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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
PLAINTIFF,

vs.

ARMAN HAYRAPETYAN,
DEFENDANT.

CASE NO.: 2:20-CR-00579(A)-6

**ARMAN HAYRAPETYAN'S
SENTENCING MEMORANDUM**

Hearing Date: October 18th, 2021
Time: 11 AM
Courtroom: 10 A
Judge: Hon. Stephen V. Wilson

TO THE HONORABLE STEPHEN V. WILSON UNITED STATES DISTRICT JUDGE
FOR THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Defendant Arman Hayrapetyan (hereinafter "Defendant" or "Hayrapetyan") by and through
his counsel of record, Jilbert Tahmazian, hereby files its sentencing position.

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MEMORANDUM OF POINTS AND AUTHORITIES

1. INTRODUCTION

On June 21st, 2021 Defendant Arman Hayrapetyan pled guilty to Count 26 of the Government's First Superseding Indictment which charged defendant of violating 18 U.S.C § 1956(h): conspiracy to commit money laundering. The Court ordered a Presentence Investigation Report [hereafter PSR], and sentencing has been set for September 20th, 2021. The U.S. Probation Office ("USPO") filed the PSR on August 13th, 2021 calculating a **total offense level of 12** and a **Criminal History Category ("CHC") of I** for the Defendant. Based on Defendant's history, offense, and acceptance of responsibility, the USPO recommends that the Defendant be committed to the custody of the BOP for a period of 5 months 5 months in home confinement, followed by two years of supervised release. On September 13th, 2021 the Government submitted their sentencing position wherein they agree with the USPO's calculation, but contend the sentence should not be split into a term of custody and a term of house arrest. [ECF 967] Instead, they argue Defendant should serve the full term under the custody of the BOP. *Id.*

A. PRETRIAL SERVICES SENTENCING GUIDELINE CALCULATION

The PSR provides the following United States sentencing Guideline ("Guidelines") calculations:

Base Offense Level: 12

Special Offense Characteristics: +2

Acceptance of Responsibility: -2

TOTAL OFFENSE LEVEL: 12

The PSR provides the following **Criminal History** calculation for the defendant: **I**

1 The PSR recommends that Defendant serve 5 months in the custody of the BOP followed by
2 5 months of home detention and supervised release for two years. The Government agrees to this
3 calculation, but differs in their sentencing recommendation. The Government suggests that the
4 Defendant be placed in the custody of the BOP for the full ten months. In part, they argue that such
5 a sentence is necessary to impress upon the Defendant the seriousness of his conduct and is
6 “appropriate based on an individualized assessment of this defendant and the circumstances of his
7 volitional involvement in conduct he knew to be wrong.” [ECF 967; pg. 6]
8

9 **2. SENTENCING GUIDELINES ARE MERELY ADVISORY**

10 In *United States v. Booker*, the Supreme Court ruled that its holdings in *Blakely v.*
11 *Washington and Apprendi v. New Jersey* also apply to the Federal Sentencing Guidelines. (*United*
12 *States v. Booker*, 125 S.Ct. 738, 756 (2005); *Blakely v. Washington*, 124 S.Ct. 2531 (2004);
13 *Apprendi v. New Jersey*, 530 U.S. 466 (2000)).
14

15 The Court expressly found that parts of the Federal Sentencing Reform Act of 1984, chiefly
16 those that make the Sentencing Guidelines mandatory, are incompatible with the Sixth Amendment.
17 The Court severed and excised those provisions from the Act, “mak[ing] the [Federal Sentencing]
18 Guidelines effectively advisory.” (*Booker* at 757). Under *Booker*, sentencing courts must treat the
19 guidelines as just one of a number of sentencing factors set forth in 18 U.S.C. § 3553(a). The
20 primary directive in Section 3553(a) is for sentencing courts to “impose a sentence sufficient, but
21 not greater than necessary” to comply with the following sentencing purposes (§ 3553(a)(2)):
22

- 23 a. reflect the seriousness of the offense, to promote respect for
24 the law, and to provide just punishment for the offense;
25 b. afford adequate deterrence to criminal conduct;
26

- 1 c. protect the public from further crimes of the defendant; and
- 2 d. provide the defendant with needed educational or vocational training, medical care, or
- 3 other correctional treatment in the most effective manner.

