

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA,	)	Fort Myers, Florida
	)	
	)	Case 2:21-CR-74-JLB-MRM
Plaintiff	)	
	)	Friday, June 24, 2022
vs.	)	
	)	9:14 a.m. to 11:04 a.m.
ANTHONY JAMES BRUEY, and	)	
AMBER REWIS BRUEY,	)	
	)	
Defendants.	)	
_____	)	

TRANSCRIPT OF SENTENCING, PART ONE

DAY 1 OF 2, VOLUME 1 OF 2

HELD BEFORE THE HONORABLE THOMAS P. BARBER,
United States District Court Judge

Official Court Reporter:
Jeffrey G. Thomas, RPR, CRR
2110 First Street, Suite 2-194
Fort Myers, FL 33901
Telephone: (239) 461-2033

*(Proceedings reported by Stenotype; Transcript produced by
computer-aided transcription.)*

A P P E A R A N C E S

COUNSEL FOR GOVERNMENT:

United States Attorney's Office
Middle District of Florida
United States Courthouse
2110 First Street
Room 3-137
Fort Myers, FL 33901
(239) 461-2200
BY: TRENT REICHLING, ESQ.

COUNSEL FOR DEFENDANT JAMES BRUEY:

Mangone & Miller Law Offices
Suite 502
2335 Stanford Court
Naples, Florida 34112
(239) 774-4100
BY: LANDON P. MILLER, ESQ.

COUNSEL FOR DEFENDANT AMBER REWIS BRUEY:

Federal Public Defender's Office
2075 West First Street, Suite 300
Fort Myers, FL 33901
(239) 334-0397
BY: JAMES LAPPAN, ESQ.

ALSO PRESENT:

KELLY PRIMROSE, Pretrial Services Officer

* * *

I N D E X**June 24, 2022****Vol.****Page**

Preliminary Discussions	1	4
Objections to PSR by Mr. Lappan	1	9
Response by Mr. Reichling	1	19
Order of Court	1	22
Objections to PSR by Mr. Miller	1	23
Response by Mr. Reichling	1	24
Order of Court	1	26
Argument by Mr. Reichling	1	29
Recommendation of Sentence by Mr. Lappan	1	48
Statement by Amber Bruey	1	60
Argument by Mr. Miller	1	62
Statement by Anthony Bruey	1	63
Argument by Mr. Reichling	1	66
Court Recessed for the Day	1	71

* * *

* * * P R O C E E D I N G S * * *

- - -

THE COURT: Good morning, everybody.

So, first up we have the cases of the United States versus Amber Bruey and Anthony Bruey, Case Number 21-CR-74.

Please introduce yourselves, starting with the prosecutor.

MR. REICHLING: Good morning, Your Honor. Trent Reichling on behalf of the United States. With me at counsel table is Terry Hedrick with the United States Secret Service.

THE COURT: Good morning.

Defense.

MR. LAPPAN: Good morning, Your Honor. Jim Lappan for Amber Bruey, who is present.

Judge, if I may, before court I did receive Mr. Reichling's exhibits, but I also received a pretrial release supervision status report on Ms. Bruey. I don't know if Your Honor has received one or not.

THE COURT: I don't think I've gotten that, so get that to me.

MR. LAPPAN: May I walk it up, Your Honor? And I believe Mr. Bruey has one, as well.

THE COURT: I have seen one on him, but I didn't see one on her for some reason.

MR. LAPPAN: Here is a copy, Your Honor.

1 THE COURT: Thank you. Go ahead and introduce
2 yourselves on this side.

3 MR. MILLER: Landon Miller on behalf of Anthony
4 Bruey, who is seated to my right.

5 THE COURT: All right.

6 Mr. and Mrs. Bruey, raise your right hands for me.

7 Do you swear to tell the truth, whole truth, nothing
8 but the truth?

9 AMBER BRUEY: Yes.

10 ANTHONY BRUEY: Yes.

11 THE COURT: Speak up. Let's speak up. I may have
12 done this last time, but I'm going to go through it again, just
13 so we have this all on the record in one place.

14 I previously started the sentencing with Mr. Bruey,
15 and then realized that it was pretty closely intertwined with
16 the sentence with Mrs. Bruey, so I said let's get them both in
17 court at the same time and talk about it at one time. So
18 that's what we're doing now.

19 Back on March 4th, 2022, Mr. Bruey pled guilty to
20 Count 1, 12, 13, 14, 15, and 16 of an indictment charging him,
21 in Count 1, with conspiracy to commit wire fraud, in violation
22 of Title 18 U.S. Code Section 1349; Counts 12 and 13, with wire
23 fraud, in violation of Title 18 U.S. Code Section 1343;
24 Count 14, with conspiracy to commit money laundering, in
25 violation of Title 18 U.S. Code Section 1956(h); and, in

1 Counts 15 and 16, with illegal monetary transactions, in
2 violation of Title 18, U.S. Code section 1957. I previously
3 accepted his guilty plea and adjudicated him guilty of those
4 offenses.

5 Now, did she do exactly the same things, or are her
6 charges different?

7 MR. REICHLING: Judge, they're the same charges in
8 general, but just more of them. So there are more counts
9 associated with her with regards to the substantive wire fraud
10 counts, there's more substantive counts with regards to the 18
11 USC 1957 counts, which are the illegal monetary transaction.

12 THE COURT: Okay. So, Amber Bruey, back on
13 March 16th, pled guilty to Count 1 through 11 and 14 through 18
14 of the indictment, charging her, in Count 1, with conspiracy to
15 commit wire fraud, in violation of Title 18 U.S. Code
16 Section 1349; count 2 through 11, wire fraud, in violation of
17 Title 18 U.S. Code Section 1343; Count 14, conspiracy to commit
18 money laundering, in violation of Title 18 U.S. Code
19 Section 1956(h); and Counts 15 through 18, illegal monetary
20 transactions in violation of Title 18 U.S. Code Section 1957.
21 I previously accepted her guilty plea and adjudicated her
22 guilty of those offenses.

23 We are now at the stage of the proceedings where we
24 have to go through some things with the sentencing guidelines
25 before we actually get into the substance of the sentencing.

1 So my question for Mr. Reichling, as to both
2 defendants, have you had the opportunity to read and discuss
3 the presentence report?

4 MR. REICHLING: Yes, Your Honor.

5 THE COURT: Any objections to the factual basis or
6 guideline calculations?

7 MR. REICHLING: Judge, I have no objection to the
8 guideline calculation. There is one change I brought to
9 probation's attention this morning. On Mr. Bruey's PSR, on
10 Page 8, Paragraph 16, it's just a correction here. It mentions
11 Bank of America, BB&T and Chime. Chime should be Capital One
12 for federally insured financial institutions, and then Capital
13 One in that paragraph where it states Capital One was a
14 financial technology company, that should be Chime. The same
15 change would be made to Page 8, Paragraph 15, of Miss Bruey's
16 presentence report.

17 So that's just a minor change that I found in
18 reviewing the PSR. Other than that, I have no other objections
19 to the factual accuracy of the PSR.

20 THE COURT: Got it.

21 Over to the defense side of things, Mr. Lappan, have
22 you had the opportunity to read and discuss the presentence
23 report?

24 MR. LAPPAN: Yes, Your Honor.

25 THE COURT: And Miss Bruey, now, this document called

1 the presentence report is pretty thick. It tells me everything
2 about you, including, you know, where you're from, and what
3 you've done for a living, and, you know, all kind of medical
4 things. I mean, it's very detailed. Have you had a chance to
5 read and go over it with your lawyer?

6 AMBER BRUEY: Yes, sir.

7 THE COURT: Any questions for him or me about
8 anything in that report at this time?

9 AMBER BRUEY: No, sir.

10 THE COURT: Mr. Bruey. Sorry. Mr. Miller first.
11 Have you had the read and discuss the presentence report?

12 MR. MILLER: Yes, Your Honor.

13 THE COURT: Okay. And, Mr. Bruey, same question to
14 you. Have if you gone over this presentence report with your
15 lawyer?

16 ANTHONY BRUEY: Yes, sir.

17 THE COURT: You read it?

18 ANTHONY BRUEY: Yes, sir.

19 THE COURT: Any questions about anything, at all,
20 with regard to the presentence report?

21 ANTHONY BRUEY: No, sir.

22 THE COURT: Back to Mr. Lappan, do you have any
23 objections, which I think you might still, to the factual
24 accuracy or guideline calculations?

25 MR. LAPPAN: Not to the factual accuracy, Your Honor.

OBJECTIONS TO PSR BY MR. LAPPAN

9

1 THE COURT: Okay. Let's split it up that way, all
2 right?

3 Mr. Miller, any objections to the factual accuracy?

4 MR. MILLER: No, Your Honor.

5 THE COURT: All right.

6 Mr. Lappan, any objection to the guideline
7 calculations?

8 MR. LAPPAN: Yes, Your Honor. We object to
9 Paragraph 53. May I be heard?

10 THE COURT: Yeah. Go ahead.

11 MR. LAPPAN: May I use the podium?

12 THE COURT: Yeah.

13 MR. LAPPAN: Judge Barber, Paragraph 53, we object to
14 the sophisticated means enhancement. There is no sophisticated
15 means in this case; and, if there is, the government would have
16 to prove it to Your Honor this morning.

17 Ms. Bruey's written objection to the application of
18 the sophisticated means enhancement was filed on May 31.
19 Two weeks after that, the final PSR was released. Referring,
20 Judge Barber, directly to the addendum of the final PSR,
21 probation insists that sophisticated means enhancement has been
22 demonstrated by the following conduct:

23 One, filing fraudulent tax documents; two, creating
24 multiple Google business pages; three, writing Google reviews
25 under an alias account for these businesses -- pages, which

1 also contain feedback --

2 THE COURT: Wait a second, Jim. Let me just
3 interrupt.

4 MR. LAPPAN: Yes, sir.

5 THE COURT: You're telling me that the sentencing
6 guidelines talk about things like tax returns and stuff being
7 valid. In other words, if you have that, you get the
8 enhancement. Yes? Is that what you just said?

9 MR. LAPPAN: No, sir. I'm saying that the office of
10 probation has five reasons why they're claiming this
11 enhancement applies in this case, and I'm going to address each
12 of them.

13 THE COURT: So you're saying no reason for that.

14 MR. LAPPAN: Yes, sir.

15 THE COURT: Okay.

16 MR. LAPPAN: Going back to three, Your Honor. Three,
17 writing Google reviews under an alias account for these
18 business pages which also contain feedback and customer photos;
19 four, creating a two-page portion of a business lease. Not
20 creating a fraudulent business lease, but creating a fraudulent
21 portion of a business lease, and then transmitting that
22 fragment to an underwriter. Five, and finally, depositing into
23 bank accounts at different banks that were controlled -- the
24 accounts were controlled by the Brueys that were in the name of
25 the Brueys for no other purpose than as repositories for the

1 loan proceeds.

