, and daughter. The house alarm was
6 not armed. The assailants targeted this particular house because they knew the husband
7 was a successful businessman in the area. To enter the house, the two assailants used
8 physical force, violence, and intimidation, and González-Román brandished a black
9 pistol with an extended high-capacity magazine.¹⁸ Once inside, while pointing the pistol
10 at the neck of one of the victims, the two assailants used duct tape to tie the victims to
11 chairs.

12 Having immobilized the victims, the assailants searched the house for items to
13 steal. González-Román demanded to know whether there was a gun in the house and
14 threatened to kill the husband if he refused to tell the assailants the location of the
15 weapon. The husband told the assailants that there was a handgun in a nearby bag.

¹⁷ The term “home invasion” is of new coinage. Those of us who remember our common law criminal law classes would categorize them as armed burglaries of the worst kind, *i.e.*, a combination of burglary and armed robbery, with people present and living in the home.

¹⁸ The 1994 federal Violent Crime Control and Law Enforcement Act, which amended the 1968 Gun Control Act, made it illegal to transfer or possess “large capacity ammunition feeding devices” not lawfully possessed on or before the law’s enactment. The act defined “large capacity ammunition feeding device” as “a magazine, belt, drum, feed strip, or similar device . . . that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition.” The act included a sunset clause, under which the ban expired after ten years, on September 13, 2004. Here, when the court says “extended high capacity magazine” for us it means a magazine that accepts more than fifteen rounds of ammunition. The reason for that being, for example, that a Glock .40 caliber has a fifteen-round standard magazine.

1 González-Román located the bag and removed from it a black and gray Wilson Combat
2 9mm handgun, which he then kept.

3 While in possession of at least two weapons – the black pistol carried into the
4 house and the 9mm handgun – the assailants demanded that the family give them the
5 money located in the house. When the family denied keeping significant cash at home,
6 the assailants began banging on the walls in search for a safe. After finding nothing, the
7 assailants decided to take one of the victims to get cash. During this time, González-
8 Román unloaded the bullets from the 9mm handgun and then began pulling its trigger as
9 a method to scare the victims. He stated that he had thirty-two rounds of ammunition to
10 distribute among the three of them and repeatedly asked the victims to decide which one
11 of them was going to die first.

12 Knowing that the husband was a local businessman and unsatisfied with the lack
13 of cash in the house, González-Román threatened to abduct the daughter. Instead, while
14 the second assailant stayed at the residence with the husband and daughter who remained
15 bound to the chairs with duct tape, González-Román abducted the wife, forced her into
16 her daughter's Honda CRV and drove fifteen miles to an Automatic Teller Machine
17 (ATM) in Canóvanas, Puerto Rico. Without much traffic, this trip would typically take
18 about thirty to forty-five minutes. Once in Canóvanas, González-Román forced the wife
19 to withdraw \$500, the maximum amount allowed to be withdrawn from an ATM within
20 twenty-four hours in Puerto Rico. González-Román then drove her even further from her
21 home in Luquillo to a bank in Carolina, Puerto Rico. There, he forced her to enter the
22 bank and withdraw another \$2,000 in cash. González-Román then drove the wife nearly

1 an hour back to Luquillo, where her husband and daughter continued to remain tied up
2 and held captive by the second assailant.

3 Once they had returned to the house, González-Román put all the victims inside a
4 room and directed them not to come out. He also instructed them not to look for the
5 Honda CRV and not to contact the authorities. They then left with the Honda CRV. The
6 total lapsed time for the robbery, abduction, and carjacking was about four hours. The
7 two assailants stole: \$2,500 cash; two picture cameras with an approximate value of \$400
8 each; a Sony cyber shot camera with an approximate value of \$200; a Samsung TV, with
9 an approximate value of \$300; a gold chain with a crucifix, with an approximate value of
10 \$1,500; the victim's wedding ring, with an approximate value of \$200; the keys of all the
11 cars that the victims had, that is, a 2014 Volkswagen; a 2013 Kia, and a 2011 Honda,
12 costing \$500 to replace; the Wilson Combat firearm, with an estimate value of \$900; and,
13 of course, the 2011 Honda CRV.

14 Guaynabo Municipal Police located and arrested González-Román on
15 December 22, 2014. During González-Román's arrest, the arresting officer recovered the
16 black and gray Wilson Combat 9mm handgun from González-Román's waistband. For
17 twenty-one days González-Román carried that handgun with him until he was caught by
18 the police. He was charged in the Bayamón Superior Court with: i) Carrying and Use of
19 a Firearm Without a License; and ii) Firing or Pointing Weapons. For his involvement in
20 the robbery and abduction on December 1st, González-Román was charged in the Fajardo
21 Superior Court with: i) two charges of Aggravated Restriction of Freedom by Means of
22 Violence, Intimidation, Fraud or Deceit; ii) Kidnapping; iii) Aggravated Robbery;

1 iv) Carrying and Use of Firearms without a License; and v) three charges of Firing or
2 Pointing a Firearm.

