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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
	)	
-VS-	)	DOCKET NO. 1:20-CR-296-JPB
	)	
CARLA JACKSON,	)	
	)	
DEFENDANT.	)	

TRANSCRIPT OF SENTENCING PROCEEDINGS
BEFORE THE HONORABLE J.P. BOULEE
UNITED STATES DISTRICT JUDGE
MAY 16, 2024

APPEARANCES:

ON BEHALF OF THE GOVERNMENT:
ON BEHALF OF THE GOVERNMENT:
TAL C. CHAIKEN, ESQ.
SAMIR KAUSHAL, ESQ.
NORMAN BARNETT, ESQ.
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ASSISTANT UNITED STATES ATTORNEYS

ON BEHALF OF THE DEFENDANT - CARLA JACKSON:
DAVID D. MARSHALL, ESQ.

STENOGRAPHICALLY RECORDED BY:

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

(PROCEEDINGS HELD IN OPEN COURT AT 12:59 PM, ATLANTA, GA.)

COURTROOM DEPUTY CLERK: The Court has set aside time for a sentencing in United States of America v. Carla Jackson, Case Number 1:20-CR-296.

Will counsel and probation state their appearances for the record.

MS. CHAIKEN: Good afternoon, your Honor. Tal Chaiken for the United States. Seated with me at counsel table are Samir Kashual from my office and Siji Moore from the Department of Justice's fraud section. And seated behind us is Special Agent Stefan Bublitz from the FBI.

THE COURT: Thank you.

MR. MARSHALL: Good afternoon, Judge Boulee. David Marshall appearing on behalf of Ms. Carla Jackson.

THE COURT: Good afternoon to both of you as well.

OFFICER RIDLEY: Good afternoon, your Honor. Maria Ridley on behalf of the United States Probation Office.

THE COURT: Officer, good to see you.

On February 15th of this year a jury found Ms. Jackson guilty of Counts 46 and 47 of the second superseding indictment for the offense of money laundering.

In accordance with Rule 32 of the Federal Rules of Criminal Procedure the US Probation Office has conducted a presentence investigation and prepared a presentence report, a copy of which has been provided to both the government and the

defense.

Mr. Marshall, have you and your client had an opportunity to read and discuss the presentence report?

MR. MARSHALL: We have, your Honor.

THE COURT: Do you have any questions about the presentence report or any amendments now other than what's been previously filed?

MR. MARSHALL: Judge, I did submit I think an extra e-mail to Ms. Lee at some point, but it will be addressed I think as we go through the PSR but nothing additional.

THE COURT: All right. Thank you.

Which extra e-mail was that just to make sure that I've seen it?

MR. MARSHALL: I had e-mailed, I believe, an objection to the restitution amount. I believe Ms. Lee may have gotten that e-mail.

THE COURT: I saw that.

MR. MARSHALL: Right. I'm not going to argue for that, Judge. The full restitution amount is what is under MVRA that's allowed. And it's in the discretion of the Department of Justice on how or if they will offset it. So I do not need to address that.

There are some objections that I initially made to the loss amount in the PSR. They're still showing in the revised PSR. I think I just got those. They were in my

sentencing memorandum, so they may not have gotten to Ms. Ridley in time. There are specific paragraphs on those. I can let the Court know.

Withdrawing objections to paragraphs 82, 93, 95 and 105 -- or 103, excuse me.

Defendant does object to paragraph 92 in the revised PSR, that's the government's argument for obstruction enhancement.

And then the final, I guess, adjusted the sentencing options at the end, I believe paragraphs 99, 100 and 103 could be impacted, I guess, by the objections, Judge.

THE COURT: All right. Thank you.

Just so we're clear, I know that you had withdrawn the objections to loss amount. I had paragraph 73 involving that as well. Do you withdraw that objection?

MR. MARSHALL: Yes, if it's -- yes. Yes, your Honor, exactly, 73 also.

As the Court knows we did -- we are arguing for a role adjustment. I know you'll get to that at some point. And the government's obviously asking for an obstruction enhancement.

THE COURT: Understood. And just so the record is clear, then, as well, as far as the restitution versus forfeiture e-mail that you sent, you're not arguing that point anymore, you've withdrawn that?

MR. MARSHALL: No. No, your Honor.

THE COURT: All right. Very well.

All right. There are some unresolved guideline issues that I want to discuss. There were some incorporated clarifications that seemed to not be at issue to anyone.

There was one factual issue that doesn't go to the guideline, but I wanted to get the government's position that involved it's either paragraph 109 or 112 regarding the incident that Ms. Jackson says was entirely Mr. Gaines and not her.

Does the government want to be heard on that point?

MS. CHAIKEN: No, your Honor. It doesn't effect the guidelines and we don't have any information --

THE COURT: I'll sustain that objection, then, and won't consider that issue.

MR. MARSHALL: Thank you.

THE COURT: So I think that the two remaining issues, then, are mitigating role and obstruction. Does everyone agree?

MS. CHAIKEN: Yes, your Honor.

MR. MARSHALL: Yes, Judge.

THE COURT: Okay. Let's take the mitigating role issue first. Mr. Marshall, that's your burden, so I'll hear from you first.

MR. MARSHALL: Thank you, Judge.

Judge, in part I'm going to go through the factors that the Court looks at in looking at sentencing guideline 3B1.2 for a role adjustment, mitigating adjustment. And I'm going to address some of the government arguments against it because I've not had a chance to do a reply or I haven't filed a reply to their response memorandum.

It is correct, the two first principles that the Court looks at are determination of the defendant's role in the offense. That's the defendant's role and the relevant conduct for which she is held accountable at sentencing.

And, number two, the defendant's role as compared to other participant's roles in the relevant conduct.

So that's the opening requirement for a court to look at, your Honor.

The government is right, the universe of the defendants that have to be looked at to try to determine a role adjustment and whether Ms. Jackson is eligible for it will be three individuals. It will be actually Ms. Jackson, John Gaines and Andre Gaines.

And I do want to point out, I don't know if the Court has a copy of the government's sentencing memorandum, but I will be referring to parts of it. And I'm going to cite actually page three and page four of the government 's memorandum. And that's Docket Number 994.

THE COURT: I have it.

MR. MARSHALL: So the middle paragraph, Ms. Jackson has been held accountable for only the amount of the laundered funds. So we have that. And her role in the offense is determined by comparing her role to other participants in that relevant conduct.

Now, it says down below in the bottom of that paragraph, it says, The only other participant in the offenses for which Jackson was held accountable, concealment money laundering, is John Gaines. And the Court, therefore, cannot compare Jackson's role to anyone other than John Gaines.

And then there's a reference at the top of page four to footnote two. And that is, Andre Gaines was not a participant in the money laundering offenses for which Jackson was held accountable. He is pleading guilty to lying to the FBI in connection with an interview he gave about Gaines Reservation and the PPP loan. So I want to address that first, if I could, Judge.

I've written on this, Judge. This is a copy of the first indictment. It was handed down in this case. And it was filed on August 4th, 2020. And the second-named defendant in this indictment is Andre Lee Gaines. He is charged in one, two, three, four, five, six, seven, eight separate counts. He is charged with conspiracy to commit bank fraud and wire fraud, that's in Count 1. He is charged with substantive counts, violation of bank fraud in Count 2. Allegations of

wire fraud in Count 3. Allegations of providing false statements to a federally-insured bank in Count 14. And then four separate counts of money laundering in Counts 18, 19, 27, and 28.

Counts 27 and 28 Ms. Jackson is also charged in. They happened to deal with the two transactions at issue in this case that Ms. Jackson was found guilty of. Those are the two money transfers. There was one wire transfer and then a bank deposit, a check deposit that was made into her account. Andre Gaines was charged in part of that conduct.

So I do want to point out, Judge, this statement in the footnote that the government has here that Andre Gaines was not a participant is just a misrepresentation. It's not true. The government decided at a later time to not go forward with those charges against Mr. Andre Gaines but decided to offer him a different deal to pleading to a false statement to a federal officer, and then he got a five-year probated sentence. But to say that he was not a participant in the money laundering offenses for which Ms. Jackson was held accountable is just false, Judge. And I want to correct that misrepresentation to the Court.

So there are three individuals. Andre Gaines's company, Gaines Reservation & Travel, was the company where these funds came from. The check that went to Ms. Jackson's bank account was signed by Andre Gaines. The funds that came

into her account by wire transfer were transferred from the bank account of Andre Gaines's company, Gaines Reservation & Travel. So I wanted to point that out initially, your Honor.

Now, there's several factors that the Court has to address. The government goes over some of these, too. Number one is to determine what kind of role somebody could be eligible for, whether it's a minor role or minimal role.

A, the degree to which Jackson understood the scope and structure of the criminal activity.

Now, in this one the government argues that Ms. Jackson understood all of this because she was a direct participant in the money laundering. And that's, in essence, the argument that because the money came into her account by check and by a wire transfer, that she understood the scope and the structure of the criminal activity.

I would rebut that quickly just with a comparison to a drug case, Judge, because a lower-level party that agrees to stash drugs in his house for a drug cartel, for instance, and does that and agrees to receive drugs maybe on two different occasions into his house does not equate that he understands the scope and the structure of the overall criminal activity.

So the fact that she received money into her bank account on two different dates, two different transactions does not mean that she understood the scope and structure of the criminal activity.

There was no evidence at trial that was presented that Ms. Jackson knew about all of the conversations going on between Darrell Thomas and John Gaines. There are no e-mails or communications where Ms. Jackson is copied on anything or where she sends any e-mails or where she's the recipient of any e-mail. So all of that is being generated primarily by Darrell Thomas and John Gaines as far as the PPP loan fraud. But then as far as the money laundering, you have John Gaines, Andre Gaines and then Ms. Jackson being the recipient of the funds that come into her account.

Also, and this is on page four of the government's memorandum, the government argues that Ms. Jackson knew that John Gaines was involved in the fraudulent PPP loan applications in the spring of 2020 and had even partially completed a PPP loan application herself. There's no evidence that shows that she was going to submit a fraudulent PPP loan application.

THE COURT: But I'm not sure that I buy your corollary to stashing the drugs. I mean, money laundering, the whole idea of money laundering is moving moneys from one place to the other usually to hide the corrupt nature of the money. And here she was -- and there's two sides to that, sending and receiving. She was half of that.

So how do you -- how do you say, oh, this is just like there's a big drug deal and all you did was let me store

it at your place? This is -- I don't buy that correlation.

MR. MARSHALL: Judge, I would just say in the context of the factor you're looking at as far as whether she understood the scope and structure, that's what I'm focusing on.

THE COURT: That's the same thing I'm focusing on. I'm saying the scope and structure of money laundering is the movement of that money to one place where it will be discovered and one place that it might not be discovered, so -- or look clean. So I don't buy that. Am I missing something?

MR. MARSHALL: Well, I would say this: There's nothing that shows Ms. Jackson knew about -- for instance, John Gaines's testimony, he got on the stand I think and mentioned about wanting to move money to other accounts, I guess, to claw back and move things around. There's no testimony that Ms. Jackson knew anything about any of that stuff. So that's part of the scope and structure of the criminal activity, about how that was done and why that was done. So she certainly didn't know about that. There's no evidence that shows that she knew about what Darrell Thomas and John Gaines were discussing about moving the money over to her bank account.

The money came into her account, that is irrefutable, Judge. But as far as determining the scope and structure of

the criminal activity and what John Gaines was doing and what his agreement was with Mr. Darrell Thomas for the PPP loan moneys that were received and also for Andre Gaines, there's no direct evidence of that, of her knowing other than she was getting money that was coming into her account and because of the jury's verdict that she did know that the source was an illegal source for the funds.

THE COURT: Well, exactly. I mean, you know, you may not like that result but that's what the jury found. You know, they found that she was getting money that she knew was the result of PPP fraud.

MR. MARSHALL: Right. But I still say, Judge --

THE COURT: And money laundering, again, half of it is the movement and the recipient of it.

MR. MARSHALL: Right. But it still doesn't say -- it doesn't show because she receives it that she knows the scope and the structure of the fraud that's being committed and the money movement that's occurring and why that's occurring.

THE COURT: But it's not -- when you say "the scope of the fraud that's being committed," that goes back to -- it sounds like you want me to just throw out and pretend that the *Salgado* case doesn't exist.

MR. MARSHALL: She knows the money came into her account, Judge, she knows that, the jury's found her guilty of that. They impute knowledge that she knew the source was bad.

I was just saying that her scope is limited as far as all the other front-end conversations about the money laundering and its purpose and so forth. But she does have knowledge, Judge, according to the jury's verdict.

THE COURT: All right. I'll let you move on to the next point, but I can tell you I'm not convinced of your first argument.

MR. MARSHALL: Okay.

The degree to which Jackson participated in planning or organizing criminal activity, this is in response to government's page five, subsection B. And the government responds, While she was not an organizer, however, that does not entitle her to a mitigating role.

That's true.

And then on the top of page six, the government closes off by saying that, Jackson's assertion that she was not involved in the planning or organization of the broader conspiracy involving PPP loan fraud, while true, is irrelevant.

Well, it is relevant because it's the factor we're looking at in this guideline under 3B1.2. So this factor points in favor of Ms. Jackson. She was not -- there's no evidence showing that she was planning or organizing any of this criminal activity. We know abundantly clear that this was Darrell Thomas and John Gaines primarily.