2 Probation states that Ms. Bruey objects to the
3 enhancement because, and I'm now quoting from the addendum,
4 quote, "Bruey argues the scheme was unremarkable, and points to
5 the fact that there was no effort to conceal or disguise the
6 expenditure of the fraud proceeds. Bruey relies on the short
7 time for which her conduct occurred and the relatively short
8 time before the conduct was discovered and investigated as
9 further support for the lack of sophistication."

10 Notwithstanding this summary of the defense argument,
11 probation then also claims, in the addendum, Your Honor, that
12 it has case authority that refutes Ms. Bruey's position.
13 Probation writes, and I quote, "The probation office has
14 located a case, United States versus Garcia-Pastrana, which is
15 584 F.3d. 351, First Circuit, which appears to have a similar
16 basis for the sophisticated means enhancement."

17 So I read Garcia-Pastrana. One of the defendants in
18 the Garcia-Pastrana case was a man named Lugo-Ríos. The
19 District Court imposed a sophisticated means enhancement on
20 Mr. Lugo. Mr.Lugo objected and appealed, and here is what the
21 First Circuit found.

22 Mr. Lugo was a union president for a public utility
23 workers union in Puerto Rico. The union had 4500 members. As
24 president of the union, Mr. Lugo, the First Circuit found,
25 demonstrated sophisticated means by, one, filing fraudulent tax

1 returns; two, doctoring the minutes of union meetings; and
2 three, by embezzling and laundering millions of dollars through
3 three different union bank accounts, an infrastructure account,
4 an administrative account, and a welfare account, over a period
5 of eight years.

6 In this case, the Brueys, over a period of less than
7 five months, filed fraudulent tax returns, did not file
8 fraudulent minutes of any meeting, and laundered money through
9 accounts bearing their name.

10 I fail to see the similarity linking the
11 sophistication of a union president falsifying union
12 meeting minutes and then hijacking three different union
13 accounts to embezzle and launder, for over eight years, with
14 the conduct of Amber Bruey.

15 The probation office also cites United States versus
16 Edelmann, 458 F.3d. 791, Eighth Circuit, 2006. So I read
17 Edelmann.

18 In this case, Mary Edelmann, who was previously
19 convicted of a felony involving falsehood to a bank and another
20 felony involving falsehood to the Internal Revenue Service,
21 like Mr. Lugo, and like the Brueys, and like every other garden
22 variety fraudster, uses fictitious tax documents to defraud a
23 bank to get a loan. She also, first, filed a fraudulent
24 article of incorporation from the State of Arkansas; second,
25 filed fraudulent profit and loss statements, plural,

1 statements; and, three, filed fraudulent bank letters, plural.

2 I don't comprehend how the Edelmann offense conduct
3 is similar to the conduct of Amber Bruey, but I would note,
4 Judge, incidentally, and to our interest in the Edelmann case,
5 and regarding Mary Edelmann's fraudulent bank letters, I
6 believe its noteworthy to point this out:

7 During the process of Ms. Edelmann's loan
8 application, a bank underwriter contacted Ms. Edelmann. The
9 underwriter was candid. The underwriter advised Ms. Edelmann
10 that he did not believe her company had access to the capital
11 that she claimed in her loan application, so he asked for a
12 letter from her bank. And Ms. Edelmann then faxed a letter to
13 the underwriter. An entire letter, Your Honor, not part of a
14 letter. The underwriter examined the entire letter, and
15 determined the letter to be a fraud. And that became Count 1
16 of Ms. Edelmann's indictment.

17 Although disregarded, in our objection letter we
18 write, and I'm quoting, "Ms. Bruey submitted a portion of a
19 false or fictitious lease. Offering part of a legal document
20 to shore up a deficient loan application is the antithesis of
21 especially complex conduct. If anything, it escalates
22 apprehension, and should hasten the declination of the loan
23 application." End of quote.

24 Your Honor, that leaves two remaining areas of
25 concern for the office of probation: What Ms. Bruey did on

1 Google, and the bank accounts at different banks to receive
2 loan proceeds.

3 As to creating false Google business pages, and as to
4 creating alias accounts to write and post false reviews, I wish
5 to advise Your Honor of the following: Yesterday, I created a
6 Google business page. It took me two minutes. It was free. I
7 needed two things to do it --

8 THE COURT: Well, Jim, what is your business?

9 MR. LAPPAN: It's called Jim and Alan's Car Wash.

10 May I continue?

11 THE COURT: You didn't apply for a PPP loan.

12 MR. LAPPAN: I did not, Your Honor, no. But I did
13 establish a bogus Google business page, and here is how easy it
14 was, Judge. I went to Google.com\business. That led me to a
15 web page which asked me a question: Would you like to create a
16 Google business page? I clicked yes. Next page. What is your
17 Gmail account name and password? This was the first
18 requirement to get a Google business page. You have to have a
19 Gmail account, which is Google mail, to get a Google business
20 page.

21 I already have a Gmail account, so I didn't have to
22 create one. However, Your Honor, of the two minutes it took me
23 to create the Google business page, one minute was consumed by
24 me looking for the password for my Gmail account.

25 After I entered that password, I went to the next

1 page. Now I'm on Page 3 of the application. Name of the
2 business. I punch in Jim and Alan's Car Wash. Enter.

3 Page 4. Address of business. Now, here is the
4 second and final requirement to get a google business page.
5 You have to enter a real address. And the reason for that is
6 Google is going to coordinate the address you enter into the
7 application to Google Maps, to be able to pinpoint you. So if
8 I try to enter a bogus address, it rejects me. So you have to
9 have a Gmail account, you have to have a real address. You can
10 select from addresses that they offer you, or you can enter one
11 manually. I entered the Federal Public Defender's Office, 2075
12 West Main First Street.

13 Page five. Would you like to provide us a phone
14 number to verify this account? I said no.

15 Page six. As you have not provided a phone number,
16 you have been mailed a postcard to the address you gave that
17 contains a verification code. Enter that verification code to
18 initialize your Google business page. End of application.

19 And that's it, Your Honor. Two minutes, totally
20 free, no phone number required, no request for my real name or
21 any name at all, and now there's a car wash at the public
22 defender's office.

23 This is all possible because there's nothing
24 sophisticated about getting a Google business page. It is
25 exactly what Google wants it to be. It's easy, it's fast, it's

1 free. Anyone can do it.

2 As to puffing, or false feedback, that does not even
3 require a two-minute registration for a Google business page.
4 Just leave the feedback. I would submit that, if a child could
5 create a Google business page, a child could leave feedback.
6 Honest feedback, false feedback, unverified feedback.

7 As to the claim that the Brueys opened accounts at
8 different banks, and for no other purpose than as repositories
9 for the loan proceeds, I have two responses. First, all loan
10 proceeds are wired to bank accounts. And second, if the Brueys
11 were trying to conceal proceeds, why would they have their
12 names on the accounts? Mr. Lugo surely did not do that, and he
13 made sure to spread his criminality over three different
14 business accounts.

15 What remains, Your Honor? What's not addressed by
16 the office of probation? What is left unrebutted?

17 While I stand on the entirety of my objection letter,
18 the short answer is three Eleventh Circuit Cases I cite and
19 discuss in my objection letter stand entirely unrebutted.

20 First, United States versus Feaster, 798 F.3d 1374,
21 Eleventh Circuit, 2015. The length of time that passes before
22 detection is a factor that could support sophistication. In
23 Feaster, the length of time was two years. In this case, as
24 presented in our objection letter, the length of time was just
25 over one year.

1 Second, in the case where the Eleventh Circuit stated
2 the sophisticated means determination was, and I'm quoting
3 them, "a close call," it's a close call case, first, the
4 defendant researched 14 different corporate targets to develop
5 inside information about the target. Second, he had bogus
6 funds transferred to third parties, who withdrew that funding
7 as cash and transferred the cash to the defendant. Third, this
8 occurred over a period of time three times greater than the
9 length of the offense in this matter.

10 The Court noted that these activities, carried out
11 over an extended period of time, amounted to sophisticated
12 means, albeit, as I've already stated to the Court, it was a
13 close call for the Eleventh Circuit. And that case is United
14 States versus Ghertler, 605 F.3d. 1256, Eleventh Circuit, 2010.

15 Finally, according to United States versus Mendez,
16 420 Fed.Appx. 933, Eleventh Circuit, 2011, the Court says, in
17 each case where the Eleventh Circuit has upheld sophisticated
18 means enhancement, "The defendant used false identities,
19 fraudulent accounts, or fictitious entities to conceal the
20 participation and the scheme or to execute and conceal the
21 fraudulent transactions." Precisely as we state in our
22 objection letter, that simply did not happen in this case.

23 To conclude, and as presented more than once in our
24 objection letter, Judge Barber, the sophisticated means
25 enhancement requires, I'm quoting the guidelines, "Especially

1 complex or especially intricate offense conduct." End quote.
2 not just complex or intricate, especially complex or especially
3 intricate.

4 Submitting false tax documents in a bank fraud case,
5 we submit, is garden-variety bank fraud conduct. Spending
6 two minutes to create a Google business page that does not
7 require you to identify yourself, to provide a phone number, or
8 to pay one cent, is neither complex nor intricate. I would
9 submit that a ten-year-old could do it.

10 Sending a portion of a business lease to an
11 underwriter who seeks the business lease is a partial response
12 to a clear directive that should hurt the application, not help
13 it. True fraudsters, like Ms. Edelman in the case relied upon
14 by the probation office, create a false letterhead for the
15 underwriter, write the bogus letter, sign the bogus letter with
16 the forged signature, and then send it. Not part of the
17 letter, they send the entire letter.

18 The offense conduct in this case is precisely what
19 appears in the last paragraph of our written objection, and I'm
20 now quoting. Quote, "The instant offense conduct is neither
21 advanced nor intricate nor out of the ordinary." End quote.
22 Although the addendum insists the defendant is wrong, nothing
23 in the addendum contradicts this statement. I would submit, if
24 anything, the case authority in the addendum only supports
25 Miss Bruey's position. We ask the Court to remove the

1 two-level enhancement at Paragraph 53.