3 On January 21, 2015, a Grand Jury in the United States District Court for the
4 District of Puerto Rico indicted González-Román on four counts related to his acts on
5 December 1, 2014: Count One - Interference With Commerce by Threats or Violence
6 under 18 U.S.C. § 1951(a); Count Two - Possession of a Firearm During and in Relation
7 to a Crime of Violence (the robbery in Count One) in violation of 18 U.S.C. § 924(c);
8 Count Three - Carjacking in violation of 18 U.S.C. § 2119(1); and Count Four -
9 Possession of a Firearm in Furtherance of a Crime of Violence (the carjacking in Count
10 Three) in violation of 18 U.S.C. § 924(c).¹⁹

11 The Bayamón Superior Court convicted González-Román for carrying and use of
12 a firearm without a license in violation of Article 5.04 of the Weapons Act of 2000, 25
13 L.P.R.A. § 458(c), and, on March 7, 2015, sentenced him to five years imprisonment.
14 The second charge against González-Román was dismissed under T. 34 Ap. II, Rule 247,
15 P.R. Local Rule of Crim. P. 247 (a).

16 On March 24, 2015, González-Román pleaded guilty to Count Two of the federal
17 Indictment against him, namely that he, “aided and abetted by another, knowingly used,
18 carried, and brandished firearms of unknown makes and models, during and in relation to
19 a crime of violence” in violation of 18 U.S.C. § 924(c)(1)(A)(ii). All charges against
20 González-Román in the Fajardo Superior Court relating to the events on December 1,
21 2014, were dismissed on April 13, 2015.

¹⁹ See discussion of P.R. Local Rule of Crim. P. 247 and case law *infra* pp. 27-28.

1 The statutory mandatory minimum term of imprisonment for a conviction of 18
2 U.S.C. § 924(c)(1)(A)(ii) is eighty-four months, or seven years. The Plea Agreement,
3 however, recommended a sentence of 120 months, or ten years, imprisonment, to run
4 consecutive to the five-year sentence imposed in the Commonwealth Court Case.

5 We note that the Plea Agreement was for the firearm, not the carjacking or the
6 armed robbery. However, contrary to what counsel pretends, we cannot evaluate a case
7 with the blinders counsel proposes. The complete conduct must be considered. The
8 colloquy at the sentencing hearing urged that we look at the firearm in a vacuum. We
9 cannot do that; it would be an irresponsible act on the part of the court. This court will
10 not adopt state court practices mentioned above, an invitation that we see too often before
11 us these days.

12 A federal judge can decide to follow all plea agreements and let the parties be the
13 ones setting the tone for the sentencing process; this is the easy route. No appeal, no risk
14 of threats or reprisals against the judge, and, of course, being liked by all – defendant,
15 prosecutors, and defense counsel. However, we think that sentencing is an integral
16 function of the judicial process and, in performing that difficult job, we cannot surrender
17 our honest conviction about the effects of a crime just to please others and avoid discord.
18 This court is not willing to surrender its obligation, something that has plagued the
19 criminal justice system in Puerto Rico to the detriment of the quality of life and the
20 communities where we live.²⁰

²⁰ The described scenario is quite complicated. It is not only the fragility of judicial independence under a term appointment system, but also a function of budgetary constraints, outmoded procedural

1 Appellate tribunals understand that trial judges who are as busy as we are cannot,
2 in all cases, sit and write a variance memorandum. We urge the Court of Appeals to
3 carefully scrutinize appellate records, presentence reports, and sentencing transcripts
4 looking for the validation that the law requires considering the overwhelming number of
5 sentencing proceedings we confront each year. We also urge appellate judges to descend
6 and try some of the cases by designation in District Court, because it is one way of
7 understanding first-hand what district judges have to go through in handling these
8 matters.

