

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:11-CR-345-T-17AAS

MARIA LOURDES AGUILAR.

_____ /

ORDER

This cause is before the Court on:

Dkt. 573 Motion Requesting the Court Stay Petitioner's
Fine or Eleviate (sic) Altogether Based on
Petitioner's Inability to Pay

Defendant Maria Lourdes Aguilar, pro se, requests that the Court
stay Defendant Aguilar's fine, or eleviate (sic) the fine altogether.

The Court has reviewed the Plea Agreement (Dkt. 200), the PSR and
Addendum (Dkt. 545) , the sentencing minutes (Dkt. 375), and the Final Judgment
(Dkt. 380).

After entering into a Plea Agreement (Dkt. 200), Defendant Aguilar was
sentenced on October 19, 2012 to 324 months imprisonment on Counts 1 and 2,
concurrent; a 60-month term of supervised release, concurrent; a \$25,000 fine to
be paid immediately; and a special assessment of \$200.00.

Defendant Aguilar's Plea Agreement provides:

...The defendant understands that this agreement imposes no limitation as to fine.

(Dkt. 200, p. 13).

The sentencing minutes (Dkt. 375) show the Advisory Guideline Range determined by the Court at sentencing:

| | |
|---------------------------|----------------------------------------------------|
| Total Offense Level | 43 |
| Criminal History Category | I |
| Imprisonment Range: | Life |
| Supervised Release Range: | 5 years as to Count 1 1 - 3 years as to Count 2 |
| Restitution | N/A |
| Fine Range: | \$25,000 to \$10,500,000. |
| Special Assessment: | \$200.00 |

At sentencing, the Court granted the Government's oral motion for downward departure. After the Government filed a Rule 35 motion, Defendant Aguilar's term of imprisonment was later reduced to 168 months.

The Addendum to the PSR reflects no unresolved objections by Defendant. (Dkt. 545, p. 34). At sentencing, Defendant's counsel raised no objections to the PSR. (Dkt. 375, p. 3). The fine imposed was at the low end of the advisory range, and after considering the advisory sentencing guidelines and the Sec. 3553(a) factors, the Court found the sentence imposed was sufficient but not greater than necessary to comply with the statutory purposes of sentencing. The Court found that the sentence imposed was reasonable and adequate.

At sentencing, the Court adopted the PSR without change. The PSR states:

Financial Condition/Ability to Pay

113. The defendant and Mr. Yanez Gutierrez lived a lavish life-style in California, but she advised she has no significant assets remaining because everything she had was seized by the government as the result of her arrest in this case.
114. The court shall impose a fine in all cases, except where the defendant establishes that he is unable to pay and is not likely to become able to pay any fine. USSG Sec. 5E1.2(a).
115. Ms. Aguilar has been a high level operative in a structured drug trafficking organization that produced very large sums of illegal proceeds. She is accountable for distributing in excess of 700 kilograms of cocaine with a conservatively estimated street value of over \$20,000,000. She has not proven that she is unable to pay and is not likely to become able to pay any fine. Therefore, the sentencing guidelines require in an advisory capacity that the court order Ms. Aguilar to pay a fine in this case.

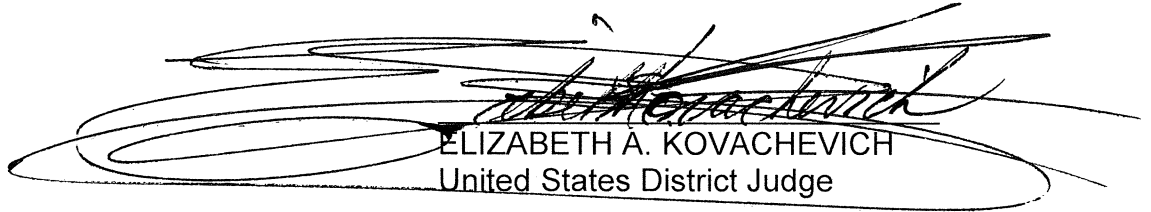
(Dkt. 545, p. 29).

After consideration, the Court denies Defendant Aguilar's Motion Requesting the Court Stay Petitioner's Fine or Eleviate (sic) Altogether Based on Petitioner's Ability to Pay (Dkt. 573) without prejudice. While Defendant Aguilar is in the custody of the Bureau of Prisons, Defendant Aguilar must first attempt to resolve Defendant Aguilar's alleged inability to pay through administrative channels before seeking judicial relief. See 28 C.F.R. Secs. 571.50-571.54. Accordingly, it is

ORDERED that pro se Defendant Maria Lourdes Aguilar's Motion Requesting the Court Stay Petitioner's Fine or Eleviate (sic) Altogether Based on Petitioner's Inability to Pay (Dkt. 573) is **denied without prejudice**.

Case No. 8:11-CR-345-T-17AAS

DONE and ORDERED in Chambers in Tampa, Florida on this 20th day of September, 2018.



ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:

All parties and counsel of record

Pro Se Defendant:

Maria Lourdes Aguilar
66327-097
FCI ALICEVILLE
FEDERAL CORRECTIONAL INSTITUTION
P. O. BOX 4000
ALICEVILLE, AL 35442