2 Thank you.

3 THE COURT: Okay.

4 Any response to that? Briefly?

5 MR. REICHLING: I'll try to keep it brief, Judge.

6 You know --

7 THE COURT: What does it matter anyway? What does it
8 change? What are the numbers?

9 MR. REICHLING: It's two additional levels. But if I
10 can --

11 THE COURT: Just a second.

12 What's the new range?

13 MS. PRIMROSE: It would be a Total Offense Level 22.
14 With the criminal history, the range would be 63 to 78 months.

15 THE COURT: 63?

16 MS. PRIMROSE: To 78; yes.

17 THE COURT: It's already 63.

18 MR. REICHLING: Is that correct, Kelly?

19 MS. PRIMROSE: Let me check.

20 MR. REICHLING: It should drop down.

21 THE COURT: Anybody know? I'm not trying to cut you
22 off, Trent.

23 MR. REICHLING: It's okay. I understand. It should
24 be 51 to 63. It would drop to a Level 22, Criminal History
25 Category III, would put her at 51 to 63 months, Judge.

1 MS. PRIMROSE: That's correct, Judge.

2 THE COURT: Advisory.

3 MR. REICHLING: That's correct.

4 THE COURT: We're talking about fighting over what
5 the advisory sentencing range is.

6 MR. REICHLING: I understand that, Your Honor. I
7 would just like to paint the picture so Your Honor can
8 understand the totality of the scheme here.

9 Mr. Lappan spent a great deal of time focusing on the
10 ease of creating one Google business page, but, really, in
11 actuality, Judge, that was just one part of an overall -- what
12 the government believes was a sophisticated means of carrying
13 out this fraud.

14 In each and every PPP loan application, Judge, as
15 Your Honor -- whether you're familiar or not with the PPP loan
16 application process, someone has to submit supporting documents
17 for their payroll. So in this case, Judge, Ms. Bruey
18 manufactured and created, for each one of the PPP loan
19 applications, fraudulent tax documents; all right? I don't
20 think that's something that a child can do.

21 And, in each one of these applications, Ms. Bruey
22 created false 1040s, which included false information about the
23 gross receipts or sales of each business, including their
24 returns and allowances, costs of goods sold, gross profits.
25 She also created false income statements for each one of these

1 businesses which mirrored much of the same financial
2 information that were contained in these fraudulent tax
3 returns.

4 Your Honor, she has also created false -- you know,
5 Mr. Lappan made remarks on this false Google page, but it
6 served a purpose.

7 With the EIDL loans, Your Honor in the underwriting
8 process, the SBA needs proof that the business is real. In
9 doing so, they conduct an internet search. Ms. Bruey was adept
10 in understanding the EIDL loan application process, so much so
11 that she created false Google pages on give the impression
12 that, when you search the business and Google it, it be real,
13 so that an underwriter would not second-guess whether a
14 business is real not.

15 She also went so far as to review these business, and
16 giving them five-star reviews with other -- under other e-mail
17 addresses that she had created at or around the time of the
18 fraud, so that she could review these businesses. She also
19 created fake websites, or at least one fake website, which is
20 Amber B's Garden, to add further validity to the existence of
21 the business.

22 There's also fake reviews that she left on a website
23 that was created for Bruey & Sons, which has stock photos of
24 people and fake lengthy paragraph long reviews of the quality
25 of Bruey & Sons's work product, to further give the impression

1 that the business was what it was purporting to be.

2 So while this isn't some Einstein level of
3 sophistication, I do believe it warrants consideration for
4 whether the sophisticated means enhancement would apply here.

5 THE COURT: Were there fake tax documents for every
6 one of these?

7 MR. REICHLING: So for every PPP loan application
8 there was. For EIDL applications, Your Honor, the first
9 applications that were submitted -- the way the EIDL
10 application process works, Your Honor, is that you just simply
11 fill out an application, and no supporting documents were
12 initially required. During the underwriter process, if the SBA
13 underwriter wanted further information to confirm the
14 legitimacy of a business, they would ask for those documents.

15 THE COURT: So, when they got questioned, rather than
16 saying, well, I'll go ahead and withdraw this because it's
17 illegal, they created fake documents.

18 MR. REICHLING: That's correct, Judge. And that was
19 all -- at least the communications contained within the records
20 from the SBA EIDL loan package for each loan, the communication
21 is with Amber Bruey, where she is communicating with them, and
22 then submits these documents, and uploads them onto the SBA's
23 portal for the EIDL loan application.

24 THE COURT: All right. Basically what I've heard
25 from the defense is, taking the totality of this activity,

1 breaking it up into small pieces, and pointing out that it
2 happened over a short period of time, and, you know, any one or
3 two of these I might agree with, but the totality of what
4 occurred here rises to the level to deserve this enhancement,
5 so the objections is overruled.

6 Next. Any other objections, Mr. Lappan?

7 MR. LAPPAN: No, Your Honor.

8 THE COURT: All right. Mr. Miller.

9 MR. MILLER: Yes, sir.

10 THE COURT: Go ahead.

11 MR. MILLER: Judge, we did file one objection for not
12 receiving a minimal role reduction.

13 THE COURT: Do you want to come to the podium? You
14 can sit, whatever you want to do. If you want to stay there,
15 that's fine.

16 MR. MILLER: I'll stay here.

17 Judge, we did file an objection for probation not
18 granting a minimal mitigation role reduction on this offense,
19 Paragraph 52. I think Mr. Reichling just outlined everything
20 that Miss Bruey did, the efforts that she went through, and I
21 don't believe Mr. Bruey filed any of the loan application,
22 didn't do any of the internet work. He does own Bruey & Sons
23 Construction, but that's the only thing that he is responsible
24 for.

25 I think the totality of the circumstances in this

1 case, Judge, the work that went into it by Mrs. Bruey, I
2 understand that she got a role enhancement; however, in
3 comparison, Mr. Bruey did not participate in any of those
4 activities, creating false documents, doing the --

5 THE COURT: So he didn't get that enhancement, but
6 you want him to not only not get the enhancement, but get a
7 diminishment in the guidelines for minor role.

8 MR. MILLER: That's correct.

9 THE COURT: All right. What is the government's
10 response to that?

11 MR. REICHLING: Yeah, Judge, so within the sentencing
12 guideline manual, under Section 3B1.2, which is mitigating
13 role, there is an application note, which is Application Note
14 Number 3, titled Applicability of Adjustment Substantially Less
15 Culpable than Average Participate.

16 There's an illustration here that sort of explains
17 this diminished involvement or minimal role in a case, and it
18 says, "Likewise a defendant who is accountable under
19 Section 1B1.3 for a loss amount under 2B1.1 (Theft, Property
20 Destruction, and Fraud) that greatly exceeds the defendant's
21 personal gain from a fraud offense or had limited knowledge of
22 the scope of the scheme may receive an adjustment under this
23 guideline."

24 I would submit to Your Honor that, while Mr. Bruey
25 was not the individual who was conjuring up many of the

1 documents and applications that were submitted in this case, he
2 bend greatly from the spoils of the fraud in this case, from
3 the earnings from the fraud, Judge.

4 Both he and Miss Bruey enjoyed the purchase of a new
5 vehicle, purchase of All Terrain Vehicles, they're called side
6 by sides, Your Honor, they're actually not very inexpensive,
7 they range anywhere between 10 to \$25,000; dirt bikes, cash
8 withdrawals of over \$80,000.

9 There's an exhibit that I'll get into later, which is
10 Government's Exhibit Number 5, which is a composite exhibit
11 that contains photographs of both Mr. and Miss Bruey
12 withdrawing cash from various bank ATMs. Of course, these
13 don't capture all the bank ATM withdrawals that occurred
14 throughout this case, but they capture some of them, and I
15 think they're rather illustrative of the way these individuals
16 spent this money.

17 They purchased a new home in North Carolina for over
18 \$200,000 in cash using these funds. They made vast
19 improvements to their kitchen, remodeled their kitchen in their
20 home in Lehigh Acres. And, you know, this money was gone
21 rather quickly, given the fact that they received close to
22 \$880,000.

23 So Mr. Bruey benefited in this scheme in the sense
24 that he enjoyed what was derived from the fraud, Judge. Which
25 would contradict what is contained within this commentary note

1 in the guidelines manual, which would allow for a minimal role
2 variance.

3 THE COURT: So even if he had nothing to do with it,
4 if he spent the money, egregiously?

5 MR. REICHLING: Right.

6 THE COURT: I'm not saying he had nothing to do with
7 it, other than spending the income.

8 MR. REICHLING: I'm just illustrating a point here,
9 in this commentary, which says, you know, if someone was not --
10 you know, had limited knowledge of the scope of the fraud, and
11 did not receive sort of any gain from it, or minimal gain from
12 it, in the form of maybe -- you know, it says personal gain.
13 Obviously, that would include receiving money from the scheme;
14 right? Then a minimal role enhancement would apply.

15 I think . . . it's the government's opinion that much
16 of the inner workings and understanding of how this fraud would
17 be committed was by Mrs. Bruey. Mr. Bruey knew it was going
18 on, understood it to the tune of, you know, what was happening.
19 And there's some text messages we can discuss here, later, that
20 at least illustrate some dialogue between the two about the
21 program, or about the loans; that he was aware of it, although
22 he didn't submit these applications, he certainly knew it was
23 happening, and he certainly enjoyed the benefits that were
24 received from it.

25 THE COURT: All right. That objection is overruled.

1 Any other objections we haven't talked about from
2 either defendant?

3 MR. MILLER: No, Your Honor.

4 MR. LAPPAN: No, Your Honor.

5 THE COURT: All right. So, based on what we just
6 said, the guidelines for Mr. Bruey are a total offense level of
7 22, Criminal History Category III. Creates an advisory range
8 of 51 to 63 months prison, two to five years supervised release
9 on Counts 1, 12, and 13, one to three years of supervised
10 release on Counts 14, 15, and 16, restitution of \$881,659.35, a
11 possible fine of 15,000 to \$3,627,854.10, and a \$600 special
12 assessment.

13 I have no idea how the sentencing guidelines come up
14 with a possible fine down to a number like 3,627,854.10?

15 MS. PRIMROSE: Your Honor, if I may? I believe that
16 has been corrected in the amended final presentence report.

17 THE COURT: Okay.

18 MS. PRIMROSE: The original calculation was based on
19 the statute that requires twice the gross gains of the offense;
20 but we recalculated the fine range in the amended presentence
21 report for Mr. Bruey, and it would be between 15,000 and
22 \$3 million.

23 THE COURT: Okay. So there's a more round number.
24 I'm not going to be giving either one of them a fine, because
25 they don't have any money to pay a fine, but we just have to

1 get that correct for the purposes of the sentencing guidelines.

2 Same thing with Ms. Bruey. Her total offense level
3 is 24, Criminal History Category III, 53 to 78 months
4 imprisonment; two to five years supervised release on Counts 1
5 through 11; one year to three years on Counts 14 through 18;
6 restitution \$881,659.35. And then her possible fine is 20,000
7 to 11 million. Is that right?