9 IV.

10 Analysis

11 A. Applicable Guidelines Range

12 We must “begin all sentencing proceedings by correctly calculating the applicable
13 guidelines range.” *Gall v. United States*, 552 U.S. 38, 49 (2007); *See also* U.S.S.G.
14 §1.B1.1. As mentioned during the Sentencing Hearing, convictions under § 924(c) are
15 not typical guidelines cases. The United States Sentencing Guidelines, Section 2K2.4(b)
16 states (in pertinent part) that: “if the defendant [] was convicted of violating section
17 924(c) [] of title 18, United States Code, the guideline sentence is the minimum term of
18 imprisonment required by statute. Chapters Three and Four shall not apply to that count
19 of conviction.” The minimum statutory sentence for a 18 U.S.C. § 924(c)(1)(A)(ii)

rules, and the high volume of cases. There are competent judges in the local system, but the influence with local politicians has greatly affected the quality and commitment of many appointments.

1 offense is seven years (and up to life imprisonment). Thus, we start with a guideline
2 sentence of seven years.

3 **B. Variance Sentencing Absent Prior Notice of a Potential Departure**

4 The court did not consider a departure under Chapter Five of the guidelines since
5 there was no advance notice of intent to depart. After determining the guideline sentence
6 of seven years, this court had to decide whether a variance was warranted. The First
7 Circuit has noted the “substantial discretion vested in a sentencing court.” *United States*
8 *v. Flores-Machiote*, 706 F.3d 16, 20 (1st Cir. 2013). A sentence variance, unlike that of a
9 departure from the sentencing guideline range, does not require prior notice of the court’s
10 intent to vary. *See United States v. Politano*, 522 F.3d 69, 75–76 (1st Cir. 2008) (no prior
11 notice required for upward variance based on need for deterrence and seriousness of
12 defendant’s crime). “Although the advisory guidelines are the starting point and the
13 initial benchmark, a sentencing judge may draw upon his familiarity with a case, weigh
14 the factors enumerated in 18 U.S.C. § 3553(a), and custom-tailor an appropriate
15 sentence.” *Flores-Machiote*, 706 F.3d at 20-21 (internal citations and quotation marks
16 omitted). The Court further explained that,

17 a sentencing court may not mechanically assume that the [guideline
18 sentencing range] frames the boundaries of a reasonable sentence in every
19 case. Rather, the court must take a flexible, case-by-case approach: once
20 the [guideline sentencing range] is properly calculated, sentencing becomes
21 a judgment call involving an intricate array of factors. Consequently,
22 punishment outside the [guideline sentencing range] may be warranted in a
23 particular case to serve the objectives of sentencing.

24
25 *Id.* (internal citations and quotation marks omitted). When a variance is necessary, the
26 reasons must “be rooted either in the nature and circumstances of the offense or the

1 characteristics of the offender,” and the factors we deem relevant “must add up to a
2 plausible rationale for the sentence imposed and must justify a variance of the magnitude
3 in question.” *Id.* at 21 (internal citations and quotation marks omitted). “A sentencing
4 court’s obligation to explain a variance requires the court to offer a plausible and
5 coherent rationale—but it does not require the court to be precise to the point of
6 pedantry.” *United States v. Del Valle-Rodriguez*, 761 F.3d 171, 177 (1st Cir. 2014). The
7 First Circuit recently reiterated that “a sentencing court may consider the incidence of
8 crime (and the deterrent effect of a harsh sentence) in a particular community.” *United*
9 *States v. Santiago-Burgos*, 601 Fed.Appx. 9, 12 (1st Cir. 2015) (affirming the district
10 court’s sentence after finding that the upward variance was both procedurally and
11 substantively reasonable) (*citing Flores–Machicote*, 706 F.3d at 23). For the reasons that
12 follow, we find that an upward variance greater than the one recommended by the parties
13 is both justified and necessary in this case.

14 To determine the appropriate sentence here, we are guided by the numerous listed
15 factors in 18 U.S.C. § 3553(a). We weigh these factors in order to craft a sentence that is
16 “sufficient, but not greater than necessary.” 18 U.S.C. § 3553(a); *See also* U. S.
17 Sentencing Comm’n, *Departure and Variance Primer*, 1 (2013). During the sentencing
18 hearing, the court stated the reasons for its upward variance, and explained why the
19 sentence is “not of the kind, or is outside the range, described [by the guidelines, and] the
20 specific reason for the imposition of a sentence different from that described.” *See* 18
21 U.S.C. § 3553(c)(2). In crafting the imposed sentence of 144 months, we thoroughly

1 considered all the section 3553(a) factors in this case. *See United States v. Santiago-*
2 *Rivera*, 774 F.3d 229, 233 (1st Cir. 2014).

