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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITES STATES OF AMERICA, Plaintiff, vs. SANDU CONSTANTIN BOBI, Defendant	Case No.: 23CR0386-LAB MEMORANDUM IN AID OF SENTENCING ON BEHALF OF DEFENDANT SANDU,CONSTANTIN BOBI DATE: NOVEMBER 20,2023 TIME:2:00PM

1.INTRODUCTION

Counsel for SANDU, Constantin Bobi (hereinafter Sandu) respectfully submits this Memorandum to help the Honorable Court determine an appropriate sentence for his conviction in the present case. As per the Plea Agreement, the present offence level is 26, reducible to level 22. His Criminal History is Category 1. Counsel for Defendant received the Presentence Investigative Report (PIR) on September 15,2023. Counsel for Mr. Sandu takes exception to the recommendation of Probation, on page 17, paragraph 95, that Mr. Sandu be sentenced to 72 months. This felony conviction will ultimately result in his Removal from the United States and prohibit any future reentry. The brief benefit that he received from this misconduct has nullified any further opportunity for him to be in this country.

We do not do not apologize for, nor excuse in any manner the seriousness of the offense committed by Mr. Sandu. However, as discussed, the proposed sentence as per the Plea Agreement, is along with any other conditions that the Court may deem appropriate- is no greater punishment than necessary to serve the ends of sentencing, and the interests of justice.

II. FACTORS IN SUPPPORT OF THE PROPOSED SENTENCE

A. Nature of the Offense

Federal felonies are, by definition, serious offences. Mr. Sandu's theft has been fully acknowledged. **NO** elements of force, violence, intimidation, threats or coercion were involved. Mr. Sandu fully acknowledges that his motive was personal benefit. Despite the number of individuals and the amounts involved, it is acknowledged that Mr. Sandu's gain was about $60,000.00 Mr. Sandu used his money to help his family in Romania. Page 12, paragraph 54, of the PIR details his life experience. He is a member of the Romani community. The term "gypsy" is deemed pejorative by the Romani people and therefor is not used. The Romani have been traditional persecuted through history. Romania did not abolish slavery until about 1875, and slavery meant the Romani people. The Romani were thereafter subjected to a brutal serfdom. In the 1930's they were viciously persecuted, along with the Jewish community, by the Romanian Fascist Iron Guards. During WWII General Ion Antonescu, the fascist dictator of Romania, colluded with Adolph Hitler, and subjected the Romani, along with the Jewish community, to extermination in Auschwitz, Treblinka, Dachau, Majdanek, Sobibor among other places. After WWII in the former Communist Czechoslovakia, tens of thousands of Romani women were forcibly sterilized. Documentation for same has only recently become available. During the communist era in Romania, if the Romani complained, they were subject to persecution. Mr. Sandu's home town of Pitesti was notorious for its prison where political prisoners were held in

deplorable conditions. The Romani community never had a Martin Luther King or Nelson Mandela to advocate their rights. To this day, the Romani continued to be persecuted in Romania, and the perpetrators of torture and persecution are very rarely sanctioned. The situation of the Romani is unique enough that for purposes of Immigration Law they are deemed to be a Particular Social Group See. Mihalev v. Ashcroft 388 F3d. 722 (9th Cir. 2994). Attached hereto as Exhibit "1"is a seven-page report from Amnesty International which provides as succinct overview of the suffering of the Romani.

B. Nature of the Offender

Mr. Sandu is a devoted husband and father of his children. PIR- Page 12, paragraphs 55 and 56. He has very limited formal education as a result of the structural impediments in Romania against his community. His opportunity for formal avenues of employment and advancement, were, and remain, extremely limited. It was desperation rather than greed, that was the controlling factor in this course of conduct. Mr. Sandu has fully accepted responsibility and has displayed remorse for what occurred.

C. Mr. Sandu poses extremely low risk of reoffending.

1. Sentencing Commission Research

a. Zero Criminal History Points

Mr. Sandu has never been in trouble before either in the Unites States or elsewhere. The Sentencing Commission notes "that first offenders are less culpable than other offenders. /1/ It found that "sentence reductions for 'first offenders' are supported by the recidivism data and would recognize their lower reoffending rates"

The Sentencing Commission has determined that criminal history points better forecast the risks of re-offense than the Criminal History Category/2/. Offenders like Mr. Sandu with zero criminal

history points recidivate just 11.7% of the time. Offenders with even one criminal history point re-offend at almost twice that rate, 22.6%/**3**/

b. Other Demographic indicators

Recidivism rates are influenced most by a defendant's personal characteristics such as (1) family ties and marital status (2) level of education (3) lack of substance abuse (4) history of employment. Mr. Sandu presented a long history of strong family ties. He has no history of abuse alcohol or drugs. As stated, his history of employment was mainly manual labor in agriculture and other low level service work. This goes hand in hand with the fact that educational opportunities were denied to him by the Romanian government and society. Furthermore, recidivism rates decline relatively consistently as age increase," from 35.5% of offenders under age 21 to 12.7% over age 40. Mr. Sandu is now 34 years of age**/4/**

Larceny offenders studied by the Sentencing Commission recidivated around 19% of the time, less often than most other groups of offenders. /**5**/

III.CONCLUSION

We recognize that respect for the law, and deterrence requires just punishment. Too harsh a sentences fail to respect the law just as much as too lenient a sentence. It violates this statute requiring the sentence to be no greater than necessary/**6**/

Given this case's singular circumstances, it is requested that Mr. Sandu be sentenced in accordance with the Plea Agreement, and with such other conditions as the Court may deem appropriate.

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Date: 09/28/2023

Joseph T. Hitrec
Attorney at Law

1.U.S.S.C. "recidivism and the First offender," at 9 (Release 2, May 2004) http://www.ussc.gov/Research/Research Publications/Recidivism/200405 Recidivism First offender.

2.U.S.S.C. "The Criminal History Computation," at 7.

3.See "Recidivism and the First Offender,"at13-14

4. U.S.S.C. "Criminal History Computation" at 12 and 28, Exhibit. 9 (showing recidivism rates just 6.9% for offenders between 40 and 50 and in Criminal History I).

5. See U.S.S.C., "Criminal history Computation" at 13.

6. See Justice Anthony Kennedy, Testimony before the Senate Judiciary Committee, February 14.2007 ("Our sentences are too long, our sentences re too severe, our sentences are too harsh…there is no compassion in the system. There's no mercy in the system.")

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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing Memorandum in Aid of Sentencing on behalf of SANDU, Constantin Bobi Case No.23CR0386LAB upon AUSA Jessica A. Schulberg, and US Probation Officer Ms. Jill Johnson-Pogue by electronically filing the foregoing with the Court using the electronic filing system.

First Call Legal Services Inc.

/s/

Joseph T. Hitrec