8 MS. PRIMROSE: Yes, Your Honor.

9 THE COURT: With a \$1,600 special assessment.

10 All right. So let's go through this now. Any
11 victims, at all, on this thing, Mr. Reichling?

12 MR. REICHLING: Judge, yeah, there are victims. Of
13 course, they're financial institutions.

14 THE COURT: Right. I mean that want to testify.

15 MR. REICHLING: No, not at all, Judge. They have
16 been notified of today's hearing, and that's it. They haven't
17 provided any statements, and don't wish to be heard.

18 THE COURT: All right. So I want you to tell me what
19 sentence you're recommending for each defendant, tell me again
20 why you're recommending that, and then we'll go over to the
21 defense and see what they to say.

22 And both of you all can talk at some point, I want to
23 hear from both of you, but the lawyers do the talking at the
24 beginning. All right?

25 So go ahead.

1 MR. REICHLING: Thank you, Your Honor.

2 First, I don't believe that -- if there is an
3 objection, obviously, I can handle it with defense counsel as
4 far as putting on my agent; but I've submitted to the Court a
5 total of seven exhibits that I would like to move for admission
6 at this time. I don't know if the defense has any objection to
7 their admission.

8 THE COURT: Any objections?

9 MR. LAPPAN: Judge, I have no objection; however, I'm
10 going to be addressing at least one of the documents.

11 THE COURT: That's fine.

12 MR. MILLER: No objection, Judge.

13 THE COURT: All right. Go ahead. They're admitted.

14 MR. REICHLING: Thank you, Judge. I'm sort of
15 running through a little bit of the sophisticated means
16 argument I was making. I laid out a bit of what was going on
17 in this case, and how the scheme operated.

18 First, Judge, as far as what sentence the government
19 believes is reasonable in light of the fraud that I'm going to
20 address here momentarily, I believe that the sentencing
21 guidelines adequately reflects the seriousness of the offenses
22 charged in this case. I believe it includes those facts and
23 the loss amount which drive up this guideline range.

24 So the government would be recommending a guideline
25 sentence for both of these individuals, and I'm going to

1 explain why that's the case. Of course, we would also be
2 asking that you incorporate the preliminary forfeiture order;
3 and I don't know if Your Honor has issued a final forfeiture
4 order in this case, but obviously that would be incorporated in
5 the final judgment in this case, as well as the restitution
6 which is contained in the presentence report.

7 Judge, this -- this . . . as Your Honor's aware, and
8 familiar with the news, and you've seen these cases sort of
9 trickling in and being charged in this district, the Paycheck
10 Protection Program obviously is one program that was created in
11 March of 2020, signed into law to provide relief to companies
12 who were going to feel the pains of the COVID-19 pandemic and
13 wanted to provide for the payroll of their employees.

14 The EIDL program, Judge, which is the economic --
15 excuse me, the -- gosh, I can't even think of what it's called
16 right now. The Economic Injury Disaster Loan Program, Judge,
17 my apologies, was a similar COVID relief program that was also
18 a part of this CARES Act package. These loans were loans that
19 were intended for businesses to also assist them with, you
20 know, paying for business-related expenses, of course.

21 Now, with the PPP loans in this case, Judge,
22 Miss Bruey, in reviewing the evidence in this case, there were
23 cellphones that were searched as part of this case pursuant to
24 search warrants. Namely Miss Bruey's phone, in particular,
25 contain much, if not all, of the indicia or evidence of fraud

1 in case. What I mean by that is, a lot of the documents, a lot
2 of the false tax returns, the income statements, payroll
3 reports, were all found in Miss Bruey's phone.

4 Beginning in April of 2020, Miss Bruey began applying
5 for many PPP loans. Most of them were in her name. Some of
6 them were in her husband's name. These loans were typically in
7 the range of \$20,000 each. Now, of course, they added up, you
8 know, when you take the totality of all these loans that she
9 was applying for; but they were for various businesses, so to
10 speak, and they were for either sole propriety or self-employed
11 individuals.

12 So she's . . . in the submission of these PPP loan
13 applications, you know, there are false payroll documents,
14 which are the tax documents in this case, as well as profit and
15 loss statements that are all submitted; and, over the course of
16 time, these private lenders deposit funds in different bank
17 accounts that Amber Bruey opened.

18 Miss Bruey opened a number of accounts. Initially,
19 Judge, the only account that the government was aware of that
20 they had prior to the fraud scheme was a Bank of America
21 account. Over the course of the fraud, a . . . BB&T accounts
22 were opened, Capital One accounts were opened, and Chime, which
23 is another sort of banking -- it's more of like a Fintech
24 company, as they call them these days.

25 So these funds were deposited in these accounts, and

1 all while this was going on, Judge, there also applications
2 that submitted to the SBA for these EIDL programs. And these
3 EIDL loans were typically capped at about \$150,000, and they
4 also included what's called an EIDL advance, or an EIDL grant.
5 And what that is, Judge, is that is a nonrefundable grant that
6 is given to a business based on the number of employees it has,
7 and it's capped at \$10,000.

8 So in these EIDL applications Miss Bruey was savvy
9 and understood the process enough that, in the application for
10 these EIDL loans, Judge, she would state that she had more than
11 ten employees so that she can get this \$10,000 free EIDL
12 advance.

13 On top of that, Judge, she would obviously create
14 fake tax returns or include false information about the
15 business, because the way the EIDL program works is they take
16 the gross income of the business, subtract the cost of goods
17 sold, and divide that by two to get to what the loan amount is,
18 and that's capped at \$150,000.

19 So Miss Bruey would include in these applications
20 that the gross income for this business for the year preceding
21 the pandemic, which was the year before January 30th of 2020,
22 that her business had, you know, gross income of a few hundred
23 thousand dollars and cost of goods sold of 20 or 30 or \$40,000,
24 so that, at the end of the day, it would equal out to \$150,000
25 or more, and she would get that \$150,000 loan. Those funds

1 were also deposited into accounts that had been opened by
2 Miss Bruey. Most of them were in her name, some were jointly
3 held with her husband.

4 The funds would trickle into these accounts, Judge,
5 and immediately the Brueys went on spending sprees. They
6 purchased a 2019 Yukon SUV for about \$50,000 using the funds.
7 They purchased side by sides, or UTVs, these kind of, I call
8 them golf carts on steroids, that are gas operated off-road
9 vehicles. One they purchased for around \$24,000. The other
10 was around eight or \$9,000. Dirt bikes. A brand new home in
11 North Carolina for just over \$200,000 in cash.

12 And then there was just quite a few of just your
13 typical entertainment spending, going on . . . taking their
14 kids to Busch Gardens, staying at hotels. You know, updating
15 their kitchen, buying appliances. You know, going --
16 withdrawing over \$80,000 in cash over a several month period of
17 time. So, after they purchased their home in North Carolina,
18 obviously they eventually relocate to North Carolina, and they
19 leave their home here, in Lehigh Acres, at a point in time
20 during this scheme.

21 But what I'd like to just briefly address is, at
22 least what is somewhat contained within the sentencing
23 memorandum that was filed by Miss Bruey in this case; in that
24 sentencing memorandum, the government sort of -- the government
25 takes this sentencing memorandum as a -- to suggest that much

1 of the fraud in this case was that committed by Miss Bruey --
2 and I'm not leaving Anthony Bruey out of this, he certainly
3 participated in it -- but that much of the blame for
4 Miss Bruey's conduct in this case was because she had suffered
5 abuse over the course of her marriage with Mr. Bruey.

6 Now, something I obviously didn't -- failed to
7 mention, too, is that, all the while this scheme and fraud is
8 being committed, Miss Bruey is on probation, out of Saint Lucie
9 County, for public assistance fraud.

10 THE COURT: Do you know what that involved?

11 MR. REICHLING: So the way this all worked down, this
12 fits in with the scheme, is a \$25,000 cashier's check was
13 issued to JPay, which as Your Honor knows, is sort of the
14 service that the department of corrections uses, probation
15 uses, for payment.

16 A cashier's check was submitted by Amber Bruey, from
17 her Bank of America account, to JPay. That \$25,000 check,
18 Judge, was to pay for the restitution associated with that
19 offense that she was on probation for. Once that was done --

20 THE COURT: So just a second. She's on probation for
21 a state offense.

22 MR. REICHLING: Right.

23 THE COURT: She has an obligation to pay
24 restitution --

25 MR. REICHLING: Correct.

1 THE COURT: -- she pays it with money stolen from the
2 Federal Government.

3 MR. REICHLING: That is correct, Judge.

4 THE COURT: All right. What's the nature of that
5 state court --

6 MR. REICHLING: Yeah, and I'll get to it.

7 So, after she does that, she . . . it was a withhold,
8 so she was able to seal and expunge or expunge her record. So
9 the government, in its investigation, could not get those
10 documents because the records were sealed. The records that we
11 were able though obtain were the records from FDLE, which were
12 her -- you know, was filed by her attorney to get her records
13 sealed. So I don't know the facts and details of the case.
14 I'd called over to the state attorney's office, they didn't
15 have the records in their filing system, nor did the police
16 department there in Saint Lucie County.

17 What I do know, obviously, Judge, is that there was
18 restitution over \$20,000, and it obviously involved some form
19 of, you know, lie, or some deceit or misrepresentation made in
20 receiving public assistance. That's all the government knows
21 about that offense.

22 Mr. Bruey, of course, was also on probation for a
23 crime that he actually committed against Miss Bruey, for -- I
24 believe it was aggravated assault with a deadly weapon, and
25 battery by strangulation. So while all of this is going on,

1 while all this crime is being committed, they're both on
2 probation. State probation.

3 So back to the sentencing memorandum briefly, or more
4 than briefly, but the . . . the picture that's painted by
5 Miss Bruey is that much of this -- the blame for much of this
6 is because of her husband's abuse. So I've admitted a couple
7 of exhibits, I think, that just sort of lay out a little bit of
8 what was -- what I believe was going on.

9 And the first exhibit, Judge, is just text messages.
10 And these are composite exhibits. In the bottom right-hand
11 corner of each exhibit, they're Bates stamped by exhibit and
12 page number. The first -- in the green text in each and every
13 one of these, Judge, is a text from Amber Bruey, and the blue
14 text is from Anthony Bruey.

15 So the first sort of text is her sort of explaining
16 to him, you know, "I don't know what happened. When I get
17 e-mail with loan docs, I'll just sign your name. It's \$20,800.
18 As long as we show we paid ourself, and it's rents and utility,
19 it's forgiven, and we don't have to pay it back."

20 So I think that just illustrates briefly this idea
21 that, well, did Anthony Bruey come up with this, did he sort of
22 either threaten/abuse his wife to do these things, or did Amber
23 Bruey come up with this? So this is a text that was sent on
24 April 29, 2020, sort of explaining to Anthony Bruey what to do
25 with these PPP loan funds.

1 The next is another text from Amber Bruey about
2 writing him a paycheck so that he can use these funds to pay
3 for wood to build shelves, I believe in their home, which just
4 further shows how Miss Bruey has knowledge, understands the
5 program, has control of the finances, and is, you know, explain
6 the program.

7 The next, on Page 3, she explains I also spoke to the
8 SBA, and we are obligating on both loans. She said that -- she
9 said they are just waiting on loan docs to be drawn up. One is
10 104K, and one is 143K. Do you want it to take both or just
11 one? She said it should be a few for paperwork.

12 So in these text message exchanges, at least what was
13 recovered from the defendants own -- Amber Bruey's phone, I
14 don't see, or I did not see any responses, sort of, to these
15 texts by Mr. Bruey where he says, you know, get me -- you know,
16 get those loans, or yeah, that sounds good. The topic sort of
17 changes to something else other than discussion of the loan.

18 Now, if you get to the last two pages, Judge, I
19 think -- and this is sort of towards the end of the scheme, and
20 this is shortly after you're arrested -- they were arrested,
21 excuse me, not you. Before they were arrested. These two last
22 text exchanges are very illustrative of what was going on, I
23 think.

24 The first text is from -- the blue text is from
25 Anthony Bruey, says, "Such a waste of money, but then again it

1 was never ours." And then there's further text says "FYI, I'm
2 mad until I'm dead. I hate humans."

3 Amber Bruey's response, the government believes, to
4 this waste of money, it never was ours, response to the text
5 from Anthony Bruey is, "It's a business loan. Your name isn't
6 on anything. It's my name. It wasn't a waste. The boys
7 enjoyed it." By boys, the government believes she's referring
8 to their four sons.

9 And then the last text message exchange, which
10 actually was a text message exchange that comes later,
11 following this fight, or argument that they have, that
12 Mr. Lappan or Miss Bruey included in her sentencing memorandum,
13 this is an exchange between Anthony and Amber, where he says,
14 "I promise I will be leaving that house in North Carolina."

15 She responds "Why? Where are you going to go? I
16 thought you like that house."

17 He responds, "If I didn't personally earn what we
18 have, I don't want it. I don't want vacations, or your car, or
19 the other cars, or the house in North Carolina, NC. I have the
20 biggest weight of guilt on my shoulders that you can ever
21 imagine. It's not right. I can't act like this. Like it is,
22 excuse me."

23 She responds, "There's nothing for you to feel guilty
24 about. You have worked to earn stuff that we have."

25 And he responds "No, I didn't."

1 So the government believes, in the context of the
2 conversation, Mr. Bruey is bringing to light that they've got
3 this house, they've got these cars, he didn't earn it, this was
4 sort of from their illegal activity, and she's almost, you
5 know, encouraging him, like don't feel guilty about it, you
6 earned the stuff that we have. So I thought that was an
7 illustrative text, sort of just some communications between
8 Mr. and Mrs. Bruey about the loans.

9 The second exhibit, Your Honor, that I submitted --
10 admitted, excuse me -- were text messages, and these are just
11 three. There are plenty more that were on Miss Bruey's phone.
12 And I introduce these just to show that there was certainly a
13 showing of affection in these text messages from Mr. Bruey to
14 Mrs. Bruey, and it was reciprocal. But there are more than --
15 you know, many instances in which Mr. Bruey is telling his wife
16 "I love you," and, you know, the next pages, "My heart
17 absolutely breaks if I think you want someone else, you're the
18 most amazing woman the world, you're everything I could ever
19 want. You cook good, you're beautiful, you're smart, you're
20 loving."

21 The next page is honestly . . . "I honestly think to
22 myself how did I get so lucky," and this is him saying, you
23 know, "You're the perfect person." You know, these are just
24 instances and text messages in which Mr. Bruey is showering
25 Miss Bruey with love and affection, and giving her compliments,

1 and telling her how great she is.

2 The third exhibit, Judge, and these are really
3 intended to just refute -- or give a bigger picture to what was
4 going on here in light of the sentencing memorandum filed by
5 Mrs. Bruey. But third exhibit is just to sort of show that
6 Miss Bruey had control of their financial situation, meaning
7 that shell, you know, had control of the bank accounts and what
8 happened -- what would go on with her finances.

9 So the first text is from her to Anthony Bruey,
10 "Allied Financial called. Should I be answering?" And that's
11 from Anthony Bruey, excuse me, and then the response is, from
12 her, "No, I talked to them." He said, "Okay. Good."

13 And then the next page is from her, saying, "I made
14 your probation payment. I also e-mailed a reporting form for
15 May." He says "Thank you."

16 "You're welcome."

17 "I love you."

18 "I paid extra on probation also to kind of help it
19 look better." That was from her. Okay. "Love you," is what
20 he responds.

21 And then there's another text, on Page 3, where she
22 tells him he can pull out money -- more money if he wants.

23 The fourth exhibit, Judge, deals with this argument
24 made by Miss Bruey in her sentencing memorandum that, you know,
25 and proof that this sort of fraud was committed to the benefit

1 of Mr. Bruey, some of the ill gotten gains were used to buy
2 things that were synonymous with boys' toys, or things that men
3 would use, so therefore this was all Anthony's idea, and this
4 was all don't his behest, so to speak.

5 Exhibit 4, these green texts are Miss Bruey sending
6 Anthony Bruey advertisements for these side-by-size or UTV
7 vehicles that I was explained to Your Honor, these sort of
8 off-road gas powered golf carts. So these are just text
9 messages of her finding advertisements for him, and telling him
10 what the price are, and things of that nature, her going out
11 and finding these things for him.

12 Exhibit Number 5, Judge, is a composite exhibit of
13 both Mr. and Mrs. Bruey withdrawing pretty large sums of cash,
14 at least in the scope of ATM withdrawals, from different ATMs
15 throughout the Middle District of Florida and up in North
16 Carolina.

17 Page 1 is a photo of Mr. Bruey withdrawing \$600 in
18 cash. Mrs. Bruey is in the front passenger's seat.

19 The next page is ATM withdrawal by Mrs. Bruey on her
20 own, at an ATM in Lehigh Acres, of \$500.

21 The page after that is just her driving. He's in the
22 passenger's seat of the vehicle they actually purchased with
23 fraudulently obtained proceeds, which was that Yukon that I
24 mentioned, SUV, pulling out a thousand dollars.

25 The next is -- which is Page 4, is a photo of her, by

1 herself, withdrawing \$1,200 in cash from the Bank of America
2 ATM, I believe in Lehigh Acres.

3 The next is a picture of the two of them withdrawing
4 cash at a drive-through ATM. This was totaling \$2,700 in cash.

5 And then Page 6 is her withdrawing a thousand dollars
6 total from an ATM.

7 And then the last few show her and him, or her by
8 herself, withdrawing cash.

9 And then the last page, excuse me, Your Honor, is her
10 withdrawing \$6,200 in cash, on her own, by herself, in a branch
11 in Lehigh Acres.

12 So I wanted to at least bring that to Your Honor's
13 attention to get sort of a picture of the use of the funds that
14 they both were enjoying, that they were both going it. Does
15 not appear to me that this was an unwilling fraud by Miss Bruey
16 or it was done to appease her husband, or to quell any concerns
17 of abuse.

18 Exhibit Number 6, Judge, further sort of demonstrates
19 that -- this is a photo of her in a Honda Talon that they had
20 purchased with these fraudulently obtained proceeds. This is a
21 photo that she took of herself and sent to her husband,
22 enjoying it, it appears. At least the government would take it
23 as such. Certainly, this wasn't something that was purchased
24 just for Mr. Brueys benefit, she was also enjoying it as well.

25 And then the last exhibit, Judge, is a letter that

1 was found in Miss Bruey's phone. It seems to be addressed by
2 Marissa Higgenbotham, who was Miss Bruey's sister. It is sent
3 by her, and it's -- the government believes it's to either get
4 Mr. Bruey off probation, or to allow him to travel to North
5 Carolina, and it explains the changes that Miss Higgenbotham
6 has seen in Mr. Bruey, and his improvements.

7 And so I just submit these as sort of a response to
8 the sentencing memorandum that was filed by Mr. Lappan.

9 In all, Judge, this fraudulent scheme netted
10 approximately \$881,000 in actual loss. I will say --

11 THE COURT: Just a second, Mr. Reichling. Just hold
12 that thought right there, because I want to ask you about that.

13 We have something going on here that, with other
14 cases, we need to talk about. I was under the impression we
15 were going to did this case until, really, 11:00 o'clock,
16 because the other two cases, Fleming and DeLeon, went away for
17 various reasons. I see Juan moved the afternoon cases back
18 to 10:00 clock, so we have other cases for 10:00 and 10:30.

19 I apologize to the people involved in that, but we're
20 not doing those cases now. We need to do these cases in the
21 afternoon.

22 So if you are here on Hernandez Hernandez, or
23 Tomas-Funes, come back at 1:30. All right? Again, my
24 apologies. It was a miscommunication. This sentencing that
25 I'm doing now is taking most of the morning, and I don't

1 know -- maybe Juan asked me, and I said do it, and it was my
2 mistake, so I'll take -- I'll fall on the sword for it. But
3 the only other case we're going to do this morning, besides the
4 one we're doing right now, is that, sometime, 11:00 o'clock or
5 after, we're going to do Savannah Duncan. All right?

6 So everybody else again, my apologies, we'll see you
7 this afternoon.

8 Okay. Mr. Reichling.

9 MR. LAPPAN: Just so the Court knows, I'm the
10 attorney for Mr. Tomas-Funes. Just so you know.

11 THE COURT: Okay.

12 MR. REICHLING: So all in all, Judge --

13 THE COURT: So tell me -- I mean, I understand these
14 numbers and everything like that. Does somebody know how much
15 money they actually got in their pockets?

16 MR. REICHLING: 881,000.

17 THE COURT: For sure.

18 MR. REICHLING: Yes.

19 THE COURT: 881,000 that they went through.

20 MR. REICHLING: Correct.

21 THE COURT: So do the math on that. 881,000. The
22 house was roughly how much?

23 MR. REICHLING: Just over \$200,000, Judge. I can get
24 you the numbers. Give me one second here. I think probation
25 also has those numbers.

1 THE COURT: They do, but it's just confusing to me.
2 When you get too many numbers involved, I don't do too well.

3 MR. REICHLING: The home was a wire transfer to
4 purchase the home. The total was \$211,457,000.

5 THE COURT: So, after the home, 881 minus 211

6 MR. REICHLING: And I can go through the big
7 purchases, if you want.

8 THE COURT: Roughly \$670,000 was spent, and none of
9 it is --

10 MR. REICHLING: Well, the home was purchased
11 straight, with straight cash, out of the proceeds.

12 THE COURT: Right.

13 MR. REICHLING: So then I can talk about other things
14 that they bought with use of the funds.

15 THE COURT: There's a \$50,000 Yukon.

16 MR. REICHLING: Right.

17 THE COURT: Gets us down to 620.

18 MR. REICHLING: 23,500 was the check to pay off the
19 probation restitution.

20 THE COURT: That's down to 597ish.

21 MR. REICHLING: There's one check to Sunsport Cycle,
22 which was to purchase this Honda Talon, the side by side, and
23 the dirt bike, \$29,214.

24 THE COURT: Any other big-ticket items here?

25 MR. REICHLING: There are, Judge. I didn't include

1 them all in this document I'm referring to. There was a
2 \$16,532 withdrawal from a BB&T account for the purchase of
3 another vehicle in North Carolina. As I mentioned previously,
4 approximately \$80,000 in cash was withdrawn. There are other
5 sort of larger purchases, but I don't have the bank records
6 before me, Judge.

7 But I can proffer to the Court that they spent all
8 the money. I mean, they didn't save any of this money.

9 THE COURT: Over what time period?

10 MR. REICHLING: So they began receiving loan funds, I
11 believe, in April of 2020. I'd say the money was certainly
12 spent by, you know, within a year. A year's time, Judge.

13 THE COURT: Okay. Keep going.

14 MR. REICHLING: So for those reasons, Judge . . .
15 look, I think that the government's belief of the involvement
16 in this fraud, as I've explained, is Mr. Bruey was certainly
17 involved in it to the extent of he knew it was going on, he
18 benefited from it, he understood it, his name was used in some
19 of these applications.

20 Miss Bruey, as I've stated, the bulk of the evidence
21 of the fraudulent submission of loans and these supporting
22 documents were all found on her phone, and communications
23 between the small business administration and any bank during
24 these loan submittal processes were done with Mrs. Bruey, and
25 not Mr. Bruey. I provided Your Honor with examples, I believe,

1 that would contradict much of what is contained in the
2 sentencing memorandum that was filed by Mrs. Bruey.

3 And certainly this was an extensive fraud in the
4 sense that, more than -- in total, more than 30 applications of
5 either PPP loan and EIDL loan applications, fraudulent
6 applications, were submitted to the SBA and banks, netting
7 these individuals \$881,000, to which they used, just on homes,
8 cash, toys, trips, vacations, none of this money went to any
9 business cause or business reason.

10 I will also submit to the Court that, all the while
11 that this was occurring, this is not contained in the PSR, both
12 Mr. and Mrs. Bruey were receiving unemployment benefits. So,
13 on top of that, there are deposits in their accounts of not
14 only this money, but also funds received for unemployment for
15 both Mr. and Mrs. Bruey over at least a year period of time.

16 And many of these tax documents, Judge, were actually
17 filed and -- eventually filed with the IRS, and the reason why
18 no taxes were paid on these tax returns is because deductions
19 were included in these tax returns to cancel out any income for
20 these businesses.

21 So what ended up happening is these tax returns are
22 actually eventually filed, they were clearly fraudulent, they
23 contain fraudulent numbers as to how each business was
24 operating, but both Mr. and Mrs. Bruey received tax refund
25 checks to the tune of eight to \$10,000 for their 2020 tax

1 returns that were filed that were fraudulent, that included
2 income but deductions to cancel out that income to a tune of
3 less than, you know . . . less than what would be suitable for
4 having to pay taxes on those funds.

5 So, overall, Judge, this was just a . . . a heaping
6 fraud, committed over a several month period of time, that
7 involved an exploitation of both the PPP and COVID relief fraud
8 programs; and I believe both are equally responsible for these
9 crimes, and both deserve guideline sentences.

10 THE COURT: Okay. Thank you.

11 Let me hear from Mrs. Bruey first, and then
12 Mr. Bruey. Actually, let's just take a five-minute break. We
13 have been going over an hour now. Let's take a five-minute
14 break, and then we'll go with the defense.

15 Thank you.

16 (At 10:21 a.m., court was recessed.)

17 AFTER RECESS

18 (At 10:27 a.m., court was reconvened.)

19 THE COURT: Okay. Go ahead and pick up where we left
20 off. Mr. Lappan.

21 MR. LAPPAN: Your Honor, my presentation -- we filed
22 a sentencing memorandum, as Your Honor is aware, Document 101.
23 Mr. Reichling has spoken about it. So our presentation, I was
24 not going to be that lengthy, but there are two loose ends that
25 came up this morning that I wanted to address first of all.

1 And I begin by noting to the Court that there are
2 family members from Mr. Bruey's family, there are family
3 members from Ms. Bruey's family.

4 So the first loose send this, Judge. Obviously I'm
5 not -- I can't access Mr. Bruey's PSR. I believe Your Honor
6 said that Mr. Bruey is a Criminal History Category III, which
7 is the same category as Amber Bruey. May I ask, is that
8 correct?

9 THE COURT: That's what it says, but he seems to have
10 a much more extensive record than her.

11 MR. LAPPAN: And that's my first indulgence for the
12 Court. Judge, I'm trying to keep this as unanimated as
13 possible, but I would ask the Court's indulgence. If you
14 would, you've reviewed all the documents, I know, Judge Barber,
15 but would you please take a moment for Ms. Bruey and just
16 reread, specifically, Paragraph 83 of her PSR? I don't want to
17 get into that in Court, but I would like Your Honor to be
18 sensitized to Paragraph 83.

19 THE COURT: Of hers.

20 MR. LAPPAN: Her PSR, yes, Your Honor.

21 THE COURT: I have that. I'm aware that. I
22 highlighted some of that stuff when I looked at it.

23 MR. LAPPAN: My position, Judge, is that she scores
24 in the same criminal history category as Mr. Anthony Bruey
25 notwithstanding that criminal conduct. And may I add this,

1 Judge. Her two convictions, as you are aware, are a withheld
2 adjudication on a misdemeanor, withheld adjudication on --

3 THE COURT: Let me just interrupt you. I'm not sure
4 exactly where you're going with this, but I'll just tell, when
5 I was reading that out earlier, I was very surprised that she
6 was in the same criminal category as him, and I wasn't sure it
7 was even correct, but I just said it because no one objected.
8 But I get it. She doesn't have much of a record. He's got
9 some -- he's got some stuff. I get it.

10 MR. LAPPAN: And, if your Honor so desires, after I
11 take my seat, Your Honor can ask Mr. Reichling about the
12 withheld adjudication for welfare fraud in Saint Lucie County?
13 If it is your desire, when I take my seat, if you'd like to ask
14 Miss Bruey the facts of that, she would respond to Your Honor,
15 if you want to go there, Judge.

16 THE COURT: I was planning on doing that.

17 MR. LAPPAN: Okay.

18 Judge, the second loose end is this: The government,
19 last night, sent over their exhibits. I did receive them.
20 It's very important, Judge, Mr. Reichling has advised the Court
21 that he's provided these exhibits to provide context to our
22 memo, and to perhaps refute our memo. And I'm looking
23 specifically, Judge, at Government's Exhibit Number 1, Pages 4
24 and 5. These are texts from August 8th of last year. They're
25 not sequential. They're from two different -- they're two

1 different time periods. Not by much, but they're sequential.

2 As Your Honor is aware, August 8th was a banner day
3 in this marriage. We have a long quotation from the text
4 dialogue on August 8th. That quotation is not broken up, it's
5 continual, and it is after the fragments that are in the
6 Government's Exhibit Number 1.

7 Now, importantly, if Your Honor would please turn to
8 our sentencing memorandum, Page 11, Footnote 5, if it please
9 the Court.

10 THE COURT: Okay.

11 MR. LAPPAN: Your Honor, I've mentioned that what we
12 have in our memo from August 8th is after Mr. Reichling's
13 quotations; but before whatever Mr. Reichling has in Exhibit 1
14 and before what we have in our memo, what happens is Footnote 5
15 of our memorandum, which will I read.

16 Previous to the text conversation appearing at
17 Pages 5 through 8 supra, Mr. Bruey text his wife that, "Suicide
18 is best for me," because, "Kids hate me, and I have absolutely
19 nobody. Not even you. You're more concerned about everything
20 else."

21 So with that, Your Honor, as a starting point, that
22 is a statement in this continuing text conversation that
23 precedes what Mr. Reichling submitted to the Court in
24 Exhibit 1, and precedes what we rely upon in our memorandum.

25 Importantly, Judge, if I may approach.

1 THE COURT: That's fine.

2 MR. LAPPAN: Mr. Reichling's two separate vignettes,
3 or two separate selections. There's language that occurs
4 between those vignettes and before those vignettes that
5 actually provide context and do not refute Ms. Amber Bruey's
6 position.

7 May I please approach?

8 THE COURT: Yeah.

9 MR. LAPPAN: Thank you, Juan.

10 (Mr. Lappan provides documents the Court and the
11 prosecution.)

12 MR. LAPPAN: I'm giving copies to Mr. Landon and
13 Mr. Reichling, Judge.

14 THE COURT: This is small font, and it's many pages.
15 I mean, how much of this do you want me to read?

16 MR. LAPPAN: Not much, Judge. I wanted to give you
17 the whole thing, that's all. I'm not going to be much more
18 than four minutes on this.

19 THE COURT: I don't want to rush you, but if you want
20 to point me to something in particular, otherwise --

21 MR. LAPPAN: I am.

22 THE COURT: I don't know what size font this is.
23 What's smaller than eight?

24 MR. LAPPAN: This is the way I got it from the
25 government, Judge. But what I can tell you is I'm not going to

1 spend much time on it, but it's important to have the context,
2 please.

3 If Your Honor will note, on the left -- the farthest
4 left column, Judge, you'll see numbers, which I believe are the
5 entry numbers. And I'm referring to --

6 THE COURT: What page are you on, Jim?

7 MR. LAPPAN: I'm at Page 164, Judge Barber, it's
8 second from the bottom, Entry Number 1475.

9 THE COURT: I'm with you. Go ahead.

10 MR. LAPPAN: Okay. Judge, this is where
11 Mr. Reichling picks up, on Page 4 of Exhibit 1. For context,
12 what I'm going to do, Judge, is I'm going to back up one, two,
13 three, four, five, six messages, and I'm going to read forward,
14 Your Honor, for about four minutes, from where the context
15 begins to the actual end of where Mr. Reichling stops,
16 including the missing part. With the important provision,
17 Your Honor, that this conversation is in the aftermath of the
18 Footnote 5 conversation where suicide is best for me, kids
19 don't want me, you don't want me. I'll pick up, Your Honor --

20 THE COURT: Just a second. Will you do this for me,
21 on my copy?

22 MR. LAPPAN: Yes, sir.

23 THE COURT: Highlight -- just take two minutes and do
24 this. Because there's no way I can follow this. Highlight,
25 you know, him and her in different colors. I'll give you two

1 highlighters. Wherever you want me to read from.