4 In determining the minimally sufficient sentence, § 3553(a) further directs sentencing courts
5 to consider the following factors:

- 6 a. “the nature and circumstances of the offense and the history
- 7 and characteristics of the defendant” (§ 3553(a)(1));
- 8 b. “the kinds of sentences available” (§ 3553(a)(3));
- 9 c. “the need to provide restitution to any victims of the offense.” (§ 3553(a)(7)).

10 Under 18 U.S.C. § 3661, “no limitation shall be placed on the information concerning the
11 background, character, and conduct of [the defendant] which a court of the United
12 States may receive and consider for the purpose of imposing an appropriate sentence.” In every
13 case, a sentencing court must consider all of the § 3553(a) factors, not just the guidelines, in
14 determining a sentence that is sufficient, but not greater than necessary, to meet the goals of
15 sentencing. Where the guidelines conflict with other sentencing factors set forth in
16 § 3553(a), these statutory sentencing factors should generally trump the guidelines. (*United States v.*
17 *Denardi*, 892 F.2d 269, 276-77).

18 **3. THE DEFENSE’S SENTENCING RECOMMENDATION**

19 Defendant respectfully requests by way of this Sentencing Memorandum that the Court depart
20 from the sentencing calculation offered by Pretrial Services, and instead, sentence the Defendant to

1 time served, and if the Defendant is sentenced to any additional time it be done as home detention,
2 as well as a term of one year supervised release. The total offense calculation would go as follows:

3 Base Offense Level: 12

4 Special Offense Characteristics: +2

5 Acceptance of Responsibility: -2

6 Minor Role: -2

7 Military Service Departure: -1

8 **TOTAL OFFENSE LEVEL: 9**

9 **CRIMINAL HISTORY CATERGORY: I**

10 **(1) THE NATURE AND CIRCUMSTANCES OF THE OFFENSE AND THE HISTORY**
11 **AND CHARACTERISTICS OF THE DEFENDANT 18 U.S. C. § 3553(A)(1)**
12

13
14 **A. Nature and Circumstances of the Offense**

15 Arman Hayrapetyan pled guilty to one count of 18 U.S.C. § 1956(h): conspiracy to commit
16 money laundering. These charges stem from an expansive and intricate bank and wire fraud
17 operation conducted by Mr. Hayrapetyan's co-defendants. There "is insufficient information to hold
18 Hayrapetyan accountable for the underlying bank fraud and wire fraud," thus he is only being
19 charged for the conspiracy to commit money laundering. [PSR, pg. 11]
20

21 **B. History and Characteristics of the Defendant**
22

23 Arman Hayrapetyan was born on July 8th, 1982 in the Lori Province of Armenia,
24 approximately two and a half hours outside of the country's capital Yerevan. Hayrapetyan and his
25 younger brother, Alexander Hayrapetyan, were born to a military family where they quickly fell in
26 love with the idea of service. Both Hayrapetyan and his brother Alexander followed their father's
27

1 footsteps and enrolled in the military. From 2003-2018 Hayrapetyan served in the Armenian army
2 as well as with the NATO forces. [Exhibit A] Additionally during this time, Hayrapetyan was able
3 to pursue higher education, eventually receiving both a bachelor's degree and the Armenian
4 equivalent of a Juris Doctorate.

5 During the course of his military service there were times Hayrapetyan served alongside his
6 brother, but never in the same division. Tragically, in 2020 Alexander Hayrapetyan was killed in
7 action during the Armenian-Azerbaijani conflict. Alexander's death has had a pronounced impact
8 on Hayrapetyan and he still struggles when speaking about his late brother. After his brother's
9 passing, Hayrapetyan took on the role of financially supporting his brother's family as well as his
10 own¹.