THE COURT: Wait. But, again, Mr. Marshall, your -- I think you're again ignoring the *Salgado* case and you're saying, oh, she wasn't in authority for the greater PPP fraud. All we're talking about here is the money laundering.

MR. MARSHALL: Right. Even there, Judge, I think -- well, that's the factor we have to look at, whether she planned and organized the criminal activity. Did she contact John Gaines and say, look --

THE COURT: I thought you moved to C and decision-making authority?

MR. MARSHALL: I was in B, Judge. Excuse me. Excuse me. Yes, I was in B, Judge. That's where I'm at, on page five. Is that where you are?

THE COURT: Correct.

MR. MARSHALL: So I don't know of any evidence that showed that she planned it, structured when these --

THE COURT: I thought you were on C. I agree that you've got a decent argument under B.

MR. MARSHALL: All right. So it is a relevant factor.

Okay. Go on to C, the degree to which Jackson exercised decision-making authority or influenced the exercise of decision-making authority. Again, it says she's an educated woman, alone decided to allow John Gaines to use her bank account -- actually, it was Andre Gaines whose account it

came from, from Gaines Reservation & Travel and the PPP loan proceeds. She made the decision to deposit a check, that's true, your Honor, even though she was not consulting for Gaines Reservation or providing daily business management, she made the decision.

So on this one, Judge, again, I still point to the fact on the front end as far as what was being decided by Darrell Thomas and John Gaines and Andre Gaines, she was not exercising decision-making authority or influencing where those funds would go. We know directly from John Gaines's testimony, he's saying that this was a decision by Darrell Thomas to move this money and find an account to do that. And then John Gaines came in and provided his ex-wife's account to do that, Judge. So that's all I'm saying on that factor.

THE COURT: Well, but it's not as if she didn't know it was on the way.

MR. MARSHALL: She did know that.

THE COURT: Right. So --

MR. MARSHALL: Well, I'm --

THE COURT: As far as the decision as to where it goes, you know, yes, I grant your argument that on the front end of the decision she wasn't involved, but she was involved in the decision itself, in the actual execution. Am I missing something?

MR. MARSHALL: I guess it's this way, too, Judge, you

don't like the drug comparison, but, again, it's that same thing. The person that gets drugs into a stash house, they're not making decisions on the front end about where it's going to go, but that person does have to agree to let the drugs into his house on those separate dates and lock it up and so forth. So there's some type of, you know, decision by saying, I'm going to allow this, but those decisions about where it goes, where the drugs are going to go were not made by that person, it's made by somebody else. I'm saying that here is true also for John Gaines and also for Darrell Thomas, part C.

Part D, Judge, the nature and extent of Jackson's participation in the commission of the criminal activity, including the acts performed and the responsibility and discretion Jackson had in performing those acts. Again, her account was used. That could go either way, Judge. Her account was used for the deposit of the funds, we know that. So that's consistent through all of these factors.

On factor E, the degree to which Jackson stood to benefit from the criminal activity, I write that in here, in the middle of this paragraph -- well, page seven on the government's memorandum, and I write in my memorandum that this is unclear in part because the FBI seized all the moneys shortly after the deposits were made. So we do know that once the moneys got into the account that there was a text message, and it was introduced into evidence at trial, Judge, that John

Gaines directed Ms. Jackson to withdraw money and get three cashier's checks for $10,000 each, and they were made out under the direction of John Gaines. I think two of them were to auto loan payments. They were all directed by John Gaines for her to do that, pull that money out.

So at least for the $30,000 there's no showing that she benefitted at all from that money. There was some additional money, I think maybe about $9,700 I thought we had testimony, I'm not sure if I recall exactly, that was used possibly for other things that related to insurance payments, things of that nature. But other than that, we don't know how these other funds would have been used. Ms. Jackson says they were going to be used for this project they were planning in Alabama. But there's no evidence of her using this money for buying cars and things like that and how she would benefit other than the fact that she withdrew money primarily on the direction of John Gaines to take out these cashier's checks.

So, Judge, I think we're still missing Andre Gaines in all of this. I think it would be true, if we're looking at just the three parties who are here, John Gaines was instrumental in this. He was obviously probably the most important. Andre Gaines was equally important or a little less so because his business was used, his bank account was used, he signed the check, he allowed his bank to transfer the funds that were illegally obtained to Ms. Jackson's account

and to other accounts. So without Andre being available to do this, Judge, they would have had to find some other way to -- and some other account to do this. Andre Gaines was instrumental in getting these funds sent over to what ended up to be Ms. Jackson's bank account.

So of the three individuals I would say my argument is Ms. Jackson is the least culpable of those three in the money laundering scheme, not in anything else, in the money laundering scheme because she was the least active. She did make her account available for the funds to get put into her account, but she didn't create it, she didn't apply for the fraudulent PPP loan that was -- those documents that were signed by Andre Gaines.

So we cannot forget that Andre Gaines is still central to this, Judge, it's not just John Gaines. It's Andre Gaines, it's John Gaines, and then at the end it's Ms. Jackson. I think that should qualify her for at least a two-point minor role adjustment, Judge, again, looking at the case, it's *De Varon* case, comparing the relative responsibilities and what each defendant of those three did in this case and how critical they were in committing the money laundering that occurred in the counts that were charged.

And remember, Andre Gaines was charged with the original money laundering counts like Ms. Jackson. It was his business, it was his PPP loan application, and he signed the

documents for everything, including the bank check, Judge.

THE COURT: Thank you.

MS. CHAIKEN: Thank you, your Honor.

Your Honor, I want to start with Andre Gaines, because our treatment of Andre Gaines as not being a participant was actually to Ms. Jackson's benefit. If you consider Andre Gaines as a participant in the money laundering offense, Ms. Jackson is not even close to being substantially less culpable than the average participant.

Andre Gaines is a disabled, elderly, cognitively-impaired person who has been before this Court and was struggling to even string together sentences. And the Court heard the evidence at trial that Andre Gaines never logged into the Gaines Reservation & Travel bank account after the PPP program was announced in March of 2020. There were no e-mails between Andre Gaines and Darrell Thomas, not a single one. There was no transaction that Andre Gaines ever did in the Gaines Reservation & Travel account after the money came into the account as far as transactions that can actually be linked to him, like a debit card transaction or an ATM withdrawal. His name was on those transactions, the checks and the wire transfers, but there's not any evidence that Andre Gaines got a single dime to himself from the PPP fraud.

And if you were looking at the original indictment that was returned in August of 2020, the very interesting

thing about it is that John Gaines isn't in it, and that's because Andre Gaines was the name that John Gaines used to hide the fact that he was involved.

When we brought the original indictment in August of 2020, in part because of the lies that Andre Gaines told, and in part because of the lies that Carla Jackson told about who was involved, we at that point didn't know yet or didn't have the evidence to prove that it was actually John Gaines behind the scenes pulling the strings of everything.

So, yes, Andre Gaines was charged in those transactions because his name was the one on the check and the one on the wire transfer, but the evidence at trial showed that John Gaines was the one working with Darrell Thomas, John Gaines was the one accessing the bank account, John Gaines was the one telling who where money needed to go.

And so to the extent Andre Gaines was a participant in the money laundering, the evidence shows that his role was that John Gaines put a check in front of him and told him what to write, or maybe even just told him to sign his name, and then John Gaines filled in the information, or that John Gaines drove him to the bank to make a wire transfer. There is no evidence that Andre Gaines knew anything about what was happening in the payments in the Gaines Reservation & Travel account beyond the fact that his name is on there.

So if we're comparing Ms. Jackson's role to the role

of John Gaines and Andre Gaines, she is far more culpable than Andre Gaines, which alone makes a minimal role or a minor role adjustment inappropriate.

As far as the factors, your Honor, again, I think most of Mr. Marshall's arguments blur what the criminal activity is that we're talking about here. We would be in a very different situation if Ms. Jackson had been held accountable for the entire PPP loan fraud that Gaines Reservation & Travel committed.

And just to give the Court a counter example from this case, your Honor, with Aleem Rashid, who the Court may remember, the Court sentenced him quite a while back, he got his own loan. It was a small loan of around 100-and-something thousand dollars for his business, but he also helped Darrell Thomas by recruiting employees for the Bellator Phront Group loan. And he agreed to accept responsibility for the entire Bellator Phront Group loan of around $800,000, even though all he had done was recruit a couple of people to serve as fake employees. And in that case we agreed to a minor role reduction because as compared to the conduct for which he was held accountable he was a minor participant.

And that's not what we have here. Ms. Jackson has not been held accountable for $806,000 PPP loan. She's only been held accountable for actual money laundering that she participated in. And as to that conduct, it doesn't matter if

she didn't see e-mails about how the PPP loan was obtained or why they were trying to hide the PPP loan money. What matters is that she knew that money was coming into her account that was being described as being for consulting fees, for payroll, for daily business management. She knew that those purposes were wrong, were false.

She knew that John Gaines was doing PPP loan money. And when she was asked what the payments were for, she said they were for payroll, which showed that she understood the scope, she understood the structure, she understood the reason why these payments are being made is because it's made to look like it's for payroll and if somebody asks me about it, I need to say it's for payroll, because that's what the PPP authorizes you to make payments for. And I think that that alone is very telling in the fact that she understood exactly what was going on. She said this was for payroll when she was asked about it. Again, I think there's factors that don't really weigh either way.

The second one that -- the degree to which she participated in the planning or organization, we agree that she did not plan or organize this. We agree that John Gaines is the one who brought her into this and that's why we have argued and will argue next week that John Gaines is a manager or supervisor and should get a three-level aggravating role adjustment, but I don't think it particularly weighs in favor

of a minimal role reduction here.

As far as decision-making authority and nature and extent of participation, again, I think the evidence shows that Ms. Jackson made the decision to allow John Gaines to do this knowing what he was going to do. And I think the fact that she allowed him to do it a second time is, again, very telling, because after the first time that she got the checks that said this is for daily business management and consulting fees, John Gaines then asked her to make payments to pay off his auto loans. And then after that, he asked her for her banking information so that he could make another wire transfer. And she gave it to him. And she didn't have to. And at that point she knew full well -- even if she had some tiny little bit of hope that maybe he wasn't actually just trying to hide PPP funds, at that point she knew full well he is using my account to funnel money out of his own account because he's trying to hide it, he's trying to make it look like something it's not, and she let him do it. And he couldn't have done it without her.

And at that point, your Honor, she was not married to him anymore. She was not falsely believing that he would not lead her astray. She knew at that point that she couldn't trust him, and she made the decision to help him in this way. I think that shows that she did exercise decision-making authority and that the nature and extent of her participation

does not make her a minor participant.

And, again, the degree to which she stood to benefit, your Honor, again, I agree this is an area that we don't know because luckily the government was able to seize these funds very, very quickly before anybody was able to spend them. But, again, this is an issue on which Ms. Jackson bears the burden. Ms. Jackson I don't think has met her burden of proving that this factor somehow weighs in favor of a minor role reduction where there's just unclear information about it.

So for all those reasons, we would ask the Court to deny a minor role reduction.

THE COURT: Thank you. Mr. Marshall, your motion, so I'll give you the last word.

MR. MARSHALL: Judge, I think -- just a comment -- a quick comment about Andre Gaines again, Judge. I think part of this will be discussed, I think, in the obstruction enhancement, but it's this reliance on Andre Gaines being the least involved in this. And then I believe the government mentioned about his cognitive issues and he's disabled and so forth. Your Honor, I think when we go to the obstruction I'm going to discuss this declaration that's mentioned by Mr. Gaines.

If you'll recall, Judge, Andre Gaines, it was his company, a fraudulent loan application and all, he had already

been sentenced, he was never called in by the government to testify. That's their choice, but he could have come in and cleared up all of these things about people's roles and what he did, what he didn't do, what he knew about Ms. Jackson, if he had communications with her, things of that nature.

So everything is coming in in a sense on the back of John Gaines, who the government doesn't want anyone to believe generally, but then they pick and select which parts they want the Court to believe, but I just want to remind the Court that Andre Gaines never testified.

And his testimony, even later, will come in through this declaration, which I will go into a little bit more then, Judge. But all of the statements in this, none of this has been corroborated. He's not here to testify. It's just inferences and beliefs about him stemming from the fact that he has some physical and possibly some mental issues. But if you read the declaration, this sure doesn't sound like something that's drafted by someone that has any kind of cognitive disability whatsoever. But we'll get into that a little more on the obstruction enhancement, Judge.

Again, we don't have any information from Andre Gaines. It was his company. I think the pecking order, if anything, is probably John Gaines, number one, Andre Gaines, and then Ms. Jackson. And I think that hierarchy should give the Court some consideration to consider a two-point

reduction, Judge.

THE COURT: All right. Thank you.

I'm going to deny that motion. I don't think the defense has met its burden to show that Ms. Jackson's entitled to a mitigating role reduction here. I'll say that, at least in the papers and in part of the argument, it did seem like the defense was trying to look at not just the narrow money laundering but to look at the greater PPP fraud scheme. Clearly that argument's foreclosed by the *Salgado* case, 745 F.3d 1135, as noted in the government brief, Document 994.

As to the consideration of the factors when I do narrow in on just the money laundering, I agree with the defense that as to factor B, the degree to which Jackson participated in planning or organizing the criminal activity, that factor weighs in favor of a mitigating role.