2 MR. LAPPAN: I'm going to read it, Your Honor.

3 THE COURT: But it's hard to follow. Just highlight
4 who is talking. I can follow it better.

5 MR. LAPPAN: I'll do it right now. What I'll do it,
6 if it please the Court, I'll just highlight Ms. Bruey in
7 yellow.

8 THE COURT: That's fine.

9 MR. LAPPAN: Let me go back where I was, Judge.

10 THE COURT: Are you giving that back to me?

11 MR. LAPPAN: I am, Your Honor.

12 THE COURT: All right.

13 MR. LAPPAN: Judge, the yellow is Amber.

14 THE COURT: Okay. Let me have my highlighter back,
15 too.

16 MR. LAPPAN: I'm giving them both back to you, Your
17 Honor.

18 THE COURT: All right. Go ahead.

19 MR. LAPPAN: Okay. So again, Judge, this is in the
20 aftermath of what appears in Footnote 5 of our sentencing memo
21 of suicide and nobody wants me. Going back . . . Item 1469,
22 from Anthony Bruey to Ms. Bruey, I apologize in advance for
23 profanity.

24 Message: "Don't try to bullshit no more on me.
25 You're a liar."

1 Amber: "That's not true. Yeah, I have other family
2 just like you. But in the end it's just us and the kids."

3 Anthony: "Bullshit."

4 Amber: "I'm not trying to bullshit you."

5 Anthony: "I know you're not trying because you are
6 bullshit."

7 Amber: "Well, I don't know what else to say to tell
8 you. I love you. I'm sorry. I just want you to come back in
9 and -- come back in and us talk things out to be okay. I don't
10 want you to stay mad."

11 That's, Judge, the preface.

12 Now, the government drops the needle on the record,
13 picks it up here: Such a waste of time -- excuse me -- "Such a
14 waste of money. But then again it was never ours." This is
15 Anthony saying that. He continues, Anthony: "FYI, I will be
16 mad until I'm dead. I hate humans."

17 Amber: "It's a business loan. Your name isn't on
18 anything. It's my name. It wasn't a waste. The boys enjoyed
19 it."

20 Amber again: "You're not always mad."

21 Amber again: "You get mad but you're not always
22 mad."

23 Then, I believe, Government's Exhibit Number 1 stops.
24 Conversation, though, continues.

25 Mr. Bruey: "I don't care if they enjoyed it. I

1 never in my life had something to enjoy."

2 Anthony: "Yes. I am always mad."

3 Anthony: "You piss me off every day. I can't live
4 my life like this. You're too sneaky for me to enjoy you."

5 Amber: "I'm not sneaky. And I didn't know I pissed
6 you off every day."

7 Anthony: "Yes, you are. You lie to me every day."

8 Amber: "No, I don't."

9 Anthony: "I told you to quit buying shit. No, you
10 don't care."

11 Amber: "I bought stuff for everyone to have for a
12 vacation. And things we've needed for the house. I don't do
13 stuff to make you mad."

14 Now, back to the government's exhibit. Now we're
15 back for the government.

16 "I promise I will be leaving that house in NC." That
17 was Anthony.

18 Amber: "Why? What are you -- where are you going to
19 go? I thought you liked that house."

20 Anthony: "If I didn't personally earn what we have,
21 I don't want it. I don't want vacations or your car. Or the
22 other car. Or the house in North Carolina. I have the biggest
23 weight of guilt on my shoulders that you can never imagine.
24 It's not right, and I can't act like it is."

25 Amber: "There's nothing for you to feel guilty

1 about."

2 Amber: "You have worked to earn stuff that we have."

3 Anthony: "No, I didn't."

4 That concludes my reading, and that is where the
5 exhibit for the government, Exhibit 1, stops.

6 I would note, Your Honor, on Page 8 of Dr. Twining's
7 report, Paragraph 3, under K, conclusions, and I note, quote:
8 "It is this examiner's professional opinion that Ms. Bruey is
9 highly influenced and susceptible to coercion due to the power
10 and control that Mr. Bruey exerts over her. She is not allowed
11 to question his authority for fear of being attacked verbally
12 and physically. She lives with high anxiety and stress, and
13 fears that Mr. Bruey will explode at any time."

14 We quote, Judge, in our sentencing memo, very
15 obviously, conversations that support our theory of mitigation.
16 When you review what the government has provided in Exhibit 1,
17 it shows the entire conduct -- or the entire context of the
18 conduct.

19 I would also note this, Judge. Your Honor and the
20 government was provided Dr. Twining's opinion and written
21 report on March 25th of this year. It was provided at that
22 time, because I knew sentencing was coming, to give the
23 government an opportunity, should they choose, to demand an
24 independent evaluation of Ms. Bruey. They didn't do that.
25 Which is fine, that's their decision. But we have a report

1 from a clinical psychologist that has her opinions, and the
2 bases for her opinions; and what we have from the government, I
3 would respectfully submit, is incomplete rebuttal.

4 Now, to my argument, Judge. We filed a sentencing
5 memorandum. It is filed as Document 101. This memorandum,
6 Your Honor, is the basis for our belief that a downward
7 variance is appropriate for Ms. Bruey, and we ask the Court to
8 consider a sentence of time served, to be followed by a term of
9 supervised release the Court would deem appropriate.

10 Based on the memo, the presentence report, and the
11 March 4th, 2022, report of Dr. Alice Twining, which I again
12 emphasize is unrebutted, we would simply reiterate that
13 Ms. Bruey need only -- Ms. Bruey's need not only for mental
14 health treatment, but for the inclusion of a specific mental
15 health treatment she requires, and she can receive through the
16 office of probation, as well as the age of her children, as
17 well as the health of her children -- and my client, Judge, has
18 brought documentation to the Court today, that I can share with
19 you, that she is currently pregnant. So she has four, and
20 there's one more child coming.

21 Without repeating the content of the sentencing
22 memorandum, I would simply conclude with the following: I
23 believe the sentencing memorandum and the documentation relied
24 upon in the sentencing memorandum clearly indicates that,
25 should the government continue to maintain that Ms. Bruey was

1 the brains of this operation -- and they're doing that this
2 morning, undoubtedly -- there is no doubt that she was the peon
3 of the operation based upon the texts we have cited in our memo
4 and today in Dr. Twining's report.

5 Because of this certainty, we would assert,
6 respectfully, that Amber Bruey had you been sentenced
7 accordingly, and we ask the Court to consider time served,
8 followed by a term of supervised release, for reasons we
9 present today and in our sentencing memorandum.

10 That's all I have, Your Honor.

11 THE COURT: Did you just tell me that she's pregnant?

12 MR. LAPPAN: I did, Your Honor.

13 THE COURT: With pending federal charge,
14 knowing . . . and I'll just speak . . . I'm assuming. I'm not
15 trying to be mean or inappropriate, but I'm assuming that
16 Mr. Bruey is the father. And that's an assumption. They knew
17 that they both could be going to prison, and somebody gets
18 pregnant? Wow. I've never encountered that before.

19 THE DEFENDANT: She is pregnant, Your Honor.

20 THE COURT: All right.

21 MR. LAPPAN: Do you need the paperwork or not, Judge?

22 THE COURT: I'll take your word for it.

23 MR. LAPPAN: That's our presentation, Your Honor.

24 THE COURT: All right.

25 Talk to me now. Anything you want me to say -- or

1 anything you want to say to me? This is your opportunity to do
2 it.

3 MR. LAPPAN: Amber?

4 THE COURT: Yes.

5 MR. LAPPAN: Amber, please.

6 THE COURT: You can sit there. You don't have to go
7 up to the podium.

8 AMBER BRUEY: I'm really sorry. I don't even know
9 how much I can apologize for what I've done. And I involved my
10 family. And this is really just torn our family apart.

11 THE COURT: Well, how did you think you wouldn't get
12 caught?

13 AMBER BRUEY: At the beginning, I honestly didn't
14 think I was doing anything wrong. We researched the loans and
15 how to apply for them.

16 THE COURT: Creating fake documents, you didn't think
17 that was wrong?

18 AMBER BRUEY: Not at the time, no, sir.

19 THE COURT: What amazes me about these types of
20 cases, and we did a trial in here, I guess it's a couple years
21 back now, over a tax fraud, where people create all these
22 records that -- I mean, a third grader could prosecute them for
23 it, because they create all the documents against them. Not to
24 diminish the work of the U.S. Attorney's Office, but they
25 create the documents against themselves, where it's obvious

1 that it's so easy to get caught because of the stuff they do.

2 Aren't you thinking that I'm setting myself up to go
3 to jail here? You weren't thinking that way?

4 AMBER BRUEY: At the time, no, sir.

5 THE COURT: How can that be? Because you got an
6 on-line degree at UCF. You're not a dumb person. How would
7 you possibly think that you weren't going to be -- I mean, I
8 get it was a couple hundred bucks, even a couple thousand
9 bucks. But \$800,000 and you didn't think you were going to get
10 caught?

11 AMBER BRUEY: No, sir.

12 THE COURT: All right. Anything else you want to
13 say?

14 MR. LAPPAN: Did you want to inquire about the sealed
15 conviction?

16 THE COURT: Yeah, yeah. What was that all? The
17 state court case over in Fort Pierce or whatever it was?

18 AMBER BRUEY: Yes, sir. It was for Medicaid. In
19 2016, when Anthony was in jail, DCF didn't allow him back in
20 the house either afterwards. For a certain period of time, we
21 had to live separated. And I got benefits, Medicaid, and my
22 kids had dental work and stuff done. But when he was able to
23 return, I didn't report that he had come back and that he was
24 working.

25 THE COURT: So you were getting free dental stuff for

1 your kids when you weren't entitled to it. To the tune of
2 \$23,000?

3 AMBER BRUEY: While he was not in the house, we were
4 eligible for it, yes, sir.

5 THE COURT: That's a lot of dental work, 23 grand.

6 AMBER BRUEY: It wasn't just dental work. They had
7 medical stuff, and prescriptions, and we got food stamps as
8 well.

