

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No: 09-00121-02-CR-W-DGK</b>
	)	
<b>LEATHA MAE GUTIERREZ,</b>	)	
	)	
<b>Defendant.</b>	)	

**SENTENCING MEMORANDUM**

COMES NOW defendant Leatha M. Gutierrez, by and through counsel, Tony R. Miller and the firm of Troppito + Miller, LLC, and hereby submits the following Sentencing Memorandum to assist the Court in determining an appropriate sentence that is sufficient, but not greater than necessary.

Defendant Gutierrez began cooperating with law enforcement in the investigation of this case as early as her April 2, 2008 interview with an Agent of the Buchanan County Drug Task Force. Although Ms. Gutierrez did not have counsel prior to the formal charging of the case and could have exercised her Fifth Amendment rights, she knew that she wanted to cooperate with law enforcement and proceeded to do so.

On June 25, 2008, a Criminal Complaint was filed in this District, charging the defendant with Conspiracy to Distribute a detectable amount of Methamphetamine in an amount of 50 grams or more. Ms. Gutierrez was only briefly in custody and has since remained on bond, reported as directed to the Pretrial Office and cooperated with law enforcement. Ms. Gutierrez proffered with the Investigators on at least two additional occasions in July of 2008, providing useful information and assisting in the investigation

of criminal activity. Upon motion by the Government, the Criminal Complaint was dismissed by Judge Robert Larsen on July 10, 2008.

Ms. Gutierrez was indicted with eleven other people on April 9, 2009 in the instant case and charged in Counts Two, Four, Twelve, and Thirteen. Defendant entered her pleas of guilty to the stated charges on July 28, 2010, pursuant to a written plea agreement that is part of the Court's record. The Preliminary Presentence Investigation Report was circulated on September 29, 2010. There were no objections to the Report and it was finalized shortly thereafter. In sum, Ms. Gutierrez fully accepted responsibility for her actions, fully cooperated in the investigation of this matter and remains ready to testify at trial; despite threats to her life.

Although the Statutes mandate a sentence of at least ten years and the Guidelines recommend a sentence just short of twenty years, we anticipate that the Government will file downward departure motions at or near sentencing pursuant to 18 U.S.C. § 3553 (e) and U.S.S.G. § 5K1.1. As such, we would ask that this Court follow the recommendations of the Government and grant its departure motions, recommend the defendant for inclusion in the 500 Hour Drug Treatment Program, and recommend designation to a facility as close as possible to this District.

WHEREFORE, for the above reasons, it is requested that the Court sentence the defendant Leatha Mae Gutierrez to an appropriate sentence in accordance with the recommendations of the Government, recommend the defendant for inclusion in the 500 Hour Drug Treatment Program, and recommend designation to a facility as close as possible to this District, and for such other relief as the Court deems appropriate.

Respectfully submitted,

TROPPITO & MILLER, LLC

/s/ Tony R. Miller

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Attorneys for Defendant

### **CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_14th\_\_ day of \_\_January, 2011, I electronically filed the foregoing Sentencing Memorandum with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: counsel of record for the parties and others entitled to receive filings.

/s/ Tony R. Miller

Tony R. Miller