As to factor E, the degree to which Jackson stood to benefit from the criminal activity, I think that one's neutral, I would say, because we don't know much about what was going to happen with the money that went into her account. But I think the other factors generally work against the defense.

As far as the degree to which Jackson understood the scope and structure of the criminal activity, again, if we look at the money laundering, she did, and the jury found that she did, know about the scope and structure of the criminal

activity. She participated in these financial transactions. She received these funds. And as noted by the government, she got the second set of funds after receiving the first and communications about what was to be done with those.

As to factor C, degree to which she exercised decision-making authority or influenced the exercise of decision-making authority, I think that one is not a slam dunk for the government but weighs against the mitigating role. I agree that Mr. John Gaines was more involved in that decision-making authority and influencing and exercising the decision-making authority because he was the one looking for a place to launder these funds and a place to move them; however, it took Ms. Jackson and her willingness to accept these funds to actually execute that. She had to decide to allow those funds to be deposited into her account on multiple occasions.

And D is similar, similar logic there. Again, not a slam dunk for the government, but I think it weighs in favor.

So all in all, I just don't think the defense has met its burden to show that she's entitled to mitigating role here as to the money laundering.

The next issue is the obstruction. And that's the government's motion, so I'll hear from the government first.

MS. CHAIKEN: Thank you, your Honor.

The government's request for an obstruction of

justice enhancement is based on Ms. Jackson's grand jury subpoena response. Ms. Jackson attempted to obstruct the investigation by giving false information to the grand jury and withholding records from the grand jury.

As the Court knows, the grand jury relies on subpoena recipients to tell the truth and provide complete records so that the grand jury can do its work and do it accurately. Here the grand jury subpoena asked Ms. Jackson on behalf of Management Resource Services to produce communications with Gaines Reservation & Travel. And she said she drafted a cover letter, which she signed, in which she wrote, All communications were in person with Andre Gaines/Gaines Reservation & Travel.

She did not mention John Gaines. She did not produce her text messages with John Gaines, which she then admitted at trial, so we know she had them then because she still had them four years later. She did not say that she had communications with John Gaines.

And even though it's just one line in her grand jury subpoena, it's a very, very important one because it had the effect of concealing that John Gaines had any role in what happened with Gaines Reservation & Travel's PPP loan funds.

There's no doubt that Ms. Jackson willfully omitted John Gaines from her response there because it's consistent with what happened a few weeks earlier when the FBI

interviewed her.

At that interview when she was asked who she communicated with at Gaines Reservation & Travel, she struggled and paused and pretended not to remember. And then she said, Andre Gaines. And when the agent asked her how she knew Andre Gaines, she said a contractor referred her to Andre Gaines. She did not mention John Gaines even once, even though now, as we're hearing from her and as the evidence at trial showed, he was the mastermind of the money laundering. He was instrumental in it. He was the one telling her what to do, telling her the money was going to come, telling her to expect these payments from Gaines Reservation & Travel. But the information that she gave to the grand jury concealed that and concealed the records and the communications that the grand jury was entitled to have in order to do its work.

And, your Honor, even though attempted obstruction is enough, here you can see by the indictment that it did obstruct the investigation, at least for a time, because when that first indictment was returned, John Gaines wasn't on it. At that time the grand jury did not know the role that John Gaines played. And that was because Ms. Jackson concealed from the grand jury and affirmatively lied to the grand jury when she said I had in-person communications with Andre Gaines. That was not true.

First of all, there's no evidence she had any

in-person communication with Andre Gaines ever, but she certainly had text communications with John Gaines, in-person communications with John Gaines and other communications with John Gaines, none of which was disclosed to the grand jury either in the cover letter or in terms of producing the actual documents.

And I would just say, your Honor, Mr. Marshall raised Andre Gaines. We are not relying on Andre Gaines or any testimony or anything that he is saying for this obstruction enhancement. The Court can look at the cover letter itself and at the grand jury subpoena response itself, which was attached to our sentencing memorandum, to see what Ms. Jackson sent to the grand jury. She sent it to the grand jury from her own e-mail. She signed it in a signature that the Court saw multiple times across multiple documents at trial, that was her signature.

And to the extent that we also mentioned the fact that Andre Gaines's grand jury subpoena response was nearly identical, at least as far as the cover letter goes, and Andre Gaines had said in his declaration Ms. Jackson drafted that, I think that's clear from the face of -- looking at the letters that they were both drafted by the same person. They both followed the exact same format, they have the exact same font and spacing, they both accidentally label requests A through I instead of A through H, which was in the request. It's very

clear that they were drafted by the same person. And, frankly, for purposes of the obstruction enhancement, it doesn't matter who drafted them because Carla Jackson is the one who went into her e-mail, took that document and sent it to the grand jury knowing that there was false information in there that would mislead the grand jury into believing that John Gaines was not involved in this offense.

And, again, your Honor, just to respond to something Mr. Marshall raised both at trial and in the sentencing memorandum, there's this allegation about missing information in the grand jury subpoena return or the grand jury subpoena. I'm not sure exactly what the claim is, but there's no doubt from the cover letter that Ms. Jackson knew she was being asked for communications with Gaines Reservation & Travel because she said, I had in-person conversations with Andre Gaines.

So there was no missing instruction about -- you know, that could explain why she mentioned Andre Gaines and not John Gaines, and why she did not say that there were also written communications that she was withholding from the grand jury.

For those reasons, we think an obstruction of justice enhancement is warranted.

THE COURT: Thank you.

Mr. Marshall?

MR. MARSHALL: Judge, I have a few things I want to go through on this, but I want to start with the guideline 3C1.1, and I want to go to the factors and point out to the Court the government's not made any reference at all to what part of the guidelines supports this, but I will, not that it supports it but what isn't shown by the government's testimony.

So in the notes, your Honor, the commentary and the application notes, the Sentencing Commission gives examples of covered conduct which would make something eligible for an obstruction enhancement, and that is basically A through K. They list multiple types of activities that could constitute obstruction under this guideline.

And then under application note five there are further examples of conduct ordinarily not covered and there is a list of those. And that goes from A through E. I just want to start a little bit with A through E.

The one that would come anywhere near close to what the government is arguing as far as a false -- as far as obstruction would be part B as something that would not be covered. And that is this, it says, Making false statements not under oath to law enforcement officers unless application note 4(g) applies. And I'm going to go back to that in a second and we'll get there.

So if you have somebody at the door and they happen

to make a statement, they provide a false statement to a law enforcement officer or an FBI agent, that doesn't automatically qualify someone for an enhancement. That's clear because that's considered --

THE COURT: One second, Mr. Marshall.

MR. MARSHALL: -- part of the conduct.

Were you going to ask me something, Judge?

THE COURT: I said one second.

Go ahead.

MR. MARSHALL: So that is application note five, examples of conduct ordinarily not covered. But it does make a reference in that section that regards false statements to 4(g). So let's go to 4(g).

Application note 4(g), examples of covered conduct. They list multiple examples. And the one that's most, I guess, applicable here that the government has to bear, they bear the burden on this, Judge, someone providing a materially -- and that's important -- materially false statement to a law enforcement officer that significantly obstructed or impeded the official investigation or prosecution of the instant offense.

I'm going to go into the subpoena return and all that individually. I'll do that separately, Judge, but let's talk about that just for a second.

I'm going to cite to *United States v. Mason*. This is

a F.App'x case, 168 F.App'x 905. It's a 2006 case, an Eleventh Circuit case. And in this case the Court lays out -- it addresses the issue of the obstruction enhancement in C31.1. And there's a requirement on the district court about how it has to look at this enhancement and whether to apply it or not.

When the district court applies the obstruction of justice enhancement, quote, it should note specifically what each defendant did, why that conduct warrants the enhancement, and, if applicable, how that conduct actually hindered the investigation or prosecution of the offense.

In this particular case, this *Mason* case that I just cited, Judge, there was an argument from the government that *Mason* provided a false police report and it delayed the investigation and prosecution by several months. And the appellate court says the district court provided no further explanation.

A court must provide a specific explanation for the enhancement of a sentence based on a false statement to a law enforcement officer. The district court did not explain how *Mason's* conduct actually caused a delay in either the prosecution or investigation. The record also does not reveal how, if at all, *Mason's* action delayed the investigation. So let's go into this a little bit again.

In the government's memo, Judge, the government

asserts that because of the statements made by Ms. Jackson at the door when Agent Stites visited her, and in her response to the subpoena, that that caused a delay -- I think in their memorandum said a year delay. It's on page nine. It basically said, During that interview, she did not mention John Gaines to the FBI even once despite the now known fact that he was central to the matters the FBI asked her about.

And they talk about the subpoena response. And it says, John Gaines was not indicted until nearly a year after Jackson, thus an obstruction enhancement should apply.

Let's look at that a little bit. We've marked Defendant's Exhibit 1, Judge, is a portion of a transcript, it's the unofficial transcript but it's from the February 8th trial date and it's the cross-examination of FBI Agent Stites and on our page --

THE COURT: Sorry. You're referencing a document I don't have.

MR. MARSHALL: Right. I'm going to give it to you, Judge.

THE COURT: It may be helpful -- maybe you should give it to me before you start reading from it, if you're planning to give it to me.

MR. MARSHALL: Judge, I would tender that into evidence now.

MS. CHAIKEN: No objection, your Honor.

THE COURT: It's admitted.

MR. MARSHALL: If the Court can just review that page.

THE COURT: There's two pages.

MR. MARSHALL: I think it's 221, Judge, there's some questions about the first interview that was done. And John Gaines I think is mentioned.

THE COURT: All right. Go ahead.

MR. MARSHALL: So, Judge, in my questions to Agent Stites in cross-examination, I asked him -- I think, in your review of the document, Judge, this is during the first interview. The first interview that occurred, the knock-and-talk at my client's house, was on July 7th, 2020. That interview recording was introduced into evidence.

By the way, Agent Stites never asks Ms. Jackson at all, doesn't mention the name "John Gaines" at all one time. But in that testimony there it says that John Gaines was on their radar already. The government knew about John Gaines. When they went up and knocked on her door on July 7th, 2020, he was already on their radar. So I'm pulling this into this issue about whether this was a significant delay of the investigation because that's what goes to 4(g) and to the overall enhancement. So they already know about him.

And to put this in context, know, Judge, that the subpoena that they give to Ms. Jackson -- you have a copy of

that in the sentencing memorandum -- doesn't make mention of John Gaines anywhere. It makes no mention whatsoever. So I'm going to go up to that, and we're going to go to that in a second.

So the government does know about John Gaines. They already knew that he must have been involved with either Darrell Thomas or with Andre Gaines. So this argument that somehow Ms. Jackson not mentioning John Gaines on July 7th, 2020, is just incorrect. He was already on their radar. They were already investigating who he was.

Let's go to the subpoena response. And there are missing pages from this document. And I'll just refer, there's an exhibit with this attached to the government's memorandum, so I don't need to introduce another exhibit. It's Document Number 994 and it's Exhibit, I think, -1. And this would be Ms. Jackson's return. It's several pages, the subpoena return. And then it goes into the specific production requests. And the production requests I would refer the Court to start at Roman Numeral V and go on from pages five through six. And let's look at exactly what was asked of Ms. Jackson in this subpoena request.

So H is referenced in that cover letter, maybe labeled as I. All communications with the following individuals and/or entities. I don't see John Gaines there anywhere. There is a reference to Andre Gaines, and there's a

reference to Gaines Reservation & Travel. John Gaines is not a founder or a co-owner of Gaines Reservation & Travel. Andre Gaines owns that company. John Gaines's name was not on the subpoena request, even though, according to Agent Stites, he was already on their radar.

THE COURT: So is the defense argument that although we know John Gaines was communicating with Ms. Jackson and depositing funds from Gaines Reservation & Travel to Ms. Jackson, is the argument that she shouldn't have interpreted that to include John Gaines --

MR. MARSHALL: Judge, I'm going strictly by the subpoena.

THE COURT: I'm just clarifying if that's your argument.

MR. MARSHALL: My argument is what's on the subpoena.

THE COURT: That's a loser argument. Move on.

MR. MARSHALL: All right. That's not asked of Andre Gaines, she doesn't answer it.

In her first interview, Judge, she is not asked anything about John Gaines. She is asked about Andre. She's asked questions about Gaines Reservation & Travel. And she's asked about anyone she had contact with. I forget the exact phrase, it's in the record. But Andre Gaines was the person that was discussed by Agent Stites.

And I point that out, Judge, because there was a

second interview done. The first one was done on July 7th, 2020. The second one was done on July 27th, 2020. And this is 20 days later. And they -- Agent Stites comes over again with I think it was Agent Cromer and comes over specifically to the same residence, to Ms. Jackson's house, looking for John Gaines, they want to specifically talk to him. He's not there at the time. So they've gone over there, they want to see him and talk to him on that date.

She mentions and answers all of his questions. When they ask for him specifically, she says he's not here, he does stay here occasionally but he's not here now. She's not untruthful at all. The first interview she was never asked anything about this, Judge, so I would point that out.

Now, as far as the subpoena and the cover letter being identical, again, Judge, I'm going to go back to Andre Gaines. He is not here.

THE COURT: Couldn't you have called him here?

MR. MARSHALL: Well, for this, it's not my -- this is the government's burden, Judge.

