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## Probation urged for deputy in shooting

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A Texas deputy sheriff convicted of violating the civil rights of an illegal alien injured when the deputy fired shots at the vehicle she was in as the driver tried to run the deputy down should be given probation instead of the 10-year sentence he faces at a hearing tomorrow, says the **Washington Legal Foundation** (WLF).

In a brief filed in U.S. District Court in Del Rio, Texas, the WLF said the incarceration of Edwards County Deputy Sheriff Guillermo F. Hernandez since his Dec. 1 conviction "is more than sufficient to satisfy the purposes of punishment for this offense." It suggested a sentence of probation and a short term of home detention.

"Deputy Hernandez was carrying out his lawful duties when he stopped and approached the vehicle," the WLF said in the brief. "The driver of the vehicle attempted to run into him as it sped away with potentially dangerous occupants and cargo.

"In a split-second decision, he shot at the left rear tire to disable the vehicle," the brief said. "He did not aim or shoot at the window of the vehicle or at any of its occupants. The resulting minor injury to one of the occupants from a bullet fragment was not a serious one and certainly not an injury that was willfully inflicted."

Hernandez, 25, has been held without bond since his conviction on charges of violating the civil rights of Maricela Rodriguez-Garcia, a Mexican national who was being smuggled into the United States when she was struck in the lip by bullet fragments or other metal shards after an 11:50 p.m. traffic stop in April 2005 in Rocksprings, Texas.

Edwards County Sheriff Donald G. Letsinger said an investigation into the shooting by the Texas Rangers, which he requested, found that Hernandez approached the vehicle, found only the driver sitting upright and saw eight others lying down. He said that the driver, after being asked to step out of the vehicle, drove forward and turned into the deputy fleeing from what the sheriff called a "legal stop."

Thinking the driver had tried to run him over, Letsinger said, Hernandez fired at the vehicle's rear tires in an effort to stop the fleeing vehicle.

Paul Kamenar, WLF's senior executive counsel, said the organization has devoted substantial resources to litigating cases and filing briefs in federal and state courts "promoting a limited and accountable government, a strong national security and defense, and opposing abusive civil and criminal enforcement actions by regulatory agencies and the Department of Justice."

Mr. Kamenar said WLF has been critical of federal sentencing guidelines, like those that will be used to determine Hernandez' sentence, saying they often "result in excessively

harsh prison sentences."

In the brief, the WLF also said federal prosecutors made a plea offer to Hernandez that would have resulted in a recommendation of probation, but the deputy rejected the offer.

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