3 In weighing the factors, we look at “the nature and circumstances of the offense
4 and the history and characteristics of the defendant.” 18 U.S.C. § 3553(a)(1). The nature
5 and circumstances of this offense are particularly horrific. Armed with a pistol with an
6 extended high-capacity magazine, González-Román forced his way into the victims’
7 home and held not only one victim but *three* victims against their will at 7:30 in the
8 morning. González-Román pointed the pistol at the victims and threatened to empty the
9 thirty-two rounds of ammunition among them. While two of the victims were duct-taped
10 to chairs for about four hours and watched over by the second assailant, González-Román
11 abducted the third victim and drove her from Luquillo to Canóvanas to Carolina and back
12 to Luquillo while she feared for her life and the lives of her husband and daughter whom
13 she had left at the house in Luquillo. González-Román put the pistol to the victims’
14 heads and repeatedly insisted that they should decide who he would kill first.

15 This is no run-of-the-mill firearms case even in the context of crimes of violence.
16 The crimes perpetrated by González-Román were committed with prior calculation.
17 During the robbery, González-Román commented that he knew the family had money
18 because the husband was a successful businessman and drove a red Mercedes. Though
19 he was wrong on the car make – the victims had previously driven a red Infinity, but had
20 sold it two years prior – González-Román’s knowledge of the victims’ financial situation,
21 home address, and work status all demonstrate that he specifically targeted this family
22 ahead of time. González-Román gained entry into the house – the “castle” – by

1 brandishing a pistol with an extended high-capacity magazine, not even two weeks after
2 the Guaynabo Massacre. One can only imagine the level of the victims' fear, wondering
3 whether they would end up the same as the victims in the Guaynabo Massacre.²¹
4 González-Román then held two victims against their will – duct-taped to chairs for four
5 hours – while he abducted the third.²²

6 The court acknowledges that González-Román played no part in the Guaynabo
7 Massacre. However, we cannot, should not, and will not ignore the circumstances of
8 González-Román's crime and the impact that it had on his victims and the community.
9 The family, his direct victims, no longer feel safe in their own home or outside in their
10 back yard. At least one has developed anxiety and insecurity. González-Román's four-
11 hour long victimization of the family in Luquillo showed a complete disregard for human
12 decency and human life. The level of cruelty and psychological torture inflicted by
13 González-Román is not adequately contemplated by the guidelines. It is far outside the
14 "heartland" of a typical case.

15 The sentence imposed should "(A) [] reflect the seriousness of the offense, []
16 promote respect for the law, and [] provide just punishment for the offense; (B) [] afford
17 adequate deterrence to criminal conduct; [and, among other considerations,] (C) []
18 protect the public from further crimes of the defendant." 18 U.S.C. § 3553(a)(2). We

²¹ Reference to the Guaynabo Massacre occurs in the victim impact statement – alerting this court that the facts of that horrific event were running through at least one of the victim's minds during their ordeal.

²² The abduction of the victim bears another resemblance to the Guaynabo Massacre during which the gunmen abducted the two sons and later executed one and left the other for dead.

1 have already discussed the seriousness of this offense, which was beyond the pale. As
2 the First Circuit has stated:

3 Community-based considerations are inextricably intertwined with
4 deterrence, which aims to ‘prevent [...] criminal behavior by the population
5 at large and, therefore, incorporates some consideration of persons beyond
6 the defendant.’ Put another way, the incidence of particular crimes in the
7 relevant community appropriately informs and contextualizes the relevant
8 need for deterrence.

9
10 *Flores-Machiote*, 706 F.3d at 23 (citing *United States v. Politano*, 522 F.3d 69 at 74 (1st
11 Cir. 2008)). The First Circuit continued that, if “violent crime is running rampant, the
12 judge reasonably may conclude that the need for deterrence is great – and this may
13 translate into a stiffer sentence.” *Flores-Machiote*, 706 F.3d at 23. We may look at such
14 community-based considerations, so long as we also ground the sentencing determination
15 in case-specific factors. *Flores-Machiote*, 706 F.3d at 24; *see also United States v.*
16 *Zapata-Vazquez*, 778 F.3d 12 (1st Cir. 2015); *United States v. Rivera-González*, 776 F.3d
17 45, 50-51 (1st Cir. 2015); *United States v. Narvaez-Soto*, 773 F.3d 282, 285-287 (1st Cir.
18 2014); *cf. United States v. Ortiz-Rodriguez*, ___F.3d ___, 2015 WL 3609896 (1st Cir.
19 2015) (vacated and remanded because the sentencing court failed to adequately explain
20 the case-specific reasons for imposition of a variance).