THE COURT: I understand it's the government's burden. The government is making its argument, but couldn't you have brought him here and said your declaration is a lie?

MR. MARSHALL: Well, Judge, it's not my burden to do that, and why would I need to do that? I mean, it's not my burden, Judge, to do that. I would have figured the

government would have done that in trial --

THE COURT: Well, the government is meeting its burden with the declaration, so wouldn't you want to combat the declaration by bringing him in and cross-examining him?

MR. MARSHALL: Does the Court believe they met the burden with the declaration?

THE COURT: No.

MR. MARSHALL: Okay. All right. I will say this about the declaration, Judge, if I can back up.

THE COURT: I'm just saying, I mean, it's odd for you to say they could have brought him here given the rules of a sentencing. If you don't like the declaration and want to combat it, I would think that you would want to bring him here to cross-examine him to show that the government hasn't met its burden.

MR. MARSHALL: Well, Judge, sometimes a defense attorney wants to do this. Other times they just want to say, you know what, this is improperly admitted evidence because of hearsay and because of what I cite in my memorandum, and that's that you can't rely on hearsay evidence during a sentencing hearing so long as -- you can so long as the evidence has sufficient indicia of reliability to support its probable accuracy.

THE COURT: Do you think it has any reliability given that the two letters are obviously written by the same person,

the responsive letters?

MR. MARSHALL: We don't know who that is. And one of them is signed by Andre Gaines.

THE COURT: I understand we don't know who the person is that wrote both of the letters, but would you agree that the same person wrote both of those letters?

MR. MARSHALL: They look similar. They do look similar.

THE COURT: So you won't agree that the same person wrote both of those letters?

MR. MARSHALL: What I would say, Judge, is Andre Gaines signed one of them. And Carla Jackson signed another one. I think that's what both of the documents show to the Court.

THE COURT: You'll go only so far as they look similar?

MR. MARSHALL: They do look similar. They're not signed by the same person, they're signed by different individuals.

Now, if you go by the government when they're making their references in their memorandum that according to Andre Gaines's declaration hearsay statements, that he didn't sign these, that these were prepared and he had other people prepare this document, or he had Carla Jackson do it or John Gaines had Carla Jackson do it, we still don't have him here

to support the government's argument or to support any of the statements in the declaration. And it's not my obligation to bring in Andre Gaines when I'm challenging a declaration that the government is relying on as hearsay in a sentencing hearing. That would be my argument, Judge. I don't have to bring in Andre Gaines if I think this is improper for --

THE COURT: I didn't say you had to. My statement was that your argument would be stronger if you had.

MR. MARSHALL: Right. And the government's would have been stronger also if they had brought him in here and said did you have any communication with Ms. Jackson.

THE COURT: Agreed. Agreed.

MR. MARSHALL: The last argument I would say on that, I don't think the Court can rely on anything that's in the declaration that the government cites to because he is not here. He is --

THE COURT: I'm not persuaded by a lot of what you've said, but talk to me about the significant obstruction. I think that's what I would like to hear more from you about and more from the government about.

I understand that you've shown me part of the transcript where the agent was already aware of John Gaines when he first interviewed Ms. Jackson, but talk to me about how I would define "significant" or how this was or wasn't significant.

MR. MARSHALL: Judge, that's not my burden. So the government needs to put up a witness, like Agent Stites, and talk --

THE COURT: Mr. Marshall, you're misunderstanding me. I'm not -- by asking you that question I'm not misconstruing the standard or whose burden it is. I know well whose burden it is, Mr. Marshall. What I'm trying to get to is whether or not it indeed was significant. I'm asking you, as the defense attorney here -- presumably you think it wasn't significant, and so I'm asking you why it wasn't significant. Please have no fear that I'm not confused about the burden.

If you have an answer to my question, you can give it. If you don't want to give me an answer, I'll hear from just the government.

MR. MARSHALL: Because I know of no evidence that shows it significantly delayed it. That's all I can say, Judge. We know that Agent Stites knew about John Gaines when he went to deliver the first subpoena on July 7th, 2020, and he knew him -- well, obviously probably before that date.

So unless -- like I said, I don't have any evidence that the government's investigation was impeded by Ms. Jackson's knock-and-talk on July 7th, 2020, or her responses in not mentioning John Gaines when the government already knew about who John Gaines was.

THE COURT: So if I understood your argument it's

that you don't know whether it was significant or not?

MR. MARSHALL: I don't. And I wouldn't know that unless Agent Stites got up here.

THE COURT: Thank you. Ms. Chaiken, let me hear from the government on that.

MS. CHAIKEN: Thank you, your Honor. A few points on this.

THE COURT: Please answer that question first.

MS. CHAIKEN: Yes, your Honor. So we're not relying on subsection (g) to the commentary, we are relying on subsection (c), which is producing or attempting to produce a false document or record during an official investigation, which is what happened here with the false letter that contained false information in response to the grand jury subpoena. And the Court imposed an obstruction of justice enhancement on Darrell Thomas and on Gina Pyfrom Foster on the same basis, of producing a false document to the grand jury.

I would note also, your Honor, that the guideline itself --

THE COURT: So is the argument, then, that Mr. Marshall was taking me down a rabbit hole that you don't think you need to go down?

MS. CHAIKEN: Yes, correct, your Honor, I --

THE COURT: As to 4(g)?

MS. CHAIKEN: Yes, your Honor. 4(g) relates to false

statements to law enforcement officers in interviews. And as the Court knows in this case we have not argued for obstruction for any defendant based on lies that they have told to law enforcement, even though many of the defendants in this case have lied to law enforcement. And when I stood up and made my argument just a few moments ago, I said, your Honor, we are relying on the false response to the grand jury subpoena.

I do think, your Honor, that Ms. Jackson's lies here did more significantly obstruct the investigation in ways that some other defendants' interviews did not. But, again, we have not relied on that. We have relied on (c) because of the response to the grand jury subpoena. And the guideline itself also refers to attempted to obstruct or impede. So even under -- under (c), even if there was no significant impact on the investigation, that still would be sufficient.

Just to address what Mr. Marshall said about our knowledge of John Gaines, yes, your Honor, we did know that John Gaines existed. And, you know, without revealing too much about the course of the investigation, at the time -- at that time shortly before the indictment we knew that John Gaines knew Darrell Thomas. We knew that John Gaines was somehow related to Andre Gaines in that he was on the bank accounts for Gaines Reservation & Travel. And we knew that John Gaines had been married to Carla Jackson. So we were

highly suspicious that John Gaines was somehow involved and was the person who connected all people around the PPP loans, but we did not have evidence at that point to support that beyond the circumstantial evidence to his connection to all of the people that were involved. And that was part of why we went out and we did interviews and we sent out subpoenas because we wanted to collect the information to be able to make a determination about whether he was involved or about whether he introduced all these people who did something without his knowledge.

The fact that somebody is connected to people who are involved in a crime does not mean they were involved in a crime. And we cannot bring an indictment against someone because they used to be married to someone who got money into their account without evidence proving their knowledge, their intent, whatever is necessary for what we're charging.

THE COURT: Let me ask you another question.

MS. CHAIKEN: Yes.

THE COURT: So it sounds like 4(g), which Mr. Marshall and I went back and forth on, is inconsequential. We also went back and forth a bit about Mr. Andre Gaines. Is he important to your motion?

MS. CHAIKEN: No, your Honor. As I said in my opening remarks, we're not relying on Andre Gaines or his declaration. It doesn't matter who drafted the grand jury

subpoena response. What matters is that Ms. Jackson signed and e-mailed to the grand jury a document she knew was false and that she knew omitted communications between her and Gaines Reservation & Travel. And to this day we still don't know what communications she had in full with Gaines Reservation & Travel related to these payments because all she admitted at trial is one excerpt that she chose to show the jury.

But, you know, the fact that Andre Gaines said she drafted both is really not consequential. What is consequential is that she knowingly sent to the grand jury a document that she knew was false.

THE COURT: All right. Just so I can get to the bottom of how the Gaines -- Andre Gaines's declaration was even entered into this discussion, then, you objected to the PSR because it didn't contain this obstruction enhancement. And did you submit the Gaines's declaration or did the defense?

MS. CHAIKEN: We submitted it, your Honor.

THE COURT: Okay. When did you submit it and in which document or which filing?

MS. CHAIKEN: I believe that it was with our objections.

Officer Ridley, is that -- no?

THE COURT: I'm just confused about the Andre

Gaines's declaration because Mr. Marshall will stand up and say, ah-ha, the government hasn't produced them, all they have is a declaration. And I asked him, well, you could have called him, too. He took offense to that.

I'm trying to get to the bottom about who introduced the Gaines's declaration first and where is it?

MS. CHAIKEN: Your Honor, I'm not sure if the Gaines's declaration was given to Officer Ridley in connection with another defendant, or when it was given to her. I'm certain I gave it to her at some point. At least I assume I did.

So it looks like I gave it with my objections. And it's a detail, your Honor, and it is something that we provided. And after seeing the attack on even the consideration of the declaration, you know, we realized we were not -- the heart of our request for the obstruction enhancement was not dependent on that. I do think it's an additional thing that the Court can look at.

And, again, I think it's clear from the face of both responses that the same person drafted both letters.

THE COURT: All right. The issue is, and as I'm -- you noted that you included the declaration in your objections to the PSR. I have -- in the PSR I've been given, I have page 34 is objections by the government and the defense. And then attached to that is a two-page letter from the government and

a three-page letter from Mr. Marshall on behalf of Ms. Jackson, but it's not attached there.

MS. CHAIKEN: Your Honor, Mr. Marshall showed me what I believe is my original letter that I submitted with the objections. That did look to have that attachment, the declaration as an attachment. So it looks like that was not appended into the PSR.

THE COURT: Okay. So I don't have it. I've been reading about this declaration and whether or not it's important or not important and who should have called who, but nobody's ever actually -- and maybe it came in somehow in the trial as an exhibit or something, but I don't think it's been marked and I don't think it's in the record for this.

Is it in the record anywhere that anyone knows of?

MR. MARSHALL: No, your Honor, it wouldn't have been. It would have been hearsay during trial, it wouldn't have come in. I have it.

THE COURT: The point is I haven't even seen it yet because I don't think anyone's submitted it. And it may have been that everyone assumed that anything attached to your letters would have made the PSR, but I don't think -- Officer, it's not in the PSR, is it?

OFFICER RIDLEY: No, your Honor. It appears it was left off of the final PSR.

MS. CHAIKEN: We're happy to make it a part of the

record, your Honor. I can e-mail a copy to Ms. Lee after this hearing or --

THE COURT: Since we've now spent 20 minutes talking about it, I would like to actually see it.

MR. MARSHALL: Judge, I have marked this as Defendant's Exhibit 3, as being possibly introduced. I do have this if the Court wants to look at it.

I tender this as Defendant's Exhibit 3 to the Court.

THE COURT: No objection, government?

MS. CHAIKEN: No, your Honor.

THE COURT: All right. It's admitted.

Give me a minute.

(Pause in the proceedings.)

THE COURT: All right. I've now reviewed the declaration of Andre Lee Gaines, Defense Exhibit 3. And I guess -- as I try to climb out of this rabbit hole, I guess I just need to know, you know, again, Ms. Chaiken, Mr. Marshall said the Gaines's declaration is bonk, and so I need to know whether or not you want me to consider the Gaines's declaration or not. I mean, the part of it that's relevant here is -- the part of it that's -- well, probably more than that, but the primary part that's relevant is he says that Carla Jackson wrote his responsive letter for the subpoena. Do you want that evidence in or not?

MS. CHAIKEN: Your Honor, we're not relying on that

evidence. I would point the Court to page nine of our sentencing memo where we said, Ms. Jackson argues that the United States request for an obstruction of justice enhancement is premised on Andre Gaines and that the Court should require Andre Gaines to testify before imposing an enhancement.

Not so. Jackson's attempts to obstruct and impede the investigation are evident from the face of her letter to the grand jury, the materials omitted from her grand jury subpoena response, and the contrary evidence presented at trial.

While Andre Gaines's declaration establishes that Jackson drafted Management Resource's and Gaines Reservation's letters, Jackson's apparent challenge to that assertion is immaterial because it is evident from the letters themselves that the same person drafted both letters.

In addition, Jackson produced her grand jury subpoena response from her personal e-mail address and with her signature. To the extent she did not draft her letter, she still signed and submitted it to the grand jury knowing it contained falsehoods and concealed information and documents.

So I think it was clear before today and, again, we reiterate we're not relying on anything Andre Gaines said to establish the obstruction enhancement.

THE COURT: All right.

Mr. Marshall, do you want me to consider the Gaines's declaration?

MR. MARSHALL: No, your Honor, just as long -- if the government's position is they're not relying at all on it, then that's what concerned me because there were references to it in their sentencing memorandum, that's what I was objecting to, Judge, is when they made references to his declaration, so...

THE COURT: Well, I think Ms. Chaiken's now clarified if it wasn't clear before -- and I'm not sure it was based on the papers, she's now clarified in their argument that they're not relying on it. You don't want me to rely on it either, so I won't consider the Gaines's declaration.

MS. CHAIKEN: Unless the Court has further questions --

THE COURT: All right. Thank you.

MS. CHAIKEN: Thank you.