11
12 In 2019, Hayrapetyan withdrew from the Armenian army and relocated to Glendale,
13 California. His immigration was largely due to backlash he received from reports he made
14 describing corruption and abuse of power among Armenian Army generals. Upon growing concerns
15 for his own safety, he filed for political asylum and was legally permitted to remain in the U.S.
16 Since his arrival Hayrapetyan has been employed by P&I Medical Transport where he transports
17 dialysis patients to and from their appointments. The money he earns from this job helps support his
18 remaining family in Armenia.²

19
20 Unlike his co-defendants, Hayrapetyan both lived, and continues to live, a modest life. He
21 resides in a 725 square foot studio cottage with a single closet and bathroom. The residence is
22

23 _____
24 ¹ This includes: Hayrapetyan's parents, his wife and daughter as well as Alexander's widow and two children ages 6
25 and 4.

26 ² Given the number of people that are presently financially dependent on Mr. Hayrapetyan, we urge the Court to take
27 into account the impact any term of confinement will have on Mr. Hayrapetyan's ability to earn an income, and in turn,
28 care for his fractured family.

1 “orderly and modestly furnished”. [PSR, pg. 14] A photograph of his late brother is placed next to a
2 lit candle marking the center of the room. This is a far cry from luxury homes in Tarzana and Palm
3 Desert. He does not own any “gold coins, diamonds, jewelry, luxury watches, fine imported
4 furnishings, designer handbags, clothing [or] a Harley-Davidson motorcycle.”³ Hayrapetyan does
5 not even own a computer. He spends his limited free time calling his wife Anna and his daughter
6 Gayane back in Armenia, as well as attending his local Church for service. [Exhibit B] Hayrapetyan
7 had hoped to have his family move to the U.S. with him, but COVID has delayed this process.
8

9 Hayrapetyan is exceptionally remorseful and contrite for his involvement in this crime.
10 Taking into account the added stress and trauma of his brother’s passing and confinement in MDC
11 LA during a global pandemic, Mr. Hayrapetyan has exhibited a great deal of fortitude and
12 composure. To that end, we respectfully urge the Court to recognize the profound significance of
13 his time served and the extent to which that confinement has sufficiently impressed upon Mr.
14 Hayrapetyan the seriousness of his conduct. ⁴ While not without fault, Mr. Hayrapetyan has endured
15 a great deal given the circumstances. Conceding that, at its core, sentencing is intended to impress
16 upon the Defendant the gravity of their crime, the months Hayrapetyan has served to date, function
17 a great deal to that end.
18

19 20 **C. Departures Based on Minimal/Minor Role**

21 U.S.S.G. § 3B1.2(b), makes clear that “a defendant is entitled to a two-point
22 downward **adjustment** as a “**minor**” participant if he is deemed “less culpable than most other
23

24
25 ³ “Four California Residents Found Guilty of Scheming to Fraudulently Obtain Millions of Dollars in COVID-19 Relief
Programs” [<https://www.justice.gov/opa/pr/four-california-residents-found-guilty-scheming-fraudulently-obtain-millions-dollars-covid-19>]

26 ⁴ Arman Hayrapetyan was in the custody of the BOP at MDC LA from **March 25th, 2021 to June 4th, 2021.**

1 participants but his **role** could not be described as **minimal**." [U.S.S. G. § 3B1.2 cmt. n. 3].

2 Alternatively, "if his **role** is so insignificant as to be considered "**minimal**," a four -

3 point **adjustment** is warranted." U.S.S.G. § 3B1.2(a). *United States v. Antonakeas*, 255 F.3d 714,
4 727 (9th Cir. 2001)

5 The sentencing guidelines prescribe a five factor factual inquiry intended to be used in
6 determining if a defendant's actions meet the threshold described. They are:
7

8 *(1) the degree to which the defendant understood the scope and structure of the*
9 *criminal activity;*

10 *(2) the degree to which the defendant participated in planning or organizing the*
11 *criminal activity;*

12 *(3) the degree to which the defendant exercised decision-making authority or*
13 *influenced the exercise of decision-making authority;*

14 *(4) the nature and extent of the defendant's participation in the commission of the*
15 *criminal activity, including the acts the defendant performed and the*
16 *responsibility and discretion the defendant had in performing those acts;*

17 *(5) the degree to which the defendant stood to benefit from the criminal activity*