9 THE COURT: Oh. Okay. Anything else you want to
10 say?

11 MR. LAPPAN: We have our argument, Judge. Thank you.

12 THE COURT: Go ahead.

13 Let me hear from Mr. Bruey now. Go ahead,
14 Mr. Miller.

15 MR. MILLER: Judge, I would ask the Court to vary
16 downwards. I would also ask the Court to take into
17 consideration the money, the amount, of course, the 800
18 some-odd thousand, Judge, I think is a two-level reduction down
19 from the 1.5 that is driving the guidelines. But I'd also ask
20 the Court to take into consideration the text messages that
21 have been brought up by counsel.

22 THE COURT: You like that. It showed your client
23 accepting responsibility, and remorse, and everything like
24 that. I saw that that was a double-edged sword in some ways.

25 MR. MILLER: I understand, Judge. But you know where

1 I'm going.

2 THE COURT: Yeah.

3 MR. MILLER: And he was showing remorse immediately,
4 not just after they have been caught.

5 Judge, I'm also going to ask for a time served and
6 supervised release. I understand that we've had multiple
7 conversations about what is an appropriate sentence for the
8 parties here.

9 Mr. Bruey has asked me to convey to the Court that,
10 if anybody has to go to prison, he wants it to be him. Of
11 course, that's against my advice, but that is my client, and
12 that is what he has informed me, repeatedly, that he would
13 prefer. If somebody is going to stay home, somebody is going
14 to go to jail, that his wife, Amber, stays home with the kids,
15 with their four children, soon to be five, and that any
16 sentence that the Court could fashion, if it is one of Bureau
17 of Prisons, we would ask that he be allowed to self-surrender.

18 Thank you.

19 THE COURT: Okay.

20 Mr. Bruey, do you to talk to me on this thing?

21 ANTHONY BRUEY: Yes, sir.

22 THE COURT: Go ahead.

23 ANTHONY BRUEY: Thank you.

24 THE COURT: You can have a seat. It's fine. I think
25 Jeff is going to want you to talk into a mike. Yeah. Ahead.

1 ANTHONY BRUEY: Thank you for letting me speak. I'm
2 very sorry for everything, to everybody in here, for all this
3 whole situation. To my family, I apologize to my family for
4 this.

5 I would say the worst thing about this whole
6 situation has been the way that I have been portrayed in a
7 letter trying . . . and if I want to defend my family, and I
8 been slammed, and it's very hard for me to even deal with,
9 thinking that my wife could possibly think these things about
10 me. It's a . . . it's really tearing our family apart, and if
11 anything, my family is the most important thing.

12 THE COURT: Just a second. I get what you're telling
13 me, but didn't you plead guilty to threatening her or something
14 with an AK -- or no. It was an AR, not a AK.

15 ANTHONY BRUEY: Yes, sir, I did. And I paid all the
16 consequences for it --

17 THE COURT: Well, I get it, but you understand why
18 people are going to start saying stuff about you.

19 ANTHONY BRUEY: Yes, sir, I understand.

20 THE COURT: All right. Go ahead.

21 ANTHONY BRUEY: But that was then, and it's
22 I'm sorry for everything I've ever done, and I ask that you
23 please let me protect my family and my kids. She's a great
24 mother, and she can take better care of our family than I can.
25 And I ask that you allow me to accept the consequences for

1 everything that's happened. Please, I'm with begging you, have
2 mercy on us. Please.

3 THE COURT: Okay. Same question. How did you think
4 you weren't going to get caught with this? I mean, again,
5 steal a couple thousand bucks, maybe get some unemployment you
6 don't deserve, I mean, people get away with that kind of stuff
7 all day long; but 800 grand, and how do you think you weren't
8 going to get caught?

9 ANTHONY BRUEY: I had an instinct that it was coming.
10 I didn't know for sure. I didn't exactly know everything going
11 on.

12 THE COURT: So your answer is you did think you were
13 going to get caught. Which is actually a good answer. That's
14 what you should have been thinking because it's so obvious.
15 It's so easy to get caught at this level.

16 ANTHONY BRUEY: I'm sorry.

17 THE COURT: Let me just look at something here.
18 What were you on probation for when this case came
19 up?

20 ANTHONY BRUEY: The assault.

21 THE COURT: The one with the AK? Or the AR?

22 ANTHONY BRUEY: Yes, sir. I did everything they
23 asked me to do. I never violated, I took classes too. Anger
24 management classes. I tried to better myself. I made a lot of
25 mistakes, and I've always tried to better myself.

1 THE COURT: But again, I'm not trying to be
2 inappropriate, or suggest things, but I've been doing this too
3 long to not ask the question I'm about to ask, all right? Do
4 you agree that you are the father if she's pregnant?

5 ANTHONY BRUEY: Yes, sir.

6 THE COURT: What are you all thinking?

7 ANTHONY BRUEY: I don't think we were. We were
8 living in the moment.

9 THE COURT: Amber, I mean, you both put yourself in a
10 position of having a baby in prison. I'll be very honest with
11 you.

12 And Amber, what are you thinking about that?

13 ANTHONY BRUEY: I'm scared. Very scared about that.
14 And, at the time, we weren't really thinking about it.

15 THE COURT: Not thinking.

16 ANTHONY BRUEY: No, sir.

17 THE COURT: Not thinking. Okay. I guess I should
18 hit back on the other side here and say does the government
19 have anything you want to add?

20 MR. REICHLING: Judge, I certainly -- well, the
21 pregnancy thing, obviously, I'm as shocked as anybody, but
22 certainly it's been done before where individuals have been
23 sentenced to prison, and have served a sentence while they were
24 pregnant, and the BOP does make accommodations to deliver your
25 child in prison. So that can be accomplished in the event Your

1 Honor were to decide to sentence Miss Bruey to prison.

2 I sort of -- I understand that Mr. Bruey wants to
3 sort of fall on the sword here, and take the brunt of the time
4 that Your Honor, you know, would impose in this case, as far as
5 prison. However, I don't -- I will say this because it's in
6 the -- it's in Title 18, United States Code, Section 3553, I
7 don't believe there's a sentencing factor that would allow
8 Your Honor to take that into account in laying out or ruling on
9 a sentence that would be so far below the defendant's
10 guidelines, Miss Bruey's, in particular, that she would get
11 time served.

12 I don't think that 3553 -- there's a factor there
13 that would permit the Court to level a sentence here that
14 adequately reflects those factors in light of Mr. Bruey wanting
15 to fall on the sword.

16 I think, when you look at those factors, Judge, you
17 see that there's support for the government's request that both
18 of these individuals serve guideline sentences. You know, the
19 need to reflect the serious -- the need for the sentence
20 imposed to reflect the seriousness of the offense.

21 This is a serious offense, Judge. This is fraud
22 perpetrated on both the government and on lenders that were
23 administering loans for the government, taking away funds that
24 could have gone to real businesses that would use the money for
25 real things with regards to their business, for an adequate

1 deterrence to criminal conduct. Obviously, I believe, in light
2 of the amount of money that was taken in this case, there needs
3 to be a sentence that reflects that.

4 Protect the public from further crimes, obviously
5 both defendants were on probation when they committed these
6 offenses, and, you know, deterrence, I think, here, is
7 certainly a factor. Deterring future criminal conduct, I mean,
8 it's quite clear that both of these individuals have no regard
9 to criminal consequences, nor do they have any regard to being
10 on criminal probation and committing crimes while on probation
11 on state cases. And that's really -- that does not help their
12 case in asking this Court for some form of variance so low as
13 to bring them into a category in which -- or an offense level
14 in which they would receive a time-served sentence.

15 So, you know, that's the government's belief as to
16 what the evidence presents itself, the PSR, the facts of the
17 case, and that's why the government is seeking a guideline
18 sentence as both of these individuals.

19 THE COURT: All right.

20 Anything else anybody else wants to say? Either
21 side? Anybody, about anything?

22 MR. LAPPAN: No, Your Honor.

23 MR. MILLER: No, Your Honor.

24 THE COURT: All right. I'm going to do something in
25 this case that I don't usually do, and that is I'm going to

1 think about it a little bit more. There's been some things
2 that have come out here today that I was not previously aware
3 of, and I didn't see. I have a lot of clarification about the
4 money piece of it, and how it was actually being used, various
5 other things; but I want to continue to consider.

6 What is that week when we're going to start that
7 trial, Juan? What is the Thursday of that week? Did I set
8 something else that week? Tell me what I'm doing that week.

9 I want you to come back, it's going to be the second
10 week of July. I'm going to give you an exact day. Is
11 everybody available then? Anybody on vacation?

12 MR. LAPPAN: The first two days of that week, the
13 11th and 12th, I would ask Juan. I'm not here, but I am here
14 on Wednesday of that week.

15 THE COURT: All right. Let's say Wednesday. And at
16 that point I'll just be imposing the sentence. I don't need to
17 hear anything from anybody else, I'll just be imposing the
18 sentence on that day.

19 What is that Wednesday, Juan?

20 COURTROOM DEPUTY: The 13th.

21 THE COURT: What time did I say we were having court?

22 COURTROOM DEPUTY: 11:30.

23 THE COURT: 11:30.

24 So just come to court at 11:45 on Thursday, July 11?

25 Is that right, Juan?

1 COURTROOM DEPUTY: Do you mean Wednesday or Thursday?

2 THE COURT: Wednesday.

3 COURTROOM DEPUTY: That's the 13th.

4 THE COURT: Wednesday, July 13th, 11:45. And at that
5 point I'll impose the sentence.

6 MR. LAPPAN: I think I'm before you at that time in
7 McClenahan.

8 THE COURT: Yeah, I'm going to double-book you. This
9 one isn't going to be anything you have to do other than listen
10 to me impose the sentence. So we may go a little bit -- you
11 know, maybe do McClenahan, and then do this a little bit over
12 lunch. But I need to think about this one a little bit more.

13 I'll just say this isn't the first case like this
14 I've had, this isn't the first case I've had with the husband
15 and wife doing things illegal, and with one wanting to fall on
16 the sword, and things like that, but this one is a little
17 perplexing to me in a couple different ways, and I just want to
18 make a decision with the benefit of thinking about it a little
19 bit more.

20 Both defendants should be prepared to possibly go to
21 prison on that day. All right? I'm not trying to scare
22 anybody, but if that's what I end up deciding do, that needs to
23 happen. Maybe I won't do that at all, but I just want to alert
24 everyone to the possibility that that could happen so that no
25 one says, oh, we haven't done this, we haven't done that.

1 So that's where we are, and we will see you on
2 that day.

3 Thank you.

4 -- -- -- -- -- -- -- --

5 (At 11:04 a.m., court was recessed, to be reconvened
6 at 11:45 a.m., on Wednesday, July 13, 2022.)

7 -- -- -- -- -- -- -- --

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25