THE COURT: So, Mr. Marshall -- and, Ms. Chaiken, it's your motion, I will give you the last word.

Mr. Marshall, we went back and forth about some portions of 5(g), and I think my question might have offended you somehow, but I was actually curious about "significant," and I thought that might be your potential winner, that's why I was asking you about it. But now it sounds like the government is saying it doesn't matter if it was significantly

obstructed or not because we're not relying on 5(g) -- or 4(g), we're relying on 4(c). What do you say to that?

MR. MARSHALL: Well, Judge, it's not laid out in the government's memorandum which part of -- they make no reference to the application notes and what they're relying on. On that, Judge, I would say that I think that that probably addresses more things like where there's an actual -- as it says, like a counterfeit document, some type of altered document, a false document, I would still fall back, Judge, on her position that based on the subpoena that Ms. Jackson got, she answered the questions to the best of her ability. If there had been a question about John Gaines specifically in there, because they knew about John Gaines, that she would have answered and provided documents if she needed to about that. That's what I would say about that, Judge.

This is not an altered document, it's not a counterfeit document. And I think the only falsehood is that there was -- the government is alleging is that there's essentially information that was left out about John Gaines. And our position would be, Judge, they didn't ask about John Gaines, and he was not a founder of Gaines Reservation & Travel.

THE COURT: Ms. Chaiken, what was John Gaines's relationship with the company?

MS. CHAIKEN: Your Honor, he was a signer on the bank

account. And he was the one who was communicating with Ms. Jackson about the payments that were coming from Gaines Reservation & Travel to Management Resource Services. He was essentially saying to her, we need to make another transfer to you from Gaines Reservation to Management Resource, what's your bank account number. He was the one who delivered her a check from Gaines Reservation & Travel to Management Resource for her to deposit. So his relationship to Gaines Reservation & Travel was he was the only person she communicated with who had anything to do with Gaines Reservation & Travel. And I believe Mr. Gaines's testimony at trial was that Ms. Jackson barely knew Andre Gaines. So that was her sole link to Gaines Reservation & Travel based on the evidence.

THE COURT: All right. Thank you.

I'm going to grant the government motion as to the obstruction enhancement. I think 4(c) of the comments is applicable here as far as production of a false document in an investigation. I think her response to the subpoena was false. That response -- when she was asked for all communications with the following individual and/or entities, that list included number 12, Gaines Reservation & Travel, LLC. She responded to that question that in-person communications were held with Andre Gaines, Gaines Reservation & Travel, LLC, mentioned no communications with John Gaines, and specifically did not mention or produce the text message

to Mr. Gaines that was put into evidence at the trial. So clearly that response was false. The question clearly asked not only -- the subpoena clearly asked for communications not only regarding Andre Gaines but also separately from Andre Gaines, Gaines Reservation & Travel, LLC. John Gaines was intimately involved with Gaines Reservation & Travel vis-a-vis the facts of this case.

All right. And so the record's clear, I'm not considering the declaration of Andre Lee Gaines, and I'm making no finding about the significance of the obstruction under 4(g) of the commentary of 3C1.1.

And I would note that I find that Ms. Jackson did, indeed, sign and send the responsive subpoena response letter. And I need make no finding as to who drafted the letter that Mr. Gaines sent to make my finding as to obstruction vis-a-vis Ms. Jackson. Nor do I even need to find that she wrote the letter that she sent, but she did sign it and send it, that much is clear.

All right. I believe that addresses any guideline objection issues. Does everyone agree?

MS. CHAIKEN: Yes, your Honor.

MR. MARSHALL: Yes, your Honor.

THE COURT: I'll, therefore, adopt the findings of fact and conclusions of law in the presentence report to which no objection has been made.

And as to the objections, several of those have been withdrawn by the defense, but the two that were active involved mitigating role and obstruction. And I have denied the request for mitigating role, and I've granted the request for obstruction.

Based on the findings of fact and conclusions of law the guideline calculations are as follows:

And, Ms. Ridley, feel free to jump in if I muck something up, but I think I've got this right based on my rulings.

Offense level of 20;

Adjusted offense level of 24;

Total offense level of 22;

Criminal History Category of I;

Custody guideline range of 41 to 51 months;

Fine range of 15,000 to $670,476.44, twice the loss;

Supervised release of one to three years;

And restitution of $335,238.22.

Is that correct, Officer Ridley?

OFFICER RIDLEY: Yes, your Honor.

THE COURT: Any objection to the guideline calculations as stated by the Court?

MS. CHAIKEN: No, your Honor.

MR. MARSHALL: Subject to --

THE COURT: Other than what's been previously stated?

MR. MARSHALL: No, your Honor, not other than that.

THE COURT: I'll now hear from the parties as to recommendations for a reasonable sentence concerning the 18 USC, Section 3553(a) factors.

I have reviewed, of course, the PSR, the memos from both the government and the defense and the separate packet of I think 68 pages or so of letters on behalf of the defendant.

Are there any other documents or letters for the Court from either side?

MS. CHAIKEN: Not from the government, your Honor.

MR. MARSHALL: Not from the defense, Judge. We do have -- at some point we do have some witnesses that we alerted the Court to that would like to briefly address the Court. I think we have about -- at least five people, Judge, no more than that.

THE COURT: All right. Thank you, Mr. Marshall.

Are there any victims present that wish to speak or present evidence in connection with the sentence in this case?

MS. CHAIKEN: No, your Honor.

THE COURT: Mr. Marshall, I'll be happy to hear from your first witness.

MR. MARSHALL: Yes, your Honor.

Mr. Smith, are you here?

Angela Meyer, please.

When you get to the microphone, just state your name

for the record and your relationship to Ms. Jackson and then tell the judge what you want to tell him.

THE COURT: One moment, ma'am.

MS. DICKSON: Hello, my name is --

THE COURT: Oh, one moment, ma'am. I'm sorry.

Off the record for a moment.

(Off-the-record discussion.)

THE COURT: All right. Go ahead, please. Back on the record.

MS. DICKSON: Thank you.

Hello, my name is Angela Dickson, and I'm a dear friend of Carla Jackson.

THE COURT: All right. Ms. Dickson, let me interrupt you. Are you one of the people who wrote a letter?

MS. DICKSON: I'm sorry?

THE COURT: Did you write a letter as well?

MS. DICKSON: No.

THE COURT: Okay. Thank you. Go ahead.

MS. DICKSON: My name is Angela, as I mentioned. And I'm a dear friend of Carla Jackson. She and I have been friends since middle school. We go way back to our hometown of Indiana.

I just want to let you know who Carla is to me. Carla has always been a dear friend we could always call on, we could always count on as far as giving us positive feedback

on how to be a better person in life. Carla's always been a person that you could call on to ask for advice when you're falling apart, because I've fallen apart many of times and Carla has helped me get back together.

Carla Jackson has always been a person who upholds justice. She upholds liberty. She upholds dignity. She's the kind of person that we need in society. She is the kind of person who helps feed the homeless. She is the kind of person who is a sister to people who have no sisters. She's the kind of a person who is a mother to people who have no mother. Carla Jackson is the person that we need out in society.

I ask that you please, I beg that you please have mercy on my friend because she is not the person that the prosecutor has presented her to be. She is the person that loves to give and help. She is the kind of person that helps mentor the youth. We have put together a youth program. Carla Jackson has mentored the youth. She has mentored us. She has been just an amazing person. And I'm so sorry that she got caught up into whatever this whole thing is. But the person that Carla Jackson is is the kind of person that you would want your son or your daughter to be affiliated with because she is just a good, humble person.

I would not stand here, take my time off of work, miss out on traveling if I did not want you to really know

that Carla Jackson is the person that society needs. And I ask that you please have mercy on my friend.

THE COURT: Thank you, Ms. Dickson.

MR. MARSHALL: Arlisher Jones.

Same thing, when you address the judge, just give your full name and what your relationship is to Ms. Jackson and tell the judge what you want.

MS. SWAN: Your Honor, my name is Arlisher Jones Swan actually. Carla Jackson and I have been friends --

THE COURT: Let me interrupt you. I'm probably going to ask everybody the same question. Are you one of the people who wrote a letter?

MS. SWAN: No, your Honor.

THE COURT: Okay. Thank you.

And, Mr. Marshall, maybe you can help me out. Is anybody that's going to testify, have they also written a letter?

MR. MARSHALL: Just one second, Judge, I'll confirm that.

THE COURT: Go ahead, Mr. Marshall, I think you were going to give me a list.

MR. MARSHALL: Judge, the only two -- I had given you a list. Venita McCollum, Ms. McCollum had written a letter. And Tammy Moore is here, she has written a letter also. They're the only two that would like to speak today who have

also wrote letters, Judge.

THE COURT: When you get to them, I may have you tell me which page it is of your 68-page document so I can find it quickly. I'll go ahead and hear from Ms. Jones first.

Ma'am, go ahead.

MS. SWAN: Yes, your Honor. Once again, my name is Arlisher Jones Swan. I've known Carla for over 35 years. We grew up together in a small town in Indiana. Carla and I relocated here before we graduated from high school. I was shocked and surprised that she was moving her senior year as well. But I was very pleased. If I could have picked anyone to move here with me, it would have been Carla.

We managed to speak several times during our senior year. And she was on one side of town, and I was on the other, but it was a great comfort to me to know that I had someone who was such a good friend on the other side of town that I could count on.

Through the years Carla and I have reconnected through service. We have served through mentoring groups Ms. Dickson mentioned. We also have been part of a book club. We've traveled together. She's helped mentor my children. My children often joke -- I have five -- that they wish that Ms. Jackson was their legitimate aunt instead of just someone that they just call aunt. She is very kind. She is very loyal. She is a person that I am very, very grateful to call

a friend.

Your Honor, I would ask that you would look upon her with mercy. I would ask that you would look upon her with kindness.

And I would ask, Lord -- as well, your Honor, that you would give her an opportunity to right this wrong on the outside as opposed to on the inside, your Honor. Thank you.

THE COURT: Thank you, ma'am.

So are you from Gary, Indiana?

MS. SWAN: Yes, sir, I am.

THE COURT: I read a lot about Gary, Indiana, over the last couple days. And I'm betting half the people in the gallery are from Gary, Indiana, or something.

MS. SWAN: Yes, sir.

THE COURT: I feel like I need to ask what part of Indiana is Gary, Indiana?

MS. SWAN: Gary, Indiana, is in the northwest part of Indiana, approximately 20 minutes outside of Chicago, Illinois. It is considered a bedroom community of Chicago right now. It is comprised of hard-working, middle class individuals. It is a steel mill town. And we are lakefront, we sit on the corner of Lake Michigan.

THE COURT: Nice certain parts of the year, I bet, but maybe not so nice in others.

MS. SWAN: Harsh winters, sir.

THE COURT: Okay. Very well, thank you. I've had the pleasure or displeasure of being to Cleveland. I've not been to Gary, Indiana, in the winter months, but I went to Cleveland once --

MS. SWAN: Very similar in weather.

THE COURT: -- and I was wishing I hadn't been there in the winter.

All right. Thank you.

MR. MARSHALL: Venita McCollum.

Judge, I'll have to apologize. I submitted that as a composite exhibit, so I --

THE COURT: That's okay. I'll flip through and find McCollum. I'm just trying to get context of the letters when people talk, so I'll find it real quick.

MR. MARSHALL: Ms. McCollum, we'll let the judge go through those. He has a lot of letters to look through.

And the other one is Tammi Moore, Judge, that's the other one.

THE COURT: Would you believe it's on pages 67 and 68 of your 68-page filing?

MR. MARSHALL: Were you able to see Tammi Moore also?

THE COURT: I can only do one thing at a time. As you know, I was looking for just Ms. McCollum's. So let me look back through my notes of that letter before I hear from you, Ms. McCollum.

MS. MCCOLLUM: Okay.

MR. MARSHALL: I apologize, Judge. I didn't put them as separate exhibits.

THE COURT: No, it's fine. It's fine. I found it. Okay.

Ms. McCollum, good afternoon. How are you?

MS. MCCOLLUM: Good afternoon. I'm well.

THE COURT: I read your letter, and I would be happy to hear from you now in more detail.

MS. MCCOLLUM: Okay. I'm going to keep it sweet and simple.

I, too, am from Gary, Indiana. And Carla and I have been friends since sixth grade. And I do considered her my very best friend.

Carla has been with me all of my life and most of my adult life. And I can't believe at 56 years old we are here begging for her mercy. But we are glad to be here and stand in the gap for her because she is, first of all, a woman of God, a woman who lives a very Godly life, a woman that we are very proud of. Someone that we call sister. Someone that my kids also can call auntie. She's been there through both of my births. She's been there for me through a divorce, through the death of both of my parents, through the loss of jobs, through bachelor's degrees, through working on a master's degree. She's been my support, and I have, too, been hers.

And there's so much we can say about Carla. She is a confidant, a good friend. She's works in the ministry with us at church. She feeds the homeless. She helps the needy. She works in after-school programs. And we have come a very long way.

And Carla has always been the one who has always had it together at a very early age. She worked at McDonald's very young from the front counter to management. She worked for the McDonald's Corporation. She has given over 25-plus years to IBM Corporation. Her credit is impeccable. Her home, has owned her home for several years. And has also maintained very good credit. I don't think my friend would want to give all of that away and -- for this foolishness.