18 The Ninth Circuit has found that for such an analysis, "the relevant comparison in
19 determining whether a four-level **adjustment** in offense level is appropriate is to the conduct of co-
20 participants in the case at hand." *United States v. Petti*, 973 F.2d 1441, 1447 (9th Cir. 1992). This
21 comparison must be further constrained to the convicted offense. More clearly,

22 "the role adjustment guideline specifically requires the court to adjust only for the
23 defendant's role in the conviction offense, not in charged or uncharged collateral conduct." *United*
24 *States v. Zweber*, 913 F.2d 705, 709 (9th Cir. 1990). For example, "a Chapter Three adjustment "is
25 permissible in a money laundering case—but only when the [adjustment] relates to
26 the money laundering itself rather than to the underlying offense (the offense that generated
27 the money that the defendant laundered)." *United States v. Salgado*, 745 F.3d 1135, 1139 (11th Cir.

1 2014) quoting *United States v. Rushton*, 738 F.3d 854 (7th Cir. 2013) (citing U.S.S.G. § 2S1.1 cmt.
2 n.2(C), *Keck, Byors, and Anderson*).

3 Thus, here—notwithstanding the number of defendants involved in the overarching bank
4 and wire fraud—the focus should largely be on Hayrapetyan’s actions compared to Grigoryan’s
5 actions in the conspiracy to money launder.
6

7 The PSR succinctly summarizes Hayrapetyan’s conduct over the course of the conspiracy,
8 as originally outlined in the factual basis of the defendant’s plea agreement. The language of both
9 documents clearly paint Hayrapetyan as subordinate to Grigoryan. In large part, Hayrapetyan’s
10 actions are described as the product of Grigoryan’s direction and instruction. For example, both the
11 Government and the PSR acknowledge that “Grigoryan directed Hayrapetyan to open an account
12 for Sabala Construction.” (PSR, pg. 8) Further, “Hayrapetyan opened [two other] accounts at
13 Grigoryans’ direction,” and provided the money he withdrew “to Grigoryan’s associate” who then
14 gave the money to Grigoryan. (PSR, pg. 9) Hayrapetyan was allowed to keep 5% of the
15 withdrawals, whereas the remaining 95% went to Grigoryan. *Id.* In fact, the impetus to the entire
16 conspiracy was borne in 2019 when “Grigoryan offered Hayrapetyan a partnership in a large
17 construction company named Sabala Construction.” (PSR, pg. 8). It was not until April 2020, that
18 Hayrapetyan knew or at a minimum was aware of the high probability the accounts he had opened
19 for Grigoryan were being used to funnel the proceeds of unlawful activity into cash. *Id.* While this
20 certainly does not absolve Hayrapetyan of criminal liability, it does go to establishing his minor
21 role. Hayrapetyan neither understood the full scope, or structure, of the criminal activity, nor did he
22 participate in the planning or organizing of the criminal activity, as evidenced by the fact he was
23 unaware of the schemes unlawful underpinning until April 2020. Hayrapetyan’s knowledge and
24
25
26

1 participation was limited to the orders he was given by Grigoryan. He exercised no decision making
2 control, nor did he have the discretion to act independently. Finally, while Hayrapetyan did benefit
3 from the scheme, the disparity between his portion and Grigoryan's portion is so profound that no
4 reasonable person would suggest that Hayrapetyan stood to benefit in the same way Grigoryan did.
5 Viewed in totality, it is abundantly clear that Hayrapetyan was used by Grigoryan to facilitate a
6 money laundering scheme, such that Hayrapetyan was a minor participant entirely controlled by
7 Grigoryan's commands. To put it simply, "Hayrapetyan was recruited to participate in the offense
8 and [was] managed by Grigoryan," [PSR pg. 12].

