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U.S. COURTS  
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CAMERON S. BURKE  
CLERK IDAHO

13 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 vs.

17 CRUZ RUBALCAVA-RODRIGUEZ,

18 Defendant.

Case No. CR-02-003-S-EJL

19 GOVERNMENT'S OBJECTIONS TO  
20 PRESENTENCE INVESTIGATION  
21 REPORT

22 COMES NOW, Monte J. Stiles, Assistant United States Attorney for the District of Idaho, on  
23 behalf of the United States, and makes the following objections to the Presentence Report in  
24 connection with the above-named defendant:

25 Based upon the facts contained in the presentence report, the government asserts that the  
26 defendant's criminal history category does not adequately reflect the seriousness of the defendant's  
27 past criminal conduct or the likelihood that the defendant will commit other crimes.

28 Section 4A1.3. of the Federal Sentencing Guidelines addresses this issue as follows:

If reliable information indicates that the criminal history category does not adequately reflect the seriousness of the defendant's past criminal conduct or the likelihood that the defendant will commit other crimes, the court may consider imposing a sentence departing from the otherwise applicable guideline range. Such information may include, but is not limited to, information concerning:

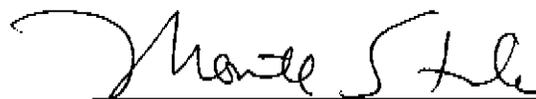
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- (a) prior sentence(s) not used in computing the criminal history category;
- (b) prior sentence(s) of substantially more than one year imposed as a result of independent crimes committed on different occasions;
- (c) prior similar misconduct established by a civil adjudication or by a failure to comply with an administrative order;
- (d) whether the defendant was pending trial or sentencing on another charge at the time of the instant offense;
- (e) prior similar adult criminal conduct not resulting in a criminal conviction.

The defendant's history suggests that he will very likely commit additional crimes once he is released from prison, and will likely come back to the United States to do so. Consequently, the government respectfully requests that the Court consider an upward departure on this basis.

Respectfully submitted this 5<sup>th</sup> day of June, 2002.

THOMAS E. MOSS  
United States Attorney  
By:



MONTE J. STILES  
Assistant United States Attorney

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on June 5, 2002, a copy of the foregoing GOVERNMENT'S  
3 OBJECTIONS TO PRESENTENCE INVESTIGATION REPORT was served by  
4

5  United States Mail, postage prepaid,

6  hand-delivery

7  facsimile transmission (FAX)

8 upon the following person(s):

9 S. Richard Rubin  
10 350 North Ninth Street, Suite 301  
11 Boise, ID 83702  
12 Facsimile: (208) 388-1757

13 *U.S. Probation*  
*334-1872*

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