I just beg of you that you find it in your heart to find leniency on her and that she can have probation because Carla is someone that needs to be in the community to continue doing the good work that she has done this far in life.

THE COURT: Ma'am, thank you.

MS. MCCOLLUM: Thank you.

MR. MARSHALL: Tammi Moore.

Judge, page 59 in the exhibit number.

THE COURT: Thank you whoever found that.

Ma'am, hello. Give me one minute. I want to look back over your letter before I hear from you, okay?

MS. MOORE: Yes, sir.

THE COURT: Ma'am, I had a notation from your letter, I've got a little star by it. I think you've got the best street name maybe I've ever heard in my entire life.

Anybody else knows what street her business is on or lives on? Sly Fox Run. That's outstanding.

MS. MOORE: Thank you.

THE COURT: I'm imaging some wonderful little country lane with wildlife prancing around.

Is it like that?

MS. MOORE: No, not at all. But it is a subdivision.

THE COURT: Maybe it was long ago when they named it Sly Fox Run.

MS. MOORE: Yeah.

THE COURT: Go ahead. Tell me a little bit more about how you know Ms. Jackson.

MS. MOORE: Yes. Thank you, your Honor, and the distinguished members of the court. I just want to share some words to help you understand who Carla really is.

She has just been a model citizen. I know from me when I moved to Georgia in 2003 and we all came together from Gary, Indiana, we started a women's book club. And through that book club and under the leadership of Carla we were able to start feeding the homeless, as you heard before. We actually started a teens group called Teens with a Dream under her leadership to help children just navigate through life and

navigate through crisis. As a matter of fact, some of them showed up today, called off of work, some of the teenagers that she's poured into.

She hasn't had any children of her own, but she's been a mother to so many kids. She's just been a beacon of light. She's been a model citizen, helped me be a better person in corporate America. She helped me to understand the importance of cleaning up my credit score and even to be a better person just as a wife and a mother.

My husband and I started a coaching program, and we help people start transportation companies. And we've helped over 700 people start transportation companies through her guidance, riding with us shotgun every step of the way, helping us understand how to run a business and to be successful and how to give back.

And I think about why would she, someone that's spent all her life building such a successful life, successful career, just throw all this away? So it defies the odds. It's not who Carla really is, your Honor.

What I know for sure is that in every family throughout generations the Lord identifies one or two souls within the family to help break generational curses, to change the whole trajectory of the family's life, to change zip codes, to pour into people. And she is the one that God has chosen, not only in her family, but in the community to make a

difference.

And I ask God -- your Honor -- I'm sorry, I just called you God.

I just ask, your Honor, if you would have leniency on her. Again, probation, something that she can still -- she can still be on the outside helping and giving back to the community, because what we're hearing today and what we've heard so far is just not Carla Jackson.

As I close, I'm just wanted to say, just think about it, if you had a child or spouse or someone who was close to you that was going through something, going through a challenge, suffering through life, and you happen to go on Google looking for the best life coach, the best counselor, someone that could pour into them and help them change their whole trajectory of their life, you would find Carla Jackson in that Google search. I'm talking about the poster child in the Google search.

So I just ask that you have leniency on her, probation. This is the first time of her ever being in court, ever being in trouble. And I can rest assure to you that this will never happen again.

Thank you, your Honor, and I thank you for this opportunity to speak.

THE COURT: Thank you, ma'am.

MR. MARSHALL: Judge, those are all the witnesses

that wanted to make a statement. It's possible Ms. Jackson wants to make a brief statement, Judge.

THE COURT: Thank you.

Yeah, usually I'll hear from her after I hear from you, so we'll wait on that one for now.

Mr. Marshall, I'm happy to hear from you now.

MR. MARSHALL: Sure, Judge.

You already have the memorandum that we submitted and you have the government's, your Honor. I think I just want to make some general comments, your Honor.

I know the unusual posture that this is in because I know one of the statements in the government's memorandum is that Ms. Jackson hasn't shown remorse or admitted responsibility, accepted responsibility. And, obviously, we're in a -- she went to trial. She obviously has a right to go to jury trial, exercise that constitutional right. And the jury found the government's evidence sufficient to meet their burden. So it's a -- I'm in a tough spot, your Honor, because this is probably -- you know, I don't always get defendants where I believe that the jury may have gotten it wrong, different evidence. But I truly respect what the jury found, your Honor, I have to do that.

I would just say, your Honor, for all the purposes like -- I know there's a general deterrence purpose that has to be for the greater public. There certainly no specific

deterrence that is needed for Ms. Jackson. I would bet the Court would probably agree that they would not see Ms. Jackson back here ever again for anything.

She's gone her entire life without any criminal history convictions or any kind of interactions with law enforcement. She's lead a successful life and career. You have a copy of her resume that I submitted as part of the memorandum. She's done very, very well.

I will tell the Court, even in all my calls with Ms. Jackson, it sounds like a defense attorney kind of being managed by a manager because I'll get kind of repeat messages or text messages or e-mails to remind me, when are we going to meet, let's do a Zoom meeting, what would be the agenda, what are we going to go over. So she's very organized and on top and that's probably from her decades of experience working for these types of companies. So it's a shock to see her in this position, Judge.

The 3553(a) factors under Title 18, Judge, the nature and circumstances of the offense, obviously it's a serious charge. All of the charges in this indictment are serious. They have to be addressed. We do not dispute that at all.

The history and characteristics of the defendant, I think we've put forth amply a lot of letters attesting to Ms. Jackson's good character and background and how this is absolutely an anomalous result in her life for who she is. So

that is addressing factor one under A(1).

A(2), the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law and to provide just punishment for the offense. Again, we're going to get into this discussion about what is proper. Is a custody sentence appropriate? Should it be within the guidelines? Is probation an option? Is some mixed type of sentence available? Those are things I may just address at the very end of this statement, Judge.

To afford adequate deterrence, we've talked about that a little bit. I made a reference in there as far as general deterrence, Judge, that there are now additional controls in place for at least the PPP loan program. I know that Ms. Jackson was not charged with PPP loan fraud, but those are in place so it makes it much more difficult for offenders to come out and procure these types of illegal and begotten gains, like Darrell Thomas did, like John Gaines did, to submit these applications. We know it's serious, though, Judge. But we'll address also, I think she's been adequately deterred.

And probation, I do remind, Judge, whether it's an option for the Court or not, it does have -- it is a serious restriction on somebody's liberty. The United States Supreme Court I think in *Gall v. United States* actually addressed that. It is not something without severe restrictions on what

somebody can do with their life. And if it's coupled with something like a home detention-type sentence, you can't go anywhere without informing probation or supervision officers. You can only do certain things. You have to report on a certain -- a regular basis. You're restricted obviously on the things you can do outside. You can't travel without permission. Lots of special conditions that can be imposed on somebody so that their liberty is not free. It is restricted. And probation is what it is. It's a suspended prison sentence to see if somebody can do well and perform well. And if they don't, that probation is taken away and they go into custody.

To afford adequate deterrence, to protect the public from further crimes of the defendant. Judge, I don't see that happening. I would doubt that the government's going to argue that she will be a future threat.

Educational or vocational training, that's not really relevant here, Judge.

The kinds of sentences available. We'll talk about that a little bit more, the sentencing ranges.

Let me go into the next factor. Factor 6, to avoid -- the need to avoid unwanted sentence disparities among the defendants with similar records who have been found guilty of similar conduct.

Well, I did want to point out, again, Andre Gaines -- I know that the government listed only one defendant in this

overall case that received a probation sentence. I'm assuming they're referring to Andre Gaines because of his health background. He did get a five-year sentence. And, obviously, he was involved more so than just the false statement, Judge, although certainly controlled, I think, by John Gaines.

Restitution. Obviously restitution needs to be paid. And that would be done by a sentence that gets Ms. Jackson out sooner rather than later.

Your Honor, I think I remember asking the -- and this is back on me. I know the Court will remind me, the jury's verdict is in. In my closing argument I made a statement to the jury, I said, you know -- I came up after Ms. Chaiken's argument and I said, you know, it's kind of interesting, why would this woman go through all these decades of successful work, going up to the top levels of project management, working 20 years, 17, 20 years for IBM, doing all this, at the time she had a current job, a job that was paying her, I think, $144,000 a year, was not in financial straits, anything of that nature, just decide on a whim to commit money laundering. And it just -- I tried to get the argument across to the jury, they didn't agree, was that, well, because that's not common sense, it's not logical that someone would do that with that kind of background and do something like that. What is more logical is that she was lied to on a regular basis by her ex-husband, Mr. John Gaines.

And we know from the testimony in the trial that we got out other frauds that he had been doing for years and years before -- my client knew nothing about, other types of frauds, credit card fraud, license, ID documents. Nothing. And yet she was married to this man for quite a long time.

And I think people may ask sometimes, how can someone this smart, this type level, be involved with someone like this? Well, who knows why we end up picking some partners sometimes, Judge, but people can get fooled by people that they're close to and in close relationships and not realize really who they are until decades later. I say all that, and I don't mean to get the ire of the Court, we respect the finding of the jury.

Judge, I just ask before Ms. Jackson makes a statement to just consider all the sentencing options. I know she went to trial. I know that probation in that context may be a stretch. And I'll just be honest about that because normally you do not get acceptance of responsibility and there's some type -- it's not really a trial penalty but there's something that goes along with that, with making that decision to go forward in trial.

But I would just ask the Court to, you know, consider everything that she's done and to impose something -- probation, possibly home detention. Or if the Court is going to order detention, make it as low as possible so that all of

these people, the 40 people -- honestly, Judge, I could have gotten you close to 100 letters from other individuals that know Ms. Jackson. It's not just 40. That's the largest number of support letters I have ever had in any of my cases. So she is well loved in her community by everyone here and all the other people who didn't show up today.

So I think a sentence could be fashioned, Judge, to where if the Court wants custody, it can be a very low amount, maybe coupled with home detention, maybe some probation. But we would ask the Court to consider that instead of just a guideline sentence, your Honor. Thank you.

THE COURT: Thank you, Mr. Marshall.

We've been going a good while, I think we should take a break before I hear from Ms. Jackson and the government.

All right. Let's take about a five-, ten-minute break.

(After a recess at 2:51 p.m., the proceedings continued at 3:02 p.m. as follows:)

THE COURT: Ms. Jackson, I've had the benefit of hearing from your counsel, but if there's anything you would like to personally say before I sentence you this afternoon, I would be happy to hear from you now, ma'am.

THE DEFENDANT: Thank you, your Honor. And I'm just nervous and terrified, so I'm going to just read from something I wrote so I don't lose my points, if you don't

mind.

Your Honor, thank you for allowing me an opportunity to speak. I do stand before you with a heavy heart, aware of the gravity of this case and the impact of all the defendants' actions.

I am deeply sorry for the adverse impact and disruption to the financial institutions and government resources.

I exercised my right to a jury trial. The verdict from the trial was, unfortunately, not ruled in my favor, but I do accept and respect the jury's decision.

Prior to your sentencing ruling, I ask for the Court to consider the broader picture of who I am and my existing contributions to society. I am an active member of my community, and I embrace the opportunity to learn, teach, mentor and encourage personal and professional development, especially among young adults.

Since this entire matter and after my employment ended, I did enroll in Georgia Film Academy hoping to reinvent myself because my life as I knew it has significantly changed.

I serve as a volunteer to assist small businessowners in business operations and process development. I am currently assisting Park Equity Group, LLC, with budget and expense tracking and development of operational procedures for residential purchases, renovations and sales.

I am a volunteer events coordinator and culinary team member at the Faith Center. I lead a weekly discipleship Bible study group. I currently assist with daycare for my great nephew who, unfortunately, we found out shortly after he was born has some health challenges. I take him to physical and occupational therapy appointments.

I established quite a few training and job lead connections at WorkSource DeKalb with an opportunity for future employment opportunities. I work with Ms. Bria Peterson who is a liaison at WorkSource DeKalb through Goodwill and their job fairs.

I created a nonprofit for Sheldon and Tammi Moore, which Tammi Moore spoke today, called the House of Mana. And the mission of that nonprofit is to help rehabilitate and transition ex-offenders and the underserved with transitional housing and support, including job training to increase self-sufficiency and mature their independence post-release.

Your Honor, I do humbly plead for your mercy for a lenient sentence. I know a lot has transpired and your mercy and belief at my potential to make amends will grant me the opportunity to begin restitution, continue to positively contribute to society and rebuild my life. Thank you.

THE COURT: Thank you, ma'am. And you have my condolences. I read about Anthony and what happened.

THE DEFENDANT: Thank you.

MR. MARSHALL: Thank you, Judge.

THE COURT: Ms. Chaiken, does the government have a response?

MS. CHAIKEN: Yes, your Honor.

THE COURT: Go ahead.

MS. CHAIKEN: Thank you, your Honor.

Your Honor, we have read the more than three dozen character letters that Ms. Jackson submitted. And we've heard the supporters who spoke here today as well as Ms. Jackson's own words. And all of that paints a picture of a person who has an incredible amount of support and who is tremendously valued by the community she's been a part of throughout her life. And I'm going to talk more about those letters shortly.

Under the 3553(a) factors the Court needs to balance Ms. Jackson's history and characteristics along with the other important Section 3553(a) factors. And here we believe that a low-end guideline sentence appropriately balances Ms. Jackson's history and characteristics as well as the seriousness of the offense, the need to afford adequate deterrence, the need to promote respect for the law and provide just punishment, and the need to avoid unwarranted sentencing disparities.