21 As illustrated above, violent crime is rampant in Puerto Rico. Gun violence,
22 carjackings, home invasions, and the constant threat of assault have become so
23 commonplace on the island that many citizens view it just as a way of life. The violent
24 crime rate is so severe that throughout the island, in local communities, neighborhoods,
25 and even the Puerto Rican government, additional steps are taken to protect the

1 population from the crime surrounding them. For example, carjacking is so prevalent in
2 Puerto Rico that the traffic laws require drivers not to linger at red traffic lights between
3 the hours of midnight and 6:00 a.m. (*See* 9 L.P.R.A. § 5222(b)(6) “Vehicles traveling on
4 public highways between twelve (12) midnight and five (5) o’clock in the morning, when
5 facing a red light, shall stop and then continue driving, provided due precautions are
6 taken.”).

7 The prevalence of gated communities is another example of local attempts to
8 protect citizens. The First Circuit has previously discussed the birth and necessity of
9 these gated communities:

10 The Controlled Access Law—adopted in 1987 and amended in 1988, 1992,
11 1997, and 1998—was prompted by and adopted against a background of
12 endemic violent crime. Puerto Rico, with a median household income only
13 about one-third of the U.S. national average and less than half of every
14 other state, has a homicide rate quadruple the U.S. national rate and more
15 than double that of virtually every state. It is a major drug transit point, and
16 drug dealing has led in a number of cases to corruption among local police.
17 The statute, as currently amended, authorizes municipalities to grant
18 permits to neighborhood homeowners’ associations called urbanizations to
19 control vehicular and pedestrian access to the public residential streets
20 within the urbanization (the term referring either to the association or to the
21 controlled area). In such cases, the area is enclosed with fencing or other
22 barriers and with one or more entry and exit gates for pedestrians and
23 vehicles. P.R. Laws Ann. tit. 23, § 64. Some of the gates are manned by
24 security guards paid by the association; others are unmanned and opened by
25 a key or by an electric signal operated by a buzzer linked to the residences
26 within the urbanization.

27
28 In some respects, the controlled access regime is a counterpart to the private
29 “gated” residential communities that have developed elsewhere; but in
30 Puerto Rico the streets within the area were and remain public property,
31 and the municipality is closely involved in authorizing the urbanization. To
32 obtain a permit, the residential community must create a residents’
33 association; propose a plan describing the permanent barriers and access
34 arrangements; file a petition supported by at least three-quarters of the

1 residential homeowners; and assume the costs of installing and operating
2 the plan. P.R. Laws Ann. tit. 23, § 64a.

3
4 * * *

5
6 The Puerto Rico Supreme Court has upheld the constitutionality of the
7 Controlled Access Law, *Asociación Pro Control de Acceso Calle*
8 *Maracaibo, Inc. v. Cardona Rodriguez (Maracaibo)*, 144 D.P.R. 1 (1997),
9 stressing that the enclosed areas remain public property, *id.* at 28–29, 32,
10 and that “if any regulation approved by any [urbanization] violates
11 constitutionally protected rights, the same will be considered null and
12 void,” *id.* at 27–28. Administration of an approved regime is left to the
13 individual municipality and urbanization. *Id.* at 26.

14
15 Dozens of municipalities have issued permits to hundreds of urbanizations
16 that encompass in total tens of thousands of residences

17
18 *Watchtower Bible and Tract Society of New York, Inc. v. Sagardia De Jesus*, 634 F.3d 3,
19 6-7 (1st Cir. 2011).

20 Perhaps the most revealing attempt to protect Puerto Ricans from the violent crime
21 of the island is the Puerto Rico Department of Justice’s request that the federal
22 government handle a significant number of the Commonwealth’s violent crimes for
23 which there is concurrent jurisdiction. Despite these cases typically being prosecuted at
24 the state level, in Puerto Rico the federal system has taken on the role of primary
25 investigation and prosecution for the most violent offenses. That is what happened in this
26 case. Originally charged under Puerto Rico law, the federal system took over the
27 prosecution of González-Román for the events he took part in on December 1, 2014.
28 Once González-Román reached a plea agreement in federal court, the state charges were
29 dismissed.

1 González-Román is a part of the violent crime that suffocates this island. His
2 disregard for human life – shown, *inter alia*, by the cruel way he asked the victims to
3 choose their own death order – clearly fits into the larger picture of rampant violent crime
4 on the island. Moreover, as part of this very robbery, González-Román stole yet another
5 gun that could be used in violent crime. Deterrence of violent crime is greatly needed,
6 and one way to achieve that is by imposing an upward variance on a heinous crime of
7 violence such as this.

8 González-Román pleaded guilty only to Count Two of the Indictment: “That on or
9 about December 1, 2014, in the District of Puerto Rico and within the jurisdiction of this
10 Court, [he] aided and abetted by another, knowingly used, carried, and brandished
11 firearms of unknown makes and models, during and in relation to a crime of violence, as
12 charged in Count One of this Indictment, for which they may be prosecuted in a court of
13 the United States, that is, Interfering with Commerce by Threats or Violence, in violation
14 of [18 U.S.C. § 1951].” All in violation of 18 U.S.C. § 924(c)(1)(A)(ii). Though he
15 pleaded guilty only to the firearms charge, González-Román admitted that he entered the
16 victims’ home uninvited on December 1, 2014; that he brandished a firearm and tied the
17 victims to chairs using duct tape; that he stole a second firearm from the residence; that
18 he searched the house for a safe; that he kidnapped one of the victims and drove her to
19 two separate locations on the island in order to take \$2,500 in cash from the victims; that
20 he stole the victims’ Honda CRV; and that when he was arrested on December 22, 2014,
21 he was in possession of the gun he stolen from the victims. These facts paint a much
22 more frightening picture than a “mere” § 924(c) violation.

1 González-Román terrorized more than just the three victims on December 1, 2014.
2 All citizens of Puerto Rico have suffered by the defendant’s actions. Indeed, an invasion
3 of a victim’s home is one of the “most damaging crimes to society.” *See Taylor v. United*
4 *States*, 495 U.S. 575, 581 (citing *H.R.Rep.* No. 98-1073, at 1, 3 (1984)). In a jurisdiction
5 whose citizens lack faith in the ability of local law enforcement and justice system to
6 provide adequate protection,²³ a crime with the facts such as those presented here
7 demands an upward variance.

8 We also considered the kinds of sentences available; at what kinds and range of
9 sentences were established by the guidelines for such an offense; and at any pertinent
10 policy statements issued by the Sentencing Commission. *See* 18 U.S.C. § 3553(a)(3)-(5).
11 We also considered the need to avoid unwarranted sentence disparities among defendants
12 with similar records who have been found guilty of similar conduct, but that was
13 inapplicable in this case. *See* 18 U.S.C. § 3553(a)(6). None of these factors weighs
14 against an upward variance.

15 Finally, we considered the mitigating factors presented by the defense and
16 discussed them in open court. We noted the defense argument that González-Román has
17 been diagnosed with Attention Deficit Hyperactivity Disorder, was enrolled in the special
18 education program as a child, and that his IQ was “borderline.” However, we listened to
19 González-Román’s allocution at the sentencing hearing, and we do not feel that the
20 sophisticated thoughts conveyed therein suggested someone with such diminished

²³ *See Puerto Rico Criminal Justice System Strategic Plan for the Fiscal Years 2014-2018*, Puerto Rico Department of Justice, (submitted December 2013), www.iir.com/bja-state-fact-sheets/PDF/Strategies/PR-Strategic-Plan.pdf.

1 capacity that it warranted a lesser sentence. We considered these arguments, but they are
2 insufficient to change our sentencing decision. *See Santiago-Rivera*, 774 F.3d at 233.

3 González-Román is sentenced to 144 months imprisonment, to run consecutive to
4 his sixty-month term of imprisonment in the Commonwealth system, and five years of
5 supervised release. He shall serve out his federal sentence before being returned to the
6 Commonwealth's custody. We order that the federal sentence be served first because of
7 our experience of erratic detainer mismanagement by local corrections that have led in
8 the past to unwarranted releases of federally-detained individuals.

9 No one should get the impression that this court believes that an upward variance
10 is always necessary here in Puerto Rico. The determination of a reasonable sentence
11 *must* be conducted on a case-by-case basis. Sometimes, the circumstances will warrant a
12 sentence below the guideline range, and sometimes, as they do here, the circumstances
13 will warrant a sentence above the guideline range. The court arrived at its sentence of
14 144 months only after careful consideration of the length of sentence that would be
15 sufficient to penalize González-Román for his actions and deter him and other would-be-
16 criminals from repeating these actions in the future.

17 **C. The 144-month sentence is supported under the analysis of a typical**
18 **guidelines case**

19
20 To illustrate the reasonableness of this court's upward variance, we performed a
21 guideline calculation during sentencing for what González-Román would have been
22 facing had this been a typical guidelines case. Taking into account all of the relevant

1 conduct (U.S.S.G. § 1B1.3), it would result in a range as follows. The calculation is also
2 contained in the PSR.

3 González-Román pleaded guilty to Count Two of the Indictment: Title 18, U.S.C.
4 § 924(c)(1)(A)(ii)-Possession and Brandishing of a Firearm in Furtherance of a Crime of
5 Violence, a class “A” felony. The statutory penalties for this conviction are a minimum of
6 seven years to a maximum of life imprisonment, followed by no more than five years of
7 supervised release and a fine of not more than \$250,000. The guideline for an 18 U.S.C.
8 § 924(c)(1)(A)(ii) offense is found in Section 2K2.4 of the Guidelines. That section
9 provides that if the defendant was convicted of violating 18 U.S.C. § 924(c)(1)(A)(ii), the
10 guideline sentence shall be at least the minimum term of imprisonment required by
11 statute. U.S.S.G. §2K2.4(b). Thus, we start with the minimum sentence of eighty-four
12 months up to life imprisonment.

13 Next, we review González-Román’s criminal history. On March 7, 2015, in
14 Commonwealth Court, he was convicted of a violation of Article 5.04 of the Puerto Rico
15 Weapons Law (carrying and use of firearms without a license) and was sentenced to five
16 years of imprisonment.²⁴ For the March 7, 2015 conviction, he receives three points for
17 his criminal history under U.S.S.G. §4A1.1(a), and his total criminal history score is
18 three. According to the sentencing table in U.S.S.G. Chapter 5, Part A, a criminal history
19 score of three establishes a criminal history category of II.

²⁴ The March 7, 2015, conviction arises out of his arrest on December 22, 2014, for his involvement in the underlying crime of this matter. During González-Román’s arrest, police removed from his person the gun he stole on December 1, 2014.

1 Had this plea included the underlying offense of Count One – interference with
2 commerce by threats or violence under 18 U.S.C. §1951(a), González-Román would
3 have been facing a Base Offense Level of twenty, plus five levels for brandishing a
4 firearm, plus four levels for abduction, plus two levels for carjacking, plus one level for
5 theft of the gun, less three levels for acceptance of responsibility, bringing the Offense
6 Level to twenty-nine with a guideline range of 97-121 months. He also faced an
7 additional eighty-four months mandatory for the §924(c)(1)(A)(ii) conviction. Thus,
8 González-Román faced 181 months minimum.²⁵ However, we note that the discussion at
9 the sentencing hearing and in this memorandum totally forgets the fact that there was a
10 second §924(c)(1)(A)(ii) charge in Count Four, which, had this been a straight plea or
11 conviction after trial, would have resulted in a statutory mandatory minimum of twenty-
12 five years in addition to the sentence imposed for Count One. 18 U.S.C. § 924
13 (c)(1)(C)(i) (“In the case of a second or subsequent conviction under this subsection, the
14 person shall...be sentenced to a term of imprisonment of not less than 25 years[.]”).

15 The court has engaged in this calculation in an effort to ascertain how the
16 guidelines would treat the full extent of González-Román’s admitted conduct. Though
17 we refrain from determining the sentence based solely on the “real offense” instead of the
18 convicted offense, this calculation exercise provides some guidance to the court on how
19 the trained professionals at the U.S. Sentencing Commission view the overall seriousness

²⁵ During the sentencing hearing, we quickly calculated the guideline range for illustration using an Offense Level of twenty-seven, then, despite having already given the three-level reduction for acceptance of responsibility, we gave another three levels because the calculation was merely to show the reasonableness of the 144-month sentence. Under the Offense Level of twenty-four, González-Román faced fifty-seven to seventy-one months, plus eighty-four months on the §924(c)(1)(A)(ii) conviction. Even after giving him a six-level reduction, González-Román faced a minimum of 147 months.

1 of all of the conduct at issue herein and assists in eliminating the “view my conduct in a
2 vacuum” arguments raised by the defendant. For these reasons, the imposition of the 144-
3 month sentence is supported under the analysis of a typical guidelines case.

4 **D. Departure Factors and Their Relevance to a Variance Sentence**

5 During the sentencing hearing, the court also examined the defendant’s exposure
6 under the departure guidelines, again as a benchmark for the reasonableness of the
7 imposed sentence. *We declined, however, to rely on this analysis in support of a*
8 *departure as no prior notice had been given.* But, there is no case law preventing a court
9 from looking at established measures of criminal conduct such as those contained in the
10 departure section when crafting a reasonable sentence. Reason dictates that if a court can
11 consider all relevant conduct (U.S.S.G. § 1B1.3) when crafting a sufficient and
12 reasonable sentence, the court may surely consider conduct specifically listed by the
13 guidelines as relevant in the variance analysis.

14 As we announced in open court, *we are not employing a departure* because this is
15 not a typical guidelines case, nor did we notify González-Román of our intent to depart.
16 Nonetheless, we may consider the departure factors when looking at the totality of the
17 case to craft a sentence. The Sentencing Guidelines Manual states that

18 The Commission intends the sentencing courts to treat each guideline as
19 carving out a ‘heartland,’ a set of typical cases embodying the conduct that
20 each guideline describes. When a court finds an atypical case, one to which
21 a particular guideline linguistically applies but where conduct significantly
22 differs from the norm, the court may consider whether a departure is
23 warranted.

24

25 U.S. Sentencing Comm’n Guidelines Manual, 6 (2014).

1 As we explained during sentencing, one factor we may consider is the defendant's
2 prior charged conduct. González-Román was previously arrested on March 1, 2014, for
3 violations of Puerto Rico weapons laws. Although the charges against him were
4 dismissed, the arrest, along with the use of the pistol on December 1, 2014, his theft of a
5 gun from the victims in this case, and the fact that he was carrying a firearm on
6 December 22, 2014, when he was arrested, paints a clear pattern of unlawful behavior
7 that is underrepresented by the number of convictions.

8 According to § 5K2.21 of the Guidelines, "Dismissed and Uncharged Conduct,"

9 The court may depart upward to reflect the actual seriousness of the offense
10 based on conduct (1) underlying a charge dismissed as part of a plea
11 agreement in the case, or underlying a potential charge not pursued in the
12 case as part of a plea agreement or for any other reason; and (2) that did not
13 enter into the determination of the applicable guideline range.

14
15 Here, the dismissed conduct was yet another weapons violation in the same calendar
16 year. The Commonwealth court dismissed the charges under Local Rule 64, which is the
17 rule requiring a speedy trial, without any explanation, calculation, or discussion of the
18 merits. Our daily examinations of PSI reports over the years, raise serious red flags
19 because dismissals of very serious crimes are a common event by referencing P.R. Local
20 Rule of Crim. P. 247 (which if no reason is given, the dismissal is void, *People v.*
21 *Superior Court*, 94 P.R.R. 56 (1967)), and under the unworkable antiquated local speedy
22 trial disposition of P.R. Local Rule of Crim. P. 64. Though these dismissals are generally
23 without prejudice, the reality is that the local system is so overwhelmed that cases are not
24 refiled and defendants walk out free without consequence. As a result, respect for the law
25 is lost and deterrence is practically non-existent. This creates a situation in which a

1 defense strategy is to prolong a case, which will then end in dismissal without more.
2 Given this court's familiarity with the Commonwealth courts' handling of criminal
3 matters, the court considers these realities when calculating a final sentence.

4 Additionally, as we explained in the Sentencing Hearing, this crime would fit
5 within the §5K2.8 provision for "Extreme Conduct," which states that,

6 If the defendant's conduct was unusually heinous, cruel, brutal, or
7 degrading to the victim, the court may increase the sentence above the
8 guideline range to reflect the nature of the conduct. Examples of extreme
9 conduct include torture of a victim, gratuitous infliction of injury, or
10 prolonging of pain or humiliation.

11
12 That is most certainly the case here. González-Román and his accomplice entered a
13 family's home – their castle – at 7:30 in the morning, brandishing a pistol with an
14 extended magazine. Two of the victims were tied up using duct tape and muzzled for four
15 hours. González-Román abducted one victim and drove her from her residence to two
16 different cities in a frightening search for more cash. According to one victim, González-
17 Román put a pistol to the victims' heads and insisted that they decide who he should kill
18 first. That victim said that González-Román asked them one by one, and that he
19 continued to insist that one of them would decide which of their family was going to be
20 the first to die. Finally, González-Román put all the victims inside a room in the house
21 and told them not to come out, while he and his accomplice stole one of the victim's cars.
22 Once again, the cruelty and psychological torture inflicted by González-Román is far
23 outside the "heartland" of a typical case.

1 **E. Supervised Release**

2 We may impose a term of supervised release of not more than five years. 18
3 U.S.C. § 3583(b)(1). González-Román is ineligible for probation because it is expressly
4 precluded by statute. 18 U.S.C. §3561(a)(2).

5 **V.**

6 **Conclusion**

7 For the foregoing reasons, we sentence González-Román to 144 months
8 imprisonment, to be served prior and consecutive to his term of sixty months
9 imprisonment in the Commonwealth system. We further sentence him to five years of
10 supervised release. The conditions of the supervised release appear in the record.

11 **IT IS SO ORDERED.**

12 San Juan, Puerto Rico, this 21st day of July, 2015.

13 S/José Antonio Fusté
14 JOSE ANTONIO FUSTE
15 U. S. DISTRICT JUDGE