

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|--------------------------|---|-----------------|
| UNITED STATES OF AMERICA | : | CRIMINAL ACTION |
| | : | |
| vs. | : | |
| | : | |
| JOANNE RODRIGUEZ | : | NO. 01-639-2 |

Gene E.K. Pratter, U.S.D.J.

April 28, 2005

MEMORANDUM

Three years to the day from having been placed on five (5) years probation for her guilty plea conviction for a violation of 18 U.S.C. § 371, Joanne Rodriguez appeared in court for a hearing on her request that she be relieved from serving the remaining two years of probation. Prior to the hearing, Ms. Rodriguez had submitted her letter request (Docket No. 31) for the sentencing judge's consideration, which submission prompted the random reassignment of Ms. Rodriguez's case to this Court. In anticipation of a fuller hearing, the Court requested that Ms. Rodriguez's Probation Officer be prepared to provide substantive input at the hearing and also solicited the views of the U.S. Attorney's office with respect to the question of an early release of Ms. Rodriguez from probation.

There is unanimity among the Probation Officers assigned to her case, the Assistant U.S. Attorney and Ms. Rodriguez on the central issue, namely, that for three full years Ms. Rodriguez has been an exemplary supervisee and probationer: She promptly paid the special assessment levied at the time of sentencing; she has timely kept all appointments with her Probation Officer; she has steadily maintained her employment; she has requested permission before traveling

outside the jurisdiction; she has had only negative urine drug test results; she has had no further legal difficulties; she has breached no condition imposed upon her at the time of sentencing. Ms. Rodriguez is a single parent, raising her two sons, now aged 11 and 9. The boys are not aware of their mother's conviction and do not know of her probationary status or obligations. Ms. Rodriguez was entirely candid at the hearing in explaining that one significant reason for her request for early termination is because of her growing discomfort in how she feels she must avoid telling her sons about her probationary status. She also expresses a great desire, now that she feels she has fully incorporated the cautionary lessons of being on probation as to how to avoid people and situations that caused her to make the bad choices that led to her conviction, to be able to travel with her sons out of this jurisdiction with greater freedom.

In short, Ms. Rodriguez has performed with great success for three years on probation. It appears that she took to heart the sentencing judge's admonitions to learn from her mistakes and commit herself to remaining well clear of trouble. There does not appear to be anything more she could have done to win the Probation Department's endorsement of her request for an early termination of her sentence. However, the Department is withholding its endorsement because of its policy not to accede to such requests in cases where the supervisee has been convicted, as was Ms. Rodriguez, of a felony in which she had an "aggravated role" and where she received a downward departure at the time of sentencing.

Understandable as such a policy may seem to be as a general matter, and recognizing that Ms. Rodriguez's success as a probationer is likely due in part to the professionalism of the Probation Department, I find that Joanne Rodriguez satisfies the criteria of 18 U.S.C. § 3564(c), in that an early termination of her term of probation is warranted by her conduct and the interest

of justice. I have reached this conclusion on the basis of the following:

1. Review of the Government's Guilty Plea Memorandum at the time of Ms. Rodriguez's change of plea, as well as the transcript of the proceedings at the time of her plea;
2. Review of the transcript of the sentencing hearing held on April 25, 2002;
3. Ms. Rodriguez's respectful and candid demeanor at the April 25, 2005 hearing on her request for early termination, as well as the equally respectful tone and approach she demonstrated in taking the initiative by way of her letter request to the Court;
4. The fully successful compliance by Ms. Rodriguez with three full years of supervision, as confirmed without reservation by her supervising Probation Officer;
5. The reiteration by the Assistant U.S. Attorney that Ms. Rodriguez had been fully cooperative with the Government from the time of her arrest and that her involvement in the underlying criminal conduct had been the result of untoward, beguiling and strong influences by the co-defendant on whose behalf Ms. Rodriguez had acted;
6. Ms. Rodriguez's explanation that her years of supervision have armed her with greater personal insight and better strategies for avoiding similar influences in the future; and
7. Ms. Rodriguez's two sons are now at ages where the knowledge that their mother is on federal probation could impede or negatively impact the relationship between Ms. Rodriguez and one or both of her sons.

In addition, I have considered the factors set forth in 18 U.S.C. § 3553(a) and have concluded that permitting an early termination of Ms. Rodriguez's probation will satisfy the relevant considerations enumerated therein.

Finally, in order for Ms. Rodriguez's conclusion of her term of probation to be orderly, in

deference to the Department's policies referred to above, and to permit such final appointments and consultations as the assigned Probation Officer shall determine would be advisable, I will set the early termination date for the conclusion of Ms. Rodriguez's probation sentence to be July 1, 2005, contingent only upon the Court receiving written notice that some material infraction of a condition of Ms. Rodriguez's probation has been committed. In other words assuming there is no notification to the Court of a material infraction, Ms. Rodriguez's probation will cease. Between the date of the accompanying Order and July 1, 2005, and assuming Ms. Rodriguez's continued successful conduct, the Court presumes that in the event Ms. Rodriguez makes an appropriate request of the Probation Department to travel outside this jurisdiction that that request will be approved.

An Order consistent with this Memorandum follows:

BY THE COURT:

Gene E.K. Pratter
United States District Judge

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ORDER

AND NOW, this 28th day of April, 2005, after consideration of the letter request submitted by Joanne Rodriguez for an early termination of her five (5) year probation sentence and following a hearing on April 25, 2005, attended by Joanne Rodriguez, Probation Officer Jane Schoonmaker, and Assistant U.S. Attorney Bernadette McKeon, for the reasons set forth in greater detail in the foregoing Memorandum, it is hereby ORDERED that, unless the Court is notified in writing before June 30, 2005 (with a copy of any such notification to be served contemporaneously upon Ms. Rodriguez) that Ms. Rodriguez has committed a material violation of a condition of her sentence of probation, pursuant to 18 U.S.C. § 3564(c) Ms. Rodriguez's sentence to probation, and all conditions in connection therewith, shall terminate for all purposes at noon on July 1, 2005, at which point Ms. Rodriguez will have served more than 38 months of a 60-month sentence of supervision while on probation and fulfilled all other requirements of her sentence as imposed on April 25, 2002.

BY THE COURT:

Gene E.K. Pratter
United States District Judge