Your Honor, I don't normally start with history and characteristics, I normally start with seriousness of the offense, but today I would like to start with Ms. Jackson's

history and characteristics.

I'm sure the Court no doubt remembers many of the compelling history and characteristics presented by some of the other defendants in this case, but there's no doubt that Ms. Jackson's sentencing presentation is unique in the volume and in the breadth of the character letters that she submitted and in the support that she has.

Her letters included letters from family members, from friends, from high school classmates, from book club members, from mentees, from colleagues and others. And one letter in particular that I thought was very notable and very admirable was the letter from Mr. Gaines's ex-wife that praised Ms. Jackson's participation in raising her stepson.

These character letters as a whole praise Ms. Jackson's virtues and her contributions to her community and they show the tremendous support that she has had over the years. And the Court certainly should consider all of that in considering the Section 3553(a) factors.

When I was reading the letters and thinking about the 3553(a) factors, I was struck by the many similarities between Ms. Jackson and the defendant in *United States v. Howard*, 28 F.4th 180, Eleventh Circuit 2022, which is cited throughout our brief. That was a white collar case where the Eleventh Circuit reversed a defendant's sentence of probation with home confinement as being substantively unreasonable. And there

were many independent reasons for that, but one of them is that the Court considered the defendant's history in isolation and without regard to the criminal conduct for which the defendant was convicted and the characteristics it revealed.

The defendant in that case asked for probation when she had a guideline range of 78 to 97 months, and she submitted more than 50 letters, again, from people all throughout her community, and she had seven people speak on her behalf at sentencing. And the Eleventh Circuit explained that the district court was absolutely correct to consider those letters and those oral statements which were strong and relevant evidence of the defendant's pre-criminal personal history and her personal characteristics. But the district court was wrong in letting that factor outweigh all of the other factors that showed that a sentence of imprisonment was necessary to serve other important purposes of Section 3553(a).

So here, of course, the Court should consider all the letters submitted by Ms. Jackson's supporters. It should consider her many good deeds and the many virtues she's had throughout her life. And in part because of what we've learned about Ms. Jackson's background through those letters we've chosen to recommend a sentence at the low end of the guideline range as opposed to the middle or the high end, which is what we often do after a defendant is convicted at

trial rather than after a guilty plea. But we do believe that a low-end guideline sentence is necessary to account for other important Section 3553(a) factors.

And before I move on to those, I just want to address a few other aspects of Ms. Jackson's history and characteristics that underscore why a low-end guideline sentence is appropriate here.

The first is acceptance of responsibility. As the Court knows, the government charged 24 people as part of this investigation and only two of them have gone to trial. Mr. Baptiste's case is, of course, still pending.

Ms. Jackson was charged in August of 2020. She had more than three-and-a-half years to accept responsibility for her offense before her trial. And to put that in perspective, the very first defendant who pleaded guilty was Kahlil Green who was charged with Ms. Jackson on August 4th of 2020. He pleaded guilty less than one month later on September 1st of 2020. He was sentenced to 41 months of imprisonment. And he was released from his sentence before Ms. Jackson's trial even began.

This Court has had many defendants before it in this case who have tearfully expressed remorse for their participation in the offense. And some of them, I'm sure the Court remembers, strongly felt that they had been led into the offenses by other people, like Darrell Thomas or someone who

recruited them, but they nevertheless acknowledged their own role, their own wrongdoing and they committed to doing better.

Jackson is one of only two defendants who has not done that, not just in the legal sense of not accepting responsibility by going to trial, but also in the practical sense of acknowledging any role that she had in what she did and in what happened here.

And she continues to blame others. She continues to blame John Gaines. She blames the PPP program for being set up in a way that it invited fraud. At trial she blamed Agent Stites for the way in which he interviewed her, which caused her to lie. She has blamed everyone except for herself and the decisions that she has made. And the *Howard* case, the Eleventh Circuit recognized a distinction between defendants who accept responsibility and those who don't. They recognize that they're not similarly situated.

The next aspect I would like to address is her education and professional background. The Court has heard a lot about her education and how she was a successful professional woman and that has obviously contributed to the standing that she has in her community and the support that she has. But, again, the Eleventh Circuit's opinion in *Howard* is instructive here because in that case the Court reiterated that it encourages district courts to keep in mind that criminals who have the education and training that enables

people to make a decent living without resorting to crime are more, rather than less, culpable than their desperately poor and deprived brethren in crime.

And the Court in *Howard* recognized a risk in building in lower sentences for people who are of higher socioeconomic standing and, therefore, have more to lose by virtue of their conviction.

Ms. Jackson had all of the education, all of the support, all of the professional training and all of the financial resources to say no to participating in this crime. And the fact that she participated anyway makes her more culpable, not less culpable, than some of the defendants in this case who acted out of sheer desperation and a perceived lack of options during the pandemic.

One last aspect I would like to address is her lack of criminal history. Ms. Jackson has a criminal history score of zero. She, therefore, is in Criminal History Category I, and that category accounts for her lack of criminal history. But Ms. Jackson here has also received the benefit of Section 4C1.1 which took effect on November 1st of 2023. And in that sense ironically Ms. Jackson's failure to accept responsibility has actually benefitted her because none of the other defendants in this case have gotten the benefit of 4C1.1 other than I believe Ms. Pyfrom Foster who was sentenced right before that section took effect. And so all of the other

defendants in this case with very limited exception have not gotten that additional two-level reduction that Ms. Jackson has gotten because her case has dragged on this long. And that two-level reduction we think is another reason why the Court should not go beyond the low end of the guideline range and impose a further guideline variance.

Moving on to the seriousness of the offense, your Honor. Money laundering is obviously a very serious offense. It's punishable by 20 years in prison. It makes a person inadmissible to the United States. And it enables people who commit fraud to hide their money, to hide their own involvement in the crime and prevent their victims from recovering their money.

The seriousness of the offense is exacerbated here given the context where the money that was being concealed was money that was meant for struggling businesses during an unprecedented global crisis. And the person who concealed that money was a woman who was lucky enough to have a six figure job at that time and to not be struggling to stay employed during the pandemic.

Of course, your Honor John Gaines is more culpable than Ms. Jackson in this offense. The evidence that was presented at Ms. Jackson's trial showed that overwhelmingly, and we do not dispute that. But as I said at trial and as I'll say again, Ms. Jackson is not here because John Gaines

asked her to help him hide PPP money. She is here because she said yes. She's here because when the FBI came knocking at her door, she chose to lie. She's here because when she was asked to respond to a grand jury subpoena, she lied again. She's here because to this day she has refused to acknowledge any wrongdoing. And it's likely that she would be in a very different position if on that day that the FBI came to her door she had told them that her ex-husband had asked her to take some money into her account and told them everything, but she did not do that. So we believe the seriousness of the offense does not weigh in favor of a downward variance, your Honor.

As far as the deterrence, your Honor, the Court knows the Eleventh Circuit has repeatedly emphasized the importance of general deterrence in white-collar cases because white-collar crimes are cool, collected, rational, they are not heat of the moment crimes. And in her sentencing memo and in Mr. Marshall's comments today there was reference to the PPP program being set up in a way that was rife for fraud. It had weak controls I think was what was said. And Ms. Jackson argued that it was paradoxical for the government to claim a need for general deterrence because the government set up the program in this way.

Now, first of all, Ms. Jackson was convicted of money laundering, not PPP fraud, and there's a need to deter money

laundering always. Money launderers are operating all over the country and all over the world and continue to do so to enable fraudsters to hide money. But even as to PPP fraud, this is not an argument that weighs against the very important need for deterrence.

Essentially what Ms. Jackson is saying is that when people commit fraud against government programs, instead of punishing them what we should do is set up government programs that people cannot commit fraud against, that are fraud proof. And what that means is the next time there's a global pandemic or natural disaster like Hurricane Katrina or a national need for programs like Medicaid or Medicare, in order to prevent people from committing fraud the program should be set up with such stringent controls and such strict requirements that nobody will ever be able to commit fraud against it. But, of course, the people who desperately need money from those aid programs won't be able to get it and won't be able to get it quickly because of all of those processes that are in place. And that is what is paradoxical. That is what makes no sense. That's not the world we want to live in. And it's not the world that the Eleventh Circuit recognizes is any kind of legitimate alternative to the system we have in place, which is one where general deterrence is critically important to deter this kind of crime.

And, again, the fact that the PPP program may not be

the subject of fraud anymore, it doesn't exist anymore, doesn't lessen the need for general deterrence because there will be another government benefit program.

And we've cited a case in our brief that had to do with COVID Economic Injury Disaster loan funding where the Eleventh Circuit said you still need to deter the next government program fraud, even if the specific government program fraud you defrauded doesn't exist anymore.

We agree, your Honor, as to specific deterrence, but it's far less of a concern than general deterrence. As we noted in our memo, we are concerned by the fact that Ms. Jackson was not deterred by the FBI coming to her door. That is normally a step that would make someone realize that they've done something they shouldn't have done, that they're not going to do it again, that they're going to remove themselves from the situation. And that was not the effect it had on Ms. Jackson.

Ms. Jackson lied. And then she had weeks to prepare a grand jury subpoena response. And she, again, lied. And that does give us some pause, although I agree with Mr. Marshall that I will -- if I was a betting woman, I will bet I will not see her again, and I hope that's right. But I think there is some need for specific deterrence here.

I would also note as far as deterrence, your Honor, there's been some argument that Ms. Jackson has already lost

her career and that she is going to be a felon and that this has already deeply impacted her. Those are arguments that were raised in the *Howard* case. Again, the defendant in that case was a doctor, and she was going to lose her medical license and the Eleventh Circuit -- I'm sorry, the district court in that case thought that that was sufficient deterrence and that she and other doctors in the future would not commit this crime or would not commit this type of crime because they were going to lose their license and that was such a significant punishment that if that didn't deter them, nothing else would.

And the Eleventh Circuit said you cannot reason away general deterrence in that way, that general deterrence is still important in those situations where someone is losing a professional license. And that, if anything, giving someone a downward variance or reasoning away deterrence because they had a license to lose is really just giving someone a benefit because they are of that status in the first place, which would essentially just be giving a benefit to people of generally higher socioeconomic standing.

Finally, as to unwarranted sentencing disparities, your Honor, Ms. Jackson is uniquely situated in this case. She is the only defendant in this case who was solely a money launderer as opposed to someone who participated in the underlying fraud.

I would note, however, your Honor, that the Court has imposed guideline sentences on many of the defendants in this case. Some defendants have received downward variances based on various circumstances, including past military service, familial caretaking responsibilities, extraordinary efforts towards payment of restitution before sentencing, medical conditions and other mitigating circumstances.

But even Jesika Blakely and Megan Thomas who are, undoubtedly, incredibly sympathetic defendants, both of whom had young children at home, both of whom were motivated to commit their crimes by their romantic relationships with Darrell Thomas, both of them still received significant sentences of imprisonment. And so we think that a sentence of probation for Ms. Jackson or anything other than a significant sentence of imprisonment would create unwarranted sentencing disparities to the extent that there are similarities between Ms. Jackson and other defendants in this case.

For all of these reasons, your Honor, we ask the Court to consider and weigh the Section 3553(a) factors and to impose a sentence at the low end of the guidelines at 41 months.

THE COURT: Thank you.

MS. CHAIKEN: Thank you.

THE COURT: Is there any other matter that the Court needs to take up or anything else from either side before I

issue a sentence in this case?

MS. CHAIKEN: No, your Honor. Thank you.

MR. MARSHALL: No, Judge.

THE COURT: Ms. Jackson, if you'll please stand.

Pursuant to the Sentencing Reform Act of 1984, it's the judgment of the Court that you, Carla Jackson, are hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 36 months custody.

Ma'am, you can be seated while I read to you the rest of your sentence.

MR. MARSHALL: Yes, your Honor.

THE COURT: You must pay to the United States a special assessment of $100 due immediately.

The Court finds that you do not have the ability to pay a fine and cost of incarceration. The Court will, therefore, waive the fine and cost of incarceration in this case.

Restitution in the amount of $335,238.22 is owed jointly and severally with Darrell Thomas, Andre Gaines, John Gaines, Jesika Blakely and Teldrin Foster to the following victims:

Cross River Bank in the amount of $325,181.07;

And the Small Business Administration DFC in the amount of $10,057.15.

Restitution shall be paid in full immediately.

You must pay the above-noted financial penalties in accordance with the schedule of payments sheet of the judgment.

Payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties except those made through the Federal Bureau of Prison's Inmate Financial Responsibility Program are to be made payable to the Clerk of the US District Court, 2211 US Courthouse, 75 Ted Turner Drive, Southwest, Atlanta, Georgia, 30303.

Any balance that remains unpaid at the commencement of the terms of supervision shall commence within 60 days after release of imprisonment on the following terms:

Payable at a rate of no less than $500 monthly to the US District Court Clerk. You must notify the Court of any changes in economic circumstances that might effect the ability to pay this financial penalty.

The Court determines that you do not have the ability to pay interest, and it's ordered that the interest requirement is waived for restitution.

Upon release from imprisonment you'll be on supervised release for a term of two years.