10 The Government urges this Court to view Mr. Hayrapetyan's role in this conspiracy as
11 integral. [ECF 967] In part, they emphasize that Mr. Hayrapetyan's professional degree and military
12 experience should dismiss the assertion that he was as "unsophisticated new arrival swindled into
13 illegal conduct." *Id.* To be clear, that is not what the defense is suggesting. A minor role
14 departure—and more broadly, a determination of Mr. Hayrapetyan's conduct in the abstract—is not
15 a battle of Mr. Hayrapetyan against himself and his pedigree. While this may be relevant in
16 generally characterizing the defendant, the minor role departure is predicated entirely on an analysis
17 between Mr. Hayrapetyan and his co-defendants. Accordingly, as explained above, we respectfully
18 believe that a two point departure is warranted for Hayrapetyan's minor role.
19

21 **D. Departures Based on Defendant's Military Service**

22 U.S.S.G. § 5H1.11 does provide that "military service may be relevant in determining
23 whether a departure is warranted," when sentencing. Arman Hayrapetyan served in the Armenian
24 Army from 2003-2018 during which time he completed four tours in Afghanistan: Kunduz, Kabul,
25 and Mazar-i-Sharif twice. Mr. Hayrapetyan also served in the NATO forces where he received
26

1 several medals and certificates. [PSR, pg. 15] [Exhibit A]. While the guidelines do not prescribe
2 what degree of military service is sufficient to warrant a departure, Mr. Hayrapetyan's unblemished
3 service to both the Armenian military and to NATO should certainly be considered when
4 determining whether Mr. Hayrapetyan needs to be committed to the custody of the BOP.
5

6 **4. THE NEED FOR THE SENTENCE IMPOSED 18 U.S.C. §3553(A)**

7 As a general rule, "the overarching statutory charge for a district court is to "impose a
8 sentence sufficient, but not greater than necessary" to reflect the seriousness of
9 the offense, promote respect for the law, and provide just punishment; to afford adequate
10 deterrence; to protect the public; and to provide the defendant with needed educational or
11 vocational training, medical care, or other correctional treatment. 18 U.S.C. § 3553(a) and (a)(2)."
12 *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008) (*en banc*) (quoting § 3553(a) and (a)(2)).
13

14 To that end, it is worth revisiting the series of events the led up to Hayrapetyan's final plea.
15 Shortly after learning of the allegations made against him in the Government's first superseding
16 indictment, Arman Hayrapetyan willingly surrendered to the US Marshall's Office. He was then in
17 the custody of the BOP from March 25th, 2021 to June 4th, 2021. From the onset of these
18 proceedings, Hayrapetyan has been earnest in his desire to speak with the Government regarding the
19 charges lodged against him. Based upon the indictment, accompanying discovery, and the final plea
20 agreement it is fair to say that Hayrapetyan was neither the architect of this intricate scheme, nor its
21 primary beneficiary. Notwithstanding his limited involvement, the prospect of detention and
22 deportation, Hayrapetyan has been steadfast in his acceptance of responsibility. In fact, Mr.
23 Hayrapetyan was the first defendant to meet and speak with the Government. The resulting plea
24 agreement—filed publically—included a factual basis which outlined, in detail, the scheme
25
26

1 Grigoryan had essentially orchestrated. This plea agreement not only attested to Hayrapetyan's
2 individual actions, but also his knowledge of his co-defendants participation in said fraud. Soon
3 after the filing of this version of the plea agreement, many co-defendant otherwise situated to
4 proceed with trial, chose to plea.

5 Further, while others have chosen to evade justice, Mr. Hayrapetyan continues to live a
6 modest life within the limits of his supervision. Since his self-surrender Mr. Hayrapetyan has
7 complied with the requirements imposed by both the Government and Pre-Trial Services. And
8 while Hayrapetyan is not an "unsophisticated new arrival," he is also not a criminal mastermind. To
9 this day, Hayrapetyan speaks little to no English, does not own a computer, and requires assistance
10 navigating his smart phone. Accordingly, time served fairly captures the totality of the
11 circumstances surrounding the Defendant's conduct.
12

13 14 **5. CONCLUSION**

15 In light of all of the factors set forth in this sentencing memorandum, Defendant Arman
16 Hayrapetyan respectfully requests that the Court sentence the Defendant to time served, and if the
17 Defendant is sentenced to any additional time it be done as home detention, as well as a term of one
18 year supervised release.
19

20
21 Date: October 7th, 2021

TAHMAZIAN LAW FIRM, P.C.

22
23 By: /s/ Jilbert Tahmazian
24 Jilbert Tahmazian, Esq. [SBN 143574]
25 Counsel for Defendant,
26 Arman Hayrapetyan