You must comply with the mandatory conditions of release.

You must not commit another federal, state or local crime.

You must not unlawfully possess a controlled substance.

You must refrain from any unlawful use of a controlled substance.

You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the Court.

You must cooperate in the collection of DNA as directed by the probation officer.

You must make restitution in accordance with 18 USC Sections 3663 and 3663(A) or any other statute authorizing a sentence of restitution.

As part of your supervised release, you must comply with the standard conditions of supervision which have been adopted by this Court and are incorporated by reference. These conditions are imposed because they establish basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the Court and bring about improvements in your conduct and condition.

The standard conditions of supervision will be included in the judgment.

You must comply with the following special conditions during the term of supervised release:

You must make full and complete disclosure of your

finances and submit to an audit of your financial documents at the request of your probation officer.

You must provide the probation officer with full and complete access to any requested financial information and authorize the release of any financial information. The probation office may share the financial information with the US Attorney's Office.

You must not incur new credit charges or open additional lines of credit without the approval of the probation officer.

This sentence is made in view of the sentencing goals delineated in 18 USC, Section 3553(a), and the parties' arguments as to those factors, including:

The nature and circumstances of the offense and the history and characteristics of the defendant;

The need for the sentence imposed to reflect the seriousness of the offense, to afford adequate deterrence, to protect the public and to provide the defendant with needed educational training, medical care or other correctional treatment;

The kinds of sentences available;

The kinds of sentence in the sentencing range established for the applicable category of offense committed as set forth in the sentencing guidelines;

Any pertinent policy statement;

The need to avoid sentencing disparity;

The need to provide restitution to victims.

This sentence meets the criteria of punishment, deterrence and incapacitation and is sufficient but not greater than necessary to comply with the directives of Section 3553(a).

Based on these considerations I find this is a just and appropriate sentence.

I considered all of the 3553(a) factors, but I want to focus on a few of them in particular.

First off is the history and characteristics of the defendant. What I learned from Mr. Marshall from your submissions as well as from the letters was pretty extraordinary. I don't want to go into much detail of it. It's in the record. But, you know, Ms. Jackson has really led an exemplary life as far as what she has done for her friends, her family and her adopted community, as she and many others have come here from Gary, Indiana, down to the Atlanta area.

I've read through these letters. And Ms. Chaiken kind of beat me to it, but there's a letter from Tonya Meadows and it notes that not many people get along with their ex-husband's girlfriend, then wife; however, with Carla everything was different. You know, that's a first time for me, and I've been doing this for nine years, where you've got the ex-wife of someone's husband writing a letter. I mean, I

think that says a lot right there.

There was the letter from Reverend Winston discussing the clothing drives, food distributions to the homeless, sewing seeds in the community, both with time and treasure.

The letter from Patricia Williams talking about standing out in line to get the child registered.

The letter from Michelle Simpson, again, talking about helping the homeless. Sleeping bags and goody bags for the homeless during the winter months. Patience with troubled teens.

A letter from Lillian Berge (phonetic). Ms. Jackson assisting with the initiation of a program designed to help bring together parents of children who were murdered.

Letter from Kevin Smith talking about her helping find mentors for young men and women in their lives, volunteering to serve the homeless.

I mentioned earlier her brother when I gave my condolences but also had a cousin murdered.

And a letter from Janice Walker talking about stepping up to help a family injured from a car accident, subsequently disabled, Ms. Jackson again becoming a caregiver.

Just a couple more I wanted to make note of.

Dion Booker's letter I think is representative of many, talking about how she goes above and beyond as a role model for family and friends.

I was particularly touched by the letter from Cynthia Range. And perhaps this isn't the biggest deal in the world, but I think it told me a lot about Ms. Jackson. Ms. Range talks about -- and I read a lot about this book club from all the Gary, Indiana, transplants. I'm guessing there's some book club members in the gallery. I'm just going to read this paragraph into the record.

There was also a time when I was going through a financial hard time. I earned enough money from my job to pay all of my bills but not a lot of extra money left over. Our sisterhood had decided to take a vacation. I let them know that I could not go because of limited funds. We were at a restaurant discussing the trip when Carla said to me that she would pay for my trip and I could pay her back over time so it would not affect my budget. I kept telling her, no, thank you, but she spoke to me face to face and said that it was okay and that she had been in the same position before. I'm not the type of person who likes to take handouts, but Carla talked to me from a very caring, compassionate and emotionally safe place that I accepted and went on vacation with them.

I think that's really representative of everything I've heard about her today and everything I've read about her as I was reading through these letters the last couple of days.

Then the very last one was at the top of my stack, at

least, in what you submitted from Adrien Gaines. And he writes about not even being comfortable calling -- being a stepson because she was so wonderful to him and has been in his life.

So, you know, I would say as to that sentencing factor, history and characteristics of the defendant, Mr. Marshall, you presented a case for your client that she gets I think an A-plus grade on that factor. But I'm well aware of the *Howard* case that the government cited, and I know it's not my only job here to just look at the good deeds of someone when I'm sentencing them. There are many other factors.

And one that's tremendously important is the seriousness of the offense and the circumstances of that offense. And here the circumstances of the offense and the seriousness are, in my view, quite serious. Hundreds of thousands of dollars of money was laundered with Ms. Jackson's assistance, and I can't let that go unpunished, even for someone who, frankly, seems to be the Mother Theresa of the Gary, Indiana, transplants here in Atlanta. I can't ignore what she did. And I do think it needs to be deterred. I think white-collar crime does need to be deterred. I heed the precedent in this circuit about that.

I think general deterrence is important. And I would agree with both Mr. Marshall and Ms. Chaiken that I don't

think specific deterrence is a very big factor here.

I have considered the various sentences. And I have considered the guidelines. This does represent a variance from the guidelines, and I have opted to vary downward from the guideline range here, not nearly as much as the defense would have liked me to. But my sentence is not based just on the history and characteristics of the defendant, it's based on all of the guideline factors and the argument of the government about remorse as well.

I also think it's important not to have disparate sentences. And, obviously, this case is in some ways different from many of the other sentences in this greater case involving PPP fraud in that Ms. Jackson is charged just with money laundering, and many of the others had different charges. But as far as disparity is concerned, I think a lot of the individuals in this case have been sentenced either at the low end of the guidelines or there's been some slight variances downward. And I think, from my experience in this district, that is fairly typical of money laundering in that the sentences are usually at the very low end of the guidelines or even a variance down somewhat. So I think my varying down a little more than one level into two levels downward I think is very consistent with other sentences.

And I think it's also important that she not be punished for going to trial. I think it's obvious to me based

on the case that was presented that Ms. Jackson believed that she should be found innocent and argued for that, and she's not to be penalized for making that argument.

Mr. Marshall, does the defense request voluntarily surrender?

MR. MARSHALL: Yes, your Honor. If possible, if we could do that. There's been no violations. She's been fine on supervision.

THE COURT: Ms. Chaiken, I assume no objection?

MS. CHAIKEN: Correct, your Honor, no objection.

THE COURT: How long would you like?

MR. MARSHALL: Judge, is it the position where they just notify her when to surrender, that's normally what happens?

THE COURT: Yes, unless you ask for some specific amount.

MR. MARSHALL: Thank you, your Honor.

THE COURT: In which case I think I just say "not before."

My sentence is concurrent as to both Counts 46 and 47. And there will be a $200 special assessment.

MR. MARSHALL: Judge, unless it's too long according to the Court, four to six months out, if that's possible. I know the sooner she starts, the sooner she gets done. She does have to get her house in order. I think there's a course

she's also taking, Judge, that she's trying to get finished, but if that's a possibility. Maybe four months out if that's possible.

THE COURT: Six seems to be a bit of a stretch to me unless there's some -- you know, she's in the middle of a program that ends in five-and-a-half months, that's one story. But if it's just kind of a four to six months, that seems like a lot. I mean, I haven't heard from the government yet, but it's a little more than I'm accustomed to.

Ms. Chaiken?

MS. CHAIKEN: We don't object to four months, your Honor. Six sounds a little long to us as well.

MR. MARSHALL: Thank you, your Honor.

THE COURT: So the defendant will report not before September 16th, if I'm doing my math right, of this year.

Although I don't have the authority to select the detention facility, I can recommend one. Is there any particular request, Mr. Marshall?

MR. MARSHALL: Just generally as close to Atlanta as possible, Judge.

THE COURT: I would say as close to Atlanta as possible at a facility with the appropriate security level. I would think she would be eligible for something very low security.

I didn't see any need to recommend anything in

particular as to substance abuse, mental health or vocational training. Is there any desire on that front?

MR. MARSHALL: No, your Honor. And I'm not sure -- I know BOP does the designations. I would assume that Ms. Jackson's going to be at a low-level, you know, designated facility. And to the extent that can include camp or whatever the lowest is, that's what we're hoping the BOP will do for her.

THE COURT: The record should reflect this sentence would have been the same irrespective of my ruling on the disputed guideline issues that I resolved in favor of the government, both as to mitigating role and obstruction. In other words, I would have sentenced the defendant to the same term of incarceration even if I had not ruled as I did on those issues.

There is an unobjected to proposed forfeiture order, is that correct?

MR. MARSHALL: That's correct, Judge.

MR. BARNETT: That's correct, your Honor. I have another copy if the Court would like.

THE COURT: Okay. I was -- my stack in this case was fairly large, but I think I've got that.

Well, I don't have it handy, but I've reviewed it. And Ms. Lee is indicating she can sign it for me electronically, so I'll go ahead and sign off on that.

MR. BARNETT: Thank you, your Honor. We just ask it be announced as part of the sentence this afternoon.

THE COURT: If you want me to announce it, I'm still going to have to find the copy of it.

I've granted the motion for forfeiture in the amount of $39,700. Does that do it?

MR. BARNETT: I believe so, your Honor. It's just mostly for forfeiture money judgment.

THE COURT: Very well. Granted.

Before I advise the defendant of her appeal rights, does the government or defense have any further objections to the findings of the Court, the guideline calculations or to the sentence or manner in which it's been pronounced?

MS. CHAIKEN: No objection from the government, your Honor.

MR. MARSHALL: Other than what's already been put on the record, your Honor, no further ones.

THE COURT: Very well.

Ms. Jackson, you have the right to appeal your conviction. You also have the statutory right to appeal your sentence under certain circumstances, particularly if you think the sentence is contrary to law. With few exceptions, any notice of appeal must be filed within 14 days of judgment being entered in your case.

If you're unable to pay for the cost of your appeal,

you may apply for leave to appeal in forma pauperis, or without payment of fees. If you so request, the Clerk of Court will prepare and file a notice of appeal on your behalf. On appeal, you may also apply for court-appointed counsel.

If you have any further questions about your right to appeal, I'm sure that Mr. Marshall will be happy to advise you further on this matter.

Ms. Jackson, do you have any questions about anything I've said at today's sentencing hearing, ma'am?

THE DEFENDANT: No, your Honor.

THE COURT: Counsel, is there anything else that we need to discuss?

MS. CHAIKEN: May I have one moment, your Honor?

(Pause in the proceedings.)

MS. CHAIKEN: Nothing further, your Honor. Thank you.

MR. MARSHALL: Nothing further, Judge.

THE COURT: All right. One moment.

I would add, I discussed this earlier, but I noted that the sentence was sufficient but not greater than necessary. The government asked for a low-end 41 months, and I was originally leaning in that direction. And this was a case in which that language hung me up, sufficient but not greater than necessary. And I thought anything above three years would have been greater than necessary in this case. I

know it's maybe of some of us who are doing this week in, week out, think five months isn't a big deal, but I think five minutes is a big deal if you're going to hold someone in custody. And I think that I didn't want to go above three years here because I thought that would have been greater than necessary just for the government's benefit to understand why I went below the guidelines.

That's all I have.

Ms. Lee, thank you.

Ms. Coudriet, thank you.

My thanks also to the court security officer and our probation officer.

Ms. Jackson, I don't take any pleasure in sentencing you to prison, but I thought that's what the law demanded here based on the jury's finding. I do commend you for all of your good works in your community and vis-a-vis your family. I noted in several of the letters that you're the type of person who can take a knock and get back up. This, I would think, would be considered one of the bigger knocks of your entire life, and I hope that you can, consistent with how you've handled adversity before, make the best of this and serve your time.

I never like to talk about good time credits because I never know exactly how those are going to play out, but if you're available for those, I hope you're able to accumulate

them and get out and continue to be a productive member of society.

Best of luck to you, ma'am.

THE DEFENDANT: Thank you.

THE COURT: Yes, Ms. Chaiken.

MS. CHAIKEN: Your Honor, I'm very sorry. I am sure you did this, but I just want to confirm -- because my colleague and I were discussing a separate issue and I just want to make sure that the defendant was advised of her appeal rights. I'm sure she was, but I just wanted to confirm.

MR. MARSHALL: Did you advise of the 14-day period, Judge?

THE COURT: I think I did but let me check my notes in the rough transcript.

MS. CHAIKEN: Thank you, your Honor.

THE COURT: Yes, I did, but thank you for double checking.

MS. CHAIKEN: Thank you, your Honor. I'm sorry about that.

THE COURT: Very well. We're adjourned.

(PROCEEDINGS REPORTED WERE CONCLUDED 3:49 P.M.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by me in the case aforesaid.

This the 14th Day of June